30th Annual ELDERLAN FORUM

WILL BE STARTING SOON ...



HOUSEKEEPING:

- Materials can be viewed at the Elder Law Forum Event Page: <u>https://www.pierrolaw.com/events/annual-</u> <u>elder-law-forum/</u>
- Virtual Attendees: Your Mics are Muted
- Interact on CHAT
- Pose Questions for Speakers in Q&A
- Fill out the Survey following the program
- **Social Workers:** be present for the entire program to receive CE Credits
- Share the Forum on Social: #ELF2025



30th Annual III ELDER LAW FORUM INTRODUCTION



LOUIS W. PIERRO, FOUNDING PARTNER Pierro, Connor & Strauss, LLC



OUR TEAM OF ATTORNEYS



Louis Pierro



Aaron Connor



Frank Hemming



Peter Strauss



Anthony Khatchoui



Theresa Skaine



Arkley Mastro

Michael Mullaney



Samantha Bryant Ve



Verley Brown



Patricia Whelan



Tommaso Marasco



Brent Stack



Dylon Newkirk

Serving New York State Residents Through Offices in: any New York City Ronkonkoma, Garden City, Hudson, Lake Placid

Albany, New York City, Ronkonkoma, Garden City, Hudson, Lake Placid, Utica Also serving clients in Massachusetts, Hawaii, Florida.



OUR SPONSORS: THANK YOU!

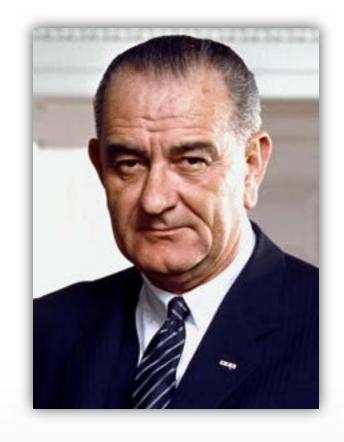


1965 Lyndon B. Johnson established Medicare & Medicaid

"No longer will illness crush and destroy the savings that they have so carefully put away over a lifetime so that they might enjoy dignity in their later years."

"A nation is judged not on how its most prosperous thrive, but on how it cares for its most vulnerable."

1986 The Age Wave – Ken Dychtwald
1995 1st Annual Elder Law Forum – 30 people





1997 Governor's Task Force on Long-Term Care Reform, Report LTC Insurance seen as vital, Medicaid Reforms Proposed New "Defined Contribution" Plan Outlined

1998 Unfunded Mandate: President Clinton balances the budget, cuts Medicare

2005 NYS State Bar Elder Law Section report on LTC Legislation Introduced by Senator Golden and Assemblyman Englebright – "The Compact for Long-Term Care"





- The Next 20 Years
- LTC Insurance falters
- NYS Partnership disappears
- Medicaid budget explodes







The Next 20 Years (cont.) Money is free speech – Citizens United Profits from health care led to policy challenges

2020 Pandemic Strikes- ELF Goes Virtual with 1,150 registered

2024 Institutional Failure "Burn it all down" - Dan Reingold at the Forum 'the system is broken' 'like deck chairs on the Titanic' 'let's blow it all up'



2025: 30th Year Milestone for the Forum

- State budget passes but under threat of Federal cuts
- Can we innovate our way through the current system?
 - The Future of Medicaid PACE, DSNP's?
 - Financing public/private partnerships
 - Staffing wages, immigration, education
 - Technology enhance the way care human care is provided



Forum Agenda

SEE YOUR PROGRAM BOOK

- 8:40 Live Interview with State Lawmakers
- **9:30** Live interview with Congressman Paul Tonko
- **10:00** Update from the Executive Branch
- **10:40** Coffee, Networking & Exhibitors Qualify for Raffle
- **11:00** NY Medicaid Update
- **11:40** PACE Is All Inclusive Care a Model for the Future?
- **12:40** Networking Lunch Meet our Exhibitors
- **1:30** Insuring LTC Private/Public Alternatives
- **2:30** Medicaid Home Care in Transition
- **3:30** Q&A, Closing Remarks and Apple Watch Raffle



Dr. Benita Zahn

Certified Health & Wellness Coach, Veteran News Anchor & Health Reporter

STATE LEGISLATIVE UPDATE







SENATOR Cordell Cleare

ASSEMBLYMEMBER John McDonald III ASSEMBLYMEMBER Scott Bendett



FEDERAL LEGISLATIVE UPDATE



CONGRESSMAN Paul Tonko



30th Annual ELDER LAW FORUM

STATE LEADERS: Update from the Executive Branch



Greg Olsen NYS Office for the Aging



Willow Baer NYS OPWDD



Greg Olsen

Director, New York State Office for the Aging





30th Annual Elder Law Forum

May 14, 2025

What Characterizes Older Adults

- A growing population with increased and unprecedented longevity: Older adults are living longer and healthier lives, and their numbers are growing.
- Highly heterogeneous: There is enormous variation in health, functional ability and financial status. Disparities exist along the dimensions of income, gender, race/ethnicity and education.
- Social and economic impact: Older adults hold a disproportionately large share of our country's wealth, represent a enormous source of consumer spending and economic productivity, and contribute in myriad ways (e.g., support to grandchildren, child care) to family and community life.

What is Aging

- Normative and lifelong: Aging is a normative process that extends across the lifespan.
- **Cumulative**: Educational, financial and social experiences and contexts of childhood and middle age predict well-being in older adulthood.
- Distinct from disease and decline: While physical and cognitive changes are a normative part of growing older, aging does not necessarily mean disability



May 14, 2025

50+ Longevity – New York

- 36% of Population in NY 50+
- Contributed 43% \$719 billion GDP
 - \$2.2 trillion by 2050 (43%)
- Support 5.9 million jobs
 6.6 million by 2050 (47%)
- Generated \$482 billion in wages and salary
 \$1.46 trillion by 2050 (50%)
- Contribute \$72 billion in state and local taxes (39% of total)
 - Will triple to \$255 billion by 2050 (43%)



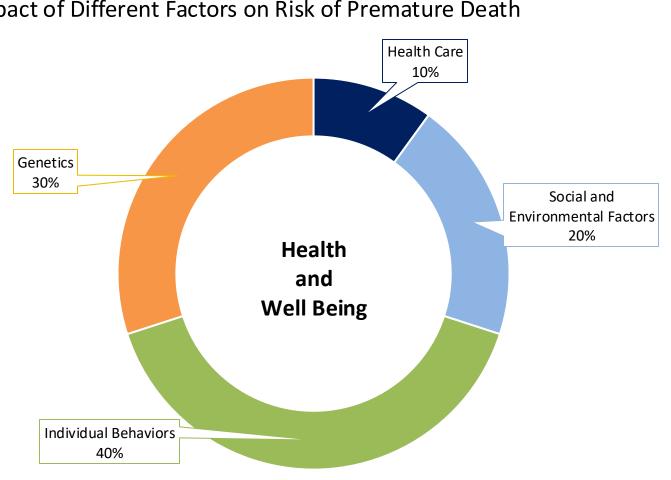
Combating Ageism and Stereotypes Social, Economic & Intellectual Capital of Older Population

New York's total population is over 19 million individuals, and the State **ranks fourth** in the nation in the number of adults age 60 and over – 4.84 million.

