



Manhattan
841 Broadway
Suite 301
New York, NY 10003
212/674-2300 Tel
212/254-5953 Fax
646/350-2681 VP

Queens
80-02 Kew Gardens Rd
Suite 107
Kew Gardens, NY 11415
646/442-1520 Tel
718/886-0428 Fax
866/948-1064 VP

www.CIDNY.org

Center for Independence of the Disabled, NY

Testimony to the Joint Budget Hearing of the Senate Finance Committee and Assembly Ways and Means Committee on the Executive Budget - Health Care

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Testimony by:

Heidi Siegfried, Esq.

Director of Health Policy

Center for Independence of the Disabled



A United Way Agency

This testimony is submitted on behalf of Center for the Independence of the Disabled, NY (CIDNY), a non-profit organization founded in 1978. CIDNY's goal is to ensure full integration, independence, and equal opportunity for all people with disabilities by removing barriers to full participation in the community. We appreciate the opportunity to share with you our thoughts about the New York State's Executive Budget Proposal and our recommendations. Because the conditions affecting the individuals and families we represent do not discriminate between rich and poor, we advocate for accessible, affordable, comprehensive and accountable health insurance and care for the privately insured, as well as for those in need of access to public insurance programs.

Over the past year, CIDNY has monitored proposed budget legislation and the effects of regulations and legislation on the over 2 million people with disabilities in New York State. As a result of our policy analysis and with the experiences of our consumers, we have developed the following recommendations related to the State budget and legislative agenda.

CIDNY supports the New York Health Act

At the outset we must always reiterate that CIDNY has long supported various versions of Single Payer Universal Health Care which would establish a seamless comprehensive system for access to health coverage and care. People with disabilities have a right to a transparent, accountable health care system that provides accessible coverage including benefits and services that are based on medical necessity. The current disjointed system of Medicare, Medicaid, and private commercial coverage and other specialized programs is difficult to navigate and often fails people with disabilities.

The New York Health Act would end the chaotic medical care system that people with disabilities are all too familiar with and its multiple uncoordinated programs, restrictive networks and formularies, deductibles and copays which can function as barriers to care. We are pleased to be able to support the New York Health Act A (Gottfried)/S(Rivera) since its comprehensive benefits now include long-term care, as well as primary and preventive care, prescription drugs, laboratory tests, rehabilitative and habilitative care, dental, vision and hearing. For people with disabilities, who may have multiple providers, the free choice of care coordination as a separate service to help get the care and follow-up the patient needs that does not operate as "gatekeeper" is an added plus. CIDNY appreciates the articulation of program standards that include the accessibility of care coordination, health care organization services and health services, including accessibility for people with disabilities and people with limited ability to speak or understand English. We also appreciate the

maximization and prioritization of the most integrated community-based supports and services. CIDNY looks forward to the passage and implementation of this important legislation.

CIDNY supports expanding Medicaid Income Limits for Medicaid and the Medicare Savings Program and Eliminating the Asset Test

CIDNY supports the Governor's inclusion of the proposal to raise Medicaid eligibility for seniors and people with disabilities to 138% of the federal poverty level (FPL) and eliminate the asset test in Part N. In 2014, the ACA increased the income eligibility level for Medicaid to 138% of the Federal Poverty Level (FPL)— around \$17,000 annually for a single person. But older adults and adults with disabilities can only qualify for free Medicaid if their income is below \$11,208 a year for a single person. As a result, they can only qualify if they "spend down" their so-called "excess income" on medical bills every month; the spend-down is the amount their income exceeds \$934 per month. A CIDNY Action Network member living in supportive housing in Rockaway Beach has said his quality of life would be much improved if he did not have to pay \$86 of his below poverty income to HRA in order to keep his Medicaid coverage as is the case for his non-disabled peers.

