CONSUMER DIRECTED ACTION OF NYS

BUILDING SELF-DIRECTED POWER

Do Not Cut CDPA Worker Wages

Governor Hochul's elimination of supplemental wages and benefits for workers in the state's consumer directed personal assistance program (CDPAP) is misdirected, harming workers and the disabled and older New Yorkers they serve while achieving no discernible policy goal. These changes would only serve to further destabilize the state's precarious long-term care system, causing existing workers to flee the sector leaving the disabled and older consumers who rely on them without services. It would also harm the agency-based home care program, as history shows that plans will work with unscrupulous agencies to switch cases to CDPA, lowering worker compensation while they and the plan profit.

Wage parity was implemented in 2012 as a way to ensure stability and quality as the state moved into a managed care environment. CDPA was added to the requirement in 2017 because the program's exclusion served as a loophole to the requirement, destabilizing the entire sector. Managed care plans colluded with home care agencies that also provided FI services to shift existing personal care cases to CDPA, in many instances without the consumer's knowledge. The plan saved money through lower reimbursement costs while the agency saved money by not having to pay wage parity, not having to provide nursing supervision, and being able to forego several other regulatory barriers not necessary in CDPA due to the consumer's control.

Even with the addition of CDPA to wage parity, the program has not been immune to the challenges of the workforce crisis. While the ability to hire family lessens the harm for some, not all consumers have family to do the work, and even some who do have family need other workers to staff all their hours. This, combined with the Legislature's recognition that this vital workforce of primarily Black, LatinX, and immigrant women has been historically undervalued and subject to systemic discrimination, led to wage increases of $2.00/hr. in 2022, with another $1.55/hr increase on January 1, 2024. **If this proposal were enacted, it would create the lowest wage and benefit package for these workers since January 2020, undoing two years' worth of Legislative efforts to increase their pay.**

Despite across-the-board wage parity cuts last year that effectively made home care workers pay for their own wage increase on January 1, the Legislature's work in raising wages appears to be having at least a small impact. This wage parity cut for CDPA would undo all of that progress, and make the situation worse than it was before we started. PAs' total compensation would be less than it was in January 2020.

This would send a clear message to CDPA home care workers only that the state does not view them as essential. It would deem them "second-class" home care workers, worth less than their peers in agency-based home care. This despite the fact that in CDPA, workers often perform higher-level services that agency-based staff are not legally allowed to perform.

Abolishing wage parity for PAs is nonsensical, dangerous, and destabilizing to the entire sector. It perpetuates a long history of balancing the budget on the backs of disabled and older adults' ability to receive services and perpetuates policies that have led to the systemic oppression of this primarily Black, LatinX, and immigrant women workforce. **It must be rejected.**

Consumer Directed Action of New York serves as the "Voice of CDPAP," representing consumers using CDPA and the fiscal intermediaries who administer the program. For more information, call 518-813-9537 or email info@cdpaanys.org.

CONSUMER DIRECTED ACTION OF NYS

BUILDING SELF-DIRECTED POWER

Eliminate MLTC to better manage care

Managed long-term care (MLTC) was supposed to effectively coordinate care and improve quality for those eligible for both Medicare and Medicaid. Since the transition to mandatory managed long-term care, nursing home services and assessments have been taken away from the plans and plans now receive approximately $4,500 per member per month to essentially manage one benefit. Meanwhile, there is nearly no care coordination, accountability, or transparency. These insurance companies are reaping windfall profits at the expense of New York's Medicaid system. Transitioning to a managed fee-for-service model would achieve the goals the failed experiment of MLTC promised while saving the Medicaid program almost $3 billion a year that currently go to MLTC administration and overhead.

In 2011, the state sought to more effectively and efficiently provide high quality long-term care services to those eligible for both Medicaid and Medicare. The goal was to have one entity coordinate all of the services an individual received, whether they were paid for by Medicaid or Medicare. The plans took over responsibility for assessments from the counties and became responsible for all long-term care services. Since then the MLTCs have continuously had their responsibilities pared back.