- 3.7 million between 45-59
- 80% of NYS Retirement System Payouts Stay in NY \$10.6 billion annually
 - Other Pensions \$30.5 billion
- Social Security \$59 billion annually paid to NYS older adults
- 900,000 individuals age 60+ contribute 442 million hours of service at economic value of \$13.2 billion
- 64% of individuals age 60+ who own their own homes and have no mortgage
- 4.1 million caregivers at any time in a year economic value if paid for at market rate is \$39 billion, average age is 64



What Determines Health?



Impact of Different Factors on Risk of Premature Death



New York's First Ever Statewide Needs Assessment Survey

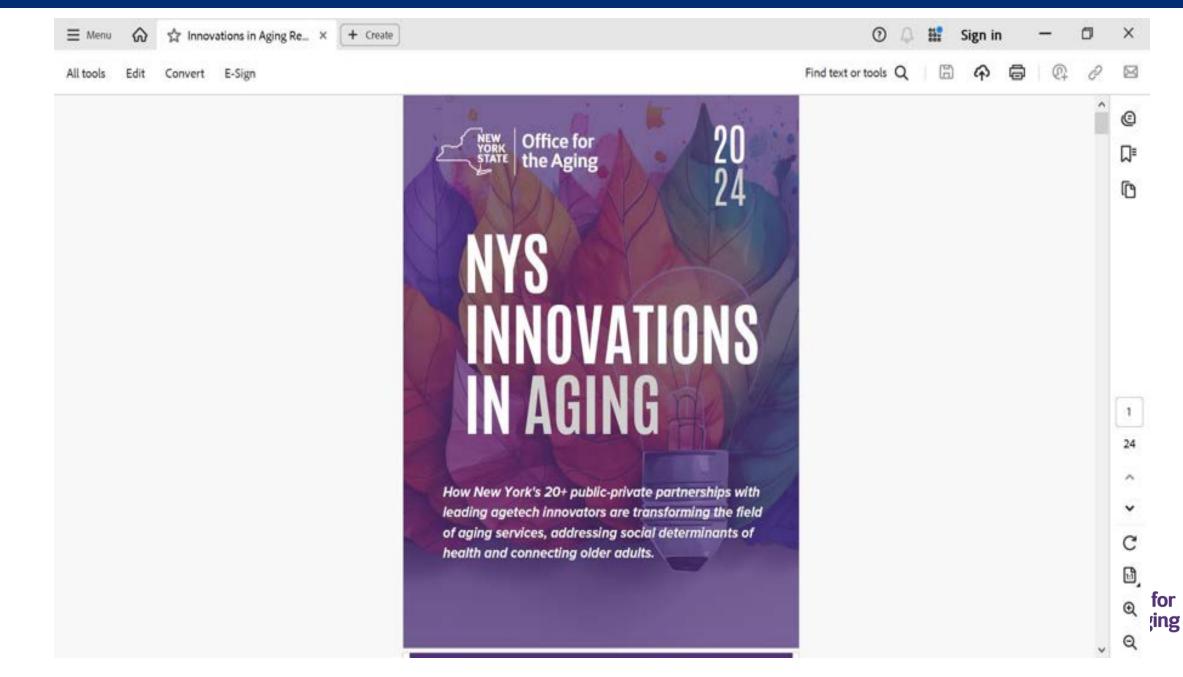
POLCO Community Assessment Survey for Older Adults (CASOA) 2023

Preliminary Results (Updated May 3, 2023)

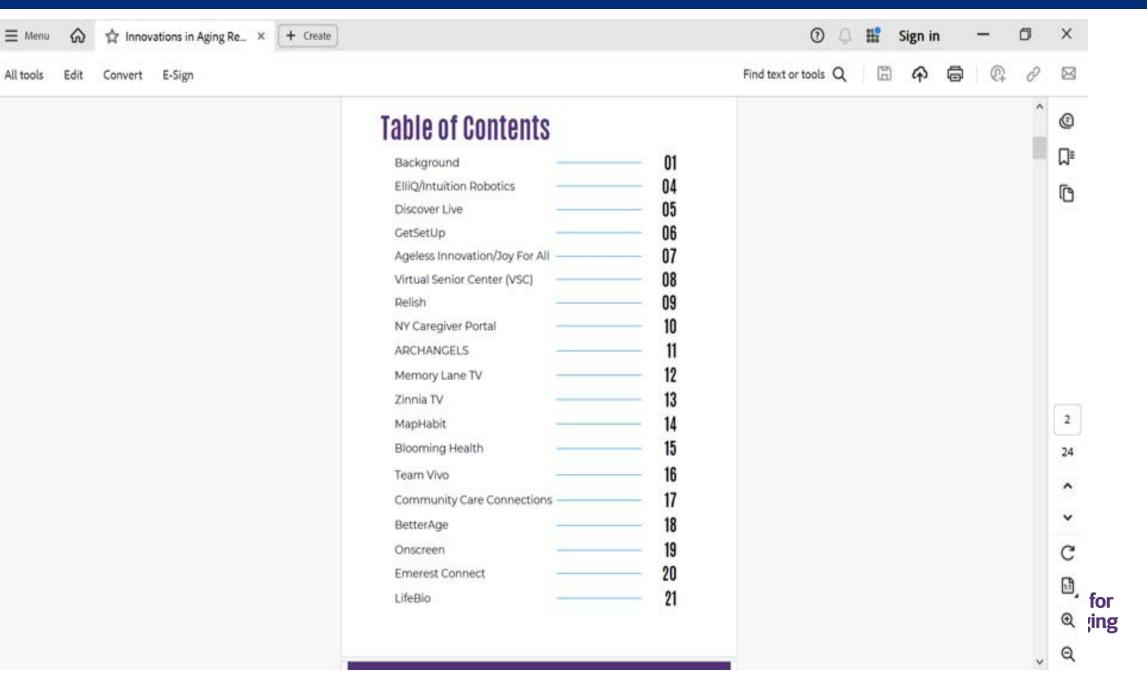




May 14, 2025



May 14, 2025



Sustainable Projects

<u>Ageless Innovation</u> - Since 2018, NYSOFA has been provided more than 33,500 animatronic pets to older adults who experience social isolation. These plush, "lifelike" robotic pets are designed to make realistic sounds and motions, providing comfort and companionship to individuals. In 2023, NYSOFA also partnered with the Association on Aging in New York (AgingNY) and community groups to bring Ageless Innovation's reimagined, intergenerational games to increase social connections. Sending 7,200 boxes of intergenerational games to CBO's.

Intuition Robotics - ElliQ is an AI care companion designed to foster independence and provide support for older adults through daily check-ins, assistance with wellness goals and physical activities, and more using voice commands and/or on-screen instructions. ElliQ is proactive and personalized.

