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POLICY MATTERS MAY 2018– HEALTH AND MANAGED LONG TERM CARE

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A number of changes to health policy were passed into law in this budget, many of which are likely to affect our constituents who are seniors or disabled.

Funding:

This year's budget allocated an additional $400 thousand for Community Health Advocates (CHA) which is the single largest year-over-year increase for this program since it became funded by state dollars. Our thanks to the Governor for supporting CHA at $2.5 million, to Assembly Member Gottfried for championing the funding increase, and to the legislature for recognizing the value of this program and adding $1.4 million to the Governor's proposal. This increase will enable CHA to add another CBO to its network and reach even more New Yorkers who need health advocacy.

In addition, the legislature created a new substance abuse and behavioral health ombuds program, which is intended to be operated by the CHA program. The details of this program are still being worked out as of this writing, but it is an exciting opportunity for CHA.

Managed Long Term Care

The "Nursing Home Carve-out": a change to Managed Long Term Care (MLTC) eligibility for people who have been "permanently placed" in nursing facilities for longer than three months. This change has the potential to seriously disrupt the ability of people in nursing homes to set up home and community based services such as home care, the majority of which is provided through MLTC. The legislature was able to negotiate a side letter in which the Department of Health committed to implementing this issue in a way that is compatible with the Olmstead rights of individuals to live in the most integrated setting appropriate to their needs. We will advocate strongly on this.

The "MLTC lock-in" which changes an individual's right to change MLTC plans at-will. As of the signing of this budget, an MLTC enrollee may only change MLTC plans at-will during the first 90 days of enrollment in a plan, after which they must show good cause to request the change. Under the statute, good cause may include insufficient services, a lack of providers with the experience needed to serve the individual,

or other reasons as determined by the Department of Health. We plan to advocate for clear, consumer-focused guidance on what good cause shall mean.

The cap on Licensed Home Care Services Agencies (LHCSAs) will be imposed in two phases: on October 1, 2018, MLTC plans must contract with only one LHCSA per 45 members (NYC, Nassau, Suffolk, and Westchester counties) or 75 members (upstate); on October 1, 2019, MLTC plans must contract with only one LHCSA per 100 members (upstate) or 60 members (NYC). These caps contain exceptions for network adequacy, for cultural or linguistic competency and/or competency with specific populations, and to avoid disruption in a particular geographic region. This has two foreseeable effects. First, many individuals are likely to be forced to change their LHCSA in advance of either the first or second phases of this cap being imposed, and some individuals may be forced to change their LHCSA in advance of both phases. Second, LHCSAs have an incentive, during the next two years, to make themselves attractive to MLTC plans in order to survive both phases of cuts. This has potential impact on quality and availability of care, especially in rural regions where home care is all but unavailable already.

Access to Health Care

This budget included a proposal on prescription opioids that calls for a plan of care to be put into place which conforms with generally accepted national or governmental guidelines. This is a significant improvement on the original proposal that would have interfered with many New Yorkers' ability to receive necessary pain management.

The legislature bought back a number of proposals which seem to come around every year, including prescriber prevails, spousal and parental refusal, and spousal impoverishment budgeting for community spouses.

Some proposals that Empire Justice Center and other health advocates have been calling for were not included in this year's budget. These include:

A wage increase for home health workers and personal attendants who provide home and community based services to seniors and disabled people. Wages for these workers have fallen relative to the minimum wage and in many cases are at the current non-fast-food minimum wage, which means that recruitment for these jobs is at a disadvantage relative to fast food jobs.

Expansion of Children's Health Plus to age 29, in order to prevent the loss of coverage for people who age out of CHP at age 19 but who are not eligible for other forms of insurance due to immigration status. We will continue to call on the state to expand this coverage and ensure that all New Yorkers are covered.

Coverage for New Yorkers whose immigration status is threatened due to the Trump Administration removing the Temporary Protected Status (TPS) designation. Some individuals have come to New York because they have fled from violence, famine, or environmental disaster in their home country and have been granted TPS by the U.S. State Department, which enable these immigrants to work and be lawfully

present in the United States, in some cases for decades. Under the current administration, the State Department is revoking TPS status for immigrants from many countries. With that revocation comes the loss of work authorization and the loss of insurance coverage. We have called on the State to provide coverage for such individuals in a manner similar to its extension of coverage for the former Deferred Action for Child Applicants (DACA) which the Governor announced this winter.