
2020 DISABILITY PRIORITY AGENDA BUDGET PRIORITIES

The New York Association on Independent Living (NYAIL) represents Independent Living Centers (ILCs) and the people with disabilities they serve. NYAIL leads statewide ILC efforts to eliminate physical, communications, attitudinal, and other barriers to all aspects of life. This year marks seven years since the State issued its Olmstead Plan, which outlined how the State would advance the State's community integration efforts for people with disabilities. Yet, over the past couple of years, the disability community has had to fight off major cuts to programs that keep many people in the community and out of costly institutions. From carving nursing homes out of MLTC, to the devastating cuts to the Consumer Directed Personal Assistance (CDPA) program last year, the State has achieved savings in the Medicaid program at the expense of some of its most vulnerable citizens. And, these cuts will likely pale in comparison to this year's plan to cut \$5 billion from Medicaid. In addition, other vital programs continue to be underfunded like Independent Living Centers and Access to Home, further illustrating a lack of commitment to Olmstead. We urge the Legislature to take legislative and administrative action in the 2020-21 budget as outlined below toward the full integration of New Yorkers with disabilities.

INDEPENDENT LIVING

- Increase base funding for Independent Living Centers (ILCs) to \$18 million in SFY 2020-21.

HEALTH / MEDICAID

- Oppose a Medicaid Redesign Team II approach to cutting \$5 billion from Medicaid.
- CDPA should be handled separately from the larger MRT process and the draconian reimbursement changes put forward last year must be reconsidered.
- Reconsider the Medicaid Global Cap.
- Oppose the devastating cuts to the Department of Health's MRT supportive housing programs.
- Help address the home care crisis by creating a *Home Care Jobs Innovation Fund* at a mere \$5 million per year for 3 years.
- Increase funding for Community Health Advocates (CHA), the state's health care consumer assistance program, to \$5 million.

AGING

- Increase the State's share of funding for the Long-Term Care Ombudsman program by \$3 million.

HOUSING

- Increase funding for Access to Home to \$10 million.
- Create a Visitability tax credit to help homeowners retrofit their homes to make them more accessible, or to incentivize including visitable features at the time of construction.

EMPLOYMENT

- Establish a small business tax credit for employing people with disabilities.

TRANSPORTATION

- Enact the recommendations of the Transportation Network Company Accessibility Task Force.

INDEPENDENT LIVING

- **Increase base funding for Independent Living Centers (ILCs) to \$18 million in SFY 2020-21.**

Independent Living Centers (ILCs) provide critical services to people with disabilities, all designed to assist them in navigating the ever-changing service system in order to live independent, fully integrated lives in the community. As the State continues to redesign health care in ways that are intended to increase quality and decrease costs, ILCs play a crucial role. ILCs provide a wide range of services based on the local needs, all of which are aimed at addressing the social determinants of health: education, employment, housing, transportation, and other independent living skills.

ILCs have been severely underfunded for the past fifteen years while the cost of providing services has increased dramatically, creating a crisis for centers and the people with disabilities they serve. In 2018, the state's network of ILCs served 114,000 people with disabilities, family members and others; an increase of approximately 20,000 in just six years. This demonstrates the pressing need for IL services in communities, and the number served would likely be higher had the IL funding kept up with the capacity needs of centers.

Over the past few years, the Board of Regents and the Legislature have all acknowledged that ILCs are essential providers for some of their most vulnerable citizens, yet have not been able to meet the needs of their local communities due to this severe underfunding. There has been strong support in the Legislature and in last year's final budget, the ILCs received a modest increase of \$500,000. However, Governor Cuomo's proposed Executive Budget effectively cuts funding to the centers by not including this increase. Centers have already created budgets relying on this increased amount in base funding and taking this increase would further harm the already under-funded centers.

HEALTH / MEDICAID

- **NYAIL strongly opposes a Medicaid Redesign Team II approach to cutting \$5 billion from Medicaid.**

The proposed Executive Budget reconvenes the Medicaid Redesign Team (MRT) and directs the MRT to report back before the April 1 budget deadline with a plan to deliver \$5 billion in cuts to Medicaid. Medicaid is an essential program that provides coverage and vital services to people with disabilities and other low-income individuals. We are gravely concerned that directing a group of providers to find savings in such a short time period will create a process that does not allow for public input, or time to consider the implications of the proposals put forward and how they will impact access to vital services.

