2025-26 Health/Medicaid Testimony

Provided by:

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INTRODUCTION

On behalf of the membership of LeadingAge New York, thank you for the opportunity to testify on the aspects of the State Fiscal Year (SFY) 2025-26 Executive Budget impacting long-term and post-acute care (LTC) providers,[1] aging services, and older adults. LeadingAge New York represents over 350 not-for-profit and public providers of LTC, aging services, and senior housing, as well as provider-sponsored Managed Long-Term Care (MLTC) plans and Programs of All-Inclusive Care for the Elderly (PACE). This testimony addresses the Executive Budget proposals that apply across the continuum of LTC, aging, and MLTC/PACE services, as well as those that would affect specific types of providers and managed care plans.

We appreciate Governor Hochul's commitment to fighting for families in her proposed budget. Unfortunately, there are some important people missing from the families that Governor Hochul is fighting for – our parents, grandparents, aunts, and uncles who are aging and in need of long-term services and supports. Her budget does not meet the needs of the 70-year-old retired teacher with heart failure, struggling to care for her 90-year-old mother who needs substantial assistance just to transfer from bed to a wheelchair. Nor does it provide sufficient support for the married couple in their eighties who once ran a dairy farm, but now have no nearby family and struggle with physical frailty and the husband's progressing dementia. Sadly, the proposed budget has little to offer the beloved 90-year-old veteran and baseball coach who has outlived all of his friends and family and resides in a nursing home that provides the 24/7 skilled care and companionship he needs.

While we recognize that the proposed budget makes small investments in LTC, the resources allocated are not proportionate to the need and will not preserve access to quality LTC for our growing family of older adults. For over a decade, New York State has neglected the needs of our older family members and neighbors, despite their increasing numbers. Our LTC policy has focused on reducing spending through quick fixes and blunt cuts, rather than innovation and investment. Even when modest investments have been made in LTC, they have often been negated by simultaneous cuts. Today, LTC services in New York are in a precarious position due to chronic underfunding, sharply rising costs, and rising demand.

The quality and accessibility of LTC services is an issue that *all* New Yorkers should care about; approximately 70 percent of adults who live beyond age 65 will need LTC at some point in their lifetime.[2] Between 2015 and 2040, the number of adults over 85 will double in New York.[3] Alarmingly, while the percentage of our population over age 65 is growing, most projections show that the number of working-age adults to care for them is shrinking.[4]

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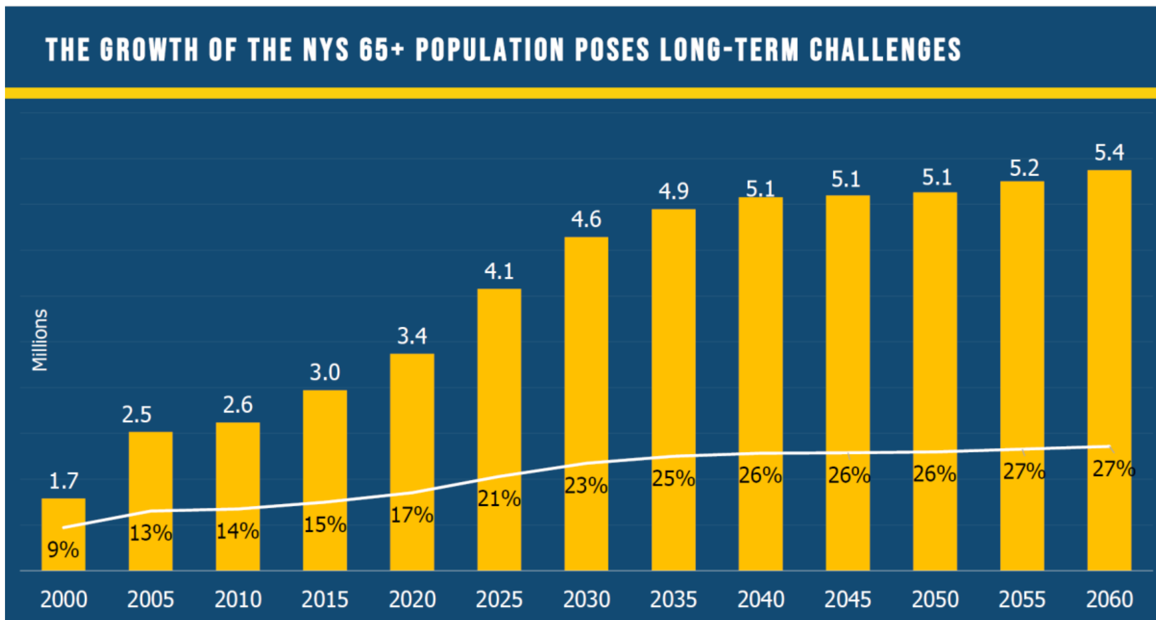
[1] The term LTC providers is used throughout this testimony to refer to providers that deliver long-term and/or post-acute care. These providers include home care agencies, nursing homes, hospice programs, adult day health care programs, and adult care/assisted living facilities.

[2] Johnson, R.W. "What is the Lifetime Risk of Needing Long-Term Services and Supports?" ASPE Research Brief. April 2019.

[3] Cornell University Program on Applied Demographics New York State Population Projections; http://pad.human.cornell.edu/; accessed Jan. 4, 2019.

[4] Cornell University Program on Applied Demographics New York State Population Projections; https://pad.human.cornell.edu/state_projections/poptrends.cfm; accessed Feb. 5, 2025.



New York State Division of the Budget, presentation, Jan. 16, 2024, accessed at https://www.budget.ny.gov/pubs/archive/fy25/ex/fy25-director-presentation.pdf.

Older New Yorkers and their families are already facing unprecedented challenges in accessing needed services in their communities, as nursing homes and home care agencies are forced to limit admissions or close entirely due to inadequate Medicaid reimbursement. Medicaid is the primary payer for nursing home care and home care in New York, and the Medicaid program bears responsibility for the viability of the LTC system. *Unlike other health care providers, when costs rise, LTC providers cannot turn to commercial payers for increased reimbursement to cover them.* New York's refusal for 15 years to make inflation adjustments in Medicaid spending on LTC, along with sharply rising labor expenses, has created a gap between Medicaid rates and costs that providers can no longer absorb.

Nursing home Medicaid funding, for example, falls short of costs by $1.6 billion (all funds) annually or $90 per resident per day on average. The state's adult care facilities (ACFs) for low-income older adults are paid only $46.22 per day by Supplemental Security Income (SSI)/State Supplement Program (SSP) – well below the costs of room, board, personal care, and case management. Home care agencies are also struggling with reimbursement shortfalls. As a result of inadequate Medicaid rates, LTC providers are unable to offer competitive wages and face severe staffing shortages. Many are forced to limit admissions due to lack of sufficient staff. Others are closing entirely.