It was in 2013 when Visiting Nurse Services, now VNS Health, was discovered to be working with social adult day centers to enroll otherwise healthy older residents through incentives like free takeout, casino trips, and more. Consequently, social adult day was removed as a stand-alone benefit in the insurance program, and the state began paying a new vendor, Maximus, to pre-screen applicants for MLTC. In 2015, individuals in a nursing home for over three months were removed from MLTC. As part of MRT 2, the state made a determination that the companies were manipulating assessment scores, transferring the assessment process to Maximus as well. By that time, these companies received about $4,500/year in capitation fees to take an assessment performed by another company and turn it into an authorization of personal care or consumer directed personal assistance services, then pay for the services authorized without coordinating benefits.

Holding the insurance companies accountable for paying agencies for the services being delivered has proven difficult. When wages were increased in 2022, the Legislature appropriated $725 million to pay for the raise. MLTC rates were adjusted by over $2.50/hr of service; however, agencies overwhelmingly reported receiving increases of less than $1, with one plan actually cutting rates.

While the lack of transparency and accountability meant providers, workers, and consumers suffered, the insurance companies have been doing very well. Between 2020 and 2022, Senior Whole Health made over $370 million in profits, Centers Plan for Healthy Living made over $245 million, Fidelis Care made almost $199 million, Healthplus made $194 million, and VNS Health made just over $187 million. These profits had nothing to do with the delivery of healthcare, they stemmed from moving money from the DOH to providers.

A managed FFS system will create an apparatus for true service coordination and care management provided by "care management entities" that specialize in working with those who use long-term care consumers. It would remove incentives revealed by VNS Health very early in the program's existence, while introducing much needed transparency and accountability. Passing the Home Care Savings and Reinvestment Act ensures that our Medicaid dollars are going where they belong: to the provision of services and care management that keep disabled and older New Yorkers at home and out of institutions.

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Home Care Savings & Reinvestment Act

S7800/A8470

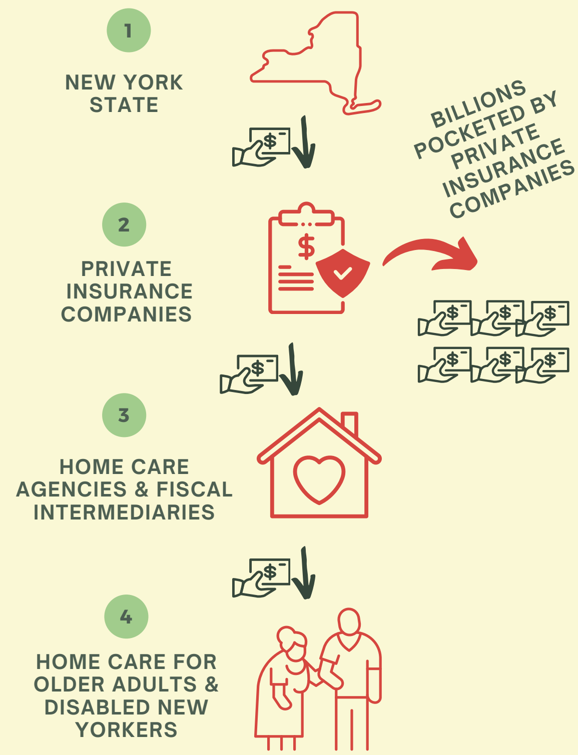
New York Caring Majority

2024 Session

The Problem

New York is facing the worst home care shortage in the nation because of low wages. Yet instead of investing in home care, the State has wasted $5.5 billion dollars in the past four years alone paying private insurance companies to mis-manage Medicaid home care.

Instead of improving home care quality, private insurance companies have pocketed billions while worsening the home care crisis for countless older adults and disabled New Yorkers across the state.



The Reason

In 2011, the State gave control of its Medicaid home care program to private insurance companies, arguing that privatization would improve care through the use of care management. While the insurance companies receive billions of dollars per year in profit and administrative fees, the promise of care management, and the associated higher quality of care, has not materialized.

