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Center for Independence of the Disabled, NY

May 1, 2019 Legislative Agenda

The Center for the Independence of the Disabled, NY (CIDNY) is a leading nonprofit serving people with disabilities since 1978. CIDNY's goal is to ensure full integration, independence and equal opportunity for all people with disabilities by removing barriers to full participation in the community. In 2018, we reached more than 52,000 people with disabilities, their families and others in New York City.

EDUCATION

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

The New York State Division of Human Rights was found to lack jurisdiction to investigate, hear and determine complaints filed by students with disabilities and their families against public school districts by the New York State Court of Appeals in 2012.

Currently, NYSDHR can only file claims on behalf of students who are discriminated against in private schools because of an antiquated tax law. It states that private schools are education corporations or associations and cannot discriminate against any protected class, such as students with disabilities. The problem arose in the legislative amendment 1958 of the NYS Human Rights Law which mirrored the tax law regarding private schools but failed to include public school districts in the language. Inadvertently, it prevented NYSDHR from having jurisdiction over public school districts.

Since students with disabilities are equally as likely to be discriminated against in public school districts, giving authority to the New York State Division of Human Rights to file such complaints would ensure that students with disabilities, regardless of the type of school they attend, can be protected against discrimination.

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.

HOUSING

CIDNY Seeks Extension and Expansion of Rent Regulation Laws

Most of New York City's rent increases to regulated units are set by the Rent Guidelines Board. However, if a unit becomes vacant or improvements are made a

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landlord can apply for a supplemental boost. In addition, because of the State's vacancy control policy, when rent reaches \$2,700 or when the apartment is vacated, the landlord is permitted to charge market-rate rent.

Expansion is being sought for rent regulation laws to go beyond NYC's five boroughs, Westchester, Rockland and Nassau counties. In addition, for them to include multi-house dwellings - 3 or more units.

A slightly different rent regulation matter that has significant impact on people with disabilities is Supportive Housing rent regulations. They have expiration Regulatory Agreements. These agreements often expire between 20 through 30 years. These agreements have major consequences to people with disabilities who reside in supportive housing. To ensure continued housing for them, these rent regulation agreements must also be extended.

CIDNY Seeks New York State to Reform the Coop/Condo Tax Abatement and Redirect Revenue to Preserve NYCHA Housing (A7092/waiting for senate bill)

Every year, NYC gives away millions of dollars in unknown breaks primarily to owners of luxury cooperatives/condominium. An Abatement reduces the taxes of the owners who live in the unit by 17.5 percent to 28.1 percent. The abatement is the second largest tax expenditure in New York City. Ten percent of the abatement goes to luxury owners, or people that earn more than \$350,000 per year.

We really need to push hard now. Assemblymember Robert Rodriguez announced new legislation. The Abatement is up for renewal on June 30, 2019. We are seeking to end the tax abatement to the extremely high-end luxury homeowners. The savings the City gets from not giving it to such owners can be put towards NYCHA's capital needs and supplement low-income renters' affordable housing needs.

EMPLOYMENT

The poverty rate for people with disabilities in New York State is 18 percent higher than for non-disabled New Yorkers. Working-age people with disabilities in the State have a 31.6 percent employment rate, resulting in an employment gap of 41.1 percent between people with and without disabilities.

CIDNY Seeks a Waiver of the State's Sovereign Immunity for Employees to file Claims under the ADA and Section 504. A2546 (Lifton)/S1522 (Avella).

CIDNY pushed and was successful in having the State to waive its Sovereign Immunity under the ADA and Section 504 when employees with disabilities are discriminated against in the private sector. However, 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.

CIDNY Seeks the Development of Policy Requiring State Contractors to Employ People with Disabilities

On March 24, 2014, new regulations of Section 503 of the Rehabilitation Act became effective. The regulation requires affirmative action by federal contractors and subcontractors to recruit and hire individuals with disabilities, and improve job opportunities for this population. The regulation establishes a nationwide utilization

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goal of 7 percent for qualified individuals with disabilities. We are seeking that New York State pass a similar law by requiring State contractors and subcontractors to recruit and hire individuals with disabilities, and improve their job opportunities.

CIDNY Seeks People with Disabilities to be Paid the Same Wages as People without Disabilities for a Comparable Position. (A7077/S4018).

For decades, certain employers were certified by the federal government to pay a person with certain disabilities subminimum wages. These employees were often people with developmental or intellectual disabilities. This was based on what the government perceived as the productivity capability of the person. In some cases, employers were paying people with disabilities \$1 per hour. Yet, if a person without a disability was doing a comparable job, the employer is required to pay them the minimum wage. This bill makes it illegal to discriminate against people with disabilities who were employed by the companies federally certified to pay a subminimum wage for work that they are paying other employees the minimum wage.