<u>GetSetUp</u> - GetSetUp is a dynamic learning and discovery platform offering training on technology to bridge the digital divide while offering virtual classes tailored exclusively for older adults. With over 5,000 classes across 40 categories, including technology, fitness, nutrition, cybersecurity, health and wellness, and social activities, it caters to diverse interests and needs. GetSetUp empowers older New Yorkers to bridge the digital divide, age independently, and combat loneliness through its platform available around-the clock.

<u>Virtual Senior Center</u> - The Virtual Senior Center (VSC) was created in 2010 by Selfhelp Community Services to help homebound and socially isolated older adults stay connected to their community. The VSC offers robust programs designed for older adults, managed by social workers who provide intentional engagement. It fosters an inclusive and engaging environment where older adults can connect with one another from wherever they call home.



May 14, 2025

<u>**Trualta -**</u> The New York Caregiver Portal, powered by Trualta, provides a vital support and training tool. The Caregiver Portal/Trualta teaches critical skills to reduce caregiver stress levels and increase confidence in one's caregiving abilities while connecting caregivers to other New York State resources.

<u>Archangels –</u> Caregiver Intensity Index - ARCHANGELS works to support individuals who provide uncompensated care to someone else (caregivers). They focus on reframing how caregivers are seen, honored, and supported using a combination of data and stories, through public and private partnerships. The platform provides each caregiver with an intensity 'score' that not only validates their experience, but crosswalks them to state and local resources. This resource prioritizes helping individuals self-identify as a caregiver in order to provide supports and help, if needed.

GET YOUR SCORE

Almost 1 in 2 of us are caring for someone, and it can get intense. Any Care Counts - New York is a way to support YOU as you care for others. Take two minutes and get your intensity score and connect to things that can help.





<u>**GoGoGrandparent**</u> – specialized ride share program to address special transportation needs throughout New York.

Stipend Program/Volunteers – LTCOP and HICCAP – to recruit and retain volunteers

<u>CAPS/NAHB</u> – specialized certification in home safety assessment to prevent fall risk – case managers

<u>Case Management Certification</u> – require all case managers to be uniformly state certified through Boston University CADER on-line training and certification



Active Pilots/Demonstrations

Discover Live – 102 senior centers, congregate dining sites, and Naturally Occurring Retirement Communities (NORCs) are providing older adults with social engagement and enrichment experiences through weekly virtual tours to over 200 locations worldwide.

<u>Relish -</u> Products include specially designed clocks, jigsaw puzzles, radios, brain teasers, and sensory activities for individuals with dementia.

Memory Lane TV - Memory Lane TV (MLTV) is a streaming, science-based behavioral and multisensory digital intervention designed to support people living with Alzheimer's and related dementias and their professional and family care partners. Over 1,500 hours of positive, plot-free content is personalized for each user and is built to reduce agitation and depression, connect with the natural rhythms of the day, experience soothing memories, and find joy.

Zinnia TV - For individuals with dementia, Zinnia TV is a therapeutic alternative to standard TV programming, which can trigger confusion, distress, and daytime sleeping. Exploring a meaningful topic on Zinnia TV can soothe, delight, and reinforce a person's sense of identity. Video is slow moving, soothing and promotes respite for caregivers.

Maphabit - The MapHabit platform uses scientifically proven step-by-step guides to empower individuals with intellectual and developmental disabilities (IDD), autism, and traumatic brain injuries (TBI), as well as individuals living with Alzheimer's Disease and related dementias (ADRD), to master their daily routines. A library of over 1,000 maps covering daily tasks can be customized for each individual to reduce caregiver burden and foster independence.

the Aging

Blooming Health - The platform enables instant communication about vital information such as weather alerts, program deadlines, event reminders for evidence-based programs, nutrition education, and wellness programs, and social engagement opportunities in over 80 languages.

Vivo - Team Vivo is an evidence-based strength training and exercise program designed to increase strength and reduce falls and injuries related to falls. Team Vivo provides an online small group fitness program that, unlike videos or livestreamed classes, is a live and interactive two-way experience with measured outcomes. Vivo classes are designed to build strength and function through individualized feedback from a live trainer while also providing social engagement and building community that drives 98% monthly customer retention.

Betterage - BetterAge provides a population health solution through a web-based platform that measures what matters with respect to healthy aging and generates important insights for individuals and organizations. A health and well-being assessment, aligned with the social determinants of health, provides in-depth insight into healthy aging at every scale. For older adults, a personalized health and well-being report and recommendations are provided, and organizations can review this data as they develop programs, set policy approaches, and work to maximize funding.

<u>Onscreen -</u> Onscreen turns TVs into interactive care hubs, making family video calls, telehealth, and virtual social events easily accessible for older adults that struggle with technology. The platform also includes a TV-based AI companion that helps with regular check-ins and provides companionship, simplifying daily of life for older adults and caregivers.

LifeBio - LifeBio is capturing the stories and life experiences of New York State older adults, especially people who are reaching end of life and those who may be receiving hospice or palliative care. LifeBio is an evidence-based life story/reminiscence therapy solution that records people's backgrounds, stories, and care preferences in their own voices with an easy-to-use app.

<u>SCCMedQR</u> – wearable band for instant information on older adults that can be scanned by EMS, ER's and hospitals and instantly connects with caregivers if QR code is scanned

<u>KindlyHuman/MyRosalie</u> – Up to 2 hours monthly of phone calls to combat social isolation by connecting older adults with others with same interests.

Smart Hygiene – AI bidet that cleans and washes older adults to reduce UTI's and fall risk in the bathroom – targeting older women with UTI history and fall risk.

Essential Care Visitor Program – Trains family in nursing homes to provide care to their loved on due to workforce shortage in facility to improve quality of care.

Eversafe – platform to protect financial and other information and to flag irregularities to prevent/combat financial exploitation

FraudFindr – platform to quickly analyze financial information to identify possible financial fraud.



State Budget

- Largest Investment in NYSOFA in State History \$52 million for unmet needs and COLA
- Expanding NY Child Tax Credit to \$1,000 will help grandparents raising grandchildren
 - Free School Meals for all Students
- Middle Class Tax Cuts for joint filers below \$323,000
- Inflation Refund for joint filers up to \$150,000 \$400 check. For joint filers over \$150,000 \$300 Check. Individual file5rdup to \$75,000 - \$200 check. Single filers between \$75,000 - \$150,000 -\$150 check.
- Medicaid investments \$34.2 billion to expand access to high quality care. Increases reimbursement rates for:
 - Hospitals
 - Nursing homes
 - Assisted living
 - Physicians services
 - Federally qualified health centers
- Free community college for high demand occupations ages 25-55
 - Nursing, teaching, technology, engineering,



State Budget

- Affordable Housing \$1.5 billion to increase housing supply
- Disincentives institutional investors from buying one- and two-family homes
- Starter Home Innovation Funding \$50 million for smaller homes including innovative approaches to home building such as modulars and factory built homes
- Homeowner Protection Program statewide housing counseling and legal support to at-risk homeowners struggling to maintain homes and avoiding foreclosure, preventing fraud and deed theft - \$40 million
- Rapid Response Home Repair =- for homeowners in need of urgent repair due to severe whether
- Strengthening laws to combat home appraisal discrimination
- Provide communities TA to become pro-housing by adopting pro-housing policies such as master plans, zoning updates and streamlined permitting process.
- Redevelop vacant property to stop blight and creating more affordable housing

