
2022 DISABILITY PRIORITY AGENDA PUBLIC POLICY PRIORITIES

In recent years, the disability community has been under attack. The previous administration balanced the budget by cutting critical programs and services disabled people need to live in the community. Policies were passed that did not prioritize the needs or rights of disabled people and legislation that did this was routinely vetoed. There is an opportunity with a new administration in place for New York State to once again be a leader in ensuring the rights and independence of people with disabilities in New York.

NYAIL's 2022 budget and legislative priorities would advance independence and community integration for New Yorkers with disabilities. It is imperative that New York makes up for so much lost time by prioritizing laws to protect the civil rights and programs that allow people with disabilities to live independent and integrated lives in their communities. Below are NYAIL's 2022 legislative priorities.

HEALTH

- Require the Department of Health to publish aggregate data related to home care and CDPA on their website. A.8173B (Gonzalez-Rojas) and S.7372B (Hinchey).
- Repeal cuts to eligibility for Medicaid advanced during the Medicaid Redesign Team (MRT) II which makes it more difficult for people to receive vital community-based long-term supports and services (LTSS). A.5367A (Gottfried) and S.5028A (Rivera).
- Create a seamless comprehensive system of access to health care by passing the New York Health Act. A.6058 (Gottfried) and S.5474 (Rivera).

EMPLOYMENT

- Prohibit the practice of paying people with disabilities below the minimum wage in New York State. A.3103 (Steck) and S.1828 (Skoufis).
- Waive the State's sovereign immunity to claims under the Americans with Disabilities Act (ADA) and Section 504. A.7121 (Kelles) and S.1119 (Sanders).
- Increase employment opportunities for people with disabilities by setting a 7% hiring goal for state agencies, contractors, the legislature, and the judiciary. A.3137 (Epstein) and S.1629 (Skoufis).

ELECTIONS

- Change local, village, county, and City of New York elections to coincide with the dates of state and federal elections. A.8560 (Paulin) and S.6197 (Skoufis).

HOUSING

- Create minimum standards for the design and construction of new homes that receive state or federal assistance to make them more accessible. A.2247 (Simon) and S.942 (Krueger).
- Mandate annual reporting on Access To Home Programs to provide greater transparency how the limited funds are being expended and to assess unmet needs. A.9631 (Hunter) and S.8209 (Mannion).

TRANSPORTATION

- **Require counties to expand paratransit beyond ADA minimums. A.3181A (Steck) and S.5092 (Kennedy).**
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HEALTH

- **Require the Department of Health to publish aggregate data related to home care and CDPA on their website. A.8173B (Gonzalez-Rojas) and S.7372B (Hinchey).**

Each year, important policy decisions are made regarding home care and CDPA, yet, very little data is made available to policy makers, advocates, and the public, making it difficult to assess claims made by the Department of Health. Data such as how managed care plans and counties authorize hours and whether there are systemic differences across regions would provide consumers with critical information when picking a plan, and provide advocates and policy makers with critical information regarding these programs. The lack of available data makes it difficult to demonstrate systemic problems, such as the home care crisis. The Department of Health publishes similar data on their website regarding nursing homes, other Medicaid paid congregate care settings, and hospitals. This bill would direct the Department of Health to publish similar data for home care and CDPA they publish for institutions on their website quarterly.

- **Repeal cuts to eligibility for Medicaid advanced during the Medicaid Redesign Team (MRT) II which makes it more difficult for people to receive vital community-based long-term supports and services (LTSS). A.5367A (Gottfried) and S.5028A (Rivera).**

Despite the MRT II's directive to advance policies that would achieve Medicaid savings without impacting access to services, multiple proposals were enacted that make it much more difficult for certain people to receive community based LTSS. In particular, the State raised the eligibility threshold to require assistance with physical maneuvering with at least three activities of daily living (ADLs) to qualify, or they must have a dementia or Alzheimer's diagnosis and be assessed as requiring supervision for at least two ADLs. This effectively eliminates Level I home care, which provided many people with vital assistance with activities such as cooking and cleaning (also known as Instrumental Activities of Daily Living, or IADLs) to remain in their homes. This is a discriminatory eligibility standard which bases eligibility in part on diagnosis. This bill would repeal the harmful Medicaid Redesign Team II (MRT) recommendations that severely limit eligibility for home care for new applicants.

- **Create a seamless comprehensive system of access to health care by passing the New York Health Act. A.6058 (Gottfried) and S.5474 (Rivera).**

People with disabilities have a right to a transparent and accountable health care system that provides accessible coverage including benefits and services that are based on medical necessity. The current disjointed system of Medicare, Medicaid, and private commercial coverage and other specialized programs is difficult to navigate and often fails people with disabilities.

The New York Health Act would end the chaotic medical care system that people with disabilities are all too familiar with and its multiple uncoordinated programs, restrictive

networks and formularies, deductibles and copays which can function as barriers to care. It would instead simplify health care by providing New Yorkers with a comprehensive benefits package that includes everything currently covered by Medicaid, including community-based long-term supports and services (LTSS).

