

THE 2009-2010 EXECUTIVE BUDGET

A Joint Hearing Before

**THE SENATE FINANCE AND
ASSEMBLY WAYS AND MEANS COMMITTEES**

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Delivered By:

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**On Behalf of the
Home Care Association of New York State, Inc. (HCA)**



Opening Remarks

Good afternoon. My name is Victoria Hines, Vice-Chair of the Board of Directors of the Home Care Association of New York State (HCA), on whose behalf I will be testifying today. I am also the President and Chief Executive Officer of the Visiting Nurse Service of Rochester and Monroe County.

My own agency serves approximately 12,000 patients annually, and 5,500 of those patients are on Medicaid. Like many of my HCA member colleagues, VNS Rochester serves as the “safety net” for the sickest and most complex patients in our region. We see it as our mission to partner with local hospitals, nursing homes and physicians to get patients out of inpatient facilities as soon as possible and then to keep them healthy at home for as long as possible. And we are successful in that endeavor. We have one of the lowest acute care hospitalization rates in the country.

The Home Care Association of New York State (HCA) is a statewide not-for-profit organization representing over 400 home health care providers, allied organizations and individuals concerned with the provision of home care in New York State. Our members care for and support hundreds of thousands of patients and families statewide.

HCA’s mission is to promote and enhance the quality, accessibility and availability of home care by enabling its members to meet the health and assistive needs of patients. The people whom we serve include the frail elderly, persons with post-acute and chronic illnesses and disabilities, and individuals with

maternal and child health needs. Home care agencies also provide public health and other services in support of their communities. Our services, through the care provided by visiting nurses, therapists, medical social workers, home health aides and other allied professionals, help patients recuperate and receive rehabilitation safely at home following a hospital stay. We also provide long term home care and management for chronic conditions so that, whenever possible, patients can avoid having to enter or re-enter a hospital or nursing home and can optimize his or her ability to function.

Overview

Let me begin by saying we recognize the enormous fiscal pressures confronting New York State and appreciate the challenge of adopting this year's State Budget. However, we fundamentally state our resolute and profound opposition to the Governor's proposed Budget actions which are destructive to and would irreparably damage the home care system. We urge that these proposals be defeated.

In striving to close New York's deficit, policymakers must instead consider the ways in which our home care system is already helping to control the cost of Medicaid while providing quality care to patients in their setting of choice – at home. The best way to illustrate the value and importance of home care is to consider what New York State would be like without home care – the perilous path in which the Governor's Budget has us heading, with its **nearly one-half billion dollars** (state and federal shares) in funding cuts and reckless systematic changes to the entire home care delivery infrastructure.

Without home care, thousands of medically frail seniors, persons with disabilities and chronically ill patients, including children, would have no choice but to needlessly leave the sanctuary of their homes and enter a nursing facility, where the cost of care is higher.

Without home care, a patient who is ready for hospital discharge after undergoing surgery must remain in the hospital longer or enter a nursing home or rehabilitation facility – at greater cost to Medicaid – because no in-home services would be available to provide the extensive physical and other therapy he or she needs in order to regain strength and mobility.

Without home care, medically fragile children with severe disabling conditions would be separated from their families and forced to live in institutions.

Without home care, a visiting nurse would not be available to monitor a patient's wounds and help stem a life-threatening infection that could result in a costly emergency room visit and extended hospital stay, in addition to jeopardizing the life of the patient.

Without home care, patients with severe diabetes, heart failure, cancer, HIV/AIDS, Alzheimer's, multiple sclerosis and many other chronic conditions would risk hospital and nursing home admission in absence of a clinical professional visiting the patient at home, observing signs of a worsening health condition, or guaranteeing that patients correctly take their medications.

Without home care's new and emerging technology, patients whose diseases and conditions can be effectively and cost-efficiently monitored and managed remotely would require more expensive care in costlier settings.

