

Ensure All Seniors Have Access to ACF and Assisted Living Services

Assisted Living (AL) and Adult Care Facilities (ACFs) offer critical support and assistance in a “home-like” setting. For individuals who cannot or do not want to remain at home, such settings can provide the support necessary to maximize independence and prevent the need for more costly alternatives. Unfortunately, the cost of providing these services is rising due to mandates, increasing labor costs, and the rising cost of goods and services. At the same time, the State has instituted cuts and failed to make other needed investments to sustain this popular and economical option. Meanwhile, New York’s population of older adults is rising steeply, as the working age population is shrinking, creating a crisis statewide. ACF/AL options for seniors who can pay privately are becoming more expensive; options for middle-income seniors are scarce; and low-income seniors are struggling to find ACF/AL services because providers are closing. New York needs to bolster the long-term care delivery system and its workforce to be ready for the demographic changes afoot, not cripple it with crushing cuts. No high-quality, well-managed ACF/AL should be forced to close due to inadequate rates. Below are recommendations to ensure access to ACF/AL for all seniors:

Increase the Supplemental Security Income (SSI) rate for ACF residents: SSI pays just over \$41 per day for ACFs to provide residents with housing, meals, personal care, case management, assistance with medication administration, housekeeping, activities, and more. In the past 25 years, there has been *one* increase in 2007 to the state portion of the SSI rate. Analysis of 2015 data for facilities that predominately serve the SSI population showed that it costs ACFs *twice* the daily reimbursement per resident to provide their services – the gap between costs and reimbursement has only grown since then given the minimum wage increase and other mandates. This chronic underfunding is threatening the financial viability of ACFs that serve SSI recipients. Since 2017, there have been 25 ACFs that have closed voluntarily, and there are others on the brink. If SSI/Medicaid-eligible seniors cannot access ACFs in their communities, many of these will be placed in nursing homes at a significantly higher cost to the state. LeadingAge NY estimates that *for every 40 low-income ACF residents that can continue living in their ACF or are diverted from nursing home placement, the state saves \$1 million in Medicaid spending.*

Request: Help ACFs that serve low-income seniors in the most integrated setting possible by supporting an increase of at least \$20 per day in the State’s Supplement to the Congregate Care Level 3 SSI rate, and include an annual cost of living adjustment to the state portion of the rate thereafter.

Avoid Further Medicaid Cuts to the Assisted Living Program (ALP): The ALP is the only Medicaid assisted living option in New York, serving seniors who are at a nursing home level of care but don’t need ongoing skilled services. The ALP Medicaid reimbursement is approximately half of the nursing home rate. The ALP rate hasn’t had a standard trend factor increase since 2007 and was just cut, while the costs of providing care go up each year. Additionally, changes to the Medicaid payment processes for durable medical equipment and supplies have resulted in the ALP having to absorb the cost for items that were not contemplated when the program was established. A \$5 billion cut to the Medicaid program, when the rates are already inadequate, will inevitably threaten the viability of these programs and hurt consumers. The ALP cannot sustain further cuts – rather, the ALP rate should be updated to a more recent base year to reflect current costs. If ALP residents are displaced due to closures, they will go to a nursing home at twice the Medicaid cost.

Request: The Legislature should reduce the proposed \$5 billion Medicaid cut and avoid further cuts to the ALP.

Modify the Governor’s EQUAL Funding Proposal: The Executive Budget’s 30-day amendments change the Enhancing the Quality of Adult Living (EQUAL) program to split it into two funding programs for operations and capital projects. As outlined above, *greater* investment is needed in these ACFs that serve low income seniors as many are in danger of closing; we recommend an increase in the capital funding appropriated to allow for the most meaningful and impactful programs for ACFs that serve the SSI population. In addition, the legislature should be more prescriptive in directing funding to ensure funding for ACFs that serve the low-income population, regardless of the residents’ diagnoses.

Request: Modify the Executive budget language to increase the capital funding appropriation to \$10 million; expand the operational funds uses to include workforce development and ACF operational expenses; and ensure funding is prioritized for those ACFs that serve SSI/SSP eligible residents and those who spenddown to Medicaid eligibility.

Invest in ACF/AL Workforce Development: ACF/AL providers are experiencing ongoing workforce recruitment and retention issues statewide and have not had access to any recruitment and retention funding. These challenges threaten the viability of these providers at a time when the need is growing. At the same time, the state is not permitting the most effective use of resources; many ACFs employ nurses, but their residents are not able to fully benefit given restrictions on the duties nurses can perform in these settings. The Enhanced Assisted Living Residence (EALR) is the only ACF/AL setting that permits these professionals to provide nursing services. Ultimately, this prevents nurses from providing services that would result in better health outcomes for the resident, support end of life care, and save Medicaid dollars.

Request: The Legislature should dedicate \$50 million of the workforce development funds to LTC workforce and implement no-cost reforms, such as permitting nurses to practice nursing services in ACFs. (S.1788 Rivera)

Allow Assisted Living Program Residents to Access Hospice Services: Department of Health (DOH) interpretations of Medicaid regulations and payment policy prevent terminally ill, Medicaid-eligible ALP residents from accessing hospice services. As a result, many are forced to transfer to a nursing home in their last weeks of life. If ALP residents were able to access hospice services in the ALP, this would prevent hospitalization and nursing home placement, resulting in state savings. It would also allow more people to die in the place they call home, with the support and comfort of hospice care.

Request: Direct DOH to authorize access to Hospice services for Medicaid eligible ALP residents.

Reject Unfunded Mandates on Providers: Despite the significant distress ACF/AL providers are experiencing, mandates are imposed on these providers each year from a variety of sources. The cost of mandates and the mounting administrative burden increases the cost of providing care and takes providers away from the critical task of caring for residents. There is simply no more capacity to continually absorb new costs and requirements without financial support.

Request: The Legislature should not impose new mandates without additional funding.

Transformation Grants: The Executive Budget would reauthorize \$225 million for the Statewide Health Care Facility Transformation Program Phase III funds, for which ACFs and ALPs are eligible for the first time. These providers generate savings by delivering care in the most integrated setting appropriate, at a lower cost than nursing homes, and they need funding to best serve a growing, frailer population and operate more efficiently.

Request: Dedicate additional Transformation funds specifically to ACFs and ALPs, and set a deadline for the State to issue a request for applications and award the Phase III funds.

Maintain Level Funding for the Enriched Housing Subsidy and SNALR Voucher Demonstration Program: We support the Executive Budget proposals to level-fund the Enriched Housing Program Subsidy at \$380,000, and to continue to Voucher Demonstration program for people with dementia living in Special Needs Assisted Living Residences. Both programs are critical for ACF and SNALRs and the people they serve.

Request: Accept the Governor’s proposals to level-fund the Enriched Housing Subsidy and continue the SNALR Voucher Demonstration Program.