



CDPAANYS 2019 Budget and Legislative Agenda

CDPAANYS proposes the following agenda in order to maintain and grow Consumer Directed Personal Assistance (CDPA) and enhance the quality of life of consumers who rely on the service.

Reform Managed Care to Protect Equitable Reimbursement and Ensure Consumer Choice and Quality Care – The increased need for long-term care services in New York has been met with efforts by the state to contain costs. These efforts have led average reimbursement to fiscal intermediaries (FIs) to fall to the lowest level since 2006. Managed care organizations (MCOs) and managed long term care (MLTC) plans have repeatedly reduced reimbursements and failed to pass on minimum wage increases. Dramatic rises in the cost of worker's compensation (over 75% increase in the last five years), unemployment insurance, taxes, and the general cost of doing business has compounded the problems caused by these shortfalls. Meanwhile, repeated efforts have been made to limit choice and access in a misguided attempt to lower usage.

- **The State must protect access to CDPA.** Recognizing that different FIs provide different wrap-around services and different wage and benefit structures to consumers' personal assistants, the state must not do anything that limits access to this critical long-term care program.
- **Managed care must adequately reimburse FIs.** This basic step will ensure reimbursement is sufficient to allow wage increases in both the wage parity region, where reimbursement has failed keep pace with new costs, and Upstate, where low wages have led to a workforce crisis.
- **The State must address the workforce crisis by ensuring reimbursements are sufficient to provide wages that attract a high quality workforce.** PAs earn less than any other industry, including fast food, retail, and their peers in developmental disabilities. FIs strive to pay higher wages; however, falling reimbursements make this impossible. To allow for higher quality care and better continuity of care, reimbursements must be increased through fixes to the direct care ceiling, alternative payment methodologies, and better oversight of managed care.
- **The State must equalize reimbursement, as required by Community First Choice.** The State was required to take this step three years ago yet has still failed to do so. Meeting its Federal obligation here will not only protect Medicaid matching funds already received; but, will go a long way to ending the workforce crisis by allowing higher wages and benefits.
- **The State must adequately fund the Long-Term Care system.** The failure of many MLTCs that serve high needs consumers demonstrates that the state's capitation model is broken and funding is insufficient to account for need. A new system that more accurately reflects the costs associated with individuals with high hours is imperative for the system to be effective.

Community First Choice funds must be reinvested in community-based services – Implementation of the Community First Choice Option (CFCO) has generated over \$750 million in increased revenues. By law, these funds are supposed to be reinvested to supplement current community based services; however, they are instead offsetting expenses unrelated to healthcare. CFCO is federal funding and therefore fall outside the Medicaid Global Cap. Following the spirit and letter of the law would take a dramatic step to ending the workforce crisis.

Expand CDPA to all New Yorkers – CDPA is a Medicaid only program. This means millions of New Yorkers in need of services are unable to access them, increasing the cost of care once they do qualify for public benefits. CDPAANYS supports passage of the New York Health Act, as long as it contains a long-term care benefit that includes CDPA, as it would improve the quality of life for all New Yorkers, as well as caregivers.

Protect Live-In Services - FIs have paid for live-in services for decades in accordance with Department of Labor policies and guidance. Recent court decisions have placed this interpretation in jeopardy, exposing these FIs to seven years of back wage obligations. The State must ensure that providers are held harmless in the event of a finding by the courts to retroactively pay PAs for 24 hours for live-in services. Further, any changes to the law must ensure that FIs are adequately paid for all hours that must be reimbursed and consumers in need of live-in services, but not continuous care, continue to receive the care they require to live in the community.

Provide timely and accurate information about CDPA to the public - A dedicated information line should be established to ensure those seeking information about CDPA are able to receive it, in any language. Medicaid currently sends inquiries about CDPA to CDPAANYS, who lacks the resources to handle the demand and cannot currently address language needs required by the state. A dedicated funding stream would allow for the development of an accessible information line, with translation services to better serve those seeking information.

Clarify that non-compete agreements are not allowed in home care or CDPA - Some FIs and LHCSAs have required PAs to sign non-compete clauses as a condition of employment. These agreements, which are traditionally only allowed in instances where proprietary secrets are at-risk, are not enforceable; however, they intimidate PAs and PCAs who may wish to change employers, and limit choice for consumers seek to continue using their trusted PA when switching from traditional home care to CDPA. Regulatory or legislative action must be taken to eliminate these agreements.

Increase access to critical data important to monitoring use of the program – Data is increasingly driving healthcare services, and the availability of program information is key for the success and growth of CDPA. In order to facilitate discussion of public policy goals and implement programs under Value-Based Purchasing, more information about CDPA and its use must be made readily available to providers and the public.

Establish a Care Management Bill of Rights – The State transferred individuals to managed long term care on the premise of “care management for all.” However, care management never been clearly defined and the implementation has been highly inconsistent. Some consumers do not have direct access to their care manager, while others report caseloads as high as 300 individuals per care manager. To meet the goal of care management for all, clear guidelines for care management must be established consumers informed of what they can expect.

Establish a budget authority model for self-direction – Since its inception, CDPA has saved the State money while providing quality of care and control for consumers. Budget authority, demonstrated effective within the Office for People with Developmental Disabilities and other states, represents the next step to complement CDPA and serve as another option to increase self-direction.

Extend the Medicaid Buy-In for Working People with Disabilities to retirees over 64 – The Medicaid Buy-In for Working People with Disabilities (MBI-WPD) has been effective at helping people with disabilities enter the workforce. As these individuals age out, their efforts to create a savings prevents them from accessing the Medicaid benefits they rely on. This unintended glitch in the program must be addressed.

Enact meaningful campaign finance reform – Increasingly, the voice of seniors and people with disabilities is lost in a political environment dominated by health plans, and providers who donate thousands, or millions, of dollars to campaign and “housekeeping” accounts. This has facilitated the transition of Medicaid from a health plan to an industry, where those who receive services are viewed as a product. The only way to restore faith in the government and the voice of those who have been disenfranchised is to remove this money from the system.

CDPAANYS is the only organization whose sole mission is to represent the interests of Consumer Directed Personal Assistance and represents fiscal intermediaries, consumers and their personal assistants. For more information, visit us online at <http://www.cdpaanys.org>, or call at 518-813-9537.