Office for

the Aging

TATE OF

State Budget

- Consumer protections making it easier to cancel online subscriptions
- Legislation requiring on-line retail sellers to post return and refund policies that are easily accessible
- Legislation requiring businesses to disclose to consumers when a proce online was set by an algorithm using their personal data.
- New regulations for DFS to protect against unfair overdraft fees



May 14, 2025

Federal Proposed HHS Budget - Programs and Services at Risk

- Aging Proposed reduction/elimination
- Dissolved the Administration for Community Living (ACL)
- Reduction in funding for home-delivered and congregate meals

Proposed Eliminated – October 1, 2025

- **Title IIID** evidence based programs to improve overall health, manage chronic conditions, prevent falls, etc.
- **Title VII** Long-Term Care Ombudsman Program provides staff and volunteers for nursing homes and residential facilities to assure quality of care on behalf of the residents.
- **Title VII** Elder Abuse prevention and mitigations.
- Lifespan Respite to provide respite services to individuals caring for someone else.
- SHIP/HIICAP programs provide objective information and assistance that helps individuals on Medicare choose their plans and prescription plans, problem solve, and assist with benefit applications



May 14, 2025

Additional Programs Proposed Eliminated

- Adult Protective Services investigates and helps solve elder abuse cases.
- **Falls Prevention** programs that reduce the fear and risk of falls for older adults.
- **CDSME** programs to help older adults manage their chronic conditions and remain healthy.
- **LIHEAP** Low Income Home Energy Assistance Program provides assistance with heat in the winter and cooling in the summer.
- **CSBG** The Community Services Block Grant (CSBG) provides financial assistance to states, territories, and tribes to support services aimed at alleviating poverty and improving the conditions of low-income communities.
- **Title V** Older worker program helps individuals age 55+ access employment and teach employment skills.
- Alzheimers Disease Research
- Rural Hospital Grants
- Mental Health and Substance Abuse Programs including Overdose Prevention
- Health Care Workforce programs
- National Center for chronic disease prevention and health
- Reductions to Food Banks



HHS Only Eliminations

- Rural Hospital Flexibility
- Offices of Rural Health
- At Risk Rural Hospital Grants
- Family Planning
- Youth Violence Prevention
- Traumatic Brain Injury programs and supports
- Alzeimer's Research
- Child Health Programs
- Overdose Prevention
- HIV/Aids and Ryan White
- Certified Community Behavioral Health
- Environmental health Programs
- HRSA
- Voting access for people with disabilities and elimination of DDPCs
- Anything diversity/minority focused



Huge Economic and Infrastructure

- Social Security
- Medicaid
- Medicare and Duals
- RX increases
- SNAP and SNAP impacts WIC



What Next

• These are proposed for Federal FY 2026

 Have 5 months to weigh on impact – what these programs are, what they do, and an analysis of what happens if go forward

• Agingny.org





Willow Baer

Acting Commissioner, Office for People With Developmental Disabilities



Office for People With Developmental Disabilities



30TH ANNUAL ELDER LAW FORUM

Acting Commissioner Willow Baer

MAY 15, 2025

About OPWDD

- OPWDD coordinates services for more than 130,000 New Yorkers with developmental disabilities:
 - Intellectual disabilities
 - Cerebral palsy
 - Down syndrome
 - Autism spectrum disorders
 - Prader-Willi syndrome
 - Other neurological diagnoses
- Network of 500 not-for-profit provider agencies and state-operated system of care





Potential Federal Budget Impacts

FEDERAL IMAPCTS TO OUR SYSTEM

Proposed Federal Cuts to Medicaid

- Congress' budget resolution seeks \$880
 billion in savings over 10-years
- Experts agree this cannot be achieved without cuts to Medicaid
- NY's developmental disabilities service system relies on \$7 billion in Medicaid spending annually



Changes to Department of Health & Human Services

- Reorganization of Health and Human Service (HHS) including disbanding of the Administration for Community Living may impact NYS Council on Developmental Disabilities and University Centers for Excellence on Developmental Disabilities
- Protection and Advocacy Organizations recommended to be abolished
- Potential block granting of Medicaid systems

FEDERAL IMPACTS TO OUR SYSTEM

Termination of Grants Supporting People with Disabilities:

- A **Department of Education grant supporting research** on effective ways to help students with disabilities **transition from high school to college or employment**
- A Department of Education grant supporting doctoral students working in disability related fields
- A National Science Foundation grant program supporting neurodivergent students
- Eliminating Autism as a primary research program area for 2025 grants



NYS FY26 Enacted Budget

2025-26 ENACTED NYS BUDGET

2025-26 Enacted Budget Wins:

- FY 2026 budget provides nearly \$13.3 billion for the OPWDD delivery system
- This represents a 7.3% increase in net new investment in the OPWDD delivery system
- Continues the \$850 million historic investment in our nonprofit providers made to 2024 rates



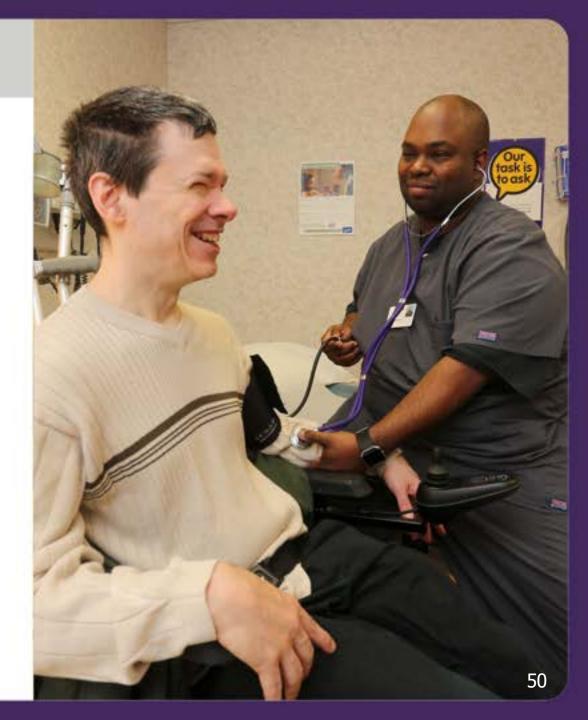
2025-26 Enacted Budget Wins:

- **Targeted Inflationary Increase** of 2.6% included for all OPWDD not-for-profit providers and contractors
 - HMH Part FF
- This is the fourth consecutive inflationary increase for this service system

2025-26 ENACTED NYS BUDGET

2025-25 Enacted Budget Wins:

- \$25 million to establish Regional Disability Health Clinics
- Capital grants awarded by OPWDD to expand access to health services at existing Article 28 and Article 16 clinic locations.
 - update or expand buildings, equipment, and technology,
 - increase accessibility
 - improve the quality of/access to healthcare



2025-26 Enacted Budget Wins:

