

New York State Legislature Joint Budget Hearing on Health
Thursday, February 25, 2021
Testimony of Allison Cook
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Thank you for the opportunity to comment on the Fiscal Year 2022 Executive Budget for New York State. I am Allison Cook, State Policy Manager for PHI, a national non-profit organization based in the Bronx that works to transform eldercare and disability services by promoting quality direct care jobs as the foundation for quality care. PHI was founded in affiliation with Cooperative Home Care Associates (CHCA), a worker-owned home care agency in the Bronx that continues to partner with us to improve training and job quality for home care workers in New York City. For nearly three decades, PHI has been the nation's leading expert on the direct care workforce through our research, policy analysis, and direct consultation with policymakers, payers, providers, and workers—providing a unique 360-degree perspective on the long-term care system in New York and across the United States. In this testimony, I will offer a brief overview of New York State's direct care workforce, comment on the health budget provisions that would impact the direct care workforce, and outline additional provisions that PHI recommends be included in the budget.

In this testimony, the term “direct care workers” refers to the workforce that provides the majority of paid, hands-on care to older adults and people with disabilities across care settings, primarily in long-term care. This workforce comprises home health aides, personal care aides, personal assistants in the consumer-directed program, and nursing assistants, among other job titles.

New York State's Direct Care Workforce

The COVID-19 pandemic has spotlighted the critical importance of New York State's nearly 530,000 direct care workers. Despite the risks to themselves and their families, these workers have continued to provide essential services to individuals in private homes, community settings, and in skilled nursing homes—striving to limit and manage the impact of the virus on the vulnerable populations they serve.¹

Direct care workers have fulfilled this role with minimal compensation, support, protection, or recognition. Median annual earnings for these workers in New York State are only \$21,100, a figure that falls far short of the cost of living.² According to MIT's Living Wage Calculator, a single adult without children needs over \$32,300 to cover the cost of living in New York State and a single adult with two children needs more than \$85,200.³ Relatedly, 45 percent of the state's direct care workers live in or near poverty (below 200 percent of the federal poverty level) and 51 percent rely on public assistance.

Looking beyond compensation, direct care workers also struggle with insufficient access to affordable childcare and transportation, full-time hours and consistent schedules, supportive supervision on the job, meaningful career advancement opportunities, and more. As PHI has testified in previous years, poor job

¹ Altman, Arielle. 2020. “How One Home Care Worker is Living Through the COVID-19 Crisis.” *PHI Blog*, April 7, 2020. <https://phinational.org/how-one-home-care-worker-is-living-through-the-covid-19-crisis/>

² Cook, Allison. 2020. *New York's Direct Care Workforce*. Bronx, NY: PHI. <https://phinational.org/resource/new-york-states-direct-care-workforce/>

³ Massachusetts Institute of Technology. “Living Wage Calculation for New York.” Accessed February 3, 2021. <https://livingwage.mit.edu/states/36>.

quality is the leading factor that is driving New York’s direct care workforce shortage—with the pandemic adding further pressure on the workforce.

PHI urges the legislature to invest in the direct care workforce for three key reasons:

1. Improving job quality, including by increasing compensation, will lessen the direct care workforce shortage and ensure that older adults and people with disabilities are able to access the services they need;
2. Investing in this workforce will support the state’s economic recovery,⁴ given the reality that more workers are employed in direct care than any other occupation in New York, and direct care is projected to add more new jobs than any other occupation from 2018 to 2028⁵; and
3. Strengthening direct care jobs will create more equity in our state, given that women, people of color, and immigrants constitute the majority of this workforce.

Executive Budget Provisions

Because Medicaid is the primary payer for long-term care, Medicaid policy directly affects compensation and other aspects of job quality for direct care workers. In this section, we provide comments primarily on Medicaid provisions in the Executive Budget that would impact the direct care workforce.

Recruitment and Retention Funding

Part E of the Executive Budget Health and Mental Hygiene Article VII legislation would halve the funding available to recruit and retain home health, personal care, and hospice workers. Particularly in the context of the COVID-19 pandemic, which has intensified turnover across long-term care (as workers have left their jobs due to illness, family caregiving responsibilities, concerns about safety, and for other reasons⁶), providers require more support with recruitment and retention. Therefore, PHI recommends that the legislature increase recruitment and retention funding, rather than reduce it, and explore other ways to strengthen and stabilize the workforce, as elaborated in the “Additional Recommendations” section below. Further, the legislature should require that recruitment and retention funding be distributed to qualifying providers in a timely, transparent, and equitable manner.

