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Center for Independence of the Disabled, NY

February 2017

CIDNY BUDGET AND LEGISLATIVE AGENDA FY 2018

INDEPENDENT LIVING CENTER FUNDING

Support Increase in Funding For Independent Living Centers by \$5 Million

Despite support for an increase of \$5 million for independent living centers from the New York State Board of Regents, the Executive Budget flat funds the program. Independent living centers have been flat funded for more than a decade. We call on the legislature to increase funding by \$5 million to enable us to begin to meet the demand for services in our communities.

Now more than ever, with federal cuts looming, potential elimination of regulations that protect people with disabilities, and other changes anticipated, people with disabilities need independent living centers to help them develop road maps to meet their goals. We anticipate that demand for education, navigation of complex systems and problem-solving assistance will increase exponentially as changes occur.

CIVIL RIGHTS

Support a Waiver of the State's Sovereign Immunity to Claims under the ADA and Section 504. A2546 Lifton / S1522 Avella

When state workers are discriminated against, they are not currently permitted to sue their employer in federal court for money damages, including lost wages. Public employers should be held to the same standard as private employers and should not be permitted to violate federal civil rights law.

Three states have waived their Sovereign Immunity from the ADA and none have reported an increase in cost or litigation. By waiving New York State's Sovereign Immunity, the State would be required to make reasonable accommodations. New Yorkers employed by the State would also be afforded the protection under the ADA and Fair Labor Standards Act.

Support a Right to Vote Privately and Independently for People with Disabilities. S382 Carlucci

While progress has been made as a result of the Help America Vote Act, people with disabilities are still not able to vote privately and independently in local elections because inaccessible paper ballots are being used, without the option for the use of accessible Ballot Marking Devices that are available in state and federal elections. Moving local, village, county and NYC elections to coincide with the dates of state and federal elections would help eliminate discrimination in voting by making Ballot Marking Devices available at all elections.



EDUCATION

Support Making SUNY and CUNY Tuition Free for Low and Moderate Income Families, But Modify the Proposal to Include Room And Board.

The Executive Budget includes a proposal to make SUNY and CUNY tuition free for some families. The poverty rate for people with disabilities in New York City (36.5 percent) is double the poverty rate of people without disabilities (16.6 percent.) People with disabilities who are working have lower equivalized median incomes than people without disabilities. Therefore, this proposal can provide a greater opportunity for people with disabilities to benefit. This is critical since educational achievement gaps between people with disabilities and their non-disabled counterparts increase employment and earnings disparities.

However, failure to include the cost of room and board will also have a disproportionate impact on people with disabilities who are more likely to spend more than half of their incomes on housing costs (35.2 percent) than people without disabilities (25.9 percent). Subsidies and access to accessible dormitories on campus are crucial to the ability to participate in education. Similarly, people with disabilities are more reliant on food subsidies than are people without disabilities in New York City and New York State. Subsidized board would eliminate barriers to participation in education. The Executive Budget's proposal should include the addition of free room and board.

Support Extension of New York State Human Rights Law to Protect Students with Disabilities in Public Schools.

The Executive Budget proposes to expand the New York State Human Rights law to cover public school students. Currently, it covers only students in private schools. Since students with disabilities are more likely to be discriminated against and subjected to bullying and harassment, providing State Human Rights Law coverage to students with disabilities in public schools would be a welcome change. Education is a key to employment and the opportunity to rise above poverty for people with disabilities—discrimination interferes with their ability to receive that education.

Oppose Expansion of Charter Schools

The Executive Budget proposes to expand funding for charter schools located in New York City. Charter schools discriminate against students with disabilities. This is the conclusion that was reached in a government report that shows that charter schools do not enroll the same proportion of students with disabilities as public schools. Similarly there are reports that show that once enrolled, students with disabilities are less likely to thrive and more likely to leave. A 2016 study found that Charter schools are more likely to discipline and suspend students with disabilities than their nondisabled peers. We do not believe that public dollars should be used to support them.

Oppose Allowing Waivers from Certain Duties by Local School Districts.