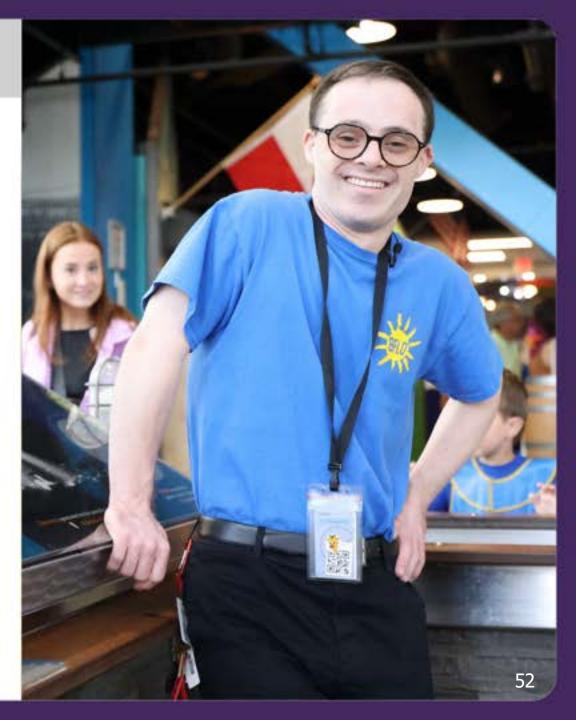
- **\$75 million** investment in OPWDD's Institute for Basic Research
- Largest single financial commitment since it opened in 1968

- Establishment of a Genomics Core Facility
- Transformation of the former Willowbrook State School property into a Center for Learning, forever preserving Willowbrook's historic significance

2025-26 ENACTED NYS BUDGET

2025-26 Enacted Budget Wins:

- Tax Credit for Employment of People with Disabilities
 - Increases maximum tax credit from \$2100 to \$5,000
 - REV Part U
- Workers with Disabilities Tax Credit
 - Extended through 2028 tax year
 - REV Part BB



2025-26 Enacted Budget Wins:

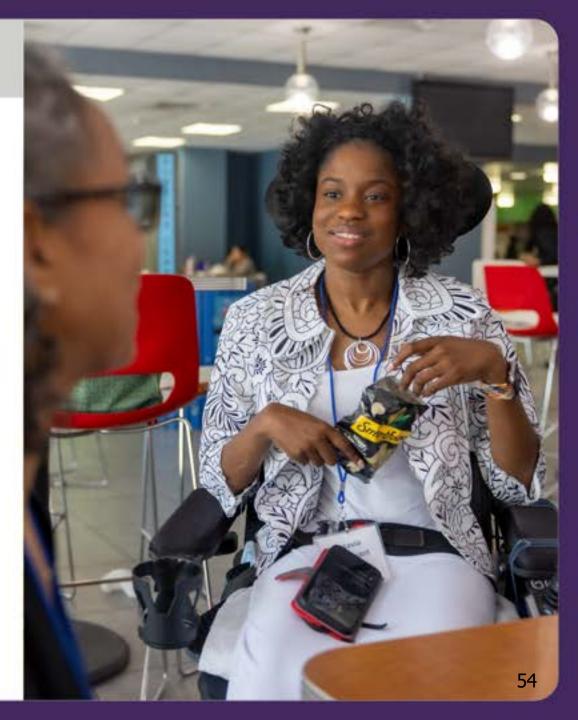
Establishment of Home Enabling Supports

- Purchase of technology and subscription services to support independence and safety in home and community
- Up to \$5k per person
- Non-certified living environment
- Available to fund medical concierge telehealth services
- Available this summer

2025-26 ENACTED NYS BUDGET

Supported Decision-Making

- Empowers people to live more independently
- Process that enables people to make and communicate their own decisions
- Formally through a Supported Decision Making Agreement – enforceable by third parties or informally
- Issuing Request for Proposals to support formal facilitation statewide



Supported Decision-Making

- Most often used by:
 - Transition aged youth/those subject to guardianship;
 - People with absentee or uninvolved guardians
 - People who frequently express a desire to participate in their own medical care or service planning but have often had their capacity questioned; or
 - People who want to transition from a congregate setting to independent or community-based settings

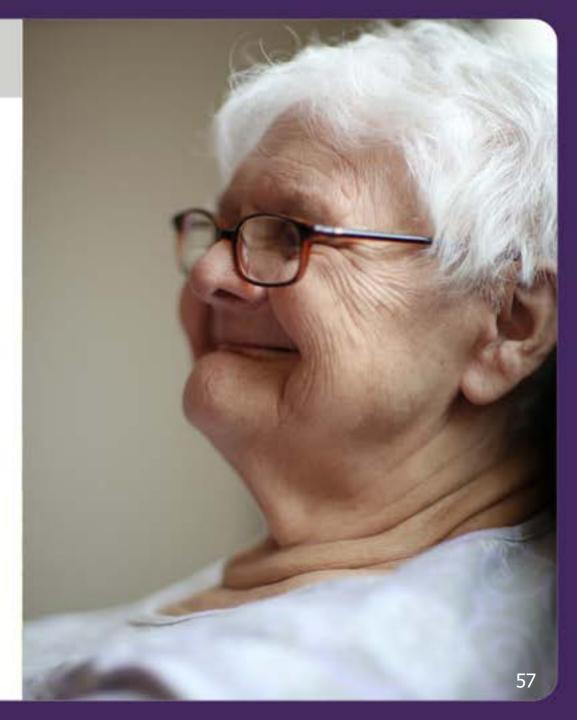


Strategic Planning: Aging and Developmental Disabilities

AGING AND DEVELOPMENTAL DISABILITIES

Health Equity for People with Developmental Disabilities

- Aging can impact a person with developmental disabilities differently, leading to:
 - Earlier onset of symptoms
 - Inappropriate medical treatments
 - Behavior changes
 - Vulnerability to a **more restrictive** environment
- Premature aging in people with developmental disabilities can be due to:
 - Genetic predispositions
 - Limited access to healthcare
 - Lifestyle issues



Health Equity for People with Developmental Disabilities

- Health needs of people with developmental disabilities who are aging can often go unmet
- Trouble finding healthcare providers who specialize or can meet physical, behavioral or communication needs of this population
- Other obstacles to supporting an aging population in place

AGING AND DEVELOPMENTAL DISABILITIES

Health Equity for People with **Developmental Disabilities**

- Retirement-age people with developmental disabilities want more options for meaningful activities
- **Day Habilitation** programs are not the only answer
- Enjoyable, age-appropriate activities



Commissioner's Task Force on Aging

Follow-up to Governor Hochul's **Master Plan for Aging** – a roadmap for meeting New Yorkers' needs as they age

- Co-led by member of the Developmental Disabilities Advisory Council
- Experts in health, aging, and developmental disabilities
- Also include self-advocates, families, providers and Care Coordination
 Organizations (CCOs)



Questions?

Willow.f.baer@opwdd.ny.gov

NEW YORK STATE Office for People With Developmental Disabilities

II ELDER LAW FEEDBACK?

30th Annual



COFEE BREAK See You in 20 Minutes!

