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**Joint Legislative Public Hearings on
2026-2027 Executive Budget Proposal**

Health

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INTRODUCTION

Empire Justice Center is a statewide, multi-issue, multi-strategy not-for-profit civil legal aid provider focused on changing the complex systems impacting low income and marginalized New Yorkers. With a focus on poverty law, Empire Justice takes a 360-degree approach to the areas of law we practice in, providing individual legal representation, policy research and analysis, training and technical assistance as well as impact litigation.

Our work cuts across all significant areas of poverty law and involves three inter-related services:

We practice the law: Empire Justice Center provides a range of legal assistance from our Telesca Center and Library offices in Rochester, Albany, Yonkers, White Plains, Central Islip, and Hempstead. We provide one on one representation and undertake impact litigation to address systemic issues impacting low income and marginalized communities.

We teach the law: Our history as a backup center for civil legal services providers began in the 1970's and while federal funding for these services was eliminated during the mid 1990's, we have sustained that work in specific service areas where we continue to provide training, technical assistance and other legal support services to civil legal aid providers as well as a variety of other community-based organizations, keeping them apprised of changes in the law and regulations.

We change the law: In order to ensure that the needs of low-income families are heard within the state's policy making processes, we engage in both legislative and administrative advocacy on a range of issues impacting our clients and we do the same as needed at the local and federal levels.

We share concerns with the advocate community about the impacts of H.R. 1; we support the requests in the Medicaid Matters testimony. Our testimony focuses on items related to funding for legal services and other issues we see our clients facing. In today's testimony, we respectfully ask you for the following:

- 1. Increase funding for the Managed Care Consumer Assistance program to \$2.767 million to adequately support the growing demand for our services for New York's most vulnerable populations.**
- 2. Permit Independent Living Centers to be Consumer Directed Personal Assistance Services Fiscal Intermediaries (S.7954 Rivera/A.8355 Paulin)**
- 3. Repeal of the Minimum Activities of Daily Living (ADL) Eligibility Restriction for Personal Care Services and Consumer Directed Personal Assistance Services (S.358 Rivera/A.1198 Paulin)**
- 4. Repeal the 30-month look-back for Community-Based Long-Term Care Medicaid (S.4786 Skoufis/A.1907 Paulin)**

5. **Invest in Home Care to establish a more cost-effective, consumer friendly, home care model (S.2332-A Rivera/A.2018-A Paulin)**
6. **Ensure access to gender-affirming care by codifying Medicaid coverage (A.6596-A Rosenthal) and establish a new state-funded program to help cover the cost of gender-affirming care (S.7924 Gonzalez/A.8841 Gonzalez-Rojas)**

I. INCREASE FUNDING FOR THE MANAGED CARE CONSUMER ASSISTANCE PROGRAM (MCCAP)

The Managed Care Consumer Assistance Program (MCCAP), a statewide initiative run through the New York State Office for the Aging (NYSOFA), provides Medicare beneficiaries, including seniors and people with disabilities, critical assistance in accessing Medicare and Medicaid benefits, while reducing health care costs. We appreciate that the Executive Budget provides ongoing funding for MCCAP at its current level, \$1.767 million. However, this funding is not sufficient to adequately support the growing demand for our services. This year we saw a number of Medicare Advantage Plans reduce their service areas, forcing many Medicare enrollees to choose new plans. These service area reductions, coupled with the rising cost of health care, led to an unprecedented demand for our services during the Medicare Fall Open Enrollment Period. We not only discussed Medicare plan options, we also explored subsidies to help reduce health care costs including the Medicare Savings Program, the Part D Low Income-Subsidy (also known as “Extra Help), and the Elderly Pharmaceutical Insurance Coverage (EPIC) program. To meet this growing demand, we are requesting the Legislature provide an additional \$1 million in funding.

In addition to New York’s growing aging population and changes in the health care delivery and insurance landscape, in the past year, many Medicare Advantage Plans (MAPs) have announced service area reductions or departures. In the Finger Lakes Region alone, this included 20 different MAPs from six different providers (Aetna, CDPHP, Excellus BlueCross BlueShield, MVP, United Healthcare, and Wellcare).¹ This need is compounded in a state like New York, where almost two million people are enrolled in Medicare Advantage Plans, the fourth highest in the country.² Furthermore, many individuals we work with live in rural areas and have limited internet access or may not be familiar with navigating online search tools such as Medicare.gov’s Plan Finder. They can have lengthy prescription lists, making it difficult and time consuming to enter this information into Plan Finders for comparing estimated plan costs.

