Public Hearing Testimony:

Joint Legislative Budget Hearing on Health & Medicaid

Submitted to:

Senate Finance Committee
John A. DeFrancisco, Chairman

and

Assembly Ways and Means Committee
Herman D. Farrell, Jr., Chairman

Presented by:

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Introduction

The New York Association of Homes and Services for the Aging (NYAHSA) appreciates the opportunity to submit testimony on Medicaid, health and aging services priorities that should be addressed in the 2011-12 state budget. My comments today will focus on our concern that the short-term impact of significant cuts proposed by the Medicaid Redesign Team (MRT) could derail any of the positive reforms included in the package. Frail elderly and disabled New Yorkers could be displaced; providers could go out of business and health care workers could lose their jobs as the first series of MRT proposals are implemented.

Founded in 1961, NYAHSA is the only statewide organization representing the entire continuum of not-for-profit, mission-driven and public continuing care, including senior housing, nursing home, adult care facility, continuing care retirement community, assisted living, home care, adult day health care and community services providers. NYAHSA's more than 550 members serve an estimated 500,000 New Yorkers of all ages annually. This broad representation gives NYAHSA a unique understanding of the impact of the budget and MRT proposals on the entire long term care (LTC) system.

Overall Perspective on Medicaid Redesign

NYAHSA has advocated for many years for long range budget planning and fundamentally redesigning Medicaid, rather than simply cutting provider rates year after year. In this regard, NYAHSA commends the governor and the MRT for setting the stage for longer term reforms to bend the cost curve and improve quality rather than relying exclusively on devastating rate cuts.

NYAHSA embraces the major themes of Medicaid redesign – expanding care management; recalibrating Medicaid benefits; revisiting reimbursement systems and incentives; promoting personal responsibility; eliminating government barriers; empowering patients and aligning with federal policy objectives. We also support individual MRT proposals in each of these areas. The MRT package creates a framework within which consumers, government, providers and other payors can collaborate to advance broader system objectives of containing cost, improving quality and ensuring access.

At the same time, NYAHSA is deeply concerned about the level of short-term cuts aimed at long term care services in this plan and about the potential for further cuts if other planned savings do not materialize. We are also concerned about the potential for over-reliance on "mainstream" managed care, given the unique care needs of frail elderly and chronically ill people, and the abandonment of successful, time tested models of care for these individuals. Medicaid redesign will have implications far beyond the confines of the 2011-12 state budget; accordingly, decisions about redesign should be made carefully and deliberately.

Damaging Cuts to the LTC System

The proposal advanced by the MRT creates great uncertainty and risk for LTC service providers by: (1) relying on additional payment cuts in the short-term on top of major cuts in recent years; and (2) leaving open the potential for major additional cuts if the $640 million of unaccounted state savings fails to materialize; if enrollment or utilization is higher than anticipated; or if there are delays in implementing reform measures.

LTC providers are already reeling from cuts enacted since 2008 that exceed $2.4 billion. Hundreds of millions of dollars of these cuts have not yet even been implemented, meaning that further major impacts will be felt even before the next budget is adopted. Even now, 70% of voluntary and public nursing homes and 70% of all home health care agencies are already operating in the red. Since LTC organizations are economic drivers across the state and the largest employers in some areas, cuts to these providers and the resulting job losses will only exacerbate the state's financial crisis. This is because each direct LTC job supports secondary employment. On average, every 100 LTC jobs support another 50 jobs throughout the state's economy.

Here are some realities about the cuts proposed in the MRT package:

- LTC services provided by nursing homes, home care/personal care agencies and adult day health care programs would be cut by over $900 million in SFY 2011-12 alone, which equates to an 8.7% cut. If the $640 million of unspecified MRT savings do not happen, LTC services could be severely cut again during the fiscal year.

- LTC services represent 26% of total Medicaid spending, but these cuts represent a staggering and disproportionate 40% of the total MRT cost containment. With LTC providers serving a higher percentage of Medicaid recipients than most other service sectors, this disparity is even more devastating.