For many communities, these are the very sort of scenarios threatening patient care that would emerge under Governor Paterson's Budget which, if enacted, will crush New York's home and community-based health system. The combination of almost a **half-billion dollars in Medicaid home care reductions** – coupled with hasty and ill-conceived “reform” attempts to transform the current system of home care delivery – would impair the ability of providers to serve patients and eliminate access in large areas of the state. As a consequence, this would have the opposite effect as intended by the Governor. It would drive up costs to the Medicaid program as patients are forced to seek care in less appropriate and costlier settings – like overloaded hospital ERs and nursing homes, which themselves are facing severe cuts and constriction.

In health care, we have a term for co-occurring conditions, much like the Governor's litany of funding cuts and staggering program changes – it's called co-morbidity – which is often lethal since multiple compounding medical conditions can lead to death.

Precarious Home Care System

Even absent this year's catastrophic Budget cuts and destabilizing reforms, New York's home care system has already been saddled with past years of funding reductions, rising costs, a constant barrage of new regulatory requirements,

staffing shortages, and difficulties obtaining responsible and timely reimbursement from managed care plans.

Looking at recent State Budget impacts alone, home care services have been dealt nearly \$150 million in Medicaid funding cuts (combined state and federal shares) just in the past several months, as part of the April 2008 Budget agreement and the Governor's August 2008 midyear deficit-reduction plan.

To understand how the capacity of agencies to serve patients has dwindled, one need only examine what the data tells us – which is, in the last five years, fifteen Certified Home Health Agencies in New York have already either closed their doors or been consolidated. Meanwhile, access to home care in rural communities is limited to such a level that nineteen rural counties in New York State currently have only one provider of skilled home care services.

Agencies like mine that have survived past funding cuts now walk a delicate tightrope, attempting to maintain our mission to patients while staying alive financially. For each of the last four years, we have implemented cost-containment initiatives to cope with reductions in funding. We've done this by partnering with industry experts to use Six Sigma techniques to drive waste out of our processes. As a result, we've carved out more than \$2.5 million in administrative and support costs. We have no fat left to burn, so the \$3 million in cuts to VNS Rochester proposed by the Governor will mean we have to cut programs and/or lay-off staff.

HCA and the New York Association of Homes and Services for the Aging recently issued a report which further chronicles the perilous state of home care access. Entitled *Unstable Ground: The Fiscal Instability of Home Care In New York State*, the report found that 71% of programs serving long-term home health care needs and 53% of programs serving patients with post-acute home care needs reported operating losses in 2006, due to inadequate reimbursement and rising costs.

As part of the report, providers were also asked to assess the consequences of a prospective 5% and 10% Medicaid cut. Nearly half of respondents indicated that they would seriously consider closing their doors under a 10% Medicaid cut. That was before the Governor released his Budget proposal and put forward cuts of the present magnitude, whereby the Governor proposes to cut Medicaid by 12% to 25% for most home care agencies.

If nearly half of agencies are likely to close under a 10% cut, consider the consequences for providers that now face combined home care cuts ranging as high as 25% of their Medicaid reimbursement.

Home Care Spending Reductions in the 2009-10 Executive Budget

The direct cuts to reimbursement alone in this year's Budget proposal would send New York's home care safety net into freefall. These cuts include:

- Elimination of the 2008 and 2009 Medicaid Trend Factors, which are essential for keeping pace with the cost of care. These adjustments are necessary to fill the gap between two-year-old cost reports – used as a base

for establishing Medicaid reimbursement rates – and present-day, actual costs of providing care.

- A 10% cut in reimbursement for nursing, therapeutic, home care aide and other services.
- A further funding reduction for general patient care and operations – such as patient outreach, assessment, case management, clinical technology, family support, training, quality improvement, and corporate compliance – through an arbitrary cut in the Administrative and General (A&G) reimbursement category. The A&G, as it is so plainly named, is actually a catch-all line of reimbursement for many critical services that are not covered elsewhere in the home health care reimbursement structure.
- The Governor also proposes across-the-board cuts to home care programs of 3.5% or 1.5%, depending on the type of provider – and then further slashes funding with yet another across-the-board cut of 1% to all home care providers.
- This is compounded by a 0.7% gross receipts tax on home care provider revenues, including Medicare and out-of-pocket payments by uninsured elderly and disabled patients.
- The Budget also cuts state and federal share funding by 50% – from \$16 million to \$8 million – for special assistance to rural, suburban and small

city home care agencies for 2008, and it then eliminates the entire \$16 million in funding for April 1, 2009 through March 31, 2010. This funding has been allocated to help meet the cost of: new technology, serving populations with complex or special needs, travel, and other unique workforce expenses faced by rural, suburban and small city providers.