¹ [Adapting to Medicare Advantage Plan changes](#)

² [Medicare Advantage: Total Enrollment, by Plan Type | KFF State Health Facts](#)

Furthermore, despite important progress, many Medicare beneficiaries are not familiar with subsidies to reduce the cost of health care. In 2023, New York State significantly increased the income thresholds for the Medicare Savings Program (MSP), expanding eligibility to an estimated 300,000 additional New Yorkers. MSP enrollees will automatically qualify for the Part D Low-Income Subsidy (LIS), potentially saving a Medicare beneficiary \$8,420³ in healthcare costs, while expanding their ability to enroll in other Medicare plans (also known as “Special Enrollment Periods”). Without MCCAP's efforts to provide education and combat stigma around this benefit, many will go unenrolled.

Increased funding will expand the program’s capacity to respond to the high demand for Medicare navigation assistance. This is especially critical as we continue to deal with the constant flux in federal health policy as well as the spiraling cost of living. Seniors and people with disabilities are hit hardest when food, housing, and health care (including medications) costs rise at the rates we are seeing today. These populations deserve every bit of assistance we can provide to increase access to health care services and reduce out-of-pocket costs. The six MCCAP agencies partner with NYSOFA, the New York State Department of Health (DOH), and the Center for Medicare and Medicaid Services (CMS) to provide training, technical support, and assistance to local Health Insurance Information Counseling and Assistance Program (HIICAP) offices, and other nonprofit organizations working directly with Medicare consumers across New York State. Additionally, MCCAP agencies work directly with consumers to provide education, navigational assistance, legal advice, informal advocacy, and direct representation in administrative appeals. We serve clients in their communities and provide services in their native languages; consumers also increasingly reach us via internet and our telephone helplines, as well as through our educational materials and referrals from local human service organizations.

It is an essential time to shore up funding for MCCAP. In the last few years, MCCAP remained available to assist Medicare beneficiaries during a very tumultuous time in our health care sector. Throughout the Medicare Fall Open Enrollment we fielded an extremely high number of inquiries, many of which stemmed from Medicare Advantage Plan departures and service area reductions. We not only informed beneficiaries of different existing plans in their area, we customized our searches based on their specific health care needs. This includes entering their prescription, pharmacy and provider information into Medicare.gov. We sent plan comparisons to beneficiaries so they can make an informed decision. We educated callers on special enrollment periods they may qualify for so they do not feel as rushed to choose a new plan and discussed how their Medicare interacts with other forms of health care coverage.

³ [SSA-L448-2025-English.pdf](#)

Additionally, as healthcare costs continue to rise due to policy changes at the federal level, more New Yorkers are dealing with different (or less) health coverage and need assistance accessing and affording care. Programs and services available to lower income New Yorkers – such as the Medicare Savings Program and programs available to assist in Part D prescription drug costs – are more essential now than ever. Further, with the flurry of false and misleading information repeatedly targeting seniors on television, by way of Medicare Advantage Plan advertisements with well-known aging athletes and celebrities as spokespeople, we regularly work with individuals who are confused and frustrated with the process of choosing Medicare plans, most notably Medicare Advantage Plans. MCCAP educates and assists New York’s seniors and people living with disabilities on the myriad of options available to them, including how to maximize coverage while adhering to tight deadlines and confusing procedures. MCCAP continues its work helping individuals understand and access their benefits under the highly complex Medicare Part D program, as well as assisting dual-eligible individuals and other Medicare beneficiaries with health care access issues besides Part D. In addition, MCCAP has responded to a range of new needs that have resulted from the changing health care landscape. For example, MCCAP has fielded a high volume of calls from Medicare beneficiaries looking to explore Medicare supplement plans (also known as “Medigap”). For those who can afford these plans, they provide important financial security when dealing with significant healthcare needs.

MCCAP is also ideally positioned to help Medicare beneficiaries adapt to any changes to Medicare, and other health coverage programs that work with Medicare, that may arise out of the federal debates about the future of healthcare in America. In recent years, MCCAP was contacted by many Medicare recipients anxious to know what changes may lay ahead for them, and what they could do to anticipate those changes. Uncertainty about changes to Medicare and Medicaid has undoubtedly grown since this time last year as New Yorkers, particularly older adults and people with disabilities, struggle with urgent and shifting health needs.

ASK:

As also requested in our Human Services testimony, we urge the Legislature to include an additional \$1 million in funding for MCCAP in the one-house budgets and a total of \$2.767 million in the final budget.