The Executive Budget proposes allowing local school districts to waive rights to services for students with disabilities that are crucial to ensure that these students are adequately evaluated and integrated in their community school. The Governor should not take steps backwards by removing rights that protect the appropriate placement of children with disabilities.

February 2017
CIDNY BUDGET AND LEGISLATIVE AGENDA FY 2018

In addition, it is critical that the duty of local school districts to notify parents (or people in parental relation) of their rights regarding referral and evaluation of their child for special education services or programs be complied with. No waiver should be permitted since this ruling is pursuant to federal and state laws. This amendment to the law was approved by the Regents for implementation on July 1, 2015 and should be upheld.

Support inclusion of the history of people with disabilities as required curriculum in elementary and secondary schools.

Last year legislators passed a law that require schools to include the history of people with mental health disabilities, and the effect on their lives, in the health education curriculum. That was an important first step. Throughout United States history there have been struggles that have led to Civil Rights laws (i.e., Struggles by Women for Suffrage and other rights & struggle for voting rights and other civil rights led by African-Americans). The history of these movements are now part of the elementary and secondary schools curricula and introduce children to the laws that protect women and African-Americans and other groups. Through these courses children are taught to respect people's struggles and to overcome prejudices they may have. These courses also help students who are part of protected classes to identify with their history and claim their rights.

The disability community has also struggled for equality and human rights. We have the Individuals with Disability Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, to name a few. However, few people know the history of people with mental health disabilities and their struggles to ensure their rights. We support the inclusion of this important history in the curricula for elementary and secondary students.

EMPLOYMENT

Support a Small Business Tax Credit for Employing People with Disabilities. A1369 Cusick / S3688 Addabbo

Currently, the employment rate for New Yorkers with disabilities is 32 percent, resulting in an employment gap between people with and without disabilities of 41 percent. The Governor's Employment First Executive Order recommended establishment of a small business tax credit. We support the inclusion of a small business tax credit.

Support amendment of Section 55-a of the civil service law

Section 55-a refers to the section of New York State Civil Service Law which allows local governmental entities to bypass the examination process when employing people with disabilities in competitive civil service jobs. However, the positions for which a person with a disability is hired would be considered non-competitive, and does not allow for job security and benefits until after five years of employment. Therefore, people with disabilities under the 55-a program are left unprotected and could be the first to be terminated because of the economy, consolidation or abolition of functions. We believe that people with disabilities in civil service jobs should receive the same job security and benefits at the same time in their employment as any other employee.

GOVERNMENT OPERATIONS

Support Creating an Office of Community Living, A9479 Weprin / S7247 Seward

An Office of Community Living would provide a focal point within State government to address the community integration needs of people with disabilities. Currently, people with many disabilities have no State agency representing their needs and interests. An Office of Community Living would serve as the State advocate on behalf of people with disabilities and would house some misplaced programs that serve people with disabilities, including Independent Living Centers, Access to Home, Technology-Related Assistance for Individuals with Disabilities program, and the Most Integrated Setting Coordinating Council.

HEALTH

Support The Community Health Advocates (CHA) Program With \$4.75 Million.

Since 2010, CHA has helped 281,000 New Yorkers, including many people with disabilities, all over the State, to navigate their health insurance plans to get what they need. Since 2010, the program saved New Yorkers \$21 million. The Governor proposes a budget of \$2.5 million for the program. CHA services are more critical than ever in the present climate of uncertainty and disruption in health care. We urge the Legislature to add \$2.2 million for a total of \$4.75 million to fund CHA.

Oppose Increased Premiums or Cost Sharing For Essential Plan Enrollees.

New York's Basic Health Plan, branded the "Essential Plan," provides quality, low-cost coverage with no deductible and low copays to New Yorkers with incomes up to \$23,760 for a single person. The State has had a tradition of providing this coverage with no premiums for individuals up to 150 percent of the federal poverty level, which began during Republican administrations. The State should not increase premiums or cost-sharing for Essential Plan enrollees.

Support for a Living Wage for Home Care Workers.

