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MEMORANDUM IN SUPPORT

A.6346 (Paulin) / S.328 (Rivera)

The New York Association on Independent Living (NYAIL) is a statewide, not-for-profit membership association, created by and composed of Independent Living Centers across New York State. Independent Living Centers are unique disability-led, cross-disability, locally administered, not-for-profit organizations, providing advocacy and support to people with disabilities of all ages to live independently and fully integrated into their communities. NYAIL strongly supports A.6346 (Paulin) / S.328 (Rivera).

This bill would repeal a harmful policy passed in the SFY 2020-21 budget as recommended by the Medicaid Redesign Team (MRT) II to achieve Medicaid savings. Multiple proposals were advanced through this process which would make it more difficult for certain people to receive community based long term services and supports (LTSS). The State raised the eligibility threshold for qualifying for LTSS. When implemented in 2024 people must require assistance with physical maneuvering with at least three activities of daily living (ADLs) to qualify. If they have a dementia or Alzheimer's diagnosis they are assessed as requiring supervision with at least two ADLs. Restricting access to home care in this manner violates the Supreme Court's Olmstead decision, which found that **people have the right to receive services in the most integrated setting appropriate to their needs**. Restricting access to home care in this manner will lead to worse health outcomes, hospitalizations, and institutionalization for many.

The eligibility cut is also directly contrary to Community First Choice Option (CFCO) funds that the State is taking advantage of, especially OPWDD, which prohibits the discrimination of people by diagnosis. The state draws down hundreds of millions of dollars annually because of the additional 6% FMAP implementing CFCO, but this funding is now in jeopardy. CFCO requires states to provide CFCO services to individuals on a statewide basis and in a manner that provides services and supports in the most integrated setting appropriate to their needs and without regard to the individual's age, **type or nature of disability**, and or the form of home and community-based services they require (42 CFR441.515).

Any state receiving CFCO services is required to "make available home and community-based attendant services and supports to eligible individuals, as needed, to assist in accomplishing activities of daily living, instrumental activities of daily living, and health-related tasks through hands-on assistance, supervision or cueing 42 U.S. Code 1396N(K)(1)(A). The Centers for Medicaid and Medicare Services CFCO Technical Guide highlights the mandate of both ADLs and IADLs as a means to maximize independence and integration in the community, preserve functioning, and defer or eliminate the likelihood of future institutional placement. As such, the restrictions depending on diagnosis, is in direct violation of CFCO.

The eligibility cuts effectively eliminate level I home care, which provides many people with vital assistance with Instrumental Activities of Daily Living (IADLs) to remain in their homes. Examples of IADLs are included in the table below. It also sets up a discriminatory standard basing eligibility in part on diagnosis. This policy, if enacted, would put many people at risk of unemployment, injury, hospitalization, and institutionalization. NYAIL urges the State to repeal this policy prior to the anticipated implementation in 2024.

CURRENT ELIGIBILITY REQUIRES ANY ASSISTANCE WITH 1 +:	FUTURE ELIGIBILITY REQUIRES PHYSICAL MANEUVERING ASSISTANCE WITH 3+:
<ol style="list-style-type: none"> 1. Making and changing beds; 2. Dusting and vacuuming the rooms which the patient uses; 3. Light cleaning of the kitchen, bedroom and bathroom; 4. Dishwashing; 5. Listing needed supplies; 6. Shopping for the patient If no other arrangements are possible; 7. Patient’s laundering, including necessary ironing and mending; 8. Payment of bills and other essential errands; 9. Preparing meals, including simple modified diets; 10. Bathing of the patient in the bed, the tub or in the shower; 11. Dressing; 12. Grooming, including care of hair, shaving, and ordinary care of nails, teeth, and mouth; 13. Toileting, this may include assisting the patient on and off the bedpan, commode, or toilet; 14. Walking, beyond that provided by durable medical equipment, within the home and outside the home; 15. Transferring from bed to chair or wheelchair; 16. Turning and positioning; 17. Preparing of meals in accordance with modified diets, including low sugar, low fat, low salt, and low residue diets; 18. Feeding; 19. Administration of medication by the patient, including prompting the patient as to time, Identifying the medication for the patient, bringing the medication and any necessary supplies or equipment to the patient, opening the container for the patient, positioning the patient for medication and administration, disposing of used supplies and materials and storing the medication properly; 20. Providing routine skin care; 21. Using medical supplies and equipment such as walkers and wheelchairs; and 22. Changing of simple dressings. 	<ol style="list-style-type: none"> 1. Bathing; 2. Dressing Upper body; 3. Dressing Lower body; 4. Locomotion; 5. Transfer to toilet; 6. Toilet use: and 7. Eating.