Since 2014, 32 nursing homes have closed in New York – almost all of which were not-for-profit – resulting in the loss of 3,565 beds. Today, more than 72,000 beds across the state are operated by facilities that are in financial distress. Since 2010, nearly 101 ACFs have closed, including some Medicaid assisted living programs (ALPs). Given the growing number of older adults who will need services, we are on an alarming trajectory.

The reduction in LTC capacity is creating bottlenecks across the health care system. Our hospitals are struggling to find nursing home beds and home care services for patients ready for discharge. Older adults in hospitals are experiencing prolonged stays and are accepting discharges to nursing homes far from loved ones. Hospital beds that are needed for new patients with acute needs are filled by patients waiting for discharge, emergency departments are overflowing, and emergency medical services (EMS) personnel face delays when attempting to transfer patients to the emergency department.[5] For consumers in need of LTC, like those seeking post-acute care, high-quality options are limited and shrinking with each passing month.

LTC and aging services are focused on family. Our providers support our family members to live full lives as they age and their needs change. They provide relief for devoted informal caregivers who may be stretched to the breaking point (and who are typically older adults themselves). They strive to ensure that "aging in place" does not lead to social isolation and home confinement. They create chosen families of formal caregivers, new friends, and neighbors, in congregate settings and in private homes.

LeadingAge New York's not-for-profit members are committed to embracing every stage of life and supporting patients, residents, families, and staff to live fully with joy, purpose, and companionship. Although struggling to stay afloat financially, our members are finding creative ways to build community and enrich the lives of the people they serve and their caregivers. The following are a few examples with links to photos and descriptions:

- Residents at Loretto's The Commons on St. Anthony produce an arm-wrestling fundraiser for St. Jude's Children's Hospital.
- Jewish Home of Rochester's knitters make hats and scarves for youth in crisis.
- Retired Missionary Sisters of the Immaculate Heart of Mary find purpose at The New Jewish Home's Kittay Senior Apartments in the Bronx.
- Island Nursing and Rehab Center hosted 'Dress Like an Elf Day' for residents and staff as part of their holiday celebrations.
- Hebrew Home at Riverdale residents bake cookies as part of reminiscence therapy for dementia.
- The New Jewish Home in Manhattan offers a monthly 'Dog Night' event for residents.
- CenterLight PACE "inspires hearts with art," showcasing the work of participants.
- 43 participants in The New Jewish Home's SkillSpring Young Adult Program earned their certified nurse aide (CNA) certificates.

High-quality, financially viable LTC services and settings should be available and accessible at all levels of care, regardless of the individual's income and geography. New York's failure to provide adequate investment and solutions in the short term threatens the demise of high-

[5] "Strong Memorial Hospital Sets Record for Most Patients on a Single Day," WROC, Jan. 19, 2024, accessed at https://www.rochesterfirst.com/rochester/strong-memorial-hospital-sets-hospital-record-for-most-patients-on-a-single-day; "Some Hudson Valley ER Wait Times Spiked 20% Last Year, LoHud.com, May 15, 2024; Munson, E., "Emergency Room Visits to Albany Med are Some of the Longest in the Country, *Times Union,* July 5, 2024.

quality, innovative providers that could provide the care our family members deserve and expect this year and in the future. If New York is truly committed to health equity and aging with dignity in one's preferred place for people of all income levels and in all regions of the state, it must be prepared to pay for it.

We ask you to raise Medicaid rates for LTC providers to cover the cost of delivering care. As detailed below, for nursing homes, this means restoring the 15 percent capital cut and a $460 million (State share) investment in closing the gap between Medicaid rates and costs. For ACFs, restoration of Enhancing the Quality of Adult Living (EQUAL) program funding and the Enriched Housing Subsidy and an increase in the ALP rate are essential. Investments in home care and hospice are necessary to ensure access to these services. And, funding for the Resident Assistant Program in affordable senior housing would help older adults to maintain their independence and their well-being, saving Medicaid and Medicare dollars.

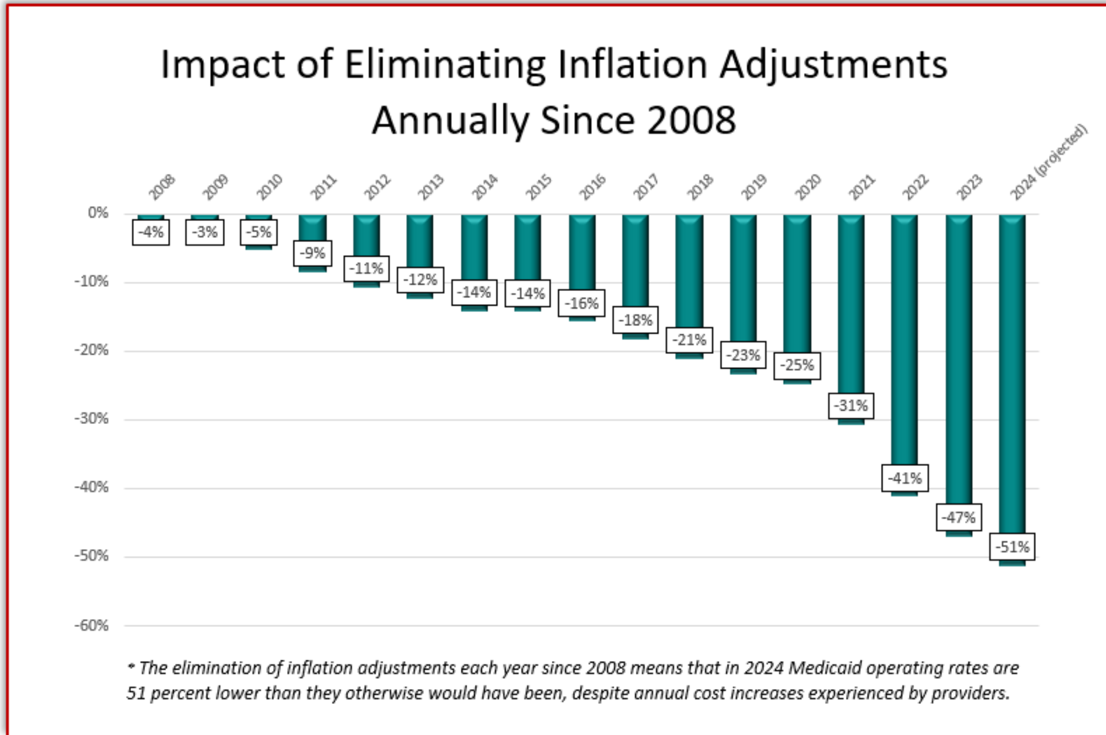
Our testimony elaborates on the challenges facing LTC providers, LTC funding needs, and policy recommendations to do better for older New Yorkers. The testimony is organized in four parts, as follows:

I. Financial Condition of New York's LTC Providers
II. The LTC Workforce Crisis
III. Service Line-Specific Recommendations to Ensure Access to LTC Services
   a. Nursing Homes
   b. Managed Long-Term Care and Programs of All-Inclusive Care for the Elderly
   c. Home and Community-Based Services
   d. Adult Care Facilities and Assisted Living
   e. Continuing Care Retirement Communities
IV. Workforce Recommendations

I. FINANCIAL CONDITION OF NEW YORK'S LTC PROVIDERS

Years of inadequate Medicaid rates and little new investment have depleted our LTC providers. The financial position of many providers, especially not-for-profit providers, was shaky before COVID and the intensification of the staffing crisis. The situation is now dire. Since the pandemic, costs have skyrocketed, revenues have plummeted, and many providers are closing their doors.

