CENTER FOR INDEPENDENCE OF THE DISABLED, NY

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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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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

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, since its comprehensive benefits include long-term care, as well as primary and preventive care, prescription drugs, laboratory tests, rehabilitative and habilitative

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populations 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 adequate resources to weather a crisis. The asset poverty rate, defined as having three months of living expenses saved at the poverty level is 47.4% for households with an adult with a disability compared to 25.3% for non-disabled households. New York has the sixth highest asset poverty rate for households with a disabled adult. The asset test rules exempt some assets, such as homes, but the savings of people who are eligible for Medicaid tend to be in cash rather than homes or retirement accounts leading to the unfairness of a person being eligible for Medicaid when they own an exempt home worth $995,000 while a person who cannot afford a home, but has savings of $30,000 could be disqualified. The asset test should be eliminated, as it has been for all other Medicaid recipients, but it should at least be increased for those who cannot afford a home.

CIDNY supports extension of the Essential Plan to provide health insurance for all income-eligible New Yorkers regardless of immigration status. Immigrants have some of the highest uninsured rates in New York. Some undocumented immigrants in New York State are eligible for Medicaid (pregnant women) or Child Health Plus (children under 19), but about 245,000 New Yorkers remain uninsured because of their immigration status. Last year Governor Hochul promised to include immigrant coverage in a 1332 Waiver application to CMS that would use the Basic Health Plan/ Essential Plan Trust fund, which has a current surplus of $8 billion and increases $2 billion each year, to fund in immigrant coverage and increased income eligibility to 250% of the Federal Poverty Level. Inexplicably the Governor's Executive Budget and the waiver application submitted on February 9th excluded immigrants.

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Immigrants without coverage are eligible for Emergency Medicaid if their medical condition puts them into dire circumstances when they go without care. New York spends $544 million on Emergency Medicaid each year that could be repurposed for other budget priorities if we used the surplus trust fund instead Other savings that could be had are a reduction in uncompensated care spending for our vital safety net hospitals. And New York City could save $100 million by retiring its NYC Cares program, since the population would be eligible for health insurance. In New York City, 58% of people with disabilities have incomes below 200% of the Federal Poverty Level. Some of these New Yorkers with disabilities are people with immigration statuses that currently preclude Essential Plan eligibility.

Colorado and Washington have obtained permission from CMS to cover immigrants using 1332 Waivers. Expanding public health insurance has numerous benefits including keeping hospitals open in rural and underserved communities and protecting people from medical debt. New York should do the right thing and include immigrants in its waiver application to CMS.

CIDNY supports repeal of restrictions on eligibility for personal and home care services under Medicaid. S.328 (Rivera)/A. TBD. The Medicaid Redesign Team (MRT) was directed to advance policies that would achieve Medicaid savings without impacting access to services. Yet the 2020-2021 budget adopted their proposal, which greatly restricted eligibility for Medicaid-funded home care services. It would require assistance with maneuvering with at least three activities of daily living (ADLs) to qualify for home care or have dementia or an Alzheimer's diagnosis and be assessed as requiring supervision for at least two ADLs. This effectively eliminates level 1 home care. These changes not only completely disregard federal statute, but would inevitably increase injury, hospitalization and death by forcing people to either live in the community without care or admit themselves into an institution.

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The Maintenance of Effort (MOE) requirements of the Public Health Emergency (PHE) have prevented New York from implementing this reckless attempt to cut back on home care, but the PHE will be coming to an end this year. It is notable that the Center for Medicare and Medicaid services did not let New York get out from under this MOE requirement and that New York's Congressional delegation swung into action and prevented an attempt by the previous Governor to sneak the ability to implement them into an Omnibus bill once they were alerted to it by advocates. We need to restore the previous eligibility standards in this year's budget.

CIDNY Supports Full Fair Pay 4 Home Care - A.6329/S.5374 (2021-2022). There has long been a homecare worker shortage in parts of the state, making it difficult for people to obtain home care, which has worsened to the point where it is an acute crisis in all parts of the state. The home care crisis has surpassed the lack of accessible affordable housing as the primary barrier to transitioning people back home and it has made it more difficult for CIDNY's Open Doors program to accomplish its mission of getting people out of nursing facilities and back to the community. The state has an obligation under the Supreme Court decision, Olmstead v. L.C. to provide people supports and services in the community, yet the lack of available home care is forcing people into deadly institutions.

The 2022-2023 State budget included small raises for the first time in a decade, but the three-dollar increase included in last year's Budget, but it will not adequately address the ongoing home care crisis when big box stores and fast food chains are offering higher wages. Now, the Executive Budget undoes the small progress we made in raising wages by exempting home care wages from the minimum wage indexing, ultimately freezing home care wages at $18 per hour until the minimum wage reaches the same rate. The issue is further exacerbated for the Consumer Directed Personal Assistance Program by the proposed exemption from Wage Parity, which ultimately results in a wage decrease for Personal Assistants downstate. CIDNY strongly opposes these proposals and the Administration's continued devaluing of home care.

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Full Fair Pay for Home Care would raise wages for home care workers and consumer directed personal assistants to 150% of the highest minimum wage in each region, the amount that homecare workers earned in 2006 before the failure to keep up with rising wages in other sectors. It would also ensure adequate reimbursement rates to providers to allow them to pay these wages without going out of business. This has been a challenge with last year's increase.

