

February 8, 2019

**Testimony to the Joint Legislative Health Budget Hearing on the 2019-20
Executive Budget proposal**

Thank you for the opportunity to submit testimony regarding long-term care priorities for people with disabilities. The New York Association on Independent Living (NYAIL) represents Independent Living Centers (ILCs) and the people with disabilities they serve. NYAIL leads statewide Independent Living Center efforts to eliminate physical, communications, attitudinal, and other barriers to all aspects of life. NYAIL advocates for the civil rights, independence, and full participation of all people with disabilities. This year marks six years since Governor Cuomo issued the State's *Olmstead* plan, which outlined how the State would advance the State's community integration efforts for people with disabilities. Yet, we have seen little commitment to *Olmstead* in recent years. In fact, this year's proposed Executive Budget puts people at risk of institutionalization by proposing drastic changes to the Consumer Directed Personal Assistance (CDPA) program, which approximately 70,000 people rely on to live safely in their homes and out of institutions.

- **NYAIL strongly opposes the drastic changes proposed for the Consumer Directed Personal Assistance (CDPA) program.**

The Independent Living community was instrumental in designing and implementing CDPA in New York, which empowers people with disabilities to have full control over their lives and independence. It puts people with disabilities in charge of determining how, when and by whom their services are provided. Fiscal Intermediaries (FIs) provide necessary assistance to ensure CDPA consumers are successful and maintain their independence in the community through training, peer mentoring, ongoing support, payroll and other administrative assistance. This Budget proposal threatens to decimate CDPA as we know it.

Limiting FIs - The Governor's proposal would limit the organizations allowed to operate as FIs and allow DOH the power to award a no-bid contract for a statewide FI. ***NYAIL urges the State to use the authorization process that is in the early stages of implementation to weed out FIs that are not running the program as intended rather than make such drastic and harmful changes.*** ILCs are singled out as entities that could apply to remain as FIs, which makes sense. The additional wrap-around services provided at ILCs are aimed at helping people with disabilities live independently in the community, making ILCs uniquely strong FIs. However, under this proposal, no new ILCs would be able to add this important service. Further, existing ILC FIs would have to apply to DOH for approval to continue running their program, and there is no guarantee their applications would be approved. A radical and rapid reduction in FIs threatens existing

consumers. Transitioning all CDPA consumers into one or a few statewide FIs is a bad idea. FIs must have a local presence to be successful in their role supporting consumers to manage their own services, and individuals must have choice when selecting their FI.

Reimbursement – As part of this proposal, the Commissioner of DOH intends to change the reimbursement methodology to a per member, per month fee. The rate DOH is considering, between 4% and 5%, will put all ILCs who are FIs out of business immediately. An underlying concern with this proposal is that it assumes FIs are nothing more than a payroll processing agency, putting at risk the many additional tasks and wrap-around services FIs provide that help to ensure CDPA consumers are successful and maintain their independence. Further, it shifts the risk from managed care organizations - insurance companies that are set up to receive a monthly per person rate - to fiscal intermediaries whose role is to support people with disabilities managing their own services, and thus creates a disincentive for FIs to serve people with significant disabilities who have larger numbers of attendants, hours and support needs.

The future of CDPA is at stake - Because the proposal repeals the existing CDPA law and replaces it with new law, it allows the Federal Government to control whether these changes will be approved, at a time when Federal approval is anything but certain. ***This puts CDPA in New York unnecessarily at risk; there is no need to repeal existing law to make the changes they are seeking.*** Separately but equally troubling, it provides the Commissioner of Health with the unimpeded authority to terminate CDPA if Federal Financial Participation is not “adequate,” even if FFP is available. ***This authorized judgement call, without further Legislative review, also puts the entire CDPA program at risk.*** Both the content and form of this proposal are very dangerous.

NYAIL urges the legislature to reject this harmful proposal that could end CDPA in NY!

- **Address the home care crisis by providing a living wage to home care workers.**

People with disabilities who require home care are having a harder and harder time getting the care they require to remain in their homes and out of costly institutions. In many parts of the state, particularly upstate, people are unable to get care at home because not enough people want these jobs due to the low pay. The State has a legal obligation under *Olmstead* to ensure people have access to appropriate care in the most integrated setting, their home communities. The State needs to provide a living wage to home care workers in order to attract people to work in that field.

One way to address the home care crisis would be to ensure home care workers are paid equivalent rates to those of providers under OPWDD. The State is obligated to rationalize rates across systems in the approved State Plan Amendment (SPA) for the Community First Choice Option (CFCO), which is set to be fully implemented by July 2019. Given the timeline for CFCO implementation, the State needs to address the disparity between rates in this year’s budget. By increasing rates for home care up to the funding levels of OPWDD providers, the State will truly help address the current home care crisis by offering essential home care workers a living wage.

- **Establish a funding mechanism to ensure Managed Long-Term Care (MLTC) plans receive adequate funding to serve those with the greatest needs.**

New York State's FY 2019-20 Budget must ensure that MLTC plans are adequately incentivized so that their members with the greatest needs have the services they need to live in their home communities. Previous years' Budgets included a commitment to explore a high needs community-based rate cell with CMS. It is our understanding that New York based its proposal on the cost of providing services, and CMS denied this request. If that is accurate, we recommend a revised proposal to CMS based on functional needs in combination with the cost of providing services. DOH is collecting better data on the services being provided to populations that typically have the greatest needs as part of New York's new risk adjustment process. This data should be optimized to strengthen a revised submission for approval by CMS and increase the likelihood that it would be approved.

- **NYAIL supports funding the ILCs role in New York Connects at \$6.5M annually.**

As part of the Balancing Incentive Program, the State expanded its No Wrong Door system to bring together the federally funded Area Agencies on Aging (AAAs) and ILC networks to create a true single point of entry system for accessing long term services and supports. Ensuring access to comprehensive, accurate and unbiased information about long term service and support options and linkages to services is essential as New York continues to implement major systemic reforms to the State's Medicaid system that drastically change the way long term care is delivered. AAAs and ILCs are successfully working together and have expanded the program, with numbers served continuing to increase. NYAIL applauds the State for acknowledging the work of the NY Connects network and adequately funding the program with a separate and increased allocation for ILCs.

NYAIL calls on the legislature to save CDPA by rejecting the Executive's proposal that will blow up the whole CDPA system. We further request the legislature's support in addressing the long-term care concerns of our community to help ensure people have the supports and services they need to live at home and out of institutions. If you have additional questions, please feel free to reach out to Meghan Parker at mparker@ilny.org, or (518) 465-4650.

Respectfully submitted,

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