New Yorkers rely overwhelmingly on Medicaid to cover their LTC needs. Medicaid pays for over 72 percent of nursing home days and over 86 percent of licensed home care services in New York.



Source: US Bureau of Labor Statsitics, CPI for All Urban Consumers (CPI-U)

a. Inadequate Medicaid Rates Causing Widespread Financial Distress and Loss of Services

Medicaid pays for 72 percent of nursing home days and covers 86 percent of the services provided by licensed home care services agencies (LHCSAs) in New York. As the primary payer for LTC services in New York, Medicaid bears significant responsibility for access to high-quality LTC services, the financial viability of the LTC sector, and its capacity to compensate staff appropriately for the difficult and essential services they deliver.

Until 2022, when Medicaid rates were increased by 1 percent, rates paid to nursing homes, ALPs, and adult day health care (ADHC), for example, had not been increased for inflation in 15 years – a period in which inflation drove up costs by more than 40 percent. Unfortunately, the 6.5 percent rate increase for ADHCs and ALPs and 7.5 percent for nursing homes in 2023 did not even meet the inflationary cost increases *in that year alone*. The sector experienced an 8 percent inflation rate for the 12-month period ending April 2022, an additional 5 percent inflation rate for the year ending April 2023, as well as significant wage increases in collective bargaining agreements.[6]

As a result, nursing home Medicaid rates, for example, fall short of costs by at least 25 percent on average, according to our comprehensive analysis of 2021 allowable costs relative to 2021 rates – a shortfall that has likely widened since, given rising costs, compounded raises in

[6] Bureau of Labor Statistics Inflation Calculator, accessed at www.bls.gov/data/inflation_calculator.htm.

collective bargaining agreements, and capital cuts. Staffing levels are a leading predictor of the size of the Medicaid shortfall on a facility level: **the average Medicaid shortfall for homes meeting State staffing requirements was over $150 per resident per day in 2024**. The financial distress is widespread and growing. In 2022, the most current year for which data is available, 85 percent of not-for-profit homes experienced operating losses, and the median operating margin for not-for-profit homes was -11.7 percent.[7] Anecdotal evidence suggests these figures have only deteriorated since then.

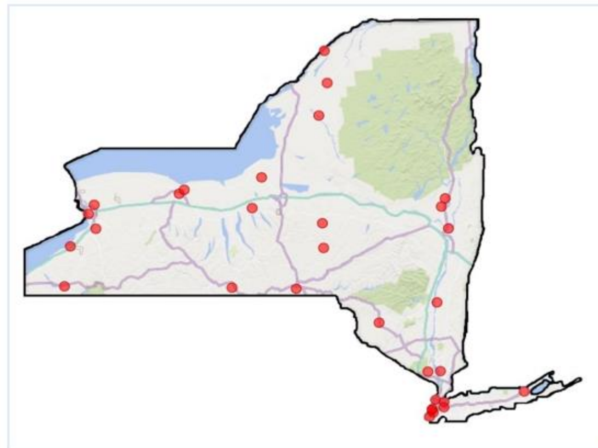
The condition of home care providers is also depleted. According to a report by the Home Care Association of New York State, an estimated 58 percent of reporting certified home health agencies (CHHAs) and 54 percent of LHCSAs had negative operating margins in 2023. One of New York's largest home health agencies had to turn away nearly 18,000 patients in 2023 due to workforce shortages and inadequate reimbursement rates.

Like nursing homes and home care agencies, ACFs that serve low-income residents have been struggling to survive with inadequate public funding. Their SSI Congregate Care Level 3 rate of **$46.22 per day** covers less than half of what it actually costs to provide all regulatorily required services.

The financial distress is forcing high-quality providers to close or sell and constricting access to care. As noted above, since 2014, 32 nursing homes have closed in New York – almost all of which were not-for-profit – resulting in the loss of 3,565 beds. Since 2010, 101 ACFs have closed, many of which served the low-income population. Particularly alarming is a new trend of Medicaid ALP closures; six have closed over the past two years, and we anticipate more to come. Similarly, over the past six years, 11 CHHAs have closed across the state, including five in the past year alone.[8] Currently, only 60 of the 120 licensed ADHC programs have been able to reopen since these providers were ordered by the State to close for over a year during the COVID pandemic. This reduction in capacity across the LTC continuum is likely to accelerate if Medicaid underfunding is not addressed quickly.

[7] LeadingAge New York analysis of 2022 RHCF cost reports.
[8] 2025 State of the Industry Report – Annual Report, HCA-NYS, January 2025.

Nursing Home Closures Since 2014



Source: LeadingAge NY Analysis of DOH NH Profiles

Financial challenges and workforce shortages are also forcing providers to limit admissions. Due to staff shortages, quality nursing homes are forced to close beds – 7,200 certified nursing home beds are not staffed, meaning that they are unavailable even when there is demand for them. Home care agencies are likewise turning away patients in need of care due to lack of available staff.

The shrinkage of LTC capacity is creating backups in hospitals and ripple effects throughout the health care system. Vulnerable hospital patients who are waiting for discharge cannot find appropriate post-discharge care close to home. The inability to find needed services is devastating for those who need it and for their caregivers. But it does not end there – lack of access to LTC services leads to shortages of available hospital beds, overcrowded emergency departments, and extended EMS response times, affecting everyone in the community.

b. Older Adults and LTC Providers Forsaken by 1115 Medicaid Waiver and Capital Grants