Visit with our Exhibitors Qualify for the Apple Watch Raffle!



Share the Forum on Social Media! #ELF2025



Medicaid Update

Valerie Bogart

Of Counsel,

Evelyn Frank Legal Resources Program, New York Legal Assistance Group (NYLAG)



Elder Law Institute Medicaid & Home Care Update

Valerie Bogart, Esq., Of Counsel Evelyn Frank Legal Resources Program





ABOUT NYLAG

The New York Legal Assistance Group (NYLAG) is a leading non-profit that provides free civil legal services, financial counseling, and engages in policy advocacy efforts to help people experiencing poverty.



The Evelyn Frank Legal Resources Program

Focuses on fighting for older adults and people with disabilities, ensuring access to health care and home care services to age safely in the community. Services include:

- Counseling client on Medicaid, Medicare and home care eligibility and services.
- Training legal, social services and health care professionals about changes in Health Care programs and how to best serve the health and long-term care needs of older adults and people with disabilities.
- Representing clients in denials and reduction of Medicaid, Medicare Savings Program and Medicaid Home Care.
- Assisting clients with accessing Medicaid home care through Managed Long Term Care plans.



EFLRP Services (continued)

• Educating the public through the website: <u>http://health.wnylc.com/health/</u>

NT IIGatu	Electronic and a statistic ILaw Center			Signin
Ricolalphase Real	Dowloads Ginnary Tags		(it that it	q
Exceedingstate Getting Started Monacch and Allocatly Taps Horizet Interface Morizet Inter	WEEL Infine Resources / memo / Medical / more Core			
	Home Care			Daties
	Medicaid Personal Care or Home Attendant Services The Medicaid program in New York State overs a type of home care services called Personal Care services (aka PCS or "home attendant"). This is a service under hors's "State Medicaid Plan," which means the the consumer receives it under fee for service from	sat the rai	es described !	lere apply whether
	Medicaid Consumer Directed Personal Assistance Program (CDPAP) in New York State Big Changes Coming 2025) January 2025 ALERT - Transition to a "Single Fiscal intermediary" (FO starts now, requiring all consumers in CDPAP to transition from their current to the new single PI 1991;" by March 28 2025. See here for line CDMANYS, and PPL and links to press coverage and	is to infer	nation from S	IME DOHL
	NEW YORK INDEPENDENT ASSESSOR PROGRAM. (NYIAP) - How Medicaid Home Care Eligibility is Assessed IN THIS ARTICLE: What is the independent Assessor? Click here for the basics. Two Official Websites about NYIA When does NYIA Start? Contacts - Where to Submit Complaints, how to Request an Evidence Po NYIA CONSENT FORM - Where to	acket, mov	r to Submit a I	Yowei of Atlanney
	Applying for Medicaid Personal Care or CDPAP Services in New York City - 2021-2022 Changes May 16, 2022 Update - The new IV independent Assessor (IVIIA) starts being phased in. See into about that huge change in this article. Starting May 16, 2022 the MTIq is no longer required for people applyin NOT seeking MITC because they are exempt or excluded.	ng to HAA	for Medicald h	iome care who are
	Managed Long Term Care State Complaint Number for MUIC Problems - 1-866-707-7907 e-mail mititac@health.ru.gov and put "COMPLAINT" in subject line For enrollment complaints - call NY Redicald Choice - 1-405-886-6570 (Advoc Managed Long Term Care (MUTC)	etes line)	-888-401-656	2 (Consumers line)
	KNOW YOUR RIGHTS: Managed Long Term Care - Fact Sheets, Live and Recorded Webinars A. Fact Sheets on Managed Long Term Care B. Click here for WEBMARS on LONG TERM CARE A. Fact Sheets on Managed Long Term Care BASICS Basics on Managed Long Term Care (in process of being update Long Term Care News on MLTC - updated monthly	d - 2-3820) ser also Arti	cle on Managed
	Getting Help with Managed Long Term Care Here are organizations where you can seek help for problems with Medicaid Managed Long Term Care and Medicaid Advantage Plus. Also see these KNOW YOUR INDER'S Fact Sheets about MLIC and related to Consumer Assistance Network	topics \$1A	EWIDE ICAN -	independent
	Requesting a New or Increased Service from a Medicaid Managed Care or MLTC Members of Medicaid Managed Care plans, including Managed Long Term Care (MLTC) plans, have the right to request a NEW service that was not previously authorized ("prior authorization"), or an INCREAS Concurrent review"), such as more hours of personal care or	ë in a seri	vice they alrea	dy have

- Policy Updates
- Consumer Materials
- Expansive resources on coverage criteria and eligibility



Agenda

- NYC Medicaid Cases Closing if Renewals Not Returned 20,000 in first batch!
- 2. CDPAP Transition to PPL as Single "FI"
 - Status, advocacy, health insurance, what is driving this?
- 3. Recent & Upcoming MLTC Plan Mergers Alert re Transition Rights
- 4. NYS Fair Hearing Backlog- "PHD" process 2025
- 5. Federal Medicaid Defense
- 6. On the horizon
 - MECM Medicaid applications moving online!
 - Pending Home Care Restrictions passed in 2020 (Lookback, ADL Thresholds)
- 7. Reference: 2025 Medicaid limits and Where to get Help!

New York Legal Assistance Group

70

1. NYC: FIRST MEDICAID CASE CLOSING SFOR FAILURE TO RENEW IN 5 YEARS -- START MAY 2025



NYC HRA Medicaid Case Closings Restarted 20,000 Cases to Close in May 2025

- In April 2025, the COVID PAUSE on HRA closing Medicaid cases in NYC for failure to return the renewal packet ended.
 - Cases closings started earlier for Dept's of Social Services (DSS) outside NYC and for "MAGI" cases managed on NYSofHealth.
- 20,000 NYC HRA Medicaid beneficiaries who failed to return a renewal received a notice of intent to close Medicaid case in May - with fair hearing rights.
- This type of "procedural discontinuance" is known as "churning" because the Medicaid case closes even if consumer is financially eligible.
 - Churn costs consumers and DSS when coverage disrupted and forced to re-apply.
 - TIP: If submit renewal within 90 days of closing, case should be reopened without a new application. <u>GIS 24 MA/07</u> at p. 2 / <u>GIS 23 MA/03</u> at p. 7
- Medicaid renewal rates are much lower post-Covid pandemic.



72

If Medicaid closed because of renewal– MLTC & OTHER HOME CARE STOPS!

