NY Coalition of Downstate
Union Home Care Agencies

Testimony of New York Coalition of Downstate Union Home Care Agencies
Before the Joint Legislative Public Hearing on the SFY 2024-2025 Executive Budget Proposal:
Topic Health
Ensuring Adequate Rates for Fair Pay for Home Care
January 23, 2024

Thank you, Senator Krueger, Assemblymember Weinstein, Senator Rivera, Assemblymember Paulin, Senator Cleare, Assemblymember Kim and all the committee members for the opportunity to testify on Governor Hochul's proposed Health and Medicaid budget for State Fiscal Year 2022-2023.

The Coalition is comprised of the State's largest downstate licensed home care services agencies (LHCSAs). Together, we care for tens of thousands of frail and medically compromised Medicaid beneficiaries in the five boroughs, and we employ tens of thousands of home health aides who are members of unions, primarily 1199SEIU. We offer our testimony today to provide perspective on the challenges faced by LHCSAs and out of concern for the future of the State's home health care services and the population they serve.

While the Legislature has taken necessary and critical action to increase the wages of personal care and home health aides in the last few years, no action has been taken to address the needs of the LHCSAs who are employing those workers and mandated to pay increased wages and benefits. If LHCSAs cannot keep their doors open, the aides everyone has worked so hard to support will not be working for low wages; they won't be working period. And the population they serve will suffer.

We once again plead for assistance in shoring up the State's critical infrastructure of community based home care. Specifically, we ask for the Legislature's support in (1) rejecting any cuts to community based long term care services; (2) increasing rates for community based long term care by 10%; and (3) passing statutory language to bring predictability and transparency to home care rate-setting and contracting.

<u>Do NOT Enact Further Reductions to Community Based Home Care.</u>

We note that the Governor's proposal to eliminate worker wage parity requirements for the CDPA program effectively cut the program by $200M. This will create further significant pressure on LHCSAs and the populations they serve. LHCSAs are having issues covering costs for authorized hours as it is without having to worry about absorbing need from CDPA.

The Governor has included in her budget $200M in unallocated reductions to long term care. Community based Medicaid long term care services have <u>no capacity</u> to absorb any type of rate reduction. Indeed, and as described below, the field is in desperate need of action to ensure that rates cover costs. **We strongly oppose any cuts to community based long-term care, and plead with the Legislature to do the same.**

<u>10% Rate Increase is Required: Responsibly Funding a Wage Increase REQUIRES Adequate Provider Reimbursement Rates</u>

We applaud the Governor and the Legislature for enacting needed wage increases for the State's home care workforce. New York's Home Care workforce, however, is dependent upon the home care industry, which is financially unstable. Accordingly, the Legislature should support a 10% rate increase for Medicaid home care services to address foundational sustainability of the industry.

Most recent worker wage increases

In the State's 2023-2024 final budget, the Legislature and the Governor agreed to (1) delay the planned $1/hour base wage increase for personal care aides from October 1, 2023 to January 1, 2024; (2) to increase the wage increase to $1.55/hour; and (3) to reduce worker wage parity obligations and for downstate employers by $1.55 and related funding. This summer and fall, providers and plans collectively met with the State to emphasize that that reductions in worker wage parity did not neutralize the cost impact of the $1.55 wage increase; they emphasized that the January 1, 2024, wage increase is not only not cost-neutral, but will have additional cost impacts to employers of personal care aides across the state.

In November, the State announced to plans their rates, which only were increased by $.27 to account for the $1.55/hour wage increase for costs per hour of Licensed Home Care Service Agency (LHCSA).[1] For downstate fiscal intermediaries (FIs) participating in the Consumer Directed Personal Assistance Program (CDPAP), the rate increase is even less.

When the first wage increase went into effect, it was believed that the State provided sufficient funds for the October 1, 2022, increase in the plan rates, but providers experienced multiple situations where funds were not being passed through to providers.

