

**Joint Legislative Hearing on
2016-2017 Executive Budget Proposal
Health and Medicaid**

**Testimony of the
Home Care Association of New York State
(HCA)**

**Monday, January 25
Legislative Office Building, Hearing Room B
Empire State Plaza
Albany, New York**



Opening Remarks

Good afternoon Committee Chairs and Members of the Joint Budget Committee.

I'm Joanne Cunningham, President of the Home Care Association of New York State, "HCA."

Thank you for this opportunity to testify and provide the home care community's comments on the Executive's proposed 2016-17 State Budget. I will also describe **two priority proposals** that HCA is submitting for your consideration to include in your legislative budget bills and in the final adopted budget.

The Home Care Association of New York State

HCA is the statewide association representing the entire continuum of home care. HCA's provider members are hospitals, nursing homes, managed long term care plans and free-standing agencies that provide, manage and coordinate care at home programs. These programs include Certified Home Health Agencies (CHHAs), Licensed Home Care Services Agencies (LHCSAs), Long Term Home Health Care Programs (LTHHCPs), Hospices, Managed Long Term Care Plans (MLTCs), home and community based waiver programs, and others. HCA members also include key allied organizations (such as local aging services, quality improvement organizations, and others) that support and/or advocate quality home care services.

Home Care Integral to Patients Across the Service Spectrum

Home care specializes in the delivery of “in-home” services and the coordination and management of integrated plans of care. But home care also has critical core roles and competencies that are applied throughout the spectrum. For example, home care agencies are integral partners to facilities and physicians in care transition from hospitals or nursing homes to community, emergency room intervention/redirection programs, management of complex medical conditions, community public health, new hospital-at-home models, telemedicine/telehealth, maternal and child health, and other.

The state and the broader health care system are heavily relying on home care for success of major new health care models and policies. These include managed care, Delivery System Reform Incentive (DSRIP) Payment programs, Value Based Payment models, Fully Integrated Duals Advantage Plans, and other integrated care/coverage solutions. Indeed, billions of dollars in federal funds to New York State are contingent on the state’s and the system’s ability to meet strict performance goals. Under these goals, the state must reduce hospital use and expenditures by twenty-five percent over five years, while simultaneously demonstrating improvement in quality and population health. Home care is core to meeting these goals and ensuring the flow of these funds to New York.

Home care is being asked and expected to provide the care that must now shift from hospital to community. The state’s sought-after (and now obligatory) system transformation program, and the billions of dollars at stake, rests with accessible, viable home care.

Home care providers continue working diligently to meet these needs and demands. But in this changing environment, home care agencies are in urgent need of fiscal investment and policy supports to enable it to function at this new level.

The Fragile Financial State of Home Care and Managed Long Term Care

HCA has appended as part of this testimony a financial report revealing the striking, fragile condition of home care agencies and managed long term care plans in the state.

We submit this for Legislative and Executive consideration as we urge support for these services in the 2016-17 budget.

The report is based on a review of home care and MLTC cost reports, provider surveys and other data sources. The following is a summary of findings, discussed at further length in the appended report.

- Nearly half of agencies face a need to reduce staff and other expenses to function.
- 70 percent of Certified Home Health Agencies (CHHAs) and Long Term Home Health Care Programs (LTHHCPs) had negative operating margins in 2013, with similar results for 2014.
- For 2014, the average operating margin for CHHAs and LTHHCPs was -11.65 percent.

- One-half of home care agencies have had to use a line of credit or borrow money to pay for operating expenses over the past two years.
- 63 percent of MLTCs had negative premium incomes in 2014, up from 57 percent in 2013 and 42 percent in 2012 (a 49 percent increase since 2012).
- 15 percent of home care agencies indicated that more than 20 percent of their anticipated revenue winds up as bad-debt (meaning they are not getting paid for 20 percent of their claims). Another ten percent of home care agencies reported that over 30 percent of their revenue results in bad-debt.
- On average, less than half (45 percent) of Medicaid claims are paid to home care providers within the prompt-pay law. Their Medicaid revenue was in accounts-receivable for an average of 72 days.
- Of the managed care plans which do not pay on time, the average length of time to receive payment is 61 to 180 days for about half of the home care respondents to HCA's 2015 managed care survey.
- 45% of agencies indicate that 15% of their revenue is affected by a lack of timely payment.
- Home care agencies, on average, saw a 0.5% decrease in their managed care contracted rates between 2014 and 2015.