CIDNY Seeks Amendment of Section 55-a of the Civil Service Law

Section 55-a of New York State Civil Service Law 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 for are entry level positions and would be considered non-competitive. This denies them the opportunities to be interviewed, considered or promoted to non-entry jobs. It also fails to offer any 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 opportunity for higher paying positions, job security and benefits at the same time in their employment as any other employee.

TRANSPORTATION

CIDNY Seeks Funding for Access-A-Ride to Continue and Expand Its On-Demand and E-Hail Pilots

CIDNY was successful in having the on-demand and e-hail projects extended. However, we were not able to get the MTA and NYC Transit Authority to expand the on-demand pilot. In addition, they are now considering rationing - e.g., only allowing so many rides a day and/or having the user pay a significant portion of the ride. This will only continue to deny people with disabilities the same opportunities to travel throughout the City as people who use subways and buses.

People with disabilities who use Access-A-Ride (AAR) are denied the right to travel throughout New York City in the same way as people who can use subways and buses because AAR requires users to book rides 24 hours in advance. This can severely limit the ability of people with disabilities to employment when unplanned same-day travel is part of the job, or to get accessible transportation needed for an unscheduled medical visit, to respond to a child's needs at school or to take advantage of social opportunities enjoyed by their non-disabled peers.

The E-hail pilot is for all users and allows them to book same day trips with a Yellow or Green Taxi using an app. They have to call the AAR dispatcher to arrange for the ride.

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The On-Demand is a small pilot program composed of 1,200 users who have access to an app that they use to get a ride anytime/anywhere. These pilots have been successful and opened up more options for accessible and immediate transportation to people with disabilities who cannot use subways or buses due to lack of accessibility.

CIDNY Seeks Funding for Fully Accessible Subways in New York City

The New York City subway system is largely inaccessible for people with disabilities, in violation of civil rights law. More than three out of four stations (76%) have no access at all, and the elevators in accessible stations often break down. We ask that the legislature fully fund a plan to achieve full accessibility of the subway system and to ensure that it is maintained in good repair.

The absence of elevators in the subway is a major challenge for people with disabilities as they try to live their daily lives, whether it's seeking employment, taking their children to school, visiting the doctor or spending time with family and friends. Of course, many other constituents lose out when stations aren't accessible, including people who are temporarily disabled and people with strollers.

CIDNY supports funding attached to a requirement that it be used to make all subway stations fully accessible. We seek a binding agreement that has a timeline to ensure the community that full accessibility will be achieved. The Governor and the Legislature should ensure that everyone, including people with disabilities, can use the subways safely and independently.

HEALTH

CIDNY seeks legislation that would prohibit dropping drugs from a formulary or moving them to a different tier. A2969 (Peoples-Stokes)/S2849 (Breslin)

CIDNY supports this legislation which would prohibit dropping of drugs from health plan formularies or adding higher cost sharing or new utilization review requirements for drugs already on formulary unless, in the case of movement of a drug to a higher cost-sharing tier, a generic equivalent for that drug is being added to the formulary.

One of the most important things a consumer checks in determining what health plan he or she will enroll in is whether the prescription drugs on which that individual depends are covered in the plan's formulary. Restricting mid-year formulary changes introduces a measure of fairness. Consumers who pick a plan because it covers their drugs will have the assurance that the reason for their choice will remain in place for the entire year for which they are committed to that plan.

CIDNY seeks legislation that improves prior authorization processes so that a person can get the medication they need in a timely way.

CIDNY supports A3038 (Gottfried)/S2847(Breslin) in its post-budget Legislative Agenda. This legislation would improve prior authorization processes to ensure that clinical review criteria use recognized evidence based criteria that take into account the needs of typical patient populations and diagnoses and shortens the decision

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making time frame so that a person can get medication they need in a timely way. Two years ago, we secured passage of legislation that improved the ability to override step therapy processes when necessary. Similar protections are needed for prior authorization processes. The legislation also limits mid-year prescription drug formulary changes similar to the above legislation.

CIDNY Supports an Override Provision for Visit Limits on Medicaid Physical Therapy, Occupational Therapy and Speech Therapy.

Last year's Executive Budget increased physical therapy visit limits from 20 to 40, but speech therapy and occupational therapy remain at 20 visits annually. The Medicaid Redesign Team adopted the recommendations of its Basic Benefit Review Workgroup that included 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 do not make sense, and discriminate against people with disabilities. People who have a stroke may need more visits to regain the ability to walk. We have seen a person subjected to these limits who was unable to get the recommended post-operative physical therapy needed to regain functioning. Some people may experience depression when they are unable to gain or regain function and thus 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.