- As the result of the added cuts in the MRT plan, as many as 45 nursing homes and 60 home care providers could be forced to close, leaving service gaps in communities across the state.

- The LTC cuts proposed in the MRT plan could cost the state an estimated 8,100 health sector jobs and drive an additional 3,500 job losses, while decreasing economic activity in state and local economies by $2.2 billion.

Will LTC Medicaid Expenditure Growth be Contained?

Provider rate growth is not the cost driver in LTC Medicaid – it is volume – and the MRT package fails to adequately and fully address eligibility-related issues fundamental to Medicaid expenditure growth. Medicaid has become the state's *de* facto LTC insurance program rather than a safety net for the indigent. While Medicaid serves an essential role in providing LTC coverage for low-income individuals, even consumers with financial means have become dependent on the program for their LTC needs. Over-reliance on Medicaid has desensitized the public to the risk of needing LTC services, reinforced entitlement mentality, created confusion about who pays LTC bills and adversely affected the marketability of private LTC insurance.

NYAHSA, through its *Vision 2020* process, developed 14 specific initiatives that the state could undertake to preserve Medicaid and generate alternative sources of program financing. We are pleased that some of these proposals and others are included in the MRT package including: (1) eliminating spousal refusal; (2) centralizing responsibility for Medicaid estate recoveries; (3) expanding the definition of an "estate" for recovery purposes; (4) applying the asset transfer look-back and penalties to community-based LTC services; and (5) enhancing incentives to purchase LTC insurance. NYAHSA strongly supports these proposals and encourages the Legislature to adopt them. We also maintain that much more must be done to ensure that

Medicaid is preserved as a safety net for the poor, and have shared our ideas with the Legislature.

Care Management of Medicaid Recipients

NYAHSA applauds the administration and MRT for recognizing the cost effectiveness and patient outcomes achieved through provider based managed LTC. However, policymakers must keep in mind that the considerable successes demonstrated by Medicaid Managed Long Term Care (MLTC), Program of All-Inclusive Care for the Elderly (PACE) and Medicaid Advantage Plus (MAP) plans were achieved primarily by mission driven, not-for-profit, provider-based organizations. The state should ensure that expansion of managed care in New York State – especially for vulnerable populations – reflects the expertise and experience of these successful provider-based models.

However, the overall MRT package seems to rely too heavily on a "one size fits all" approach to having mainstream managed care organizations (MCOs) coordinate care, rather than adapting already successful models for managing care across settings**.** The proposal contemplates broad-based reliance on MCOs to coordinate services and act as the state's intermediary for payment and service authorization for nearly all LTC Medicaid recipients in the future. MCOs largely do not have the experience and expertise to manage care and services for chronically ill, frail elderly people, and may instead create another administrative layer without necessarily adding value.

Provider-based MLTC, PACE and MAP programs have demonstrated expertise in managing the needs of this population and should be expanded to serve more frail elderly people in their homes. Other models, such as Long Term Home Health Care Programs (LTHHCPs), Certified Home Health Agencies (CHHAs) and adult day health care (ADHC) programs serve tens of thousands of New Yorkers each year, and have a demonstrated track record of coordinating LTC services and supports, managing patients' clinical and social needs, and forestalling institutional placement. These programs should remain as care options and be adapted to achieve broader system goals, rather than abandoned in favor of broad-based managed care.

A Major Unfunded Mandate

The MRT proposal includes a provision that would require CHHAs, LTHHCPs and MLTC plans to comply with local living wage laws. This unfunded mandate – which could costs hundreds of millions of dollars annually – will be unaffordable to providers in a climate of shrinking revenues, and is tantamount to government-imposed wage controls that may have ripple effects on other health care providers. NYAHSA's mission-driven members work hard to offer their employees fair and competitive compensation and benefits. However, Medicaid reimbursement rates simply do not meet the cost of providing care and the cuts proposed in the 2011-12 budget will only exacerbate the problem. Absent additional funding to support the increased wages envisioned here, this proposal will ironically force providers to cut direct care staff, threatening the viability of many programs and impacting quality.