Employer Costs of Wage Increases Are Not Being Met in the Rates. Employers of home care workers are mandated to meet wage, labor, benefit and tax requirements, in addition to various mandates of the Department of Health. With this most recent increase, regardless of geography or union status, every licensed home care services agency and fiscal intermediary in the State will see increased costs for:

- Payroll taxes
- Workers' comp taxes
- Unemployment benefits
- FLSA - Overtime, travel and live-in services
- In-service
- NYS Department of Labor mandates (e.g., split shifts and spread of hours)
- COVID sick pay
- Patient-related care costs

These costs are not covered by state savings realized by reduction in Worker Wage Parity costs as the provider will continue to incur costs of health insurance and other WWP obligations, especially those with collective bargaining agreements.

Additionally, unionized LHCSAs and FIs across the state (including but not limited to Nassau, Suffolk and Westchester, and NYC) have costs related to Collective Bargaining Agreements obligations (health, pension, training and paid time off costs).

[1] The downstate rates were actually cut by $.01 for certain fee-for-service Medicaid providers.

Result: Employees Pay the Price for their Wage Increase. This reimbursement insufficiency has resulted in LHCSAs being forced to eliminate health care coverage, reduce holiday pay, and reduce paid time off. In effect, personal care and home health aides have had to fund their own wage increase.

Employer Costs are Unaddressed and Unfunded. This is true not just in the context of the recent wage increases, but for provider rates overall. Simply put, the rates are not keeping pace with costs; they have not for years; and each new mandate creates a heightened burden that threatens this important safety net.

In addition to wage increase costs, providers have growing uncompensated costs related to the provision of services that exist separate and apart from the costs of putting the aide in the home. Home care providers were particularly hard hit by the pandemic. Without the scale or early access (and sometimes no access) to federal emergency funds, the licensed home care services providers were forced to deal with dramatic unbudgeted and unreimbursed costs for PPE, COVID sick pay and overtime. And many of these costs (PPE, etc.) have continued on in the "new normal".

During this time, the State provided no relief. The State has cut MLTCP/MCO rates during the pandemic, which were passed down to the providers.

Many home care providers had invested considerable resources to participate in value-based arrangements to drive quality and allow for alternative payment methodologies. However, there have been actions (including this year) to eliminate quality incentive programs and value based payment arrangements that could have increased positive outcomes in the home care/long term care sector.

Healthcare Workforce Retraining Initiative (HWRI), Workforce Investment Organization (WIO), and other funding streams to support enhanced training have been eliminated or are winding down. The recently announced 1115 Waiver's workforce initiatives are not available to home care workers.

Even reliable funding streams have been delayed. The Quality Incentive Vital Assistance Provider Program (QIVAPP) is an example of vital quality incentive funding to support home care providers that invest in their workforce has been getting delayed. QIVAPP is a lifeline to home care providers, and that lifeline cannot be withheld, even temporarily.

Asks

1. Reject any type of rate reduction for community based long term care services, including to services provided by licensed home care services agencies.
2. The State must take immediate action to increase provider rates by at least ten percent. This includes, but is not limited to, recalculating and appropriately funding rates (plan rates and fee for service) to recognize the costs to providers for the $1.55/hour wage increase. Specifically, instead of the $.27/hour, the State should have a total of $2.06/hour ($1.55 plus $.51 per hour in wages and related expenses) to recognize the wage increase and associated provider expenses. To not address these cost shortfalls, workers will be paying for their wage increases with the reduction in benefits and providers will continue to bankroll the New York State Medicaid program.
3. The Department of Health must be required to (1) include all mandated provider wage-related costs in developing reimbursement rates related to employee wage increases; and (2) ensure that this rate development process is transparent and broadly communicated. This would be achieved by enactment of A7335/S6963.
4. The State should establish a clear process that sets regional benchmark rates for home care providers that transparently accounts for and includes provider costs. The State also should seek federal approval for plans to pass those rates directly through to providers. If such approval cannot be secured, the State should require plans to provide a rationale if they do not pay those benchmark rates, and a report of

such rationales should be made to the public and the Legislature. This would be achieved by enactment of A7335/S6963.

We thank you for your time and consideration.