

New York State Joint Legislative Budget Hearing on Health

Tuesday, February 8, 2022

Testimony of Hannah Diamond, State Policy Advocacy Specialist, PHI

Thank you for the opportunity to comment on the Fiscal Year 2023 Executive Budget for New York State. I am Hannah Diamond, State Policy Advocacy Specialist for PHI, a national non-profit organization based in the Bronx that works to transform eldercare and disability services by promoting quality direct care jobs as the foundation for quality care. PHI was founded in collaboration with Cooperative Home Care Associates (CHCA), a worker-owned home care agency in the Bronx with which we continue to partner to improve training and job quality for home care workers in New York City. For three decades, PHI has been the nation's leading expert on the direct care workforce through our research, policy analysis, and direct consultation with policymakers, payers, providers, and workers—developing a unique 360-degree perspective on the long-term care system and its workforce in our state and across the United States.

In New York State, nearly 550,000 direct care workers—including nursing assistants, home health aides, and personal care aides—provide care to older adults and people with disabilities in nursing homes, residential care communities, and private homes across New York State.¹ These workers assist individuals with daily personal care, help them maintain their optimal health and wellbeing, and support their social engagement. Because they spend more time with clients/residents than any other provider, they also offer vital information and insight to inform care planning and delivery.² The critical contribution of this workforce has never been more evident than during the COVID-19 pandemic, as direct care workers have risked their lives to provide ongoing care to those most vulnerable to this devastating virus. Immediate action is needed to support the current direct care workforce and to recruit new job candidates to this sector—which, according to PHI research, will incur 1.1 million job openings between 2018 and 2028 to meet growing demand, which is more job openings than any other occupation in the state.³

In this testimony, we provide comments and recommendations regarding the Executive Budget Health and Mental Hygiene Article VII legislation that impacts this essential workforce. We begin, however, with an urgent recommendation for additional funding in New York's Fiscal Year 2023 state budget.

¹ PHI. "Workforce Data Center." Last modified September 2, 2021. <https://phinational.org/policy-research/workforce-data-center/>.

² PHI. 2021. *Direct Care Workers in the United States: Key Facts*. Bronx, NY: PHI. <http://phinational.org/resource/direct-care-workers-in-the-united-states-key-facts-2/>.

³ PHI. "Workforce Data Center." Last modified September 2, 2021. <https://phinational.org/policy-research/workforce-data-center/>.

Primary Recommendation: Raise Wages for Direct Care Workers

The median hourly wage for direct care workers in New York State is \$15.56, which is over \$3.00 less than the median wage for other occupations in the state with similar entry-level requirements.⁴ As a result of low wages and limited annual earnings, direct care workers experience tremendous economic instability; nearly 50 percent of direct care workers in New York live in or near poverty and rely on public assistance to survive.⁵ Low wages also contribute to costly and damaging turnover in this workforce, as direct care workers leave the long-term care field for higher-paying and/or more stable opportunities elsewhere.

Therefore, PHI calls on the New York State legislature to enact and fully fund *Fair Pay for Home Care*.⁶ This legislation will ensure that home care workers, who constitute the largest but lowest-paid segment of the direct care workforce, receive an hourly wage of 150 percent of the regional minimum wage—enhancing the viability and competitiveness of these jobs.

Further, PHI urges the legislature to direct the Department of Health to incorporate a living and competitive base wage for all direct care workers into Medicaid rates across long-term care settings. This base wage should be established with stakeholder input and integrated into Medicaid rates through a transparent rate-setting process. **The Department of Health should also establish a base rate that managed long-term care plans must pay providers that covers all labor costs, including wages, key employment benefits, training, supervision, and other costs. The Department of Health must then ensure that providers pass along the liveable and competitive base wage to workers.**

The New York State legislature must invest in higher wages for direct care workers for three key reasons. First, improving direct care job quality will lessen the workforce shortage and ensure that older New Yorkers and individuals with disabilities can access the long-term services and supports they need. Second, investing in this workforce—including by raising wages, which will increase tax revenue and decrease spending on public benefit programs—will support the state's economic recovery, given that the direct care workforce is the fastest growing occupation in New York.⁷ Finally, since women, people of color, and immigrants constitute the majority of this workforce, raising direct care wages will enhance equity in our state, which is a central tenant of the state's Medicaid program.