NYAIL does not oppose looking for savings in Medicaid, or to rooting out fraud, waste, and abuse. But we are deeply concerned that this process, which so far appears to be solely provider-driven, will not prioritize the State's obligations under Olmstead to ensure people have access to the supports and services they require to live in the community. If the State is going to reconvene the MRT to seek further savings in Medicaid, we call on the State to also implement the following recommendations:

- Include representatives from Community-Based Organizations, advocates, and people with disabilities on the MRT.
- Allow for an open process that provides stakeholders a say in how savings are achieved in a manner that does not impact access to vital services.
- Do not rely solely on program cuts to address the budget shortfall. Instead, the State must address both sides of the equation by also seeking out ways to raise revenue.

- **CDPA should be handled separately from the larger MRT process and the draconian reimbursement changes put forward last year must be reconsidered.**

Many people have been able to leave institutions and live independently in the community thanks to the Consumer Directed Personal Assistance (CDPA) program. Unfortunately, CDPA is being blamed in part for recent growth in Medicaid.

Growth in CDPA should be viewed as a positive considering the current budget shortfall. CDPA is less expensive to provide than traditional home care or nursing homes. Part of the reason CDPA has grown in recent years is due to the home care crisis. People who could not get traditional home care because agencies did not have anyone to staff the hours turned to CDPA and were able to recruit their own aides. Without CDPA, many of these people would likely have been forced into institutions. The future of CDPA is still in peril due to last year's disastrous rate cuts which do not adequately fund Fiscal Intermediaries for the services they provide and would put most providers out of business. Any further cuts to CDPA will undoubtedly have an impact on people's ability to access this vital service they rely on to live in the community.

Fiscal Intermediaries and consumers are the experts when it comes to CDPA and need to have input in how savings are achieved in the program. The State should handle the CDPA issue separately from the larger MRT process. Instead, a smaller workgroup should be developed with a group of stakeholders who are knowledgeable about the program. We call on the State to rescind their proposed regulations regarding administrative reimbursements, implement the savings NYAIL, the Consumer Directed Personal Assistance Association of NYS and the NYS Association of Home Care Providers collectively put forward to achieve immediate savings, and allow for a more thoughtful process to identify additional savings to the program, including any change to reimbursement.

- **Reconsider the Medicaid Global Cap.**

Much of the reason for the so-called budget shortfall is due to spending simply exceeding the Medicaid Global Cap. It is important to remember that the Medicaid Global Cap was first established when New York State was in fiscal crisis. And while the Global Cap did succeed in constraining Medicaid growth for a time, essential programs and services have already faced significant cuts in recent years as a result of the cap. Years later, New York's economy is doing well, and such austerity seems cruel and unnecessary. The State needs to continue in its tradition of providing community-based services to low-income individuals and people with disabilities. In order to do so, the State needs to re-examine the Medicaid Global Cap and take factors such as an aging population and growth in the program into account.

- **NYAIL opposes the devastating cuts to the Department of Health's MRT supportive housing programs.**

Despite the commitment for unprecedented investments in affordable housing in this year's State of the State, the Executive Budget slashes the Department of Health's MRT Supportive Housing allocation by more than two thirds, from \$98 million to \$26.7 million. The MRT Supportive Housing allocation plan reinvests savings from the original MRT process into housing programs that assist people with disabilities to return to or stay in their community. Some of these programs include Access to Home for Medicaid eligible individuals, the Olmstead Housing Subsidy (OHS) program and the Rapid Transition Housing Program (RTHP). Most of the programs funded through this allocation are housing subsidy programs, which means individuals are at risk of losing critical housing support and likely to end up

homeless or institutionalized as a result of these cuts. Through NYAIL's administration of the OHS and RTHP programs alone, we currently have 649 individuals housed and over 900 individuals in need working through the referral processes.

- **Help address the home care crisis by creating a *Home Care Jobs Innovation Fund* at a mere \$5 million per year for 3 years.**

As New York's home care providers struggle to recruit and retain workers, they unfortunately lack the resources to test innovative solutions to this problem. This year's budget should include funding to support pilot projects throughout the State that helps to increase recruitment and retention of home care workers. We are proposing that the State allocate a mere \$5 million per year for 3 years to support this effort. The findings from these projects can help determine statewide solutions.