New Yorkers with disabilities and those who are 65 and older are the only populations still subject to a Medicaid asset test, which forces people to impoverish themselves in order to maintain health coverage. California has already eliminated the asset test for older adults and people with disabilities. The current asset limit prevents older adults and individuals with disabilities from having any resources to weather a crisis, such as an eviction, a leaking roof, or a major vehicle repair, and makes it more likely they will need to rely on additional public benefits. The asset test should be eliminated as it has been for all other Medicaid recipients.

CIDNY was disappointed that the Governor did not include the third leg of our proposal -- raising the income limit for MSP programs to 200% of the FPL. Medicare Savings Programs provide crucial financial support for low-income older adults and individuals with disabilities, helping to defray Medicare premiums – now \$170.10 a month-- and, in the case of the Qualified Medicaid Beneficiary (QMB) program, covering coinsurance and other costs. Raising the income limit to 200%, which Massachusetts and Connecticut have done, would make an immediate impact on low-income New Yorkers' ability to use their Medicare benefits without accruing untenable debt. CIDNY does support Senator May's legislation (S.8228) to increase eligibility for this program to 156% FPL at no cost to the state as a first step.

CIDNY supports Expansions to the Essential Plan and Post-Partum care, but is disappointed that immigrants have been excluded.

The Governor has proposed in Part Q to increase eligibility for the Essential Plan from 200% FPL to 250% FPL and to add Long Term Services and Supports (personal care and CDPAP) to the benefit package. We look forward to seeing the details of the update to the BHP Blueprint to understand just what this coverage will look like for people with disabilities. She did not include a state-funded Essential Plan for immigrants in this proposal. CIDNY supports S.1572/A.880 which would do this.

CIDNY also supports the expansion of Medicaid coverage from just 60 days to one year after giving birth, which would allow for continuity of care, would help address maternal mortality, and would protect new parents from unaffordable medical bills. New York has always included immigrants in this coverage and should continue to do so.

CIDNY Supports Fair Pay 4 Home Care (A.6329/S.5374)

Governor Hochul's Healthcare Workforce Bonus of up to \$3,000 is the only financial benefit guaranteed to home care workers and is not what is needed to truly address the home care workforce crisis. [Fair Pay for Home Care](#) (S.5374/A.6329) would raise wages for home care workers and consumer directed personal assistants to \$22.50/hr., or 150% of the highest minimum wage in each region. COVID- 19 has highlighted the very real dangers that have long existed in nursing facilities. The State should be prioritizing access to home and community-based services as the answer to the tragic deaths in facilities during the pandemic. As wages increase in other sectors, such as fast-food restaurants, it is increasingly difficult to find people willing to do home care work which is physically and emotionally demanding. The State has a legal obligation under *Olmstead* to ensure people have access to appropriate care in the most integrated setting, their home communities. The State needs to provide a living wage to home care workers to attract people to work in the field. This legislation would fundamentally change the way the state thinks about long-term care, prioritizing community-based services and the workforce, as well as bringing New York into compliance with Federal requirements. Fair Pay would stabilize the home care workforce and end shortages by allowing workers to remain in these rewarding jobs rather than forcing them into other positions due to poverty wages.

MEDICAID GLOBAL CAP - CIDNY Supports A.226 Medicaid Cap Repeal

CIDNY Action Network members began advocating in Albany ten years ago for removal of the Medicaid Global Spending Cap which has driven so many Medicaid cuts that have harmed people with disabilities. Other organizations have slowly joined us in this effort and this year the Governor proposed to use

a five-year rolling average of Centers for Medicaid and Medicare Services (CMS) spending projections to determine the cap rather than the ten year average of Medical inflation. This would account for enrollment growth and reflects some progress on the issue, but we continue to advocate for removal of the cap.

CIDNY has always asserted that cuts driven by the Medicaid global spending cap have occurred "behind the curtain", since it is often a Managed Care Organization or Managed Long Term Care Company that carries out the cuts to essential services. We have noted the proposal for a procurement process for Managed Care in Parts O and P. While we do fear new rounds of disruptions to care that could be caused by this process, we also view it as an opportunity to introduce accountability and oversight to managed care if the new NYSDOH could be persuaded to include Medicaid members in the process rather than defensively denying that anything is wrong. Adequate home care and long term services and supports are essential to CIDNY's mission and the state's responsibility to ensure that people with disabilities can live meaningful lives in the community.