- And then, on top of these devastating proposals, the Governor's 30-day amendments further slash home care funding by reducing necessary workforce recruitment and retention dollars – by \$9.25 million in this fiscal year and by \$37 million in 2010-11 – and eliminating all monies for Certified Home Health Agencies after December 31, 2009. My own agency relies on these dollars to maintain some competitiveness in a market crippled by severe nursing and paraprofessional shortages. Our vacancy rates will now start to climb and we will be unable to meet the needs of our patients.

“Reform” Proposals

Piling on this avalanche of cuts is then a slate of destabilizing initiatives advanced under the banner of “reform” that, rather than improving home care service delivery, instead would largely unravel a system already financially imperiled. In contrast, HCA has developed a series of reform proposals which we believe are positive and constructive for patients, providers and the state and I will discuss them conceptually later in this testimony.

The Governor's proposals to which we object include: (i) a proposed ban on contracting for home health aide services, which will have the unintended effect, in many cases, of squeezing these vital services out of the home care delivery infrastructure, as agencies who currently subcontract for aide services find themselves unequipped to absorb the cost and operation of these services within their own organizational structure; (ii) a complete overhaul of the home care reimbursement system, which while possibly meritorious to study for the future, is proposed by the Governor as an already completed product to be imposed on the system in less than a year's time even though a similar model activated at the federal level for Medicare took years to study, be tested and become operable; and (iii) the establishment of long term care assessment centers, which will create new administrative layers and the potential for inefficiencies and delays in the provision of care.

Direct Contracting for Home Care Services

The 2009-10 Executive Budget includes a proposal forbidding Certified Home Health Agencies (CHHAs), Long Term Home Health Care Programs (LTHHCPs) and AIDS Home Care Programs (AHCPs) from subcontracting with Licensed Home Care Services Agencies (LHCSAs) for home health aide services. The proposal mandates that agencies only provide these services directly.

It is irresponsible and reckless for the state to be advancing such a proposal without considering any impact data, including data that would reveal the prospect of staggering workforce cutbacks statewide as well as an unprecedented loss of vital services for thousands of New Yorkers, since very few CHHAs have

the operating margins – nor the necessary staff, expertise, systems and controls – to absorb all of their home health aide services directly. Under this change, most agencies will have no choice but to dramatically scale back on home health aide services. In addition, many long-standing patient-aide care relationships would be severed.

Subcontracting is a typical, prudent business practice used by the government and private sectors in all areas because it has been shown to increase efficiencies and reduce costs. It is bewildering that no data or analysis has been presented by the Executive to justify this proposal – especially as a Budget initiative. In fact, the state admits it lacks evidence to support its claim that this proposal would reduce unnecessary administrative expenses; nor has the state attributed any savings to New York’s Medicaid system through this proposal.

LHCSAs are a core part of the home care system and for many years have supplied much of the paraprofessional (home health aides, personal care aides) staff for patients requiring assistance at home. While CHHAs, LTHHCPs and AHCPs sometimes hire their own paraprofessional staff, they often contract with LHCSAs which are a different home care delivery model.

The result of prohibiting LHCSA subcontracting for home care services would be a precipitous drop in the number of available aides, shortages in most areas, and a move back to inappropriate and more costly nursing home and other institutional placements. In addition, New York State would see an increase in unemployment for aides, less tax revenue and an adverse impact on the local and

state economies. Put simply, this proposal would **increase** Medicaid costs and **decrease** revenues for New York.