II. PERMIT INDEPENDENT LIVING CENTERS TO BE CONSUMER DIRECTED PERSONAL ASSISTANCE SERVICES FISCAL INTERMEDIARIES

Until 2024, recipients of Medicaid-funded Consumer Directed Personal Assistance Services (CDPAS), were able to choose from a variety of Fiscal Intermediaries (FIs) to process service payments and benefits for their personal assistants. FIs play an important role as the intermediary between CDPAS recipients and their Medicaid-funded insurance plans. They contract with Managed Long Term Care plans, Mainstream Managed Care Plans, and Local Department of Social Services, who authorize the number of weekly hours a recipient qualifies for under the program. Fiscal Intermediaries in turn pay the Personal Assistants for the hours they have worked aiding the CDPAS recipient.

New York's 2024-25 Budget mandated 280,000 Medicaid-funded CDPAS recipients to switch to one single Fiscal Intermediary - Public Partnerships LLC (PPL), which was intended to replace more than 600 CDPAS FIs handling Personal Assistant (PA) payroll and benefits.⁴

The following complaints illustrate the problems encountered by consumers who are required to use PPL:

1. Lack of customer service support when contacting the PPL hotline;
2. Notices with sensitive client information being mailed to other clients;
3. Aides not being paid or being paid late;
4. Pay transparency issues for the aides;
5. Health insurance concerns for the aides;
6. Difficulty with submitting required documents, timesheets; and
7. Contact center representatives providing inaccurate information/inconsistent information.

The former FIs included Independent Living Centers and other organizations serving people with disabilities. They had staff, rather than a call center, to help recipients answer questions and troubleshoot onboarding, timekeeping, and payment-related questions. Recipients could receive training on how to properly recruit, train, and supervise their PAs. Because these organizations were embedded in the communities they served, FI staff spoke languages common within the local community. These longstanding community relationships cannot be replicated by an anonymous online portal or call center.

There are fewer than 40 Independent Living Centers across New York State,⁵ far fewer than the 600 FIs that were utilized prior to the change in the law. Therefore, the cost of including them as FI is minimal and well worth the investment. Empire Justice recommends that the legislature

⁴ NY Health Access, *CDPAP FI Transition: PA Health Assessment deadline postponed, Settlement in Engesser; NYS Senators Investigating Selection of PPL*, NY Health Access, (Oct. 17, 2025), available at <http://health.wnyc.com/health/news/97/>

⁵ New York State Commission for the Blind, *Independent Living Centers (ILCs)*, (last visited Jan. 6, 2026), available at <https://ocfs.ny.gov/programs/nyscb/ILC-directory.php>.

pass S.7954 Rivera/A.8355 Paulin which would amend Social Services Law § 365-s to restore Independent Living Centers, which had previously effectively provided these services, as FIs.

ASK:

Pass S.7954 Rivera/A.8355 Paulin which would amend Social Services Law § 365-s to restore Independent Living Centers, which had previously effectively provided these services, as Fiscal Intermediaries.

III. REPEAL OF THE MINIMUM ACTIVITIES OF DAILY LIVING (ADL) ELIGIBILITY RESTRICTION FOR PERSONAL CARE SERVICES AND CONSUMER DIRECTED PERSONAL ASSISTANCE SERVICES

In September of 2025, the Department of Health implemented a change in the Social Services Law⁶ to require that applicants seeking Personal Care Services (PCS) or Consumer-Directed Personal Assistance Services (CDPAS) need, at minimum, limited assistance with physical maneuvering with at least three Activities of Daily Living (ADL).⁷ Prior to this amendment, applicants needed assistance with only one ADL to qualify for these services.

The current restriction eliminates Level One Personal Care Assistance (PCA), also known as the “Housekeeping” Program, which authorizes up to eight hours of weekly support for Medicaid recipients who only need help with “Instrumental Activities of Daily Living” (IADL) such as housekeeping, meal preparation, grocery shopping, and laundry.⁸ Those who cannot fulfill this new eligibility restriction are rendered ineligible for any Medicaid-funded PCS or CDPAS. Furthermore, Medicaid recipients often cannot afford to pay privately for ongoing aide services. Alternative aide service programs such as caregiver respite programs or Expanded In-Home Services for the Elderly Program (EISEP) are stretched thin and often have lengthy waitlists. Cutting such services risks preventable injuries and costly hospitalizations.

Although this new eligibility restriction contains an exception whereby individuals with a dementia diagnosis including Alzheimer’s would only require supervision with at least two ADLs to qualify for PCS or CDPAS, this narrow exception fails to accommodate individuals with other diagnoses who nevertheless may require supervision with their ADLs. For example, applicants with sensory disabilities such as low-vision, traumatic brain injuries or intellectual disabilities would not have the requisite dementia diagnosis to be evaluated under this exception, even if they required supervision with their ADLs. This eligibility restriction discriminates based on

⁶ NY Health Access, *NYS Medicaid Redesign Team II (MRT) - Minimum 3-ADL Thresholds STARTED Sept. 1, 2025 for New Home Care and MLTC Applicants*, (Oct. 16, 2025), available at <http://health.wnyc.com/health/index.php?View=news&EntryID=85&mobile=0#3%20ADL>; See Soc. Serv. Law §§ 365-a(2)(e)(v) and 365-f, subd. 2(c).