While the State did allocate \$225 million to support the direct cost of the FY 2018 minimum wage increases for health care workers who provide services reimbursed by Medicaid, this is not sufficient. This funding only brings home care workers up to minimum wage – the same pay rate as fast food workers – however these are not minimum wage jobs. Home care workers help many of our most vulnerable citizens by giving them the care they need to live at home. These are vital, not to mention physically and emotionally taxing jobs. Simply providing enough funding to meet minimum wage is insufficient to address the home care crisis we are facing in New York. In many parts of upstate New York, people are unable to get care at home because not enough people want these jobs due to the low pay. The State has also failed to provide sufficient funding to cover the additional costs associated with new labor laws, putting home care services, particularly the Consumer Directed Personal Assistance Services (CDPAS) program, at risk. We support a living wage for home care workers who are essential for allowing many people with disabilities to remain independent in their communities.

February 2017
CIDNY BUDGET AND LEGISLATIVE AGENDA FY 2018

Support Establishment of a High-Needs Community Rate Cell to Allow MLTC Plans to Serve Those with the Greatest Needs.

The creation of a high-needs community rate cell will provide managed care organizations (MCOs) with sufficient funding to serve those with the greatest needs. The current capitation rates do not provide for this, and as a result, those with the most significant disabilities may not be able to get the supports and services they need to live in the community. In order to ensure that those with the most significant needs are able to get the supports and services they need to live in the community, we call on the State to create a high needs community rate cell.

Support Preservation of "Prescriber Prevails."

The FY 2018 State Budget proposes to *eliminate* protections for consumers that are critical to people with disabilities. "Prescriber prevails" allows doctors with clinical expertise and knowledge of an individual patient to override a managed care formulary or preferred drug when it is necessary to protect the patient's best interest. Currently this protection applies to anti-depressants, anti-retrovirals, anti-rejection, seizure, endocrine, hematologic and immunologic therapeutic classes. We urge the Legislature to preserve prescriber prevails for *all* current classes of drugs.

Support for an Override for the 20-Visit Limit on Medicaid Physical Therapy, Occupational Therapy, and Speech Therapy.

The Medicaid Redesign Team adopted the recommendations of its Basic Benefit Review Workgroup including the principle that decisions on the Medicaid Benefit package would be based on evidence derived from an assessment of effectiveness, benefits, harms, and costs. Arbitrary visit limits may not make sense and may discriminate against people with disabilities. People who have a stroke may need more than 20 physical therapy visits to regain the function of walking. Already, we have seen a person subjected to this limit who required surgery as a result of not getting the physical therapy they needed to maintain functioning. After the surgery, this person was still unable to get the recommended post-operative physical therapy due to the limit, thus endangering their recovery. Some people may experience depression when they are unable to gain or regain function and may require therapy or prescription drug treatment. Medicare provides for an override, and Medicaid Utilization Thresholds, which have been used in New York, have provided a procedure for a physician override. Such a procedure should be implemented for the 20 visit limits.

Support Increased Funding for The Long-Term Care Ombudsprogram.

The Governor proposes to provide level funding (\$3 million) for the Long-term Care Ombudsprogram--a program with a mandate to protect New York's nursing home residents. The program is dealing with nursing home downsizing and closures, discharge of residents to homeless shelters, psychotropic drugging and other serious problems with only minimal resources. Currently, New York's program is one of the most poorly funded in the nation. The legislature should increase funding of the Long-term Care Ombudsprogram to at least \$3.5 million.

February 2017
CIDNY BUDGET AND LEGISLATIVE AGENDA FY 2018

Support Safety Net Hospitals.

New York's safety-net hospitals are facing cuts in both Disproportionate Share Hospital and Upper Payment Limit payments from the federal government. Under the current allocation of funds from New York's indigent care pool, true safety-net hospitals which serve uninsured people and have a high volume of Medicaid patients, like New York City Health + Hospitals in NYC, will face a disproportionate share of the burden from these cuts.

People with disabilities disproportionately use public coverage like Medicaid for their health insurance and so are disproportionately served by these hospitals. The Legislature should work with the Governor to find a solution that distributes these cuts more equitably and ensures adequate funding for New York's safety-net institutions.

Oppose Granting the Governor Broad Authority to Make Budget Changes Mid Fiscal Year.