HCA's CHHA, LTHHCP and AHCP members have indicated that they would **not** be able to absorb the function of LHCSAs in providing home health aide services if these members are prohibited from contracting with LHCSAs. Such tasks handled by LHCSAs include: recruitment and retention, orientation, training, development of cultural and language competencies, scheduling and other. If these responsibilities were handled by CHHAs, LTHHCPs or AHCPs, they would have to bear an entirely new set of costs for these activities.

Prospective Payment System

Under proposed changes to the home health reimbursement system, New York would do away with its current fee-for-service structure. Instead, Certified Home Health Agencies would receive a bundled rate for delivering care to a patient over a 60-day period, with payment varying according to health severity. This is called a prospective payment system.

HCA supports the idea of examining and improving the home care reimbursement system, and looks forward to working with the state toward such improvement. However, given all that is at stake for patients and providers, we must oppose the imposition of a pre-ordained product of this magnitude without pre-testing, provider/patient impact analysis, provider or consumer input, appropriate transition, or verification that the proposed system is the correct approach. When the state and federal governments have changed reimbursement systems for home care and other sectors, such changes were made after years of

study, modeling, input from providers, demonstrations to test the effects of such changes on patients with different diagnoses and acuities, and transition periods.

Establishing a prospective payment system for home care is very complicated. Complex calculations must be made to factor for the extraordinary variation in patient medical condition. Meanwhile, home care agencies must purchase new computer systems, change internal systems, and hire or train new staff – all costs that are unreimbursed and actions that take time – in order to adjust to a new payment system. Furthermore, this proposed overhaul would be implemented backwards in that the Administration is also taking steps to reform the patient assessment instrument which should, after its own testing and verification, be the basis for improvements in the reimbursement system. We ask the state to allocate the proper resources and time, involve all affected stakeholders, and carefully examine the potential effects on patient access to care **prior** to adopting such monumental reimbursement changes.

Long Term Care Assessment Centers

The Governor's Budget also includes a proposal to establish regional long term care assessment centers that will replace the role of the local social services district to assess an individual's need for long term care services and to authorize such care.

HCA is deeply concerned that these proposed assessment centers will create a new administrative layer that providers and patients must navigate, delaying the process of assessment and authorization for services. The removal of these functions from local departments of social services – and, in some cases, from

providers – could, at the worst time in our changing health care system, create more confusion, conflicts and bottlenecks, which will lead to increased costs (e.g. inappropriate services for those whose needs have changed, hospital backups, unnecessary and longer nursing home stays, excessive and duplicative staff time, and more).

While the current function of the local districts presents many problems and challenges that stymie providers and prevent patients from receiving timely, appropriate home care services, HCA is deeply concerned that this proposal would replace one bureaucratic system with another, and one which may not be the correct approach for improving the efficiency and effectiveness of the authorization and assessment system. In addition, since the proposal does not include system enhancements or quality improvement measures, HCA worries that the new system offers no relief to the state, providers or patients from onerous system inefficiencies.

Since the state is now in the process of developing a new assessment data-set and instrument, we urge that any attempt to create long term care assessment centers be postponed until the revised assessment process has been developed – with input from providers and other affected parties – and tested for different programs in various parts of the state. We note that there is no guiding legislative language or assurances for input regarding this new assessment and recommend that this be included. HCA will be offering language to you in this regard.

FMAP Funding- “Medicaid for Medicaid”

HCA has been a leading advocate of efforts – including Governor Paterson’s – to obtain an increase in the Federal Medical Assistance Percentage (FMAP) for New York State under legislation being negotiated in Congress as part of a broad economic stimulus plan. Such an increase could bring New York up to \$10 billion in additional Medicaid funding over a twenty-seven month period. The incorporation of these funds within the Medicaid program is vital to the current fiscal plan negotiations and in avoiding the present draconian cuts.

We strongly believe that any increase in FMAP must be used to offset the billions of dollars in Medicaid cuts proposed by the Governor rather than be funneled away for non-Medicaid purposes as the Governor has indicated he may do. Since the Governor has refused to commit to “Medicaid for Medicaid,” we along with our colleagues across the entire continuum of care urge the Legislature’s commitment to allocate FMAP funding for Medicaid purposes only – and specifically for the purpose of substituting for the Governor’s proposed cuts.