⁴ PHI. 2020. *Competitive Disadvantage: Direct Care Wages are Lagging Behind*. Bronx, NY: PHI.

<https://phinational.org/resource/competitive-disadvantage-direct-care-wages-are-lagging-behind/>

⁵ Cook, Allison. *New York State's Direct Care Workforce*. Bronx, NY: PHI. <https://phinational.org/resource/new-york-states-direct-care-workforce/>.

⁶ "NY State Senate Bill S5374." New York State Senate. Accessed 01/30/22. <https://www.nysenate.gov/legislation/bills/2021/s5374>.

⁷ Cook, Allison. *New York State's Direct Care Workforce*. Bronx, NY: PHI. <https://phinational.org/resource/new-york-states-direct-care-workforce/>.

Recommendations on Key FY23 Executive Budget Provisions

The rest of this testimony offers comments on the Executive Budget proposals within the Health and Mental Hygiene Article VII legislation that would impact the direct care workforce and, where applicable, describes how they should be strengthened or extended.

Medicaid Reimbursement Rate Increases

As Medicaid is the primary payer of long-term services and supports, Medicaid policy directly impacts compensation and other job quality measures for direct care workers. Long-term care providers must receive Medicaid reimbursement rates that fully cover the costs of service provision, including all labor costs. To that end, **PHI supports Part I of the Executive Budget that restores the 1.5 percent across-the-board Medicaid rate reduction from FY 2021 and proposes an additional 1 percent rate increase.** As explicitly stated in the Briefing Book, this rate restoration and increase is critically needed to cover providers' costs and "to compete in the labor market to attract qualified workers"—which is an essential step toward resolving the workforce crisis facing long-term care providers and consumers.⁸

Medicaid Global Cap Modification and Extension

Part H of the Executive Budget proposes to modify the Medicaid Global Cap calculation and extend the cap through FY 2024. While the new metrics will better account for the natural growth of the state's Medicaid program, PHI asserts that the Medicaid Global Cap remains antithetical to the intent of the Medicaid program—which is to cover all those who are eligible to enroll. While PHI supports efforts to create efficiencies and maximize innovation in New York's Medicaid program, these efforts should not result in financial strain for providers, poor quality jobs for workers, nor unmet needs among Medicaid-eligible New Yorkers. **PHI therefore calls on the legislature to end the Medicaid Global Cap.**

Health Care Worker Bonuses

Part D of the Executive Budget proposes bonuses up to \$3000 per eligible health care worker, including direct care workers. PHI commends the effort to acknowledge these workers' service during the pandemic, while recognizing that one-off payments are far from sufficient to address the major wage disparities faced by direct care workers, as described above.

We wish to reinforce the need to ensure that these bonuses are sufficiently promoted and monitored to ensure that they reach all eligible workers. Further, **we recommend clarifying the Article VII language to ensure that payments will not count towards workers' eligibility for**

⁸ Robinson, Gail. 2021. *What's Driving the Shortage of Home Healthcare Workers in NY? Low Wages, Advocates Say*. City Limits. <https://citylimits.org/2021/12/27/whats-driving-the-shortage-of-home-healthcare-workers-in-ny-low-wages-advocates-say/>.

public assistance. With nearly 50 percent of the direct care workforce in New York State relying on public assistance programs,⁹ this clarification is important to ensure that workers actually benefit from the bonuses. The CARES Act established this precedent; because distributed stimulus payments did not count as income, these payments had no impact on recipients' public assistance awards.¹⁰

Minimum Wage and Cost-of-Living Adjustments

The Executive Budget proposes to fund the projected cost of minimum wage requirements for employees in the health care sector. However, **strict monitoring is needed to ensure that this increased funding is fully incorporated into Medicaid reimbursement rates so that it reaches workers.** As above, we call for transparency in the rate-setting process and base rates for managed care plans to ensure that this funding is appropriately allocated and disbursed.