Since this privatization, the State has also been legally unable to regulate or dictate how much State funding is actually spent on payment for home care services. As a result, the workforce crisis in home care has deepened, putting older and disabled New Yorkers at risk of going without the services they need.

$5.9 BILLION

Total funds given to private insurance companies in “administrative costs” and profit in the past 4 years.

5.5% PROFIT MARGIN

In 2021 alone, private insurance companies pocketed $722 million in profits — 5.5% profit margin was twice the national average

2024 Session

Home Care Savings & Reinvestment Act

The Solution

The Home Care Savings & Reinvestment Act would stop the State from giving insurance companies billions of dollars by removing these ineffective middle men and returning home care management directly to the State.

The Act will generate ~$3 billion in savings annually, which could be used to pay for growing home care needs, improve service quality, and ensure continuity of care by funding higher wages for home care workers during New York's worst-in-the-nation home care worker shortage.

$3 BILLION/ YEAR

Annual savings for New York State once the Home Care Savings & Reinvestment Act is passed

$25-$32 BILLION

Ten-year savings for New York State once the Home Care Savings & Reinvestment Act is passed

The Act would additionally create a cost-effective program to ensure that consumers receive the care management they need. The Home Care Savings & Reinvestment Act would save New York State between $25 and $32 billion over the next ten years.

How this legislation fits into Fair Pay for Home Care

New York is currently facing the worst home care shortage in the nation — and without adequate wages, the home care worker shortage will hit 1.47 million workers by 2035.

This legislation is part of the Fair Pay for Home Care campaign, a multi-year effort to raise home care wages to 150% of the minimum wage and stop the state from giving private insurance companies billions in Medicaid dollars meant for home care.

Over 4.6 million New Yorkers will be over age 65 by 2035 — an increase of 29% in the next decade — and nearly 1 million New Yorkers will require home care by 2035. Nearly 20% of state home care positions are unfilled and 42% of agencies reported high turnover.

The Act will end the wasteful practice of spending billions on private insurance companies and help us reinvest sorely-needed dollars into direct home care services.

CONSUMER DIRECTED ACTION OF NYS

BUILDING SELF-DIRECTED POWER

Anticipated Personal Care Eligibility Cuts Must Be Rescinded

The SFY 2021 budget included drastic eligibility cuts to PCS and CDPA that would require consumers to need physical assistance with at least three ADLs, or two if the consumer has a diagnosis of dementia or Alzheimer's disease. Federal recognition that cuts to Medicaid during a global pandemic were bad public policy prevented these eligibility cuts from taking effect. However, in April, the last of these protections will disappear and thousands of older and disabled New Yorkers will be forced to go without the services they need, ultimately leading to higher costs once they physically degrade enough to require services at a much higher level.

Disabled and older New Yorkers use personal care services (PCS), including consumer directed personal assistance (CDPA), to live independent and active lives at home and in their community. These services provide help with services many of us take for granted, like getting out of bed, going to the bathroom, and getting dressed. Unless the law is changed before that date, thousands of consumers who would qualify for CDPA today will be forced to navigate their lives without services.

The cuts were part of the MRT 2 - initially included as a placeholder in ex-Governor Cuomo's Executive Budget proposal and unveiled late in the budget process, severely limiting negotiation and discussion. Particularly cruelly, these cuts to highly effective community-based services were passed just as COVID-19 deaths were peaking in nursing homes across the state. Provisions in the CARES Act that prevented the state from implementing the cuts almost led to the Governor rejecting the billions in extra funds, though he ultimately relented and accepted that he must continue to offer the benefits. While the CARES Act protections have passed, additional rules imposed by ARPA have continued to protect disabled and older adults deemed "not disabled enough" for services on March 31, 2024. Eligibility for institutional placement was not impacted and thousands of Medicaid consumers who need minimal assistance to stay in their homes will no longer have access and will be forced to either risk injury that results in further disability or enter a nursing home against their wishes, a clear violation of the Supreme Court's *Olmstead* decision.

