News from the
Home Care Association
Of New York State

For Immediate Release: January 30, 2013

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In Testimony at Budget Hearing Today, HCA Urges Home Care Regulatory Relief, Transition Support, Fiscal Stability

ALBANY – Home Care Association of New York State (HCA) President Joanne Cunningham today presented testimony before the Joint Legislative Hearing on Medicaid and the Budget where she focused on the urgent need for home care regulatory relief, transition support, and a stable fiscal environment in this year's budget and legislative session. (A copy of her remarks is attached to this press release.)

Cunningham noted that 79% of home care providers in New York State are operating in the red due to rising costs, unfunded mandates and reimbursement cuts, according to HCA's most recent home care financial condition study. Unfortunately, many of these cuts would continue in the Governor's 2013 budget proposal, Cunningham said. At the same, home care providers are undergoing major structural changes due to state Medicaid redesign policies which now require that home care providers increasingly subcontract with managed care plans in order to deliver services at home to patients.

In her prepared remarks, Cunningham noted: "Over the past two years, state Medicaid redesign policies have rapidly and fundamentally begun to change the relationship between home care providers and their patients. These state policies have moved one foot down the path toward mandatory managed care enrollment for thousands of home care patients while the other foot remains planted in a regulatory structure that is designed for a much different fee-for-service Medicaid environment."

Cunningham added: "The current regulatory structure for home care lacks consistency in some cases and is altogether duplicative in other cases when it comes to the managed care contracting environment. This is a major problem of growing concern as the level of contracting activity is expected to accelerate. A comprehensive approach to regulatory and financial relief is desperately needed for the sake of New York's home care infrastructure and the patients it serves."

In addition to regulatory changes, home care urgently needs a stable financing structure to weather the monumental shifts in care delivery, especially at a time when the existing erosion of the home care financial base already challenges providers in helping to achieve the state's redesign goals, Cunningham said.

"HCA urges the state to include home care transition support in its 1115 waiver request to the federal government. This request seeks reinvestment of up to $10 billion back into the state's Medicaid redesign efforts – and there is no other area of the redesign plan that needs transition reinvestment more than in home care," Cunningham said.

She added: "By modernizing the regulatory structure in home care and by securing adequate Medicaid payment for home care, we can assure a smoother transition, better continuity-of-care for patients, and operational efficiencies which are in the best interest of patients, the state's fiscal policies, and the stability of provider and health plan infrastructures."

Throughout her testimony, Cunningham referred to HCA's *Three-Point Plan to Support Home Care and Ensure Success of State Redesign Efforts*, a newly issued document which outlines areas for regulatory relief as well as transition support and financing support for home care. HCA's *Three-Point Plan* is available at www.hcanys.org.

Testimony by Joanne Cunningham

President of the Home Care Association of New York State (HCA)

Joint Legislative Hearing on the Health and Medicaid Budget

January 30, 2013

INTRODUCTION

- Thank you for the opportunity to testify on behalf of New York's Home Care community.

- This week, my organization, the Home Care Association of New York State (HCA), invited several of our provider members to meet with you and your colleagues in the Legislature and Administration to outline home care's urgent need for **regulatory relief**, **transition support**, and a **stable fiscal environment** in this year's budget and legislative session.

- Further details of these priority areas are outlined in the documentation that HCA is submitting to the panel today, specifically our report entitled: ***A Three-Point Plan to Support Home Care and Ensure Success of State Redesign Efforts***. Many Senate and Assembly Members on the legislative panel have already seen this plan and have discussed its proposals with HCA provider members this past week. I thank you again for the time, attention, and consideration you have already committed to these issues, which I will be reinforcing in my testimony today.

- As you well know, New York's home care system is at a crossroads. Massive reimbursement cuts have left **79% of home care providers operating in the red**, according to the most recently available Medicaid cost report data, as analyzed in HCA's 2013 *Report on the Fiscal Health of Home Care in New York State*, which is also presented today to the panel. Unfortunately, many of these cuts would continue in the Governor's 2013 budget proposal.

- Home care providers are the lifeblood of the home and community-based care infrastructure, delivering vital home health aide, nursing, therapy and other services to help keep patients out of higher-cost settings. In order to achieve the state's Medicaid redesign goals, these long-established front-line providers **desperately need stability in the financial, policy-transition, and regulatory arenas**. The Legislature and Executive can be of enormous assistance on these matters as part of budget negotiations during the coming weeks, and **I urge your strong backing for the concepts and specific proposals under HCA's three-point plan**.

SPECIFIC REGULATORY PROPOSALS

- Over the past two years, state Medicaid redesign policies have rapidly and fundamentally begun to change the relationship between home care providers and their patients. These state policies have moved one foot down the path toward mandatory managed care enrollment for thousands of home care patients while the other foot remains planted in a regulatory structure that is designed for a much different fee-for-service Medicaid environment.

- By modernizing the regulatory structure in home care – and by securing adequate Medicaid payment to managed long term care (MLTC) plans, as well as adequate reimbursement for contracting home care providers – we can assure: a smoother transition, better continuity-of-care for patients, and operational efficiencies which are in the best interest of patients, the state's fiscal policies, and the stability of provider and health plan infrastructures.

- Let me give you some **concrete examples** and explain why these issues are of urgent concern and need.

- As you know, the state's new approach to care delivery now requires that home care providers increasingly subcontract with MLTC plans in order to deliver services at home to patients.

