

Ensure All Seniors Have Access to ACF and Assisted Living Services

Assisted Living (AL) and Adult Care Facilities (ACFs) serve individuals who cannot or do not want to remain at home and do not need continuous nursing care. They offer assistance in a “home-like” setting, emphasizing autonomy and independence, and are less expensive than most 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, while 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 build 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 closed 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. Since 2017, there have been 25 ACFs that have closed voluntarily, and there are others on the brink of closure. If SSI/Medicaid-eligible seniors cannot access ACFs in their communities, many of these individuals will be placed in nursing homes at a significantly higher cost to the state. For every 44 low-income seniors with functional limitations who are served in ACFs rather than nursing homes, **the State will save approximately \$1 million.**

Request: Help ACFs and assisted living facilities 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 an annual cost of living adjustment to the state portion of the rate thereafter.

Reject the Governor’s Proposal to Redirect EQUAL Funding: The Executive proposal radically changes the Enhancing the Quality of Adult Living (EQUAL) program to split it into two separate programs, with very specific purposes. EQUAL was intended to support quality of life initiatives for ACFs with SSI eligible residents. The proposal limits the ability of the ACF and the residents to target this desperately needed funding to meet the unique needs of that specific community. Given the financial condition of providers that serve a high number of SSI recipients, they need the EQUAL program to be *more flexible*, not narrowed.

Request: Reject the Governor’s proposals to modify the EQUAL program. Restore EQUAL at last year’s level of \$6.5 million and expand the purpose to allow for operational expenses, staff training, and workforce investments.

Avoid Further Medicaid Cuts to the Assisted Living Program (ALP): Long term care and aging services have had to absorb a disproportionate share of cuts over the past several years. 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 is reimbursed at approximately half of the nursing home Medicaid rate. The 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 more current costs. Good providers should not have to close due to inadequate rates. 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.

Invest in ACF/AL Workforce Development: ACF/AL providers are experiencing workforce shortages that have led to ongoing recruitment and retention issues for providers statewide, and they have not had access to any state recruitment and retention funding. These shortages threaten the viability of these providers at a time when the senior population is growing. At the same time, the state is not permitting the most effective use of the resources it has. Many ACFs in the state currently employ nurses, but their residents are not able to fully benefit from these nurses given restrictions on the duties they can perform in these settings. Currently, 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, including permitting nurses to practice nursing in ACFs, as outlined in 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, the state could achieve Medicaid savings. Based on 2016 data, if just ten percent of Medicaid eligible ALP residents were permitted to remain in the ALP with access hospice services, the state would see an estimated **\$1.3 million in savings.**

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, various mandates are imposed on these providers each year from a variety of sources. The cost of such mandates and the resulting increasing administrative burden increases the cost of providing care and often 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.

Request: Dedicate additional Transformation funds to 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 (EHP) 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.