EMPLOYMENT

- **Prohibit the practice of paying people with disabilities below the minimum wage in New York State. A.3103 (Steck) and S.1828 (Skoufis).**

For too long, people with disabilities have been segregated from the rest of society, shut away in institutions and facility-based employment settings. At these segregated settings and enclave type jobs in the community, agencies have been permitted to pay individuals with disabilities well under minimum wage under section 14(c) of the Fair Labor Standards Act (FLSA). However, the Supreme Court's 1999 *Olmstead* decision held that people with disabilities have the right to live and receive services in the most integrated setting. This is in large part why CMS required New York to phase out its subminimum wage jobs in their Transformation Agreement. Subminimum wage jobs also violate the new Home and Community Based Settings (HCBS) rule and thus would no longer be eligible for Medicaid funding.

The majority of facility-based employment settings are segregated, focused on production style work, and fail to provide adequate training or employment to individuals with disabilities and thus do not result in competitive, integrated employment. Many people with disabilities are not suited to production work and it is time we stop equating people with disabilities with this form of employment. We have also developed many successful employment models in the decades since 14(c) was enacted. It is time New York update its employment model away from segregated, subminimum wage settings to an Employment First model, developing each person's latent skills and talents and allowing them to become successfully employed like their nondisabled peers.

- **Waive the State's sovereign immunity to claims under the Americans with Disabilities Act (ADA) and Section 504. A.7121 (Kelles) and S.1119 (Sanders).**

State workers who have been discriminated against cannot sue their employer in Federal court for money damages, including lost wages. Businesses, schools, cities, counties, towns and villages and private employers cannot violate the ADA without the prospect of being held responsible in a court of law. State government must be held to the same standard. This bill would restore the same protections to state workers that they had from the passage of the ADA in 1990 until the *Garrett* decision in 2001---the same protections that ALL other workers still have.

- **Increase employment opportunities for people with disabilities by setting a 7% hiring goal for state agencies, contractors, the legislature, and the judiciary. A.3137 (Epstein) and S.1629 (Skoufis).**

One of the primary goals of the Americans with Disabilities Act was to significantly increase employment opportunities for people with disabilities. Yet the employment rate, which is roughly 34%, has not been significantly improved over the three decades since the ADA became law. It is clear that more needs to be done to tackle discrimination. According to a 2019 RespectAbility report, New York State ranks a dismal thirty-eight among states in hiring people with disabilities. This bill seeks to make the State a leader in the hiring of

people with disabilities by setting a hiring goal of seven percent for the state legislature, state agencies, including SUNY and CUNY, state subcontractors earning over \$10,000, state courts and the judiciary with 50 or more employees.

ELECTIONS

- **Change local, village, county, and City of New York elections to coincide with the dates of state and federal elections. A.8560 (Paulin) and S.6197 (Skoufis).**

People with disabilities are still fighting for our right to a private, independent vote. Progress was made through the Help America Vote Act (HAVA), which mandated all polling sites have accessible, universally designed voting machines for all state and federal elections. However, local elections are not held to the same standard. While local elections are no longer allowed to use lever machines, many are being administered using paper ballots only. Paper ballots are inaccessible to many people with disabilities. Moving these elections so they coincide with state and federal elections and are administered by the County Board of Elections will ensure they will be held in an accessible manner.

HOUSING

- **Create minimum standards for the design and construction of new homes that receive state or federal assistance to make them more accessible. A.2247 (Simon) and S.942 (Krueger).**

Most existing housing stock was not built to meet the needs of people with disabilities, including disabilities acquired as one ages. Housing built with basic accessibility features – known as “inclusive home design” or “visitability” - would meet the needs of people throughout the lifespan and allow homes to be visitable by friends and family members with disabilities. Renovation of homes is much more expensive than including accessibility features in the construction of a new home.

- **Mandate annual reporting on Access to Home programs to provide greater transparency on how the limited funds are being expended and to assess unmet needs. A.9631 (Hunter) and S.8209 (Mannion).**

Access to Home is an important program administered by DHCR which provides permanent home modifications to qualified households to help prevent institutionalization. Very often, basic modifications such as the installation of grab bars and/or the installation of a ramp is the difference between someone being able to remain at home or being forced to go into a nursing home. However, Access to Home is severely underfunded, and as a result, unavailable in many parts of the State and only able to serve a small number of households in the regions that do receive funding. Unfortunately, basic data is not available to assess the need for more funding. This bill would direct the Division of Homes and Community Renewal (DHCR) to collect and report certain program data on an annual basis and make that data available to the public.

TRANSPORTATION

- **Require counties to expand paratransit beyond ADA minimums. A.3181A (Steck) as well as S.5092 (Kennedy).**

The limited availability of accessible transportation services is a major barrier faced by people with disabilities, often leading to unemployment, inability to access medical care, lack of access to voting sites, and isolation from friends, family, and full community participation. The failure to provide paratransit service throughout the State is a major contributor to this pervasive problem.

The Americans with Disabilities Act (ADA) requires that counties provide accessible paratransit service to disabled people who are unable to take the fixed route bus. At minimum, paratransit service must be provided to disabled people within $\frac{3}{4}$ of a mile of the closest bus stop. This was always meant to be the floor, not the ceiling. As fixed route bus lines are eliminated, people are being cut off from paratransit service. This leaves disabled people stranded, without services, or the ability to work, receive services, attend houses of worship, or medical appointments. The State could address this by increasing the minimum service provided to people who rely on paratransit.

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