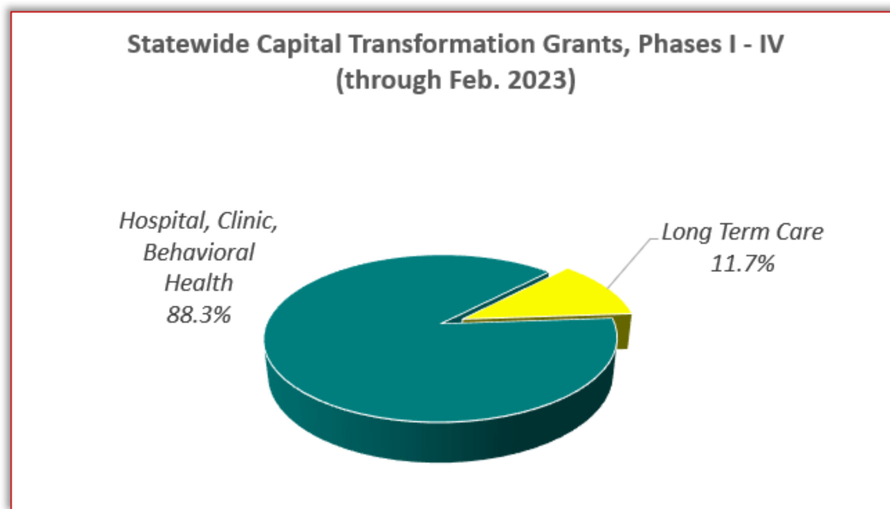
Despite years of flat Medicaid rates and deepening financial distress among LTC providers, the State has repeatedly failed to invest equitably in the LTC sector even when capital grants or federal Medicaid funds are made available. This pattern is repeated in the Governor's budget, which would invest $190 million of State funds into several initiatives recently approved under the 1115 waiver. Tragically, these funds will not support older adults in need of LTC. The State once again turned its back on older adults and people with disabilities in need of LTC when developing the 1115 waiver.

For example, the waiver invests $3.2 billion over three years in Health-Related Social Needs (HRSN) services to be targeted to Medicaid high utilizers enrolled in Medicaid managed care plans: individuals experiencing substance use disorder (SUD), serious mental illness, intellectual and developmental disabilities, or homelessness; pregnant and postpartum persons; criminal

justice- and juvenile justice-involved populations; and children. It does not appear to enable the delivery of HRSN to older adults with LTC needs, unless they also meet the above criteria.

Likewise, the waiver's investment in Career Pathways Training (CPT) for allied health care workers *does not* appear to provide support for training for home health aides, personal care aides, or CNAs – key caregivers in LTC settings.

Similarly, LTC providers have been denied a fair share of State capital grants. Only 11.7 percent of Statewide Health Care Facility Transformation Program (SHCFTP) funds have been allocated to LTC providers. In this year's budget, the Governor proposes a $1 billion increase in SHCFTP funds dedicated to safety net hospitals. Our LTC system today offers consumers a shrinking array of choices, with nursing home services predominantly in outdated, institutional facilities, rather than innovative, homelike environments, and limited access to telehealth or advanced technology solutions across the LTC continuum. Capital investments in LTC are sorely needed.



Source: LeadingAge NY review of DOH awardee lists

II. THE LTC WORKFORCE CRISIS

Demographics, funding, labor market dynamics, and the effects of COVID have combined to create an unprecedented workforce crisis in the field. Our members are doing everything in their power to recruit and retain staff. Yet, all report that they are unable to fill open positions, particularly in direct care. They cannot compete with other employers that have the luxury of raising prices to reflect labor market dynamics. Their extraordinary efforts to maintain high-quality staffing at appropriate levels, with inadequate reimbursement, are bankrupting them.

Recently enacted State policies are contributing to the staffing challenges and financial decline in nursing homes. In the context of our health care workforce emergency, the minimum nurse and aide hours requirements are infeasible for the vast majority of nursing homes. Three years after staffing level requirements went into effect, 67 percent of all New York State nursing homes are still unable to meet one or more of the minimum hours requirements, according to

the most recent publicly available Payroll-Based Journal (PBJ) data from the Centers for Medicare and Medicaid Services (CMS) (second quarter of 2024).

These homes are threatened with steep penalties (up to $2,000 daily) if they fail to meet all three staffing requirements. At the same time, under recently enacted legislation, they are faced with penalties if they mandate that nurses work overtime in order to meet staffing requirements. If homes are forced to pay all of these penalties, they will have even less funding to recruit and retain staff. Unfortunately, the few homes that are able to meet staffing requirements are those at greatest risk of sale or closure – as noted above, compliance with mandated staffing ratios creates an average Medicaid shortfall of about $150 per resident per day.

The demanding nature of LTC work, the training and skill required, and inadequate reimbursement are driving people from the field. The State needs to shift its focus to find ways to attract and incentivize people to join in these important and meaningful careers.

III. SERVICE LINE-SPECIFIC RECOMMENDATIONS TO ENSURE ACCESS TO LTC SERVICES

Battered by mounting, unreimbursed costs and workforce shortages, our LTC system is facing a future in which choice of setting and provider is severely limited and high-quality care is accessible only to the affluent. The State must deliver on its promise of a Medicaid program that ensures access to high-quality LTC for all New Yorkers. It cannot achieve its goal of health equity by balancing the Medicaid budget on the backs of older New Yorkers and people with disabilities who need LTC services.

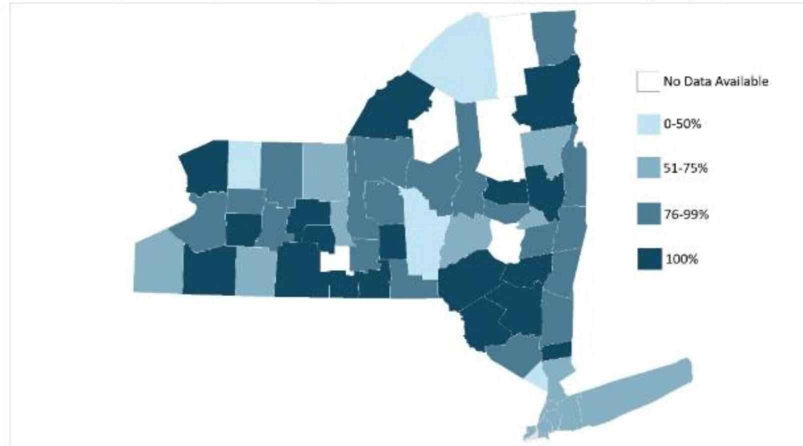
With this as context, we offer the following recommendations for the Legislature to consider for the 2025-26 State Budget.

a. Nursing Homes

Due to Medicaid underfunding, many high-quality nursing homes are on the brink of failure. Wages and benefits, primarily for nursing staff, represent the bulk of nursing home costs. The competitive labor market requires 5 to 7 percent wage increases annually to retain and attract quality staff. It is impossible to continue to operate, much less meet mandated staffing ratios, with rates based on 2007 costs. As a result, more than 2,000 nursing home beds have been decertified since 2019, and 7,200 of the remaining beds are not staffed and are therefore unavailable to consumers, according to Department of Health (DOH) data.