The Building Blocks of Reform are Needed

In order for the LTC infrastructure to remain viable and for providers to play a major role in Medicaid redesign, the following building blocks are essential:

- **Stable and predictable Medicaid funding.** At present, nursing homes have not known what their Medicaid rates are since April 2009. A dizzying array of cuts, delayed payment changes and after-the-fact audit disallowances have left nursing homes, home care agencies and other providers utterly unable to budget and make business decisions. With all of the changes envisioned in redesign, informed decision-making will become an even bigger issue.

- **Meaningful mandate and liability relief.** LTC is heavily regulated, particularly in New York. An accumulation of legislative mandates, regulatory requirements and inconsistent oversight add tremendous cost and other burdens to service delivery, depriving the system of resources that could be devoted to hands-on services. Providers cannot survive in an environment of shrinking resources without reducing their costs of doing business. Similarly, the issue of liability must be addressed in LTC. NYAHSA was disappointed that the MRT package did not include some common sense proposals to reduce nursing home legal and liability insurance costs.

- **Access to supportive housing for seniors.** Senior housing with supportive services is an essential building block in any effort to serve more low-income seniors in the community, to promote aging-in-place and to forestall the need for more expensive Medicaid supports. NYAHSA is pleased that the MRT package includes our proposal for an inter-agency supportive housing workgroup to develop a plan to address the need for expanded supportive housing capacity. We will also be urging the Legislature to pass our Freedom of Choice legislation to ensure seniors can receive supportive services in their housing facility without inadvertently triggering assisted living licensure.

- **Access to adult care facility and assisted living services.** Many seniors need 24 hour supervision and cannot be served safely in their own homes. These facilities save Medicaid funds by delaying or preventing nursing home placement. Those with private means are willing to pay for these services, which also reduces Medicaid costs. Despite the state's policy to encourage the conversion of nursing home beds to lower cost Medicaid assisted living program (ALP) slots, the ALP has been cut the last three years in the row, with more cuts proposed this year. There is also a state imposed cap on ALP slots. These short-sighted cuts and the arbitrary cap will increase, rather than reduce costs over time and should be addressed. NYAHSA proposed other ways of streamlining the delivery of these services to the MRT, and has shared those with the Legislature.

- **Financing assistance.** NYAHSA is pleased that the MRT package includes proposals to renew authority for local industrial development agencies to finance LTC facilities, to address financing for nursing home sprinkler systems and to otherwise improve access to capital. With a large number of aging facilities, demands for technology investments and start-up costs for new collaborative ventures envisioned in Medicaid redesign, LTC providers need assistance with cost-effective borrowing alternatives and targeted grants. To date, federal and state governments have made relatively nominal health information technology investments in LTC; this will need to change if LTC is to meaningfully participate in health reform.

Conclusion

A combination of significant Medicaid cuts and major policy changes will have major short and long-term effects on the integrity of the LTC service system and the broader economy, including the following:

- Quality providers, and entire service models, may go out of business.
- Seniors will have a harder time finding the services they need and will have to go outside of their communities – or even out of state – to find what they need.
- Home care, adult day health care and other supportive community based services would take significant and disproportionate hits in this budget; and people will have to go to nursing homes unnecessarily in communities where these services are eroded.
- Unable to survive persistent and worsening underpayment, the providers that do not go out of business may have to serve less Medicaid recipients.

For decades, New York's mission driven, not-for-profit LTC providers have been the leaders in promoting quality, diversifying their services, developing innovative models of care and investing in their communities. These organizations are willing to partner with the state to reform Medicaid and service delivery, but they cannot retool while they are struggling even more to stay afloat in the short term. Ultimately, cuts to save money now will cost jobs, increase health care costs, threaten quality and erode a system of services.

Thank you for the opportunity to testify today.