When it comes to FMAP, once again the Governor has gotten it backwards, intending to enact draconian, system-crushing Medicaid cuts rather than await the imminent outcome of Congressional action to provide relief to New York through an increase in federal Medicaid funding. We ask the Legislature to reject such a backwards sequence of events, and await the federal outcome prior to considering the Governor’s proposed cuts to health care.

HCA's Proposals

In proposing these enormous Budget cuts, Governor Paterson has repeatedly said that though his hands are tied by a burgeoning deficit, he invites interested stakeholders to offer alternative, affirmative proposals – which we believe should be considered in place of his funding cuts as a way to help reign in spending. We hope the Governor holds to his promise of keeping an open ear, as HCA has crafted a comprehensive proposal that, in addition to our recommended relief offered by FMAP, will add cost-saving efficiencies to the home care system, eliminate unnecessary and duplicative activities, improve patient care, and further bolster New York's emphasis on home and community-based services. Some of our provisions would:

- Improve channeling of patients to the most cost-effective and appropriate type of home care.
- Increase efforts at diverting patients from premature or unnecessary institutionalization, particularly at key transition points in their care.
- Apply home-based monitoring and disease management technology in ways that further support patients and reduce costs.
- Target care management initiatives directed to the relatively small demographic of patients whose co-morbidities and service needs generate the highest costs.

- Broaden access to New York State’s Long Term Home Health Care Program, or “Nursing Home Without Walls,” which cares for patients at home at less cost than in nursing homes.
- Improve the efficient deployment of staff.
- Provide regulatory relief in ways which would save state dollars and improve the use of agency resources.
- Revise assessment tools for streamlined and more sophisticated patient evaluations, service planning and program eligibility.
- Expand financing options to reduce the dependence on Medicaid for long term care.

We will be sharing this proposal with the Governor and Legislature.

Concluding Comments

HCA appreciates the opportunity to share these comments with you today. We vigorously urge your continued recognition of the fundamental role that home care must play if the needs of our citizens and the overall health care system are to be met. Slashing and reconfiguring home care in untested, impractical and irresponsible ways is not the road that we, and hopefully you, believe New York State should take.

HCA cannot emphasize enough our vehement opposition to the Governor's proposals and our plea to you to reject them for the sake of the patients and their families, and the survival of the system. Nothing less is at stake, as this Budget would crush a system designed to meet the fundamental needs of patients at the same time that it functionally contributes to the State's overall cost-reduction efforts by averting the need for premature, unnecessary – or unnecessarily lengthy – facility-based care.

New York's home care system – already strained, stressed, and financially fragile because of past cuts – will be damaged irreparably by a flank of new Budget proposals that will eviscerate vital patient care throughout New York State.

I hope I have impressed enough on this Legislative body the dire consequences of Governor Paterson's home care proposals and the urgent need to reject the catastrophic reimbursement cuts and untested and far-reaching restructuring plans. HCA and New York's home care community as a whole certainly appreciate any further opportunity to impress upon you the great danger of Governor Paterson's Executive Budget and to work with you productively towards resolving the State's deficit by viewing home care as a valuable resource worth protecting, not destroying.