The Executive Budget also includes a 5.4 percent cost-of-living adjustment (COLA) for employees of specific human services programs, in response to the fiscal impact of COVID-19 and the current rate of inflation. PHI appreciates that the intended use of these funds is to promote recruitment and retention of frontline staff. Going further, **the legislature should consider limiting these funds exclusively to frontline staff, including direct care workers.** Additionally, **the legislature should consider expanding this COLA adjustment to providers that are funded and regulated by the Department of Health.**

Direct Care Training and Career Advancement

PHI applauds several provisions in the Executive Budget that could support training, career advancement, and other elements of workforce development for direct care workers. First, we applaud the creation of two new offices—the Office of Healthcare Workforce Innovation and the Office of Workforce and Economic Development—to enhance workforce development efforts in the state. **PHI encourages these offices to collaborate in developing targeted strategies to meet New York's current and projected direct care workforce needs.** In particular, we encourage these offices to coordinate the creation of a standardized, competency-based direct care training system tied to portable and stackable credentials. By offering both career ladder and career lattice opportunities, this system would enhance career mobility for individual workers and increase the competency and flexibility of the direct care workforce overall.¹¹

PHI also agrees with the Executive Budget proposal to create a certified medication administration role in residential health care facilities, which represents a career advancement

⁹ PHI. "Workforce Data Center." Last modified September 2, 2021. <https://phinational.org/policy-research/workforce-data-center/>.

¹⁰ Cebula, Raymond, Edwin Lopez-Soto, Andrew Karhan, and James Sheldon. *The Impact of COVID-19 on Social Insurance and Benefit Programs*. Cornell University. <https://www.dropbox.com/s/uchgn0jzsbmag76/COVID-19-BenefitsCornell6-30-2020.pdf?dl=0>.

¹¹ Campbell, Stephen, Angelina Del Rio Drake, Robert Espinoza, and Kezia Scales. 2021. *Caring for the Future: The Power and Potential of America's Direct Care Workforce*. Bronx, NY: PHI. <http://phinational.org/caringforthefuture/>.

opportunity for certified nurse aides. When linked to enhanced training, an elevated title, and higher wages, advanced roles for direct care workers are an important way to strengthen workforce retention, maximize direct care workers' contributions to care, and achieve quality outcomes and cost savings.¹² However, we are concerned about the lack of funding tied to this proposal. As a corollary, the Advanced Home Health Aide position created by law in 2016—which allowed trained home care workers in New York to dispense certain medications—has never been implemented due to cost-prohibitive training and clinical supervision requirements.¹³ **PHI urges the legislature to fully fund the costs of implementing a certified medication aide role, including the costs of training, supervision, and wage increases to reflect this additional level of responsibility.**

Related to these workforce provisions, we would like to underscore the importance of prioritizing direct care workforce development in New York State's new Section 1115 Medicaid Waiver application. Among other provisions, the 1115 waiver should renew the Long Term Care Workforce Investment Program so that the Workforce Investment Organizations (WIOs) that were funded through that program can continue their critical training role. The WIOs have helped to achieve value-based payment goals by delivering specialized trainings to direct care workers and other long-term care staff to improve quality outcomes and achieve Medicaid cost savings.¹⁴

Medicaid Long-Term Care Plan Premium Increase

The Executive Budget proposes to increase the amount of premiums paid to Medicaid managed long-term care plans through value-based payment arrangements. Due to their proximity to clients, direct care workers play a key role in achieving value-based payment goals,¹⁵ but rarely share in the rewards. To address this oversight, **PHI recommends that the legislature requires Medicaid managed long-term care plans to pass along a proportion of these enhanced payments to direct care workers in the form of wages, benefits, bonuses, or other forms of compensation.**

Expanding Access to Services

Part Q of the Executive Budget raises the income threshold for New York's Essential Plan and amends the Essential Plan to cover long-term care services, among other changes. Part N of the Executive Budget also expands access to services by raising the income threshold and eliminates

¹² Campbell et al., 2021.