⁷ “Activities of Daily Living” include bathing, dressing, grooming, toileting, transferring and ambulation. Assistance with these ADLs qualifies as Level Two Personal Care Assistance. 18 § NYCRR 505.14 (a)(5)(ii)(a).

⁸ SSL § 365-a, subd. 2(e)(iv).

disability and diagnosis, thereby threatening the half a billion dollars in annual federal funding New York State receives via its adoption of the Community First Choice Option (CFCO). Soc. Serv. Law § 365-a, subd. 2(bb). Established through the Affordable Care Act, CFCO services must be provided “...without regard to the individual's..., type or nature of disability, severity of disability.” 42 C.F.R. § 441.515.

Empire Justice recommends that the legislature pass S.358 Rivera/A.1198 Paulin which would amend Social Services Law § 365-a and (1) restore NYS’s Housekeeping Program and (2) return to the previous requirement that to receive Level Two PCS or CDPAS, Medicaid recipients must require assistance with only one ADL.

ASK:

Pass S.358 Rivera/A.1198 Paulin which would amend Social Services Law § 365-a and (1) restore NYS’s Housekeeping Program and (2) return to the previous requirement that to receive Level Two PCS or CDPAS, Medicaid recipients must require assistance with only one Activity of Daily Living.

**IV. REPEAL THE 30-MONTH LOOK-BACK FOR COMMUNITY-BASED LONG-TERM CARE
MEDICAID**

Empire Justice Center supports the position to repeal the 30-month (two and a half year) look-back and the accompanying transfer penalty for applicants seeking Medicaid coverage with community-based long-term care. State and federal regulations require that Medicaid applications be processed within 45 calendar days unless the applicant’s eligibility is based on disability status in which case the deadline is 90 calendar days. CFR § 435.912 (c)(3)(i-ii). According to WMS data from November of 2025, twenty-four out of 57 NYS counties reported delays in at least one third of their Medicaid applications. Such delays can range from a few months to over a year. Increasing the resource look-back from one month to 30 months, will inevitably exacerbate these delays, causing additional hardship to clients seeking Medicaid-funded home care.

ASK:

Repeal the 30-month look-back and the accompanying transfer penalty for applicants seeking Medicaid coverage with community-based long-term care (S.4786 Skoufis/A.1907 Paulin)

V. INVEST IN HOME CARE

Empire Justice is deeply concerned about the ongoing home care shortage in New York State, which has been exacerbated by the transition to Managed Long Term Care.

The recent experience of one of our clients who receives personal care services through MLTC illustrates our concern. His needs are extensive including assistance with ambulation, eating, and incontinence care. Despite his significant needs, the family has reported very limited aide availability, high turnover, and inadequately trained personal care aides. When the aides do not show up, which the family reports occurs more than 75% of the time, the client's elderly spouse will have to provide care in their absence. Such inadequate care puts the client and his spouse at greater risk of falls and hospitalizations, ultimately resulting in higher costs.

We urge the legislature to pass the Home Care Savings Reinvestment Act S.2332-A Rivera/A.2018-A Paulin to establish a more cost-effective, consumer friendly, home care model in lieu of the current MLTC program, which will ultimately result in cost savings.

ASK:

Pass the Home Care Savings Reinvestment Act S.2332-A Rivera/A.2018-A Paulin to establish a more cost-effective, consumer friendly, home care model in lieu of the current Managed Long-Term Care program, which could ultimately result in cost savings.

VI. ENSURE ACCESS TO GENDER-AFFIRMING CARE

Against the backdrop of transgender and nonbinary people seeking refuge in New York due to ongoing threats and uncertainty at the federal level, and from states hostile to those seeking gender-affirming care, many New York providers have cut off access to medically necessary care. The number of providers who have decreased access to care has been dramatic in Upstate New York, and particularly for transgender and nonbinary youth, who are at increased risk of suicide. However, New York State can become the refuge people seek to access care. By establishing a fund for providers and codifying gender-affirming care, those who are uninsured, underinsured, or are discriminated against can receive the care they need.

ASK:

Ensure access to gender-affirming care by codifying Medicaid coverage for it, regardless of federal funding, and by prohibiting discrimination by health care entities and insurers (A.6596-A Rosenthal) and establish a new state-funded program to help cover the cost of gender-affirming care S.7924 Gonzalez/A.8841 Gonzalez-Rojas