- STAKES ARE HIGH for returning Medicaid renewals.
- If Medicaid case closes
 - consumer is automatically disenrolled from MLTC plan without additional notice. Home care STOPS.
 - Home care **STOPS** for consumers receiving home care from HRA
 - Can't fill Rx (unless has Medicare), use Medicaid transportation, dentists, or other providers



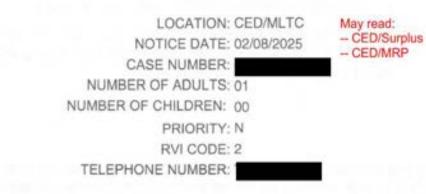
MAIL RENEWAL PROGRAM HRA/MEDICAL ASSISTANCE PROGRAM PO BOX 329060 BROOKLYN, NY 11232-9823



221122 00023 (1.17)

RENEWAL NOTIFICATION

Medicaid Managed Long Term Care



Dear Consumer:

It is time to renew your Medicaid/Managed Long-Term Care Medicare Savings Program (MSP/QMB). Renewal instructions are attached to help you. **Complete and sign** this form and include all required proofs (explained more below). Return your entire renewal form in the enclosed envelope, **including this page**. Renewal needs to get to HRA by this day TIP - If possible, send

You must return the completed form and proofs **before** 04/10/2025 or your at least 2 weeks before coverage may end. If your coverage ends, depending on the coverage that you have now, we will no longer provide you with health insurance coverage or pay your Medicare premium, deductible or co-pays.

Review the form carefully. If anything is wrong or has changed, you must write in the correct information. If it is correct, check the "No Change" box.



Best Practices to Submit Renewal NYC

- Two Alternate Methods of Submission best to submit 2 weeks before due date.
 - 1. <u>Mail Paper Renewal: Best to use bar-coded pre-paid envelope</u>. If client doesn't have that envelope mail to:

Mail Renewal Program HRA / Medical Assistance Program PO Box 329060 Brooklyn, NY 11232-9823 ** Do Not Mail to Any Other Address **

2. <u>Renew Using Access HRA:</u>

https://a069-access.nyc.gov/accesshra/

 Avoid hand-delivery to Medicaid Office – if submitted in this way, get date stamp receipt and keep for records.

If client lost renewal, she can download form if open account in <u>https://a069-access.nyc.gov/accesshra/</u>



Best Practice Mail Submission: Original + 2 Copies

<u>Original Grey</u> <u>Enevelope</u>

 Mail to HRA in self-addressed (grey) envelope provided by HRA

<u>Copy 1</u>

 Mail Return Receipt Requested to:

Mail Renewal Program HRA/Mail Renewal Program PO Box 329060 Brooklyn, NY 11232-9823

<u>Copy 2</u>

Keep one complete copy for your files.
Note the following:

(1) when and where
grey envelope was
mailed;

(2) when and where
Return Receipt
Requested copy was
mailed and copy of
receipt.



Submission via Access HRA

You can renew online using Access HRA:



https://a069-access.nyc.gov/accesshra/



Submitting Renewal Online via Access HRA

Two-Step Process

(1) Online via website:

- Answer questions about household, income, resources, expenses and health insurance information
- Review a summary of answers and edit as needed
- Electronically sign and submit your completed responses before providing needed documents
- Confirmation # provided with list of documents that need to be submitted by due date (save confirmation as a PDF).

(2) NYC Access HRA Mobile App for Document Submission

 Must submit requested documents by due date using the Access HRA Mobile App (only way to submit documents). If you do not complete Step 2, the renewal will not be processed.

Practice tip: keep screen shots of answers, PDF receipts/confirmation #, and list of uploaded Documents.



Late Renewal? Send it in!

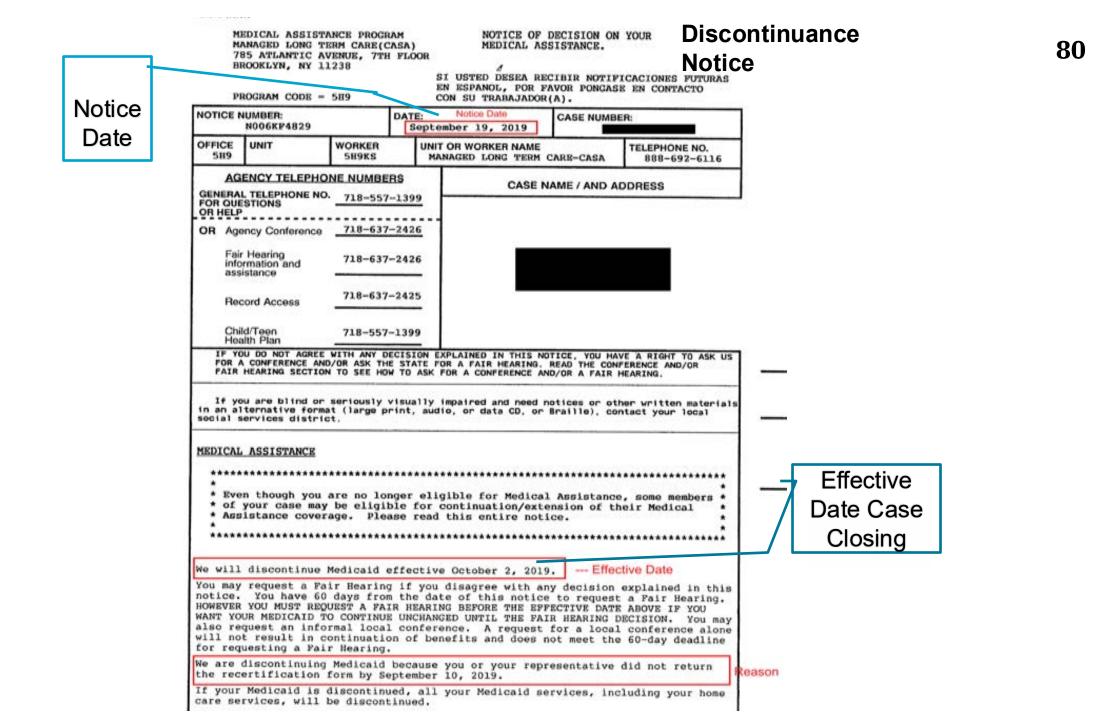
Statewide 90 day Grace Period – DSS/HRA will treat a complete renewal received within 90 days of the case closure to **reopen the case without a new application.**

If the individual returns the completed renewal to the district prior to case expiration or **within 90 days of the case closure for failure to recertify,** districts <u>may</u> use the returned renewal to reopen the closed case and process the renewal. If eligible, **coverage is authorized back to the effective date of discontinuance for the failure to renew**. Renewals processed within this 90-day timeframe qualify for waiver of the resource test, as described above in Waiver of Resource Test section.

<u>GIS 24 MA/07</u> at p. 2 / <u>GIS 23 MA/03</u> at p. 7

HRA 30-day grace period. When a case is closed for failure to recertify the client may submit the renewal within **30 days of the closing** and the case will be re-opened, if the client is eligible NYC Medicaid Alert, *Reapplication & Renewal Grace Period* – July 31, 2019)





Request Fair Hearing *Before* Effective Date of Reduction/Discontinuance

- NORMALLY -- fair hearing must be requested before effective date of the disco/reduction on the notice to access aid continuing. Just 10 days after mailed. (See previous slide)
 - What is Aid Continuing? OTDA orders HRA/DSS to keep Medicaid case open until fair hearing decision. This means you stay enrolled in MLTC!
- Until 12/31/25, you can request hearing *after* the effective date as long as within 60-days of notice date – and will get Aid Continuing (but messy to restore MLTC enrollment if already disenrolled). (E-14 COVID unwinding waiver)*
 - This Aid continuing is not subject to recoupment, even if Agency action is sustained.