¹³ "Advanced Home Health Aides." New York State Department of Health. Accessed February 2, 2022. https://www.health.ny.gov/facilities/home_care/advanced_home_health_aides/.

¹⁴ PHI. 2021. *PHI Urges New York State to Renew the Medicaid Managed Long Term Care Workforce Investment Program*. Bronx, NY: PHI. <https://phinational.org/wp-content/uploads/2021/06/Discussion-Paper-April-2021.pdf>

¹⁵ Cook, Allison. 2020. *Value-Based Payment in New York: Assessing Progress on Integrating the Home Care Workforce*. Bronx, New York: PHI. <http://phinational.org/resource/value-based-payment-in-new-york-assessing-progress-on-integrating-the-home-care-workforce/>.

the resource test for Medicare-enrolled individuals to qualify for Medicaid. PHI celebrates these efforts to ensure that more New Yorkers can access the services and supports they need, but **reiterates our recommendation to raise wages for direct care workers and take other measures to strengthen and stabilize the direct care workforce to meet increased demand.**

Managed Care Competitive Bid Process

Part P of the Executive Budget Health and Mental Hygiene Article VII legislation gives the Department of Health the authority to initiate a competitive bid process for Medicaid managed care organizations. As well as encouraging the Department of Health to solicit stakeholder engagement in designing this process, **PHI urges the legislature to require the Department of Health to include workforce standards in the evaluative criteria for selecting qualified managed care providers.**

Nursing Home Reforms

Part M of the Executive Budget makes statutory changes related to implementing recent nursing home reforms. One proposed change is to amend the definition of revenue in the minimum spending statute for nursing homes (which requires that 70 percent of revenue must be spent on direct resident care, including at least 40 percent on staffing)—specifically to exclude certain funds from the minimum spending calculation for nursing homes with higher star ratings. While PHI appreciates attempts to incentivize higher quality care, we believe that all nursing homes should be held accountable for investing a minimum proportion of revenue in resident care and staffing. Therefore, we recommend that the minimum spending statute should apply to all nursing home providers, and that **the legislature should call for robust monitoring to determine whether the minimum spending rules are sufficient to achieve better quality outcomes for nursing home residents and workers.**

State Master Plan on Aging

PHI strongly endorses Governor Hochul’s proposal to develop a State Master Plan on Aging to ensure that all New Yorkers can age with dignity. This plan provides yet another opportunity to highlight and elevate the role of direct care workers in our state. **PHI encourages the Governor and the legislature to initiate the State Master Plan on Aging and to convene a long-term care workforce subcommittee to inform the plan.**

Additional Recommendation: Improve Direct Care Workforce Data Collection

Insufficient data on the direct care workforce in New York makes it difficult to quantify workforce shortages and other challenges, monitor workforce trends over time, design policy and practice interventions, and evaluate their impact. To help address this significant gap, **PHI urges the New York State legislature to allocate additional funds to improve the collection,**

monitoring, and reporting of direct care workforce-related information across all long-term care settings. As a first step, the state should survey all relevant departments and agencies to catalog existing workforce-related data collection mechanisms and to identify gaps and inconsistencies. Going further, the state could fund a survey of direct care workers to gather their firsthand experiences, insights, and recommendations for improving job quality.

Conclusion

PHI appreciates the opportunity to provide testimony on the FY23 Executive Budget for New York State. We look forward to working with Governor Hochul and the legislature to strengthen New York's direct care workforce, improve the quality of long-term care services and supports, and build a more equitable state. To discuss these proposals in more detail, please contact Hannah Diamond at hdiamond@PHInational.org or 718-928-2048.