- Yet, within this new context, the current regulatory structure for home care lacks consistency in some cases and is altogether duplicative in other cases when it comes to the managed care contracting environment. This is a major problem of growing concern as the level of contracting activity is expected to accelerate in the months ahead, in line with the rollout of the state's mandatory MLTC enrollment policies.

- For instance, Certified Home Health Agencies (CHHAs), Long Term Home Health Care Programs (LTHHCPs), and Licensed Home Care Services Agencies (LHCSAs) are currently held to regulations that reflect a fee-for-service world where home care providers have jurisdictional responsibility over the enrolled patient.

- However, when the managed care plan has jurisdiction, it is not necessary or feasible for home care providers to meet overly stringent regulatory and compliance requirements that are duplicative or unnecessary to the provider's role as a contractor, such as current regulations governing the frequency of nurse supervision visits or reassessments and OASIS reporting requirements, among other regulations. **HCA is asking the Legislature and Administration to consider changing or exempting certain aspects of the current home care provider regulations especially in cases where these home care providers are functioning in a subcontracting role with managed long term care plans.**

- Long Term Home Health Care Programs in particular are held to unique programmatic requirements that even further stifle their participation in a contractor relationship. For example, LTHHCPs have a nursing-home-eligibility standard for the care of patients but MLTC plans do not. Thus, while both entities are ostensibly designed to serve a similar patient population, it does not make sense for LTHHCPs to have a different set of eligibility standards which preclude these highly skilled and advanced care-management programs from serving an MLTC's more expansive patient population, especially at a time when these providers are now expected to function even more compatibly in a contract relationship under the state's Medicaid redesign policies.

- The current constraints for LTHHCP providers go even further than the eligibility rules: LTHHCPs are also subject to a provider-specific cap on the actual number of patients they can serve. This is yet another impediment to

the contracting relationships envisioned by the state's Medicaid redesign goals, since MLTCs are not similarly capped.

- Meanwhile, in other areas of regulation, the roles and responsibilities of MLTCs and home care providers **contain costly and unnecessary overlaps**. This includes the responsibility for: obtaining physician orders; reporting changes in a patient's condition to the physician; fulfilling documentation requirements; collecting Medicaid spend-down amounts; and other areas.

- **HCA is recommending a budget provision that convenes a technical panel of home care/health plan representatives which would outline areas for streamlining and sorting of these lines of responsibility in statute.**

- Home care providers want and need to be partners in this emerging system, but we urgently need regulatory change and transition support to do so. Without this support and regulatory clarity, providers are not in the best position to meet the state's redesign goals, and they cannot effectively budget or plan for the future.

HOME TELEHEALTH AND CARE-CONTINUITY

- I want to thank several member of this legislative panel for your strong advocacy and all of the work you have done in recent years on behalf of the home telehealth program. This program, as you know, has proven to reduce expenses and enhance care outcomes using cutting-edge disease-management technologies. In fact, a recent study by Simione Healthcare Consultants tracked the outcomes of just five New York State home telehealth programs

and found that these programs saved over $1 million in averted hospital readmissions for discrete patient populations.

- The home telehealth program has a provider-based financing structure which, unfortunately, faces extinction in the transition to mandatory managed care enrollment.

- **We strongly urge provisions in this year's budget that would maintain a distinct provider-based line of service and reimbursement for home telehealth.**

- The preservation of home telehealth is just one element of HCA's call for strong and consistent continuity-of-care provisions for patients in all segments of the home care system as the state transitions to a mandatory enrollment environment.

FINANCING SUPPORT

- In addition to regulatory changes, home care urgently needs a stable financing structure to weather these monumental shifts, especially at a time when the existing erosion of the home care financial base already challenges providers in helping to achieve the state's redesign goals.

- Transitions like those occurring right now in home care involve huge cost demands for program restructuring, staffing changes and other expenses. During past transitions in other areas of health care, the state has traditionally provided financing support. In fact, this time around is no

different, **except that the state's plan for Medicaid transition reinvestment does not currently include home care**, even though home care providers are among the most affected by the current changes.

- HCA urges the state to include home care transition support in its 1115 waiver request to the federal government. This request seeks reinvestment of up to $10 billion back into the state's Medicaid redesign efforts – and there is no other area of the redesign plan that needs transition reinvestment more than in home care.

- HCA's financial condition report makes clear the plummeting trend line of home care provider operating margins. **Seventy-nine percent of providers are operating in the red**. And now, this year's budget proposal continues the trend indefinitely with the extension of virtually all cuts enacted over the past two years, including a Medicaid global cap that further jeopardizes providers at a time when enrollment is increasing. In fact, the state's own data shows that the cap has exceeded the state's own projections in reducing home care expenditures.

- The equation for provider financial instability is clear: costs continue to rise, due in large part to state unfunded mandates, while reimbursement continues to be slashed and expenses capped. With all of these forces conspiring at once on an overloaded home care system coping with enormous structural changes, a comprehensive approach to regulatory and financial relief is desperately needed for the sake of New York's home care infrastructure and the patients it serves.

- I again want to thank the Legislature for your receptivity to these urgently needed proposals to reconfigure the home care regulatory structure and pursue transition and financing support. We will be reaching out to the Legislature and Administration with even more specific policy proposals as needed in the coming weeks. Thank you.