Nursing Home Beds in Jeopardy

Percent of beds operated by homes with negative margins, by county



Source: LeadingAge NY analysis of 2022 (latest available) certified Medicaid Cost Reports

It is important to recognize that the additional funding ($50 million) proposed for nursing homes in the Executive Budget represents only a 1.3 percent increase that does not even approach the current year's wage increases. Moreover, by eliminating inflation adjustments annually for more than a decade, the State has cut payments to nursing homes by a cumulative amount exceeding $15 billion since 2012. **Not only have nursing homes been operating with outdated rates, even the modest funding increases provided in recent years have been reduced by concurrent cuts:**

- The 2024 investment of $285 million (all funds) was accompanied by a case mix freeze that reduced funding by $250 million and by a 10 percent cut in capital reimbursement that reduced funding by $54.8 million (all funds). The result has been a net loss for some providers.
- Two of the three years of promised staffing funding ($187 million per year) were diverted to support a 7.5 percent increase in 2023.
- The 2021 investment of $128 million (all funds) was never spent; instead, it was diverted to pay for the 2022 investment of $187 million.

We urge the Legislature to take the following steps to restore the viability of our nursing homes and preserve access to quality care:

- ***Restore the 10 percent and 5 percent cuts in capital reimbursement.***

With the enactment last year of a 10 percent cut to Medicaid capital rates on top of the existing 5 percent cut, nursing homes now face a 15 percent shortfall in capital reimbursement. Capital reimbursement helps to pay for nursing home renovations and equipment that improve quality of life and safety for nursing home residents and staff. Medicaid reimburses the State-approved capital expenses incurred by a nursing home, and most financing arrangements are dependent on Medicaid meeting its promise. These reductions to capital reimbursement threaten access

to needed capital funding for improvements that make facilities more homelike and improve safety, while also putting providers in danger of defaulting on existing obligations. The damage caused by this cut far outweighs the State savings. We ask that the Legislature allocate the required $41.1 million to restore these damaging cuts.

- ***Invest in closing the Medicaid rate gap: add $460 million (State share) to the proposed new funding as a percentage rate increase.***

The Executive Budget proposes $50 million (State share) in new funding, a mere 1.3 percent increase, while continuing $142.5 million (State share) in previously enacted funding. This does not begin to close the $1.6 billion gap between rates and costs, nor does it enable nursing homes to meet rising wage and benefit costs. Years of underfunding demand a material new investment. We urge the Legislature to:

  - Ensure that the previously enacted $285 million continues based on the same allocation methodology and is made permanent;
  - Add $460 million (State share) to the proposed new funding, as a permanent percentage increase, and make real progress toward closing the Medicaid rate-to-cost gap that has ballooned to an average $90 per Medicaid resident per day.

A permanent rate increase is needed to stabilize the deteriorating financial condition of nursing homes and to allow them to ensure quality, provide competitive wages and benefits, meet collective bargaining agreement obligations, and modernize care models to address the needs of our aging population. Inadequate and unpredictable funding makes this impossible and negatively impacts residents, their families and staff, and the health system as a whole. Nursing homes need stable and predictable reimbursement in order to provide their residents with quality care, operate effectively, and plan for the future. This overdue increase would serve as a bridge to a state-of-the-art nursing home reimbursement methodology that would update and rationalize the current outdated approach.

- ***Enact legislation to require that the costs on which Medicaid rates are based be updated every five years.***

New York's nursing home rates are calculated using 2007 costs reduced by 9.5 percent, or a "2007 base year." Updating the base year regularly would create a more accurate nursing home reimbursement system. In addition to ensuring that reimbursement is better aligned with current costs, rebasing would provide an opportunity to update the methodology to reflect changes since 2007 in nursing home cost structure, address regional wage differences, and update adjustments for resident acuity. The majority of other states annually adjust their Medicaid rates for inflation and/or periodically update the cost year on which reimbursement rates are based. Enacting legislation to require New York to update its cost base on a regular schedule, at least every five years, would help to keep New York's reimbursement aligned with costs and prevent the reemergence of a wide Medicaid funding gap once it is closed.

- ***Correct the error in staffing funds distribution and appropriate $2.7 million (State share) for 11 not-for-profit homes.***

A peculiarity in DOH's calculation of "safe staffing" funding eligibility resulted in the inequitable exclusion of 11 not-for-profit homes. These homes met and exceeded direct spending requirements and, in most cases, experienced sizeable, annual operating losses when one-time funding (e.g., COVID relief) is excluded. These facilities should have qualified for safe staffing funds, given the Legislature's intent. We ask the Legislature to provide $2.7 million in State-share funding to correct this.

- ***Allow staffing models tailored to resident needs; add titles to minimum staffing level provisions and allow nurses to satisfy aide hours.***

The minimum nurse staffing law enacted in 2021 sets inflexible staffing requirements that the vast majority of homes (nearly 70 percent in quarter 2 of 2024) have found impossible to meet during this unprecedented staffing crisis. In fact, in 2024, DOH Commissioner Dr. McDonald issued a determination of an acute labor supply shortage of nurse aides, CNAs, licensed practical nurses (LPNs), and registered nurses (RNs) statewide for the first two quarters of 2023. (We are still waiting for decisions on more recent periods.) Nonetheless, the State is in the process of imposing penalties for non-compliance with the minimum staffing mandate, which will further deplete the resources that nursing homes need to recruit and retain staff.

The staffing requirements are based solely on nurses and aides, and require specified minimum hours for each, regardless of the needs of residents. For example, some of those "non-compliant" homes serve higher-acuity residents and actually exceed staffing levels for RNs and overall, but still face penalties because they are below required levels for CNAs. Other "non-compliant" homes serve a large percentage of residents with cognitive deficits who need less nursing care, but more activities and supervision. Unfortunately, the law does not take into account the needs of higher-acuity residents and does not count activities or therapy staff in measuring staffing levels.

Denying the hours of care provided by these and other direct caregivers, or requiring that their time be replaced by aide hours, does little to improve the quality of life for residents. The law should be amended to take into consideration the hours worked by rehabilitation therapy staff, nurse practitioners, nurse managers and directors who deliver direct care (consistent with federal standards), recreation and activities staff, aide trainees, and feeding assistants. We thank Assemblyman Hevesi for introducing *A.600*, which would recognize the essential care provided by therapists as well as therapy assistants and aides. We urge the Legislature to enact and expand upon this legislation.

- ***Authorize medication aides in nursing homes.***

LeadingAge New York appreciates the Governor's proposal to authorize specially trained CNAs to work in nursing homes as certified medication aides (CMAs) administering routine

medications to residents under the supervision of an RN. This proposal, or that set forth in *A.1272 (Clark)*, would help to address the nursing shortage in nursing homes, while providing new career ladder opportunities for CNAs and preserving quality and safety. Approximately 39 states already authorize medication aides to perform these tasks in nursing homes. Likewise, in New York State, the Office for People with Developmental Disabilities (OPWDD) already allows unlicensed direct care staff to administer medications.