Providing ADL assistance is a low-cost way to prevent hospitalization. Over half of older adults hospitalized for falls identified unmet need with ADLs as the cause. Hospitalization is a solid predictor of worsening disability. In one study, 59% of hospitalized older individuals without a prior need for ADL assistance needed assistance with at least one ADL after discharge, while 37% needed assistance with three or more. If the eligibility cuts are not rescinded, there will be a significant increase in preventable hospitalizations and complex care needs.

By definition, the ability to perform ADLs is fundamental to life. It defies reason that a person who "only" needs help getting out of bed or eating would be fine without these supports. Last April, President Biden released an Executive Order instructing states to prioritize Medicaid home and community-based services (HCBS) like CDPA over institutionalization for long-term care. As the nation looks to modernize long-term care, New York is poised to take a giant step backward, joining states like Idaho and South Dakota in not being able to remove people from Medicaid quickly enough. We must repeal this cut, trimming Medicaid in smart ways that will actually improve care, like the Home Care Savings and Reinvestment Act.

CONSUMER DIRECTED ACTION OF NYS

BUILDING SELF-DIRECTED POWER

Enact Fair Pay for Home Care

New York is in the midst of a home care worker crisis driving crises in every other area of healthcare. Thousands of disabled and older adults cannot staff some or all of the hours approved in their consumer directed personal assistance (CDPA) plans of care that enable them to live safely at home and in their communities. This is leading to greater unmet need, and therefore greater use of hospitals and rehabilitation nursing homes. It is also leading to a greater inability to discharge from both of those.

Wage increases for personal assistants (PAs) are desperately needed to fix this problem. Still, the small, incremental raises implemented over the past two years have only just started to staunch the bleeding and have inadvertently created new obstacles for consumers by putting an untenable financial strain on their provider fiscal intermediaries (FIs). The Fair Pay for Home Care bill guarantees that home care workers and PAs earn 150% of the regional minimum wage in which they work and closes the unexpected loopholes from recent wage increases that threaten FI operations, necessary steps to ensure CDPA and home care is available to all New Yorkers who qualify.

While New York continues to hire home care workers, it is nowhere close to keeping pace with demand. This places CDPA consumers in a uniquely vulnerable position. Unlike traditional home care, in which agencies hire and schedule workers, in CDPA these responsibilities fall on the consumer. But too often, there are no workers to hire. In a study by the Consumer Directed Personal Assistance Association of NYS, nearly 40% of consumers reported it takes longer than three months to hire a new PA, and more than one-fifth are constantly recruiting PAs. A lack of adequate PAs puts consumers at direct risk of injury and institutionalization.

There have been small wage increases that began in October 2022 that Governor Hochul announced were, “Just the beginning”. Instead, last year’s budget forced these workers to pay for their own wage “increase”, cutting supplemental wages and benefits by the same amount of their purported raise, essentially forcing this low-wage workforce to pay for its own “raises”.

Fiscal intermediaries (FIs), who have been supportive of wage increases for PAs, are struggling with the unexpected consequences. Despite receiving about $750 million in 2022, insurance companies mostly failed to pass through these increases, leaving agencies scrambling to pay for the wage increases they were required to provide. So far, the increases from January 1 of this year have seen many of the same responses, with Molina, Aetna, and other plans failing to raise reimbursements at all. Due to this inaction by insurance companies, FIs have had to resort to drastic measures to continue operating, with almost 40% considering opening or expanding lines of credit. State agencies have expressed little interest in enforcement, instead deferring to individual negotiations between FIs and MCOs in which MCOs hold all of the bargaining power.

Fair Pay for Home Care is a single piece of legislation that would solve these complex problems. Its passage would reverse the workforce shortage, make providers whole, and ensure that CDPA and home care are available to all New Yorkers who qualify. As New York continues to age, demand will continue to grow and we will need a strong foundation on which to expand our long-term care system or it will collapse. Fair Pay for Home Care must be passed in this year’s state budget.

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