CIDNY SUPPORTS CONSUMER ASSISTANCE FUNDING

CIDNY supports increased funding for Community Health Advocates (CHA), the state's health care consumer assistance program, at \$5.109 million. The Executive Budget funds CHA at \$3.5 m., a \$1 m. increase proposed for the first time by the Executive. Since 2010, CHA has helped New Yorkers, including many people with disabilities, all over New York State navigate their health insurance plans to get what they need, has saved New Yorkers over \$100 million, and has had an 800% return on investment. People with serious illnesses and disabilities especially need this assistance so that they can get the services and supports that are right for them. CHA's contact information will appear on Medicaid notices for the first time this year, which means more patients will use the program. Additionally, with the end of the public health emergency rules, many people will be transitioning between health insurance and experience gaps in coverage that will require urgent resolution. *For these reasons, we urge you to increase CHA from the \$3.9 million it received last year for a total of \$5.109 million*

CIDNY supports increased funding for the Long-term Care Ombudsprogram. Despite the Governor's kind words in support of the Long Term Care Ombudsman Program (LTCOP), no increase was proposed in the Executive Budget --a program with a mandate to protect New York's nursing home residents. During the pandemic over 15,000 nursing facility residents have died due to the virus and additional deaths have resulted from lack of care. The program has always dealt with visitation issues, inappropriate discharges, psychotropic drugging and other serious problems with only

minimal resources. Now it is dealing with unsafe staffing, that the nursing home industry has repeatedly declared it has no intention of rectifying, and dumbed down safe staffing requirements that the Governor has allowed them to wiggle out of. Rather than put the funding they receive towards care, a good-sized portion of the industry has filed a lawsuit against the Commissioner of Health which reveals just how much of it is being skimmed off for profits. Currently, New York's LTCOP program is one of the most poorly funded in the nation. The State Comptroller released a report which found that many residents in LTC facilities lack representation from an Ombudsman due to lack of volunteers and paid staff. The report found that statewide, there are about half the recommended number of full-time staff. It found that in New York City alone, 23 more full-time staff would be required. *The legislature should increase state share funding of the Long-term Care Ombudsprogram to \$15 million which would provide a level of support so that one staff person could dedicate one day a week to having a regular and consistent presence in five long term care facilities. Better oversight of these facilities is desperately needed.*

CIDNY supports fully funding the Navigator program at \$32 million and allocating an additional \$5 million so that community-based organizations can conduct outreach in hard-to-reach communities. Navigators are local, in-person assisters that help consumers enroll in health insurance plans. Navigator funding has not been increased since its inception in 2013. Navigators have helped over 300,000 New Yorkers enroll since 2013 without ever receiving a cost-of-living increase. *The State should increase the navigator budget from \$27.2 million to \$32 million to guarantee high quality enrollment services and should create a \$5 m. grant program to fund community-based organizations to conduct outreach in communities with high rates of uninsured people.*

CIDNY strongly opposes eliminating provider prevails.

The Executive Budget once again proposes to repeal an important patient protection restored "prescriber prevails" for prescription drugs in the fee for service and managed care programs. A prescriber, with clinical expertise and knowledge of his or her individual patient, should have the final say to be able to override a preferred drug. People with disabilities often have chronic conditions that require a complex combination of medications. Different individuals may have very different responses to different drugs in the same class. Sometimes only a particular drug is effective or alternative drugs may have unacceptable side effects. Disrupting the continuity of care can result in detrimental or life threatening consequences and can actually lead to more medical complications, expensive hospitalizations, emergency room use, and higher health costs. It can also discourage consumers from continuing with

needed treatment due to uncomfortable side effects or because drug failure erodes their trust in medication. Prescribers are in the best position to make decisions about what drug therapies are best for their patients. *CIDNY urges the State to recognize the importance of specific prescription drug combinations and protect Provider Prevalis.*

CIDNY supports Fair Funding for Safety-Net Hospitals - S.5954 (Rivera)/A.6883 (Gottfried)

Under the current allocation of funds from New York's indigent care pool, true safety net hospitals, which serve uninsured people and have a high volume of Medicaid patients, like New York City Health + Hospitals are not receiving the funds they deserve. People with disabilities disproportionately use public coverage like Medicaid for their health insurance and so are disproportionately served by these hospitals.