The proposal would provide several benefits to nursing home residents and the people who care for them. It would allow RNs and LPNs to focus on higher-level tasks that make their jobs more rewarding and enable them to devote added attention to residents with more complex clinical needs. It would also provide another step on the career ladder for CNAs, providing them with additional training and compensation and a path to explore the possibility of a nursing degree. Given that this is being used in other states, a curriculum can be built using what nursing homes in other states use. Unlike many workforce development proposals that require years to provide a measurable impact, this initiative could be implemented and begin to make a difference relatively quickly – without cost to the State.

We cannot abandon older adults with the highest care needs – those who require 24/7 care, skilled nursing, continuous medical oversight, and/or extensive assistance with activities of daily living. Our efforts to promote care in the most integrated setting should not deny those who need nursing home care access to the best possible quality of care and quality of life in close proximity to their loved ones.

b. Adult Care Facilities and Assisted Living

Assisted living (AL) and ACF providers offer support and assistance in a homelike setting for approximately 37,000 New Yorkers, 55 percent of whom are over the age of 80. Given the homelike nature of these settings, they are a popular option with consumers, and we anticipate that the demand for these services will only grow in the years to come. It is alarming, however, that, according to AARP's 2023 State Scorecard Report, New York is the *worst in the nation* on the AL supply metric.[9] The supply for those with low incomes is even more limited, and there is no indication that it will improve any time soon. Since 2010, there have been *101 ACFs that have closed* in New York, resulting in a loss of over 4,000 beds. The closures are largely due to inadequacy of funding.

ACF/AL providers face the same workforce shortages plaguing other parts of the LTC sector. In addition, the sharply rising costs exacerbate these challenges and are threatening the viability of programs trying to serve the low-income population.

We urge the Legislature to take the following steps in this year's budget to ensure the availability of ACF/AL services, particularly for low-income older adults:

[9] AARP 2023 State Scorecard Report, available at https://ltsschoices.aarp.org/scorecard-report/2023/states/new-york.

- ***Invest in and grow the ALP; reject the delay in the need methodology and allow increased capacity.***

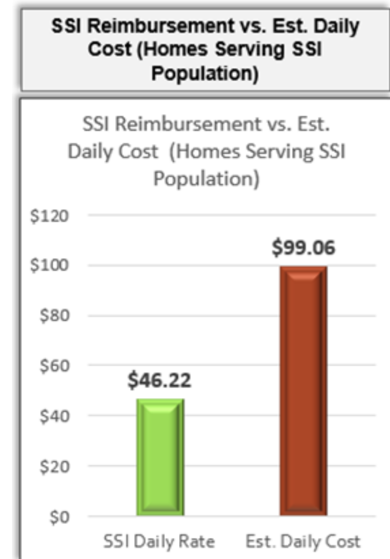
The ALP is the only Medicaid-funded AL option in the state. It serves people who require a nursing home level of care, but do not need ongoing skilled services, at approximately half of the nursing home Medicaid rate. Like other LTC Medicaid providers, the ALP Medicaid rate did not have a standard trend factor increase for 15 years and even had a rate cut during the pandemic. While the investments of the past two years have been helpful, they did not make up for the chronic underfunding, sharply rising costs, and costs associated with the recruitment and retention of workers. We are seeing the results of that underfunding – the alarming new trend of ALP closures. Six ALPs have closed in the past two years, and more are considering closure in the near future.

Because last year's modest $15 million investment in the ALP was a one-time investment, the Governor's proposal to include $15 million for the ALP is not an increase, but rather level-funding. It is also not a commitment to a rate increase that a program can reliably count on and recruit and retain staff with. The ALP Medicaid rate must be increased by 20 percent in this year's budget to recognize the growing costs over 15 years. In addition, the ALP Medicaid rate is calculated based on 1992 nursing home costs; this base year must be updated to ensure that it reflects current costs moving forward, as outlined in *A.1406 (Paulin)/S.3329 (Cooney)*.

As noted, the supply of AL options in New York is already the worst in the nation, and the need is only growing, particularly as nursing homes close or take beds offline. It was concerning, therefore, to see the Governor's proposal to *again* delay the deadline for the State's development of a needs-based application process for any new ALP beds by another year. There is currently no way to increase the number of ALP beds in the state absent the development of this process, and yet we are hearing that there is great need in communities. The people who need those services cannot wait any longer. The Legislature must reject the Governor's proposal and maintain the April 1, 2025 deadline.

However, we know that even with the April 2025 deadline for the development of a needs-based application process for the ALP, it will take a long time for that process to result in actual beds coming online. The Department has indicated the need to develop regulations, and only after they are finalized could they begin taking applications. This will take a year or more. A simple step the State can take in this year's budget to address need is to provide existing ALPs an expedited process to expand their beds by nine or fewer if they can do so without requiring construction, as had been done in the 2018-19 State Budget, and as outlined in *A.2731 (Paulin)*. The State should also allow nursing homes to decertify beds to establish new ALP beds, as had been permitted under the Nursing Home Rightsizing Demonstration of 2010.

- ***Double the funding for the SNALR Voucher Program to increase the number of vouchers available.***



The Special Needs Assisted Living Voucher Demonstration Program for Persons with Dementia is designed to assist individuals with dementia or Alzheimer's disease residing in Special Needs Assisted Living Residences (SNALRs) for at least one year who are at risk of requiring nursing home placement due to dwindling resources. The program provides stability and continuity of care by preventing unnecessary transfers. In addition, the program is designed to provide support *before* someone becomes Medicaid-eligible, by subsidizing up to 75 percent of their monthly payments. While last year's budget lifted the cap on the total number of vouchers to 200, the program cannot expand without additional funding. DOH has had to pause the processing of applications over the past years, given the limited funding. We anticipate the number of people with Alzheimer's disease to climb. The program should be expanded to address the waiting lists and meet future demand. This program can prevent the need for someone to transition to a nursing home and become reliant on Medicaid.

- ***Increase the State portion of the SSI rate for ACF residents by at least $20 per day and build in an annual cost-of-living adjustment thereafter.***

ACFs that serve low-income older adults are in financial distress due to inadequate reimbursement from government payers and rising costs. Approximately 12,000 ACF residents rely on SSI statewide. SSI, together with the SSP, pays ACFs **$46.22** per resident per day, which is entirely inadequate for ACFs to provide residents with regulatorily required services including housing, meals, personal care, assistance with medications, case management, and more. There has not been an increase in the SSP since 2007. There is no way to increase wages or compensation to compete for staff in this current environment on such inadequate reimbursement. LeadingAge New York's analysis of 2019 pre-pandemic ACF Financial Report data of ACFs that serve this population demonstrated that the per-resident cost of providing services is more than *twice* the daily reimbursement – and the gap between costs and reimbursement has grown significantly since then.

