

March 26, 2021

Governor Andrew Cuomo  
NYS State Capitol Building  
Albany, NY 12224

Assembly Speaker Carl Heastie  
LOB 932  
Albany, NY 12248

Senate Majority Leader Andrea Stewart-Cousins  
188 State Street, LOB Room 907  
Albany, NY 12247

Dear Governor Cuomo, Majority Leader Stewart-Cousins, and Speaker Heastie:

We are writing to urge you to pass a New York State budget that prevents unnecessary institutionalization of people with disabilities of all ages – the elderly as well as young people with disabilities. The COVID-19 pandemic has been devastating to nursing home residents, and has been particularly harmful to nursing home residents of color.<sup>1</sup> Now is the time for New York State to be the leader in long-term care reform and it can do this by taking action to make home and community-based services more available to prevent nursing home placement and to make it possible for nursing home residents to return to the community. Therefore we urge that the following proposals are included in the Enacted Budget:

1. **Reject the Executive’s proposal to extend the Global Cap**, which was enacted as one of the original Medicaid Redesign Team recommendations in 2011. This cap imposes on New York State the same constraints that federal block grants would impose – which Republicans in Congress could not push through even when they had a majority. Like block grants, the Global Cap forces New York to manage the Medicaid program within a fixed cap regardless of increased need and costs, with the surge in need for Medicaid caused by COVID-19 as the classic example of the need for flexibility. New York is proud of embracing the Medicaid expansion under the ACA and of its commitment to providing services for people with disabilities to live at home rather than in nursing homes. We support A.226/S.5255 which would repeal the Global Cap to allow for enrollment growth and

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<sup>1</sup> Gorges RJ, Konetzka RT. *Factors Associated With Racial Differences in Deaths Among Nursing Home Residents With COVID-19 Infection in the US*, JAMA Netw Open. 2021;4(2):e2037431. doi:10.1001/jamanetworkopen.2020.37431, *The Striking Racial Divide in How Covid-19 Has Hit Nursing Homes*, New York Times, May 21, 2020, available at <https://www.nytimes.com/article/coronavirus-nursing-homes-racial-disparity.html>; Joseph Shapiro et al., *In New York Nursing Homes, Death Comes To Facilities With More People Of Color*, National Public Radio, April 22, 2020, available at <https://www.npr.org/2020/04/22/841463120/in-new-york-nursing-homes-death-comes-to-facilities-with-more-people-of-color>.

increased demand for services and costs due to COVID-19 – without paying the price of forcing harsh, arbitrary cuts to keep costs under the artificial Global Cap.

2. **Extend the Special Housing Income Disregard for people leaving nursing or adult homes to those who secure “Immediate Need” personal care or consumer-directed personal assistance (CDPA) services** through their local social service districts. Having enough income to pay rent is a huge barrier preventing people from leaving nursing homes. This disregard allows people who enroll in a managed long term care (MLTC) plan when leaving a nursing home or adult home to keep more of their own income to pay rent. Now that long-term nursing home care has been “carved out” of the MLTC program, nursing home residents face more obstacles to enrolling in MLTC plans in order to return home. They can leave the nursing home more quickly by securing Immediate Need services from their local district. We support Part QQ of A03007 (Assembly one-house bill) that would extend this special Medicaid budgeting rule to the Immediate Need program, removing a huge obstacle that prevents return to the community.
3. **Repeal the illegal “ADL” (Activities of Daily Living) restrictions on eligibility for personal care and consumer-directed personal assistance services** enacted in the FY 20-21 NYS Budget. These restrictions blatantly discriminate based on diagnosis, denying services to people with conditions that give rise to the need for supervision and cueing assistance to perform daily activities rather than hands-on physical assistance. For example, individuals with vision impairments, traumatic brain injury, developmental disabilities, and other psychiatric, neurological and cognitive impairments may need supervision and cueing assistance with ADLs. Enacting the provisions of A.5367/S.5028 will prevent people with these impairments from being forced into nursing homes when denied vital home care services.
4. **Enhance the home care workforce** – Reject the Executive’s proposal to reduce the Home Care Workforce Recruitment & Retention (R&R) fund and include #FairPay4HomeCare in the final budget. The provision in S.2507-B is an important step toward providing equity for low-income Black and LatinX women & communities while preventing another COVID19 nursing home tragedy for vulnerable New Yorkers who are forced into nursing homes without access to a stable home care workforce.
5. **Create medical respite programs** by adopting Article 29 J of A03007, which will provide care to homeless patients who are too sick to be in a traditional shelter, but not sick enough to warrant inpatient hospitalization. Our organizations have long sought solutions for this vulnerable population who without respite are unable to access much needed treatment due to the instability of their homelessness, or are forced into unnecessarily prolonged hospital stays where they are at risk for hospital-born infections or unable to adhere to treatment protocols. Medical respite provides temporary room and board and the arrangement of health care and support services in order to improve the health of medically impacted homeless individuals while also decreasing costly hospital

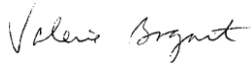
use. Programs in New York and around the country have a proven successful and are useful models for replication.

6. **Prevent transition of the Traumatic Brain Injury and Nursing Home Transition & Diversion Program waiver services to Medicaid Managed Care** by adopting S.2507-B Part JJ.
7. **Expand the Long Term Care Ombudsman Program and the Open Doors Transitional Support program.** Open Doors transition specialists facilitate transitions to the community for nursing home residents, including locating housing and subsidies, accessing needed services, waivers, and supports, and providing education to develop independent living skills. The New York Association for Independent Living coordinates the Open Doors program. Many more specialists are needed, particularly in the New York City region. The Long Term Care Ombudsman Program provides crucial support for nursing home residents and their families through resident rights education and advocacy and is woefully underfunded in New York State.
8. **Reject the de-funding of vital advocacy services for adult home residents,** as proposed by the Governor. We support the Assembly and Senate's positions to restore this important funding.

The devastating impact of COVID-19 on nursing home residents is a wake-up call to action to preserve and expand home and community-based services.

Thank you for your consideration.

Very truly yours,



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