This legislation will fix inequities in the distribution of ICP funds by increasing Medicaid rates for enhanced safety net and qualified safety net hospitals; optimizing new federal Medicaid funds; and retaining all existing federal DSH funds to support these essential services. This legislation will rebalance the distribution without additional financial impact to the State.

CIDNY supports Modernization of the Hospital Financial Assistance Law ("Manny's Law"). (A8441)

In exchange for these ICP funds, hospitals must have a financial aid program. But research shows that each hospital has developed its own form, many of which are nearly impossible to find or use. Moreover, the law is out of date and does not conform with the Affordable Care Act eligibility guidelines. It is time to update this law so that patients can find and apply on one uniform application that extends eligibility limits consistent with the New York State of Health Marketplace.

CIDNY supports prohibiting wage garnishment/liens for medical debt (A.7363/ S.6522).

New Yorkers struggle with health care costs. Over 50,000 New York patients have been sued for medical debt by non-profit hospitals in the past five years- 4,000 during the COVID-19 pandemic (March December 2020). Eight percent of New Yorkers have delinquent medical debt that appears on their credit reports. Medical debt is strongly associated with housing instability, and even

homelessness. Communities of color in New York are almost twice as likely to have medical debt than their white counterparts.

While most hospitals do not sue their patients, a significant minority do sue their patients for relatively small amounts: the median court case is for \$1,900 dollars. These cases do little to stabilize a hospital's finances but can have devastating financial consequences for the patient. Once a hospital or health care provider secures a judgment in a medical debt court case, they have the ability under New York State law to place liens on a patient's home or garnish a patient's wages to satisfy the medical debt judgment.

This bill would promote housing stability for patients by prohibiting nonprofit hospitals and health care providers from imposing liens on a patient's primary residence to satisfy a judgment in a medical debt lawsuit. New York's hospitals have taken over 2,000 liens against their patient's homes. Ten states and jurisdictions already have placed protections on the family home, including: Arkansas, Washington DC, Florida, Iowa, Kansas, Maryland, Oklahoma, Puerto Rico, South Dakota, and Texas.

This bill would also promote income stability by prohibiting non-profit hospitals from securing wage garnishments after prevailing in a medical debt lawsuit. A review of wage garnishment data in medical debt cases in Albany, Fulton and Onondaga counties indicated that most of the patients worked in low-wage service occupations such as retail, fast food and health care entities. Four states ban wage garnishments (North Carolina, Pennsylvania, South Carolina, and Texas). Maryland recently banned hospitals from placing wage garnishments on patients who are eligible for financial assistance.

CIDNY supports regulating “facility fee” add-ons to medical bills (A.3470A/S.2521A).

Increasingly, hospitals are acquiring medical practices and labs and then charging patients outlandish “facility fees” when they use these services. One patient was charged a \$142 “facility fee” when her newly-affiliated-with-a-hospital doctor sent her for her annual preventive mammogram—which should be FREE!

A.3470A/S.2521A would regulate these health care facility fees and provide some semblance of protection by not allowing a provider to seek payment of these fees if not covered by insurance, unless they had notified and explained

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the fee and amount at least seven days in advance of the procedure. If approved by the New York State Legislature and signed into law by the Governor, this would ensure that patients will no longer be held responsible for this kind of surprise bill.

Thank you for your consideration of our comments and recommendations and those of our colleagues. For further information, please contact Heidi Siegfried, CIDNY's Health Policy Director, at 646-442-4147 or hsiegfried@cidny.org