The looming changes at the federal level create uncertainties for all programs and the people impacted by them. However, any sudden changes to federal support that require action by the State must be addressed jointly by the Executive and Legislature and should include a process for stakeholder input.

Oppose Transportation Carve Out From Managed Long-Term Care.

The Executive Budget would amend Social Services Law to carve out the transportation benefit from Managed Long Term Care (MLTC) benefit package. For nearly two decades, the Department of Health has argued against carving out benefits. This is because carve-outs increase the difficulty of coordinating care. Currently, MLTC plans have the obligation to coordinate benefits. Removing transportation benefits places the burden on individuals who are less likely to successfully acquire and maintain transportation services on their own. This places them at risk of not making appointments in a timely way—worsening the quality of care. Instead of carving out the benefit, the State should hold MLTC plans accountable for effective delivery of this service.

Oppose Restriction of Managed Long-Term Care (MLTC) to Those Who Are Nursing Home Eligible.

The Executive Budget proposes to eliminate access to MLTC for those who are not nursing home eligible. Many people with mental health, intellectual disability and chronic physical conditions are wrongly assessed as not meeting the nursing home level of care and are then placed into Medicaid Managed Care (MMC), which lacks appropriate supports for them. The consequence is increased likelihood of deterioration and institutionalization.

Oppose Elimination of Spousal and Parental Refusal.

The Executive Budget would require a spouse not only to refuse to provide economic support for a disabled spouse, but to also be absent from the household. Currently, federal law allows spousal refusal budgeting. Marriage is a social tie that positively affects health and well-being. According to the U.S. Census, people with disabilities are less likely than people without disabilities to be married and have a spouse present. There is a "spouse gap" of 12 percent. For those who are married, it is counterproductive to have a couple separate or be unable to marry and form a household in order to enable the spouse with a disability to have health care.

Oppose Bed Hold Repeal

The Executive Budget proposes to eliminate "reserved bed days," which currently permit residents to return following hospitalizations or absences to visit families. Nursing homes currently attempt to rid themselves of individuals with mental health disabilities and traumatic brain injuries by refusing to take them back after such

February 2017
CIDNY BUDGET AND LEGISLATIVE AGENDA FY 2018

absences. This is discriminatory and disruptive for the care of these individuals who benefit from consistency in care. This practice may also result in new placements of individuals at a distance from friends and family, reducing their potential for return to the community.

Support Coverage for All New Yorkers.

With efforts underway to repeal the Affordable Care Act, health coverage options for immigrants may become even more limited. The State's role in providing health coverage to New Yorkers is more important than ever. The State's Child Health Plus program is a national model for providing coverage to all children, regardless of status.

The State should allocate \$81 million to expand Child Health Plus coverage to all New Yorkers up to age 29, earning incomes up to 400 percent of the FPL, and regardless of immigration status. This would provide young adult immigrants with coverage at prices equivalent to the coverage offered to their citizen counterparts in the Essential Plan or through Qualified Health Plans in the Marketplace. This would also provide young adult immigrants with coverage that is equivalent to their citizen counterparts who are covered under their parents' health insurance.

HOUSING

Support Home Stability Support (HSS) Which Would Provide Rent Supplements to People with Disabilities at Risk of Eviction.

We strongly support the Home Stability Support (HSS) program. HSS would prevent homelessness for people with disabilities and those on public assistance by providing a rent supplement to those facing eviction, homelessness, or loss of housing due to domestic violence or hazardous living conditions.

People with disabilities are more likely to be homeless or insecurely housed than people without disabilities because they are unable to afford their rent and cannot find accessible housing. In New York City, people with disabilities are 9.3 percent more likely than people without disabilities to pay more than 50 percent of their income for rent.

People with disabilities who are evicted face two choices. They can be housed in homeless shelters that are inaccessible and otherwise not equipped to meet their disability-related needs. Alternately, people with disabilities can become institutionalized and lose the freedom to live in their communities. Currently, HUD estimates that more than 40 percent of homeless individuals have disabilities.