This chronic underpayment threatens access to this level of care for low-income adults. Since 2010, 101 ACFs have closed, and others are in the process. If SSI/Medicaid-eligible older adults cannot access ACFs in their communities, they will turn to nursing homes at a significantly higher cost to the State. LeadingAge New York estimates that *for every 45 low-income ACF residents who can remain in their ACF or are diverted from nursing home placement, the State saves at least $1 million in Medicaid spending annually*. We urge the Legislature to increase the Congregate Care Level 3 SSP rate by at least $20 per day and build in an annual cost-of-living adjustment (COLA) thereafter.

- ***Restore the Enriched Housing Subsidy and EQUAL funding.***

The Governor's proposal eliminates two programs aimed at ACFs that serve the low-income population. As noted above, these providers are woefully underpaid for the services they provide. The Enriched Housing Subsidy, typically funded at a total of $380,000, provides a modest subsidy per SSI beneficiary served. Recognizing the inadequacy of the SSI rate, the subsidy is a small but critical lifeline to these not-for-profit communities.

The EQUAL program, typically funded at $6.5 million, supports quality of life initiatives for low-income residents of ACFs. EQUAL supports both capital projects and other initiatives that are identified by the residents as priorities. This program is critically important to these residents.

We urge the Legislature to restore both programs in the budget.

- ***Allow nurses to provide nursing services in ACF settings.***

We ask the Legislature to advance a no-cost workforce solution by enabling nurses working in ACF/AL settings to provide nursing services, as outlined in *A.525 (Solages)/S.3184 (Rivera)*. The Enhanced Assisted Living Residence (EALR) is the only ACF/AL setting that is permitted by the State to allow nurses to provide nursing services. During this workforce shortage, we should be maximizing resources and utilizing nurses in ACF/AL settings to provide periodic services consistent with their scope of practice. Recognizing that not every ACF/AL has invested in hiring a nurse, this bill would *allow* those ACF/ALs that employ nurses the option to provide the service, consistent with the admission and retention standards for their licensure. Ultimately, this would support end of life care and improve care for people with dementia. This could prevent hospitalizations, emergency visits, and 911 calls, and reduce overall Medicaid spending. Lastly, it would result in better resident service and outcomes.

c. Managed Long-Term Care and Programs of All-Inclusive Care for the Elderly

MLTC plans manage and pay for the LTC services provided to approximately 374,000 older adults and people with disabilities eligible for Medicaid in New York – the vast majority of community-based LTC delivered in our state. We urge the Legislature to incorporate the following in its budget proposals:

- ***Preserve partially capitated MLTC – reject S.2332 in order to protect access and preserve choice.***

Some policymakers and advocates have supported the elimination of partially capitated MLTC plans (those covering the Medicaid benefits and not Medicare benefits) entirely and replacing them with a health home-driven managed fee-for-service system. LeadingAge New York is opposed to this proposal. It would disrupt a system of care that currently serves nearly 311,000. It would presumably rely on local social services districts or DOH to develop care plans, approve

hours of home care, adopt updated reimbursement rates, and work to promote adequate provider capacity. We question whether State and local governments have the resources to perform these tasks and whether the transfer of these responsibilities would, in fact, drive savings as the proponents suggest, much less improve access to care.

- ***Reject the proposed elimination of the MLTC Quality Pool.***

The Governor's budget would reduce funding by $44.8 million (all funds) by eliminating the MLTC Quality Pool. The MLTC Quality Pool incentivizes the delivery of high-quality LTC services and supports value-based payment (VBP) initiatives with LTC providers. Quality Pool funds are also used to support health improvement services and devices for consumers, such as an incentive reward program for members who receive hearing and dental exams, in-home flu and COVID vaccinations, in-home hearing screenings, and falls risk prevention devices. This cut would disproportionately affect high-quality plans and the high-quality providers that may receive incentives through MLTC plans' Quality Pool distributions. Notably, current Quality Pool funding already reflects a 25 percent reduction enacted in the 2020-21 State Budget and a $60 million reduction enacted in 2024. The Legislature should not only reject the proposed elimination of the Pool – it should also allocate $60 million (State share) to restore the 2024 cut.

d. <u>Home and Community-Based Services</u>

Home and community-based services (HCBS) providers continue to confront daunting financial and workforce challenges. While demand for community-based care is soaring due to changing preferences and our growing population of older adults, inadequate Medicaid rates and pandemic-related stresses have led to unprecedented workforce shortages. HCBS providers are being forced to limit patient admissions and create waiting lists because they are unable to find sufficient staff. This has repercussions for the entire health care system, delaying hospital and nursing home discharges to the community due to insufficient home care capacity.

- ***Support investments in home care and hospice.***

HCBS providers play a significant role in the broader health care system and need support. CHHAs and hospice programs are receiving growing numbers of referrals of complex patients and face challenges in admitting and serving them. Staffing shortages and reimbursement challenges are forcing home care agencies and hospice programs to limit admissions. Like nursing homes, amidst a severe nursing shortage, home care agencies and hospice programs are increasingly unable to admit patients from hospitals, resulting in overall system backups and a lack of patient access to care. Notably, New York is ranked 50th in the nation in the proportion of Medicare beneficiaries who receive hospice services prior to death.

We urge the State to provide significant funding for home care and hospice providers to help them tackle the workforce crisis. Funding is needed for financial incentives for frontline staff,

nurse residency programs, nursing school collaborations, and to secure transportation to patients' homes.

We also seek increased funding for CHHA services. CHHAs are critical post-acute care providers, in particular, providing skilled care to patients discharged from hospitals and short-term rehabilitation. Workforce and reimbursement challenges are forcing CHHAs to limit admissions from hospitals and forcing them to close their doors. The State's CHHA rate methodology has failed to provide a COLA for over a decade, leading to serious financial losses in over 50 percent of CHHAs.

- ***Increase Medicaid reimbursement for adult day health care.***

The State ordered ADHC programs to close for over a year during the height of the pandemic, creating great uncertainty and loss of critical support for ADHC registrants and their families. Only 60 of the 120 licensed ADHC programs have reopened since May 2021, when the State authorized them to reopen. Many are struggling to stay open as they deal with staffing shortages and reimbursement challenges. Others are unable to reopen and operate with their current Medicaid rates.

Currently, 23 counties in the state that used to have one or more actively licensed ADHC programs have none. Most upstate cities have only one program. There are only two ADHC programs in the Bronx – a borough of approximately 200,000 adults over age 65 – while three of its programs remain closed. Most boroughs have only half of their programs open, and most upstate regions lack ADHC programs in their communities altogether.

The State has voiced its commitment to making HCBS options available so that individuals can age in place and in their communities. ADHC programs are such an option, providing registrants with skilled nursing care, personal care, socialization, recreation, and meals in a day program with an integrated care team. ADHC programs defer nursing home placement, prevent hospitalization, and allow registrants to return home at the end of the day. This provides a greater quality of life for registrants, as well as Medicaid savings for the State.

LeadingAge New York and its affiliate, the Adult Day Health Care Council (ADHCC), request that the State provide a significant Medicaid increase to allow ADHC programs to fully reopen and rebuild.