Cuts to Medicaid Providers

The Executive Budget includes a one percent across-the-board cut to Medicaid providers. After a year in which most long-term care providers experienced an unprecedented increase in operating expenses (as discussed below), further funding cuts are simply untenable. Among other detrimental impacts, these cuts will further undermine direct care job quality and impede access to quality long-term services and supports. At a time when access to reliable health care coverage is more important than ever, PHI urges the legislature to prevent additional cuts to Medicaid providers.

Medicaid Global Cap

Part A of the Executive Budget Health and Mental Hygiene Article VII legislation proposes to extend the Medicaid global cap for another year. However, given the aging of our population, the escalating need for

⁴ A recent LeadingAge study found that increasing home care worker wages would generate a return on investment that far exceeds the up-front investment in wage increases. Weller, Christian, Beth Almeida, Marc Cohen, & Robyn Stone. 2020. *Making Care Work PAY*. Washington, DC: LeadingAge. <https://www.ltsscenter.org/wp-content/uploads/2020/09/Making-Care-Work-Pay-Report-FINAL.pdf>.

⁵ Cook, 2020.

⁶ Home Care Association of New York State. 2020. “Phase II COVID-19 Survey: Summary of Impact on Home and Community-Based Entities, Staff and Patients in New York State.” Published April 6, 2020. <https://hca-nys.org/wp-content/uploads/2020/04/HCA-Phase-II-Survey-Summary-Final.pdf>.

long-term services and supports, increased costs related to the pandemic, and increasing labor costs (due to the rising minimum wage, Fair Labor Standards Act changes, and other changes), PHI urges the legislature to end the global cap, as is proposed in A226.⁷ Instead, if the current cap is extended for another year, PHI is seriously concerned that further cuts made to meet the cap will be pushed onto direct care workers through lower wages, fewer benefits, and decreased hours.

Cuts to Medicaid Managed Care Plans

The Executive Budget also includes a retroactive 3.5 percent rate reduction to Medicaid managed care plans. PHI supports the goal of recouping unused funding from managed care plans but strongly recommends the legislature include provisions that prohibit these retroactive cuts from being passed on to long-term services and supports providers. The legislature should also strongly consider using a significant portion of these recovered funds to reimburse providers for COVID-related costs, such as PPE, mandated or regulated sick leave, and others.

Improving Nursing Home Quality

PHI appreciates that Part GG of the revised Health and Mental Hygiene Executive Budget Article VII bill seeks to improve the quality of nursing home care. This section includes provisions that would allow civil penalties to nursing homes that exceed \$15,000 to be used for a variety of activities to improve quality of care and quality of life for nursing home residents, such as staff training and education and resident involvement in quality improvement. PHI recommends that this section explicitly state that the funding go toward direct care workforce initiatives, such as a recruitment campaign, entry-level and ongoing training, investment in worker compensation and benefits, and others.

PHI also greatly appreciates the proposal to limit funds that go toward upper management so that workers who provide resident services are sufficiently funded. Going further, these regulations could and should create a higher minimum wage for nursing home workers (similar to the Fair Pay for Home Care bill described below), ensuring that direct care workers can earn a living wage and recruitment and retention is bolstered in a sector that suffers from workforce shortages.

Finally, PHI applauds the inclusion of provisions that would increase transparency through public reporting of ownership, contracting, and more. However, PHI recommends that the budget should also require transparency in how Medicaid rates are calculated, with proof that costs are fully covered, including labor-related costs.

COVID-19 Extraordinary Relief Fund

Part UU of the revised Public Protection and General Government Executive Budget Article VII bill would establish the COVID-19 Extraordinary Relief Fund. As already mentioned, COVID-19 has generated prohibitive new costs for long-term care providers, many of which pertain directly to the direct care workforce. The legislature should ensure that this funding pool will offer grants to Medicaid-funded long-term care providers to cover the costs of procuring PPE, managing the vaccination process, covering paid sick leave and other labor costs, addressing training and technology needs, managing increased administrative expenses, and more.

Additional Recommendations to Strengthen the Direct Care Workforce

While we understand the financial constraints facing New York State due to the pandemic, PHI strongly believes that we cannot afford to continue undervaluing our state's direct care workers. As previously highlighted, investing in this workforce will ensure access to essential services for older New Yorkers and

⁷ New York State Assembly Bill A226. *Repeals the state Medicaid spending cap and related processes; repealer.* <https://www.nysenate.gov/legislation/bills/2021/A226>

people with disabilities; bolster our economy; and create a more equitable society. With the following recommendations, PHI describes specific steps that New York can take toward achieving these goals.