Governor Paterson's Proposed 2009-10 Executive Budget - Home Care Funding Cuts

Home Care Proposal	Affected Providers	STATE SHARE		STATE & FEDERAL SHARES		TOTAL 2009-10 IMPACT		GRAND TOTAL
		DOB Projected State Fiscal Year 2008-09 Impact (1/1/09-3/31/09) State Share Dollars	DOB Projected State Fiscal Year 2009-10 Impact (4/1/09-3/31/10) State Share Dollars	DOB Projected State Fiscal Year 2008-09 Impact (1/1/09-3/31/09) State & Federal Share Dollars	DOB Projected State Fiscal Year 2009-10 Impact (4/1/09-3/31/10) State & Federal Share Dollars	DOB Projected State Fiscal Year 2009-10 Impact (1/1/09-3/31/10) State & Federal Share Dollars	Total Impact Year 2009-10 (1/1/09-3/31/10)	
1. Eliminates Remainder of Reduced 2008 Trend Factor (Applied 1/1/09-12/31/09 for PC)	C HHAs L THHCPS Personal Care	\$1,801,265 \$1,018,511 \$4,252,011	\$7,205,059 \$4,074,043 \$12,756,033	\$3,602,530 \$2,037,022 \$8,504,022	\$14,410,118 \$8,148,086 \$25,512,066	\$18,012,648 \$10,185,108 \$34,016,088	\$62,213,844	
2. Eliminate 2008 Medicaid Trend Banking Factor (Applied 1/1/09-12/31/09)	C HHAs L THHCPS Personal Care	\$2,166,432 \$1,297,500 \$865,061	\$6,499,295 \$3,892,501 \$2,595,002	\$4,332,864 \$2,595,000 \$1,730,122	\$12,988,590 \$7,785,002 \$5,190,004	\$17,331,454 \$10,380,002 \$6,920,126	\$34,631,582	
3. Eliminate 2009 Medicaid Trend Factor	C HHAs L THHCPS Personal Care	\$2,413,695 \$1,625,995 \$4,529,508	\$9,654,779 \$6,503,990 \$18,118,031	\$4,827,390 \$3,251,990 \$9,059,016	\$19,309,558 \$13,007,960 \$36,236,062	\$24,136,948 \$16,259,950 \$45,295,078		
4. 10% Reduction to Medicaid Rate Ceilings	C HHAs L THHCPS	\$4,275,104 \$2,516,649	\$17,100,417 \$10,066,598	\$8,550,208 \$5,033,298	\$34,200,834 \$20,133,196	\$42,751,042 \$25,166,494	\$67,917,536	
5. Administrative & General (A&G) Cap	C HHAs L THHCPS MLTC	\$1,803,812 \$1,164,109 \$0	\$7,215,248 \$4,656,434 \$6,300,000	\$3,607,624 \$2,328,218 \$0	\$14,430,496 \$9,312,868 \$16,600,000	\$18,038,120 \$11,641,086 \$16,600,000	46,279,206	
6. Across the Board Home Care Reduction of 1%	C HHAs L THHCPS Personal Care	\$1,111,917 \$714,637 \$2,039,328	\$4,447,668 \$2,868,547 \$8,157,313	\$2,223,834 \$1,429,274 \$4,078,656	\$8,895,336 \$5,717,094 \$16,314,626	\$11,119,170 \$7,146,368 \$20,393,282	38,658,820	
7. Assessment on Revenues (Applied 3/1/09-3/31/10)	C HHAs L THHCPS LHCAS	\$0 \$0 \$0	\$17,060,593 \$4,873,636 \$16,746,559	\$0 \$0 \$0	\$17,060,593 \$4,873,636 \$16,746,559	\$17,060,593 \$4,873,636 \$16,746,559	\$38,680,788	
8. Individual Across the Board Reductions (Applied 3/1/09-12/31/09)	C HHAs (3.5%) L THHCPS (1.5%) Personal Care (1.5%)	\$1,599,925 \$356,961 \$1,018,644	\$12,810,932 \$2,868,261 \$8,156,497	\$3,199,850 \$713,922 \$2,037,288	\$25,621,864 \$5,716,522 \$16,312,984	\$28,821,714 \$6,430,444 \$18,350,282	53,602,440	
9. Other Home Care Cost Proposals Change CHHA Medicaid Reimbursement Statewide RT&R Workforce Monies Reductions Upstate ACE Workforce Monies Reductions Include Personal Care in Managed Care	C HHAs CHHA Home Care Personal Care	\$0.00 \$4,000,000 \$0	\$6,250,000 \$4,625,000 \$9,000,000	\$0 \$0 \$8,000,000	\$12,500,000 \$9,250,000 \$16,000,000	\$12,500,000 \$9,250,000 \$16,000,000	\$24,000,000	
Total Impact		\$40,571,064	\$216,382,426	\$81,142,128	\$394,084,064	\$475,226,192	\$475,226,192	