CIDNY supports consumer education and assistance.

CIDNY supports maintained funding for Community Health Advocates (CHA), the state's health care consumer assistance program, at $5.234 million. 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 and saved New Yorkers over $100 million. People with serious illnesses and disabilities especially need this assistance so that they can get the services and supports that are right for them. 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. The Governor's budget already includes $3.5 million for CHA and we are asking that the Assembly and Senate support allocating an addition $1.734 million to maintained funding at $5.234 million.

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CIDNY supports increased state share funding for the Long-term Care Ombudsprogram to $15 million. The Long-Term Care Ombudsprogram (LTCOP) serves as an advocate and resource for people living in nursing facilities and other institutions. The program is intended to promote and protect patient's rights as well as their health and safety by receiving, investigating, and resolving complaints made by or on behalf of residents. During the pandemic thousands of nursing facility residents have died and continue to die due to the virus and due to lack of care. The program has been dealing with visitation issues, inappropriate discharges, psychotropic drugging and other serious problems with only minimal resources.

The LTCOP receives federal funding, but it is insufficient to provide adequate services in New York State. New York's match is one of the lowest in the nation, leaving providers overly reliant on volunteers. The State Comptroller released a report which found that many residents in LTC (Long Term Care) 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. The Governor has included an increase of $2.5 m. which would help increase coverage, but a $15 million increase is need to add 235 employees to achieve regular and consistent weekly visits.

CIDNY supports enrollment assistance by New York State Navigators urging the State to provide a cost of living-increase. Too many New Yorkers are uninsured because they are unaware that they qualify for assistance or public programs or do not know how to enroll. Navigators are local, in-person assisters that help consumers enroll in health insurance plans. Navigator funding has not had a cost-of-living increase since its inception in 2013. It should be funded at $38 million instead of the $27.5 million it received last year to guarantee high-quality enrollment services. New York should also allocate $5 million in grants to community-based organizations to conduct outreach in underserved communities.

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Community Health Access to Addiction or Mental Healthcare Project (CHAMP). We welcome Governor Hochul's initiatives to improve access to mental health care, particularly by implementing stronger network adequacy standards with appointment availability times, but insurance barriers stop many New Yorkers from getting care for mental health or substance abuse issues. CHAMP started in 2019 and has already helped thousands of New Yorkers resolve those issues and get necessary care. CHAMP's funding should be maintained at $3 million.

CIDNY supports the creation of an Independent Advocacy Assistance program for people with Intellectual and Developmental Disabilities. As this population increasingly has to interact with managed care systems it is important that they have a specialized consumer assistance advocate to help them access the care and services they need.

CIDNY supports modernization of the Hospital Financial Assistance Law to protect New Yorkers from unfair medical billing and debt. All hospitals are required to screen low- and moderate-income patients who cannot afford care to find out if they are eligible for discounted prices. Instead, patients rarely find out about the law or are unable to successfully apply and are billed full rates that most individuals cannot afford. S.1366/A bill # pending would adopt one common financial aid application and policy to be used by all hospitals, to make it easier for patients to know about the process and successfully apply. It would also simplify income eligibility rules, eliminate obsolete rules like an asset test that is only required for very low-income people, and eliminate the unfair 90-day deadline for applying. We are also seeking an income eligibility increase from 300% FPL to 600% FPL to be consistent with eligibility levels on the New York State of Health Marketplace.

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CIDNY supports prohibiting medical debt from credit reporting. Existing consumer protections on credit reporting do not do enough to protect patients from the special problems that arise around medical billing and debt. For example, patients cannot avoid needing medical care the way they can avoid some purchases, and they do not have a meaningful ability to "shop" for better prices. Some protections, such as those that limit credit reporting below a certain threshold, disproportionately benefit people who are white and have higher incomes, because they disproportionately benefit people who have lower amounts of debt. New York should prohibit all medical debt from being reported to credit reporting agencies.

CIDNY supports fair and transparent hospital policies.

CIDNY supports Fair Funding for Safety-Net Hospitals. 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.

CIDNY supports legislation that will fix inequities in the distribution of ICP funds by increasing the cuts to the high margin hospitals an additional $100 million and distributing that funding to public hospitals and creating a special allocation based on a methodology created by the Commissioner of Health for "qualified safety net" hospitals. This legislation will rebalance the distribution without additional financial impact to the State.

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CIDNY supports accountability for affected communities when hospitals close. Hospital closures have reduced access to care in lower-income communities and communities of color, with serious repercussions for health outcomes. Current law requires public hearings 30 days *after* a hospital closes, when it is too late for communities to participate in any planning. A.1633/S.2085 would require notification within 30 days of an application for closure is submitted to the State, require a public hearing at least 60 days in advance, and require closure plans to address projected impacts on access to health services.

CIDNY supports a requirement that hospitals have a community advisory board.

Too often, patients are left out of key decisions that impact their health care experience. S.444/A.176 (2021-2022) would require hospitals to create a board of representatives with members from the community they serve, holding them accountable in meeting the health care needs of the community, providing charity care services, and improving access to care.