- **Increase funding for Community Health Advocates (CHA), the state's health care consumer assistance program, to \$5 million.**

Since 2010, CHA has helped 359,000 New Yorkers, including many people with disabilities, all over New York State navigate their health insurance plans to get what they need and saved New Yorkers over \$47 million. People with serious illnesses and disabilities especially need this assistance so that they can get the services and supports that are right for them. CHA's contact information is listed on commercial, but not Medicaid Managed Care notices. Medicaid patients now have to "exhaust" their Plan's internal appeal systems before going to an independent appeal process. Medicaid enrollees should receive CHA's information to manage the appeal process as people in the commercial markets already do. The Governor proposes a budget for the program of \$2.5 million. We urge the Legislature to add \$2.5 million for a total of \$5 million for fiscal year 2021.

AGING

- **Increase the State's share of funding for the Long-Term Care Ombudsman program by \$3 million.**

The Long-Term Care Ombudsman Program (LTCOP) serves as an advocate and resource for people living in nursing facilities and other institutions. The program is intended to promote and protect residents' rights as well as their health and safety by receiving, investigating and resolving complaints made by or on behalf of residents. The LTCOP receives Federal funding, but it is insufficient to provide adequate services in NYS. The State Comptroller released a report in 2019 on the program and found that many residents in LTC facilities lack representation from an Ombudsman due to lack of volunteers and paid staff. The report found that statewide, there are about half the recommended number of full-time staff. It found that across the State, five of eleven regions require at least three additional staff to meet recommended levels, and in New York City alone, they require 23 more full-time staff. NYAIL urges the State to increase its share of funding by \$3 million to ensure the State's population of people in long-term care facilities are adequately served.

HOUSING

- **Increase funding for Access to Home to \$10 million.**

Access to Home is an important program administered by NYS Homes and Community Renewal (HCR) that provides funding for home modifications to allow individuals with disabilities and older New Yorkers to stay in their homes and out of costly institutions. For many people, the addition of a ramp to their front door makes the difference between being able to leave the house and being homebound. Access to Home was cut by 75% several years ago. Ever since, Access to Home has been funded at a mere \$1 million Statewide, leaving many parts of the state without the program and resulting in years long waiting lists. Investing in Access to Home will help seniors and people with disabilities around the State to remain in their home and out of institutions.

- **Create a Visitability tax credit to help homeowners retrofit their homes to make them more accessible, or to incentivize including visitable features at the time of construction.**

Despite strong support from the legislature, Governor Cuomo vetoed legislation to create a visitability tax credit for the fourth time. In the veto messages, the Governor indicated support for the program, but stated that such a proposal would need to be handled during budget negotiations. Despite his stated support for the program, Governor Cuomo has yet again failed to include this tax credit in his proposed executive budget. This is a priority for the disability community as a tax credit would help keep people in their homes and out of institutions by assisting people with the costs associated with making their homes more accessible. NYAIL urges the legislature to include the \$1 million pilot program in the state budget.

EMPLOYMENT

- **Establish a small business tax credit for employing people with disabilities.**

There is a dire need to address the extremely high rates of unemployment and poverty among people with disabilities. Governor Cuomo recognized this when he issued Executive Order 136, establishing an Employment First Commission. Included in the Employment First report was a recommendation to create a cross disability tax credit. Legislation which would have established such a tax credit for small businesses was passed by the legislature last session for the second year in a row. The legislation was vetoed, and the only reason provided in the most recent veto message was it needs to be included in the budget, which it was not. This tax credit would provide a real incentive for small businesses to take a chance and hire people with disabilities.

TRANSPORTATION

- **Enact the recommendations of the Transportation Network Company (TNC) Accessibility Task Force.**

Their report was published in February 2019 and included the following two recommendations to the State intended to ensure comparable service is provided to wheelchair users:

- Establish an official governing entity to provide ongoing oversight of TNCs operating in New York State.

- Explore creative ways to provide incentives to increase the number of accessible TNC vehicles statewide. For example, potential TNC drivers could be incentivized through tax breaks or access to low interest loans for the purchase and/or modification of accessible vehicles.

The TNC Accessibility Task Force was created as part of the legislation authorizing TNCs to operate statewide. That legislation mandated that TNCs implement the recommendations of the Task Force. However, there is little to no evidence the TNCs are doing anything to implement these recommendations. As per the report, the TNCs were directed to spend this year working with disability organizations regionally on a plan to provide comparable wheelchair accessible service. NYAIL provided both Uber and Lyft with contacts at Independent Living Centers across the State. Yet, we are not aware of any of the centers hearing from either company on forming such a plan. Unless the State creates a mechanism for oversight, it seems very unlikely the recommendations in this report will be implemented, as mandated in the authorizing legislation. This budget is a perfect opportunity to provide funding to help get more accessible vehicles on the road and to create an oversight body to ensure the TNCs comply.

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