Establish the Home Care Jobs Innovation Fund

PHI recommends that the legislature establish the Home Care Jobs Innovation Fund (Senate Bill S4222), which would provide a total of \$15 million in grants over three years to support the pilot-testing of new strategies to attract and retain workers—such as innovative methods for finding strong job applicants, effective orientation strategies for new hires, and novel worker investments (e.g., transportation assistance, scholarships, or retention bonuses).⁸ The findings from these pilot projects would help the state craft a comprehensive strategy to address the workforce shortage in home care, where recruitment and retention are most challenging.

Create a Direct Care Workforce Taskforce

The legislature should also consider creating a Direct Care Workforce Taskforce comprising diverse organizations from across the state that would be tasked with addressing the direct care workforce shortage, the need for increased compensation, new challenges that have arisen due to COVID-19 (including with regards to PPE and vaccinations), and concerns related to training and career development for direct care workers, among other issues. The taskforce should release a public report with recommendations within one year and follow-up reports every two years thereafter.

Ensure Medicaid Rates Promote Quality Direct Care Jobs

The New York State legislature should ensure that Medicaid reimbursement rates cover the full costs of providing long-term care services and supports, including a living wage for direct care workers. This recommendation includes three key points:

1. Medicaid reimbursement rates to long-term care providers should be calculated through a transparent process and should cover wages and benefits, training, PPE, administrative costs, and other labor- and care-related costs.
2. The legislature should direct the Department of Health to establish a baseline rate that Managed Long Term Care plans must pay providers to fully cover providers' costs.
3. The legislature should enact the Fair Pay for Home Care Bill to ensure that home care workers in particular, who are the largest segment of the direct care workforce but currently the lowest paid,⁹ receive a living wage in New York State.

Fund Direct Care Workforce Investment

A key component of New York's Section 1115 Medicaid Redesign Team Waiver, the Managed Long Term Care Workforce Investment Program has provided valuable funding in recent years to "retrain, recruit and retain healthcare workers in the long-term care sector" in New York State.¹⁰ A more substantial and training-focused funding pool compared to the Recruitment and Retention fund mentioned above, the Workforce Investment Program has helped long-term care providers achieve value-based payment goals and better meet training needs related to COVID-19, among other beneficial outcomes. Although the future of this vital program is uncertain, the Governor has clearly indicated that a future

⁸ New York State Senate Bill 4222. *Establishes the home care jobs innovation program and the home care jobs innovation fund; appropriation.* <https://www.nysenate.gov/legislation/bills/2021/s4222>

⁹ Cook, 2020.

¹⁰ NYS Department of Health. "Managed Long Term Care Workforce Investment Program." Accessed January 26, 2021. https://www.health.ny.gov/health_care/medicaid/redesign/2017/mltc_invest.htm.

Medicaid Section 1115 Waiver should incorporate workforce needs.¹¹ As well as affirming the need to renew the Workforce Investment Program as soon as possible, PHI recommends that, in the short term, the legislature allows Workforce Investment Organizations to use unspent funds from the current program during the upcoming fiscal year. This spending flexibility will help ensure continuity of essential training efforts beyond March 31st, 2021.

Establish a Direct Care Workforce Data System

A robust direct care workforce data system would allow the state to measure and track key workforce indicators more accurately, monitor the impact of policy changes (such as minimum wage increases), and plan for future needs and emergencies. As a starting point, this year's budget should fund a survey of all state agencies, including (but not limited to) labor, health, and education, to identify workforce data sources and gaps. This year's budget should also fund a statewide survey of direct care workers to better understand their job experiences and challenges, including with regards to COVID-19, and develop more targeted and evidence-based workforce interventions.

Conclusion

Thank you for the opportunity to submit testimony. PHI looks forward to continuing to work with you to strengthen New York's direct care workforce as a critical step toward strengthening access to quality long-term services and supports and building a more equitable state. If you can any questions you can reach me at ACook@PHInational.org or 718-928-2067.

¹¹ The Governor's Executive Budget Briefing Book states [emphasis added]: "New York will explore new initiatives through amendments to the approved waiver on Medicaid policy priorities including telehealth, alternative payment methodologies, **workforce**, and Health Equity and Social Determinants of Health, and to address the COVID-19 pandemic impact on the State's health care delivery system." Cuomo, Andrew. 2021. "FY 2022 Executive Budget Briefing Book." Cuomo, Andrew. 2021. *FY 2022 Executive Budget Briefing Book*. Albany, NY: New York State Governor. <https://dingo.telicon.com/NY/library/2021/20210119ZY.PDF>