CIDNY supports the "safe staffing for quality care act." A1532/S3330

CIDNY supports legislation that would require acute care facilities and nursing homes to implement direct care nurse to patient ratios and minimum staffing requirements. A1532/S3330 sets minimum care hours per nursing home resident, per day for Registered Nurses, Licensed Practical Nurses (LPNs), and Certified Nurse Assistants (Certified Nurse Assistants) and would impose civil penalties for violation of these requirements. The minimum hours of care per resident, per day are as follows: RNs: 0.75 hours divided among all shifts to provide an appropriate level of RN care 24 hours per day, seven days a week; LPNs: 1.3 hours; and CNAs: 2.8 hours.

CIDNY Seeks Fair Funding for Safety-Net Hospitals. A6677 (Gottfried)

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, will face a disproportionate share of the burden from any cuts. People with disabilities disproportionately use public coverage like Medicaid for their health insurance and so are disproportionately served by these hospitals.

The Legislature needs to fix the inequities in the hospital Indigent Care Pool and Disproportionate Share Funding by ending the Indigent Care Pool transition collar

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and adopting legislation to allocate DSH and ICP funds in NYS to ensure continuation of true safety net hospitals and provision of services to their patients.

CIDNY seeks legislation that would improve community impact analysis before hospitals close or merge.

More than 40 hospitals have closed across New York State and other hospitals have eliminated maternity units, emergency departments and other time sensitive services. Affected communities often have little or no say. CIDNY supports A2986/S5144 that would require advance public notice and a public hearing to gather consumer comments that would inform a final closure plan, including identifying and addressing any projected service gaps that would occur.

CIDNY seeks legislation that would require community advisory boards at all hospitals.

Voluntary non-profit hospitals are required to have a community service plan, but they are not required to have community advisory boards. CIDNY strongly supports A1148/S1856, that would require all general hospitals to have community advisory boards to provide input as the hospitals develop their community service plans and provide ongoing insight into community needs and priorities. This could provide an opportunity to make sure that hospitals fulfill their responsibilities to provide reasonable accommodations to people with disabilities.

CIDNY seeks legislation that would increase consumers on the Public Health and Health Planning Council.

The Public Health and Health Planning Council makes decisions that affect the cost and availability of care without providing enough opportunities for consumers to weigh in. CIDNY supports A4071/S870 that would add more members to represent the consumer perspective.

CIDNY seeks legislation that ensures that Temporary Protected Status beneficiaries are eligible for Medicaid benefits even if the federal government ends the program.

CIDNY strongly supports A.3316/S.1809 which would do this. Temporary Protected Status, or TPS, is a designation for nationals of countries experiencing humanitarian crises such as violent conflict, environmental disasters or epidemics. TPS holders receive work authorizations and many have been in their communities for 20 years. There are an estimated 325,000 TPS holders in the U.S., with nearly

300,000 U.S.-born children. There are 33,600 people with TPS in New York who are from one of the 10 TPS-designated countries. However, the Trump Administration is aggressively moving to end TPS and has already announced the end of the program for citizens of 7 countries. Guinea, Liberia and Sierra Leone have already lost TPS. Sudan, Nicaragua, Haiti and El Salvador were scheduled to lose TPS between November 2018 and September 2019, although the terminations are currently enjoined because of a federal court decision that is being appealed by the Trump Administration.

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Many TPS holders work providing care for people with disabilities. While there are 239,500 home care workers in New York State, up from 99,800 ten years ago, we are experiencing what some refer to in New York as a home care crisis in many parts of the state. People with disabilities who require home care are having a harder and harder time getting the care that they require to remain in their homes and out of costly institutions. Not enough people want these jobs due to the low pay which, of course, means that they are eligible for Medicaid. In New York City 79% of the home care workforce are immigrants, many of them with Temporary Protected Status.

Because of the Affordable Care Act, TPS holders are considered "lawfully present" and therefore eligible to enroll in qualified health plans and receive tax credits and subsidies through New York State of Health if they meet other eligibility criteria. Low-income TPS holders are eligible for the Essential Plan if they meet the income guidelines because of the state's commitment to covering immigrant communities excluded from federal Medicaid. New Yorkers with TPS currently stand to lose all of these health benefits if their TPS is terminated.

CIDNY seeks legislation that extends the Essential Plan to people whose immigration status makes them ineligible for federal financial participation.

CIDNY strongly supports A.5974/S.3900. This bill provides adult immigrants with access to health insurance coverage that is *equivalent* to the coverage offered to their fellow citizens or lawfully present counterparts who are eligible for the Essential Plan because their income is below 200% of the Federal Poverty Level. In New York City 58% of people with disabilities have incomes below 200% of the Federal Poverty Level. Some of these New Yorkers with disabilities are people with immigration statuses that preclude Essential Plan eligibility.

Extending eligibility to these immigrants builds upon New York's success covering children through the Child Health Plus program which *does* include immigrant children. It extends coverage to eligible adult immigrants ensuring that all New Yorkers have access to affordable health coverage, averting the health insurance cliff many young immigrants now face when they turn 19 after years of state investment in their health.