Support Inclusive Home Design/Visitability Features in Residential Housing That Receives Financial Assistance for Construction from Federal, State, County or Local Governments. A1023 Simon / S3315 Krueger

There is an accessible housing crisis in New York State for people with disabilities that contributes to unnecessary institutionalization. People who are no longer nursing home eligible are unable to leave nursing homes because there is insufficient housing stock that is accessible for people with disabilities—at great cost to State taxpayers. Inclusive home design/visitability can contribute to a solution to this problem.

February 2017
CIDNY BUDGET AND LEGISLATIVE AGENDA FY 2018

Support a Proposal to Make Discrimination by Landlords Based on a Tenant's Source of Income Illegal under State Law A3059 / Weprin

More than one third of people with disabilities are severely rent burdened, spending more than 50 percent of their income on housing. A modest one bedroom costs an average of 133 percent of a person's SSI in New York State. However, too often landlords turn down rental subsidies that permit people with disabilities to live in the community—relegating them to institutions at high cost to taxpayers. A prohibition against permitting discrimination based on source of income: whether someone has a voucher or other rental subsidy, would help alleviate this problem.

Support Giving Priority for First Floor Apartments in Public Housing to People with Physical Disabilities Who Are at Risk of Being Trapped in High Rises When Elevators Are Out. A4818 (Titus)/S2720 (Hamilton)

During Hurricane Sandy people who are wheelchair users were trapped in their apartments because the elevators did not work. One consumer could not get out of her apartment for days. Fortunately, she had a conscientious home health aide who stayed with her through the ordeal. NYCHA should give the *first offer of lower vacant apartments* to mobility-impaired tenants who live on higher floors.

Support Creation of a Housing Choice Voucher

The New York Section 8 program funded by the Federal government is closed. The only way that an opening occurs is through attrition. There are many people with disabilities living at or below the poverty level. With New York City apartment prices high and skyrocketing, another subsidy needs to be created to ensure that people with disabilities do not become homeless or institutionalized because of lack of housing. The State should develop and fund a Housing Choice Voucher similar to the Federal Section 8 Voucher program. The program could be dually funded by the State and the City of New York. Unlike the Advantage & Fixed-Income Advantage Programs, and now the LINC, this would be a permanent subsidy given to extremely low-income to low-income individuals and families with disabilities.

Support a Requirement that Landlords Post Accessible Housing Vacancies on NYS's Housing website.

NYHousingSearch.gov is a website available to landlords, owners and potential tenants to post or search for accessible and affordable housing. The site is a free service that allows landlords to list vacancies and describe actual accessible features in a unit. Landlords and owners can voluntarily post housing availability on this site. Landlords and owners that receive government funds should be mandated to post their accessible and affordable housing availability.

After Hurricane Sandy, FEMA stated that it could not locate accessible and affordable housing because it did not know where that housing was. In fact, the actual pool of accessible and affordable housing is unknown because most public listings do not include this information.

NYHousingSearch.gov site can be a critical resource after disasters and can serve people with disabilities affected by disasters as they search or get assistance in searching for adequate housing. This requirement should dovetail with the efforts of the MRT Affordable Housing workgroup to establish a mechanism to track the housing and vacancy inventory, including accessible units, statewide.

TRANSPORTATION

Oppose Expansion of Ridesharing without Accessibility for ALL People with Disabilities

There is an urgent need for transportation for people with disabilities statewide, including those who use wheelchairs. The Executive Budget proposes to allow ride-sharing across the State despite the fact that ridesharing companies *actively discriminate against people with disabilities*. Discrimination takes the form of failing to provide accessible vehicles, refusing to transport service animals, etc.

The budget language permitting expansion of Uber includes review, study and recommendations regarding accessibility. These are not adequate protections against segregation of transportation. Review and study will not result in accessible transportation for all people with disabilities—something desperately needed in Upstate communities.

Support fare parity for paratransit A. 3980 (Sepuveda) and S. 2382 (Alcantara)

CIDNY supports bills that set paratransit fees no higher than bus/subway fares for transportation of non-disabled adults using the public transit system. Currently people with disabilities who cannot use public transportation use the paratransit system. However, fares are higher for paratransit transportation than for public transit. For people with disabilities who are at a low and fixed income, this is an unreasonable financial burden.