- ***Fund Resident Assistants in affordable senior housing.***

LeadingAge New York recommends the development of a program to fund Resident Assistant positions in subsidized and income-restricted independent rental housing for low-income older adults. With a commitment of $10 million over five years, grants could be made directly to senior housing operators to establish the systems they need to hire Resident Assistants, who would work to identify residents' unmet needs, link them with the existing community programs and resources, and coordinate on-site social and wellness events. This assistance has

been proven to help residents remain healthy and independent. It could result in a significant return on investment through Medicaid savings, keep people living in the community, and reduce pressure on more expensive staff-intensive services.

The older New Yorkers living in these settings are generally income-eligible for Medicaid, but often struggle to navigate the network of health and social supports that could help them age safely in place. Resident Assistants available on site and at resident request could help address this need by providing information and referrals to supports in the community; education regarding Medicaid and other benefits; and assistance with accessing public benefits, services, and preventative and social programming.

We estimate that this investment would generate a State-share Medicaid **savings of at least $2.25 for every dollar invested**, based on our analysis of a rigorous New York-based study of the Selfhelp Active Services for Aging Model (SHASAM) Resident Assistant program. The study found that the average Medicaid payment per person, per hospitalization was $3,937 less for Selfhelp residents as compared to older adults living in the same Queens ZIP codes without services, and Selfhelp residents were 68 percent less likely to be hospitalized overall.[10] Furthermore, with the SHASAM program in place, less than 2 percent of Selfhelp's residents are transferred to a nursing home in any given year. However, without State operational support, most providers have little or no avenue outside of charitable donations to maintain a much-needed Resident Assistant staff person.

- ***Support funding for aging services programs.***

LeadingAge New York supports increasing funding for the State Office for the Aging's Expanded In-Home Services for the Elderly (EISEP) and Community Services for the Elderly (CSE) programs to deliver personal care services and everyday supports to aging New Yorkers. Additional monies should be added to address waiting lists that continue to occur due to historic underfunding and workforce challenges.

We also support continued funding for both traditional and Neighborhood Naturally Occurring Retirement Communities (N/NORCs), as well as efforts to grow the program upstate and expand the definition of Neighborhood NORC so that more communities can utilize this valuable program.

e. Continuing Care Retirement Communities

The Executive Budget misses a no-cost opportunity to promote continuing care retirement communities (CCRCs), an innovative model that encourages older adults to invest their resources in their care and housing needs rather than divest their assets to qualify for

[10] Gusmano, MK. Medicare Beneficiaries Living in Housing With Supportive Services Experienced Lower Hospital Use Than Others. Health Affairs. October 2018. Li, G., Vartanian, K., Weller, M., & Wright, B. Health in Housing: Exploring the Intersection between Housing and Health Care. Portland, OR: Center for Outcomes, Research & Education. 2016.

Medicaid-funded services. CCRCs are economic drivers in their communities, and the model encourages people with resources to stay in the state.

CCRCs provide a full range of services including independent housing, ACF/AL, and nursing home care to residents in a campus setting as their needs change. Despite the benefits of this model, State oversight has actually become a barrier to the efficient operation of CCRCs, as well as the expansion and development of new CCRCs. To date, there are only 14 CCRCs in New York State, as compared to neighboring states. Pennsylvania has over 200, New Jersey 30, and Massachusetts 29.

A.1464-A (Paulin) would address these problems, while maintaining vital resident protections. By consolidating oversight of CCRCs into a single State agency, DOH, it would expedite some of the oversight functions, enabling CCRCs to operate more nimbly and be responsive to consumer needs and preferences. It would also change the CCRC Council to an advisory role, consistent with nearly all other councils in the health space. This council has consistently had difficulty filling open seats and achieving a quorum, which is necessary to approve establishments and most operational changes. In its current state, it threatens to bring critical projects to a standstill.

Including *A.1464-A (Paulin)* in this year's budget is a no-cost way to promote the success of this model, to the benefit of current and future CCRC residents, as well as to the State.

IV. WORKFORCE RECOMMENDATIONS

In addition to the workforce initiative proposals noted above, we recommend the following to support preservation and further development of the LTC workforce:

- ***Support the Interstate Nurse and Physician Licensure Compact proposals.***

New York should join the Interstate Medical Licensure Compact and the Nurse Licensure Compact. These compacts would make it easier for qualified professionals to work in New York and help to alleviate health care professional shortages. More than 40 states and jurisdictions across the United States, including New Jersey, Connecticut, Vermont, and Pennsylvania, have already joined these compacts.

- ***Modify the Nurses Across New York proposal to specifically identify LTC as an underserved population.***

Due to heavy reliance on Medicaid and inadequate reimbursement, LTC providers face greater challenges in recruiting and retaining nurses than most primary and acute care settings. The Nurses Across New York student loan repayment program can be strengthened to incentivize nurses to work in LTC. We urge the Legislature to modify the legislation supporting this program to explicitly identify LTC as an underserved population for the purposes of eligibility.

- ***Reduce unnecessary and duplicative reporting, surveys, audits, and other requirements.***

LTC providers are held to an overwhelming array of administrative requirements without any recognition of the additional personnel they require, their impact on residents and patients, and the costs they impose. In recent years, laws have been passed imposing requirements that virtually duplicate federal requirements or offer little, if any, value in terms of quality or safety. Yet, they divert precious staffing resources from resident care to low-value administrative tasks, contribute to worker burnout, and drive people out of the field. Legislators and regulators should consider the impact on residents and staff of any new administrative requirements.

One simple step the Legislature can take to support providers is to urge DOH and the Governor to eliminate the daily Health Electronic Response Data System (HERDS) reporting, which has been a requirement for nursing homes and ACFs for nearly **five years**. Any necessary data regarding COVID can be collected in less onerous ways, including via data already being collected on a national level from nursing homes and reporting that is already required to be submitted to local health departments.

CONCLUSION

With a growing population of older adults, the State cannot continue on its current path. A robust, financially viable continuum of LTC that enables older adults to age in their preferred place and thrive will require investment by the State and new approaches to workforce. At a time when our families' older adults need our support, the Executive Budget fails to make needed investments in the services they count on. Looking to the future, we can expect that a significant portion of older adults will continue to rely heavily on public programs – principally the Medicaid program – to cover their LTC needs. In order to ensure that accessible, high-quality services are available to older adults and people with disabilities now and in the future, this year's budget must make significant investments. Failing to do so will have dire consequences.

Founded in 1961, LeadingAge New York is the only statewide organization representing the entire continuum of not-for-profit, mission-driven, and public continuing care, including home and community-based services, adult day health care, nursing homes, senior housing, continuing care retirement communities, adult care facilities, assisted living programs, and Managed Long-Term Care plans. LeadingAge New York's 350-plus members serve an estimated 500,000 New Yorkers of all ages annually.