- More than half of agencies indicate that inadequate rates, delays in managed care payments and reimbursement changes are the top reason for a decrease in their Medicaid revenues between 2014 and 2015.
- The average percentage cut attributable to CHHA Medicaid Episodic Payment System rebasing is 25.3 percent. However, over half of agencies actually reported that they are experiencing a rebasing cut of more than 30 percent.
- Wage, overtime and benefit costs accounted for the biggest impact on agencies' financial challenges.
- A \$15-per-hour minimum mandate would cost the home care industry \$1.74 billion – well above the estimated \$1.17 billion impact for hospitals and nursing homes *combined*.
- Over half of home care providers say they have little confidence that committees overseeing state-funded Delivery System Reform Incentive Payment (DSRIP) Performing Provider Systems (PPS) understand the role of home care in meeting DSRIP goals.
- Of survey respondents involve in a DSRIP PPS, over half are unsure whether payments will adequately cover costs and make their participation worthwhile. An additional 30 percent are sure payments will not adequately cover costs.

The Proposed Executive Budget and Implications for Home Care

Given this extremely fragile nature of the home care/MLTC system, it is a daunting expectation to expect these providers to deliver services under existing terms, let alone at the dramatically increased levels now asked by the state.

Support and infrastructure investment for home care and MLTC are urgently needed in this budget to secure the delivery system. Yet, how is the Executive's proposal responding?

Of the Executive's priority or "signature" budget proposals, nearly all proposals target non-health areas for investment.

Meanwhile the proposed Medicaid budget is contingent on the providers and managed care plans delivering the state's Medicaid Redesign Team (MRT) reforms, not only without urgently needed aid but with imposition of massive and unsustainable new mandates.

Minimum Wage Increase to \$15/Hour

Of all of the proposals in the Executive budget, the proposed minimum wage increase, without commensurate funds, would financially devastate the health care system, home care in particular.

The proposed \$15 per-hour minimum wage would cost the home care industry a projected \$1.74 billion in unfunded new costs.

The wage increase would also raise the cost of home care for individuals paying privately, and create an unrecognized/unreimbursed cost for Medicare-covered patients.

HCA has long advocated state, federal and commercial insurance reimbursement levels necessary to deservedly compensate its direct-care workers. Particularly in view of the financial state of home care as previously outlined, and the projected \$1.7 billion impact of the wage proposal, HCA urges the Legislature and Governor to fully fund and account for this proposal's fiscal impact before any attempt to adopt this well-intentioned but unsustainable standard.

Health Care Facility Transformation Funding

Last year, the adopted budget included over \$2 billion in new investment funding largely for the state's hospitals and institutions. This support was provided on top of the \$7 billion plus provided largely to the hospital sector through DSRIP.

Home and community health providers desperately need investment to participate in the changing health system in order to meet patients' needs and also to participate in, and help achieve the success of, the state's new delivery models.

HCA urges the Legislature and Governor to ensure that health care investments in the 2016-17 budget include home and community health care providers, and that continued or new investments under existing programs be amended to fully apply to the home care sector.

As it stands, the budget proposal currently amends a Health Facility Transformation program adopted last for health care facilities in Oneida County, repurposing \$200 million of the \$300

million in funds primarily statewide for health care facility projects. While providers that would be eligible for these funds include general hospitals, residential health care facilities, diagnostic and treatment centers, clinics, primary care providers, and home care providers, the program's parameters are very narrow and the Executive's language needs amendment to ensure that proportional and needed funding amounts truly make it to the community provider level.

Advanced Home Health Aides

The budget narrative includes a proposal to establish an Advanced Home Health Aide level within home care and hospice. Neither the language nor fiscals have yet to be revealed for this proposal.

HCA strongly supports increased flexibility for home health aides and for registered professional nurses in their authority to train, assign and supervise aides in performing critical tasks for patients. Thus, conceptually, HCA supports and has previously worked hard for enactment of enabling legislation and/or regulatory authority. However, the Executive's prior Advanced Aide proposals have lacked funding, procedural alignment between home care and managed care, and lacked other important elements necessary for successful implementation. HCA will await the 2016-17 language and, hopefully, an accompanying adequate appropriation. HCA looks forward to working with the Legislature and Governor to shape a successful enhanced home health aide program.

MLTC Changes

The budget proposal seeks changes to basic MLTC financing and eligibility that may present consequences for patients, plans and home care agencies. HCA will seek clarification as to both

the purpose and projected implications of these MLTC proposals and provide detailed comments to the Legislature and Executive.

Missing from the Budget Proposal

What is perhaps the most striking about the proposed health and Medicaid budget is what is notably absent.

