



ASSEMBLYMAN CASTELLI /LEGISLATIVE BUDGET HEARING

March 8, 2012

Oral Testimony

The mission of Westchester Independent Living Center is to promote and ensure the full integration of persons with disabilities in every aspect of community life. We believe that the most fundamental aspect of an individual's independence in society is their right to choose where and how they live. Unfortunately, for persons with disabilities, this right is threatened each and every year with proposed cuts within the Executive Budget to the state's Medicaid program.

Currently, thousands of New Yorkers with disabilities in need of long-term care support are currently segregated in nursing facilities and other institutions – not by their own choosing – but by policies that channel millions of tax dollars through Medicaid to warehouse them. Thousands more in our community are at risk of being forced into these profiteering institutions due to the lack of funding for community-based attendant services and support systems

Over the last several months, the disability rights community has made every effort to play an active role in the public process for the redesign of New York State's Medicaid system. We presented a comprehensive proposal to save the State \$1 billion over five years in Medicaid costs by promoting the independence and integration of seniors and people with disabilities, yet none of our recommendations were included in the Executive Budget.

Of grave concern in the Executive Budget is the missed opportunity to save \$90 million annually by implementing the *Community First Choice* option in New York, available October 1 in this fiscal year. This provision, included in the Affordable Care Act (ACA) as a result of the hard work of disability advocates across the nation and the strong support of Senator Schumer, would allow states to provide community-based attendant services as an alternative to expensive institutional placement while giving the states an extra six percent in federal funding. While other states will use this program to offer new services, New York can actually draw down additional federal monies for a subset of the existing personal care and home care populations without having to develop an entirely new program and bureaucracy.

Again, of concern, are the proposals included in the 30 day amendments to the Executive Budget. In the interest in time, I will only mention a few of them here:

Global spending cap on Medicaid expenditures is shortsighted and harmful

The proposed Budget gives the Executive, through the Commissioner of Health, the ability to develop without Legislative or public review savings plans that could have serious unintended consequences for Medicaid beneficiaries and their access to services. In the current year, the Medicaid Redesign Team left approximately \$640 million in “unstructured” savings still to be determined. Going forward, Medicaid spending is capped at 4% growth. The Executive's authority to achieve savings is relatively unfettered and could result in rate cuts, benefit reductions and utilization controls. Completely unclear is whether serious actions like benefit reductions will, or must, be reversed should spending stabilize.

Carve out CDPAP from MLTC

The Consumer Directed Personal Assistance Program (CDPAP) must be carved out of Managed Long Term Care (MLTC). In this unique model, the consumer (or their designated representative) recruits, hires, trains, and disciplines the direct care worker, eliminating the cost of nursing visits, training programs, coordinators and case managers. CDPAP direct care workers are permitted to carry out certain health related tasks, such as medication administration and catheter care, which normally require higher level, higher paid personnel. A shift of these cost effective CDPAP services to MLTC threatens to deprive people of their necessary personal care, due to the higher built in costs of the managed care entity, risking higher acute care costs and hospitalizations from negative health consequences such as pressure sores and urinary tract infections. CDPAP in its current form already ensures consumer protection and promotes personal responsibilities as well as promoting independence.

Ensure people’s right to live in the most integrated setting as part of the MLTC expansion

Nearly 20,000 seniors and people with disabilities in need of long term care services will be mandated to enroll in Managed Long Term Care (MLTC) plans. We are concerned that mass enrollment in MLTC, a system with built-in financial incentives to serve those people who do not have significant disabilities, will limit access to much needed care for those individuals with the highest needs. Oversight and enforcement of plan responsibilities must be strengthened if Managed Care Organizations are to take on the additional populations, particularly those with significant disabilities. The state should incorporate in the statute (and contracts, where appropriate) mechanisms in MLTC that ensure the individual’s right to live in the most integrated setting and establish a requirement that people be informed of their right to receive services in the community.

Do not impose controls on personal care

The proposal to change the *existing* personal care benefit by implementing management and utilization controls for high users, as determined by the Commissioner of the Department of Health, and capping Personal Care Level I (housekeeping services) at eight hours could have devastating consequences for New Yorkers with disabilities. DOH would be given authority to set what it considers to be a reasonable

amount of hours using special utilization controls. This was not a recommendation voted on by the Medicaid Redesign Team and we strongly oppose any curtailment of personal care for people with higher health needs. Establishing caps not based on personal need, but statewide averaging or other arbitrary methodologies will result in unnecessary institutionalization.

Modify, do not eliminate, spousal refusal

According to the Executive Budget, parents or spouses will no longer be able to legally refuse to financially support their child or spouse so that individual can obtain Medicaid. This will harm low-income couples where the spouse in need of care will be forced into an institution or divorce in order to prevent impoverishment. Elimination of this provision may be a violation of the ACA Maintenance of Effort requirements. We recommend capping income and assets within the spousal impoverishment limits for nursing facility services (\$2,739 income allowance and \$74,820 in resources or half of the joint resources up to \$109,560, using the same rules that apply in that setting). This modification would eliminate spousal refusal for individuals where the refusing spouse's assets and income are above these limits.

We acknowledge the difficult decisions the state is forced to make given the current economic climate. However, health care reform implementation that would ensure long-term health care supports in the most integrated setting possible for New York citizens with disabilities is long overdue.

Respectfully submitted,

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