PATRICK M. GALLIVAN

February 28, 2022

Honorable Andrea Stewart-Cousins
Temporary President and Majority Leader
New York State Senate
State Capitol – Room 330
Albany, New York 12247

Honorable Robert Ortt
Republican Conference Leader
New York State Senate
909 Legislative Office Building
Albany, New York 12247

Honorable Gustavo Rivera
Chairperson – Health Committee
New York State Senate
502 Capitol Building
Albany, New York 12247

Dear Legislative Leaders and Chairperson:

We write to you today to highlight the specific measures that should be included in the Senate One-House Budget to address the needs of New York's older adults and people with disabilities. After years of cuts and chronic under-investment in long-term care (LTC), the FY 2023 Executive Budget Proposal is a welcome shift in direction. Nonetheless, the proposals do not go far enough to address the years of underfunding in this sector, the needs of our growing population of older adults or the ongoing support that is needed to address the losses posed by the pandemic.

New York State has drawn down billions in enhanced federal Medicaid matching funds since the Public Health Emergency began, which argues for a significant Medicaid investment. Such investment should include meaningful Medicaid increases, targeted funding for LTC providers, and a multi-pronged approach to the workforce crisis. This is critical to ensure the availability of quality not-for-profit LTC and aging services to meet the future needs of a growing population of older adults in New York.

As the primary payer for LTC services in New York and nationwide, Medicaid bears significant responsibility for access to high-quality LTC services, the financial viability of the LTC sector, and its capacity to compensate staff appropriately for the difficult and essential services they deliver. We therefore urge you to consider the following recommendations. They are:

- **Provide a *meaningful* across the board increase to LTC Medicaid rates.** Provider Medicaid rates would be 31 percent higher today if trend factors had not been eliminated for the past 14 years. Given the added costs of the pandemic, the chronic under-funding of LTC, the growing aging population and the most recent news release from the Bureau of Labor Statistics, we urge you to **accept the Executive's proposed 1.5 percent restoration and provide an additional 7.5 percent Medicaid rate increase to LTC providers.**
- **Include a $75 million allocation to help offset a portion of the costs** and losses that Adult Care Facilities (ACFs), Assisted Living Residences (ALRs), and Assisted Living Programs (ALPs) have incurred to date as they continue to address the pandemic.

- **Block the Competitive Procurement of MLTC Plans.** This proposal threatens to limit consumer choice and disrupt established relationships between consumers and providers and between providers and plans. A competitive procurement will substantially reduce the number of plans eligible to serve older adults and people with disabilities from twenty-five to at least two, but not more than five, per region. Inevitably, it will require the transition of tens of thousands of vulnerable individuals to new plans with networks that might not include the individuals' existing providers. This disruption of regular sources of care will be distressing and harmful to Medicaid beneficiaries.
- **Ensure that the new 1115 Waiver prioritizes the needs of older adults and people with disabilities.** DOH's 1115 Waiver concept paper, which will serve as the basis for its application for a new $17 billion, five-year waiver, currently does not address the needs of older adults and people with disabilities who need LTC services.
- **Support the Executive's proposal for $1.6 billion to fund a multi-year Statewide Health Care Facility Transformation Program IV.** The legislation should earmark a proportional amount of the overall capital allocation to LTC, which has been marginalized in previous funding initiatives. Home care and hospice providers should be reinstated as providers eligible to apply for the funding.
- **Restore the 5 percent cut to nursing home capital reimbursement enacted in 2021.**
- **Ensure that Home and Community-Based Services (HCBS) Enhanced Federal Medical Assistance Percentage (eFMAP) funds are equitably and transparently allocated.**
- **Include ACFs and nursing homes in the Vital Access Provider Assurance Program (VAPAP).** While the Executive Budget Proposal initially made both provider types eligible for VAPAP, the 30-day amendments then excluded ACFs. The Senate One-House should re-instate ACF eligibility, to include Medicaid-funded assisted living programs, for this funding and should ensure that eligible LTC provider types are represented appropriately in awards.
- **Increase the Medicaid reimbursement rate for adult day health care (ADHC) and ADHC transportation.** ADHC trend factors were also eliminated the last 14 years and programs are struggling to access transportation for registrants due to low reimbursement rates and increased costs of transportation vendors.
- **Provide additional targeted funding for the Nursing Home Quality Pool and support distressed provider funding.** Ensure a proportional allocation to long-term care providers that could be made available quickly.
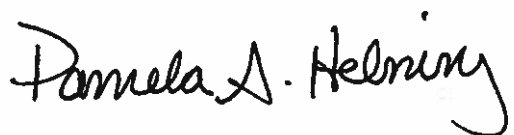
In order to stabilize and revitalize our LTC and aging services in the wake of this devastating pandemic we need to make significant investments now. Accessible, high-quality services for older adults and people with disabilities depend on adequate public funding to ensure that they can continue to live as independently and with as much dignity and comfort as possible.

Thank you for your consideration of the abovementioned requests.

Sincerely,

Patrick M. Gallivan
Senator, 59th District

Pam Helming
Senator, 54th District

Joseph Griffo
Senator, 47th District
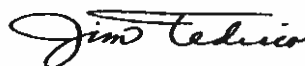
Anthony Palumbo
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