Especially notable absences include:

- As previously stated, funding to accommodate the massive \$1.74 billion projected impact of the Governor's minimum wage increase on the home care sector.
- Funding to account for the total financial impact of the implementation of the Federal Fair Labor Standards Act (FLSA) rule changes. These pertain to payment for home care worker overtime, travel and 24-hour sleep-in cases and the additional costs of the intensive new tracking and reporting requirements accompanying the rule change.
- Funding to pay the required higher wage levels for home care aides in Long Island and Westchester under the state's Wage Parity Law.
- Dedicated funding for home care and other community health care providers to enable their needed participation in the state's health transformation programs, like the Delivery System Reform Incentive Payment (DSRIP) Program, Value Based Payment, managed care and others. Home care and other community health providers are in urgent need of infrastructure support to fulfill these new system goals.

- Funding to secure service payments due to providers from defaulting health plans, such as Health Republic or any possible future managed care plans.
- As noted, funding to support implementation of the Governor's Advanced Home Health Aide proposal.

HCA's 2016-17 Budget Platform

To keep New York's home care system viable, action is needed in a number of critical areas falling under **two broad principles**: 1) reimbursement fixes; and 2) statutory or budget language to optimize home care participation in the new health care environment.

HCA asks that State Legislators and the Governor advance and adopt the following two priority proposals in the 2016 state legislative session and budget.

HCA has legislative language ready to support each of these principles for assuring home care viability on behalf of patients and the state.

Proposal I: Adopt legislation to fix the state's reimbursement laws and levels to cover and reimburse needed services

The state's reimbursement laws and levels covering home care need to be fixed, as shown in the previously summarized (and appended) financial condition study.

Reimbursement fixes can be accomplished through amendments to the state’s public health and insurance laws, and adjustments to the state’s home care and managed care methodologies and procedures.

HCA has prepared budgetary fix language for **Proposal I** for the Legislature’s and Governor’s introduction. The fix language includes measures to close the gap in:

- **Workforce costs**, to meet major new expenses in compensation, most urgently those resulting from state and federal wage mandates, including the state’s home care worker wage parity law, new federal overtime rules and the proposed minimum wage increase – all of which also fall within the constraints of declining reimbursement and a Medicaid cap.
- **Premium calculations for meeting managed care plan costs, and the reimbursement calculations for home care under managed care**, to cover the costs of services by managed care plans and network providers.
- **Needed support for home care infrastructure** (such as health information technology, workforce resources to meet community needs, etc.) for success of the state’s policy goals; and
- **The state’s “Episodic Payment System” for home care**, at a time when affected agencies, on average, are experiencing a State Department of Health effectuated 29% cut

in reimbursement from EPS rebasing – an amount nearly three times the figure adopted in the state budget agreement last year. HCA applauds the Legislature for unanimous passage of legislation to hold the Department to the budget agreement, which, regrettably, the Governor vetoed.

- **Updating the long-antiquated state insurance law coverage provisions for home care agency services** to reflect a more modern health care infrastructure where patients and state policies more heavily rely on home care than was the case when the insurance laws were created 40 years ago.

Proposal II: Adopt budget provisions that optimize home care’s participation in NY’s changing system, producing health improvements and cost savings

This testimony has underscored the critical role of home care in the state’s major new health care policies and system redesigns.

Despite these strong state policy goals reliant on home care, state laws and policies are lagging behind this changing system, as is basic investment in home care’s potential and development. This is hindering home care’s ability to fully participate in, and optimize its value and benefits to, our state’s evolving system.

To address these concerns, HCA has developed a legislative/budget initiative to unleash home care’s ability to fully participate in the evolving system and asks its adoption by the Legislature and Governor.

Key components of the package include:

- Fast-track authority for state regulatory and procedural changes that streamline and better align home care with new roles and models of care;
- Harnessing home care in priority public health areas that are critical to patient care and to the state's major reform initiatives like DSRIP, Value Based Payment, Managed Care. These public health areas include: sepsis interventions, falls prevention, wound care prevention, maternal and child health, emergency response, and other areas that align with state health outcomes goals;
- A proactive health information technology policy to support integration for meeting state policy goals and care transitions;
- Funding for the hospital-homecare-physician collaboration program enacted in the 2015-16 state budget;
- Home care and hospice quality innovation and palliative care access; and
- The creation of innovative payment and delivery demonstration models.

HCA will provide the Legislature with legislative and budget language to implement these two proposal packages.

HCA appreciates this opportunity to testify. HCA is eager to work with the Legislature and Governor to address these critical needs of home care patients and providers, and to maximize the benefits of the home system for the state and system as a whole.

Thank you.