*See GIS 24 MA/07 Continuation of Certain Easements & Other Processes After Expiration of Public Health Emergency Unwind Period <u>https://www.health.ny.gov/health_care/managed_care/complaints/fair_hearing_update.htm</u>

gal Assistance Group

Requesting a Fair Hearing

 Due to urgency of preventing the Medicaid case closure and OTDA's backlog in processing hearing requests we recommend that you:

Request hearing by telephone: (800) 342-3334

You will get the Fair Hearing # on the call and Aid To Continue order will be issued

- Other methods WARNING DELAYED PROCESSING:
 - By fax: (518) 473-6735 Fair Hearing Request Form
 - Online: <u>www.otda.state.ny.us/oah/forms.asp</u>
 - By mail to:

NYS Office of Temporary and Disability Assistance Office of Administrative Hearings P.O. Box 1930 Albany, New York 12201-2023



83

2. NY MEDICAID CDPAP TRANSITION TO PPL

- Status Litigation
- Should Consumer switch to traditional personal care?
- PPL Health Insurance for PAs
- Why is this Happening?



What is CDPAP?

- Alternate model for providing Medicaid home care services that started in 1980 in NYC by Concepts of Independence
- Founded by people with disabilities who wanted more control over their lives
- Consumer or a family member as their "designated representative" selects & hires aide, trains and schedules them.
- The person with disabilities hires, trains, schedules the aides
- MLTC Plan, managed care plan or local govt. Medicaid agency decides hours
- Fiscal intermediary or "FI" has contract with and is paid by MLTC/ managed care plan or local Medicaid agency/DSS to handle payroll, time sheets, EVV* & benefits.



***EVV** = Electronic Visit Verification – electronic timesheets

Transition to Statewide Fiscal Intermediary, Public Partnerships LLC (PPL)

- 2024 budget law required DOH to select ONE statewide fiscal intermediary to replace all the 600+ current Fl's.
 - DOH selected PPL as the Single FI.
 - All MLTC plans, other managed care plans and local Medicaid agencies (HRA NYC) signed contracts with PPL
- PPL only opened its phone lines on January 6, 2025.
- All 280,000 CDPAP consumers and ~400,000 PAs had to register with PPL and be fully onboarded by April 1, 2025.
- All current FI's except about 40 that have been selected as Facilitators – were to close on April 1, 2025 (although many also operate a traditional Licensed Home Care Services Agency that provides personal care services ("LHCSA")).



Engesser v. McDonald, 25 Civ. 1689 (EDNY)

- Mar. 26, 2025 NYLAG and pro bono firm Patterson Belknap filed a class action lawsuit on behalf of CDPAP consumers at risk of losing services through the State's rushed and tumultuous transition to PPL.
- Suit was filed when it became clear that DOH's insistence that registration was "on track" to meet the April 1st deadline was just wrong.
- Plaintiffs are individual CDPAP consumers and two non-profit organizations

 Brooklyn Center for the Independence of the Disabled and Regional
 Center for Independent Living (Rochester, NY).
- The claims are under the Medicaid Act and Constitutional Due Process, which require that Medicaid beneficiaries receive advance notice of termination of services with the right to appeal and to keep services pending a hearing decision.

Updates to the case can be found here: <u>https://nylag.org/engesser/</u> Also check out: <u>http://health.wnylc.com/health/news/97/</u>



Preliminary Injunction (PI) - April 10, 2025

- PI allows some CDPAP consumers to have their Personal Assistants paid by their FI rather than by PPL, until everyone completes registration with PPL.
- The PI sets new deadlines:
 - All consumers must be enrolled with PPL by May 15
 - All PAs must be fulling onboarded with PPL by June 6
- The PI expires on June 6 but may be extended by the Court; DOH will not oppose any request for a "reasonable extension" based on PPL's administrative capacity

NYLAG's FAQ on the Preliminary Injunction here: <u>https://nylag.org/wp-content/uploads/2025/04/2025-04-14-Preliminary-Injunction-summary-for-website.pdf</u>. NYS DOH guidance implementing PI dated 4/14/25 at https://www.health.ny.gov/health_care/medicaid/redesign/mrt90/cdpas.htm



PI Creates three Categories (A, B, C) of Consumers / PAs

- Category A Consumers who are fully registered with PPL and any of their PAs who are fully onboarded with PPL.
 - PAs in this category must be paid by PPL retro to April 1
- Category B Consumers who are fully registered with PPL, but PAs are not fully onboarded
- Category C - Consumers who are not fully registered with PPL
 - For both Category B & C Consumer may contact MCO/LDSS to return to Prior FI with certain requirements; if MCO cannot act consumer must be assisted via Expedited PPL Onboarding Mechanism
- Despite PI, Plans & LDSS have not been authorizing PAs to be paid by former FI in large #s.

Expedited Onboarding Mechanism

This process should help Consumers and PAs quickly complete their PPL registrations. The process may include:

- intensive outreach by the Department of Health,
- in-home visits by facilitators and/or managed care plans, and/or
- in-person meetings with PPL in community offices.
- MLTC and other managed care plans will have access to the PPL portal to assist consumers and PAs in registration.



How PAs submit Time Weekly

- Must submit weekly time each Saturday at midnight for the week ending at that time.
- PPL prefers PA submit time with
 - 1. PPL@Home portal (online or on cell phone)
 - 2. Time4Care app
 - 3. Telephony system use phone if lack internet

Instructions at https://pplfirst.com/cdpap-resources/

 Paper timesheets* originally allowed only if obtained "exception" from PPL. Because of litigation, PPL allowing these through May 17th. After that, unless extended, will need **exception**.**

<u>*https://pplfirst.com/wp-content/uploads/2025/04/NY-CDPAP-Paper-Timesheet.pdf</u> (fillable at <u>http://health.wnylc.com/health/download/890</u>).

**<u>NY CDPAP Paper Timesheet Exception Form NEW</u> is <u>here</u> (Fillable version <u>here</u>). All forms posted at <u>http://health.wnylc.com/health/news/97/#april%2026%20last%20day%20timesheets</u>



Authorizations – Barrier to Payment

- In order for the PA to log in time and get paid, the MLTC/ managed care plan or Local DSS must have sent a current "authorization" for services to PPL with the plan of care (hours authorized/week).
- A new "auth" is required every 12 months.
- Many plans and LDSS were late in sending auth's to PPL for April 1st
- PPL lacked systems to input the auth's on a mass basis, causing delays.
- HRA, Nassau, Suffolk other counties were behind on doing this year's authorizations. They did them so late that they already expire April 30th or May 31st, 2025. PPL will not pay PA if expired!



Two Lawsuits Filed April 2025 for PAs Not Paid at all, on time, or correctly

- Flanagan vs. PPL covers PAs upstate -- excludes NYC, Long Island, and Westchester.*
 - CONTACT: Emina Poricanin at emina@poricaninlaw.com
- Calderon vs. PPL covers PAs in NYC, Long Island, and Westchester. See <u>Complaint</u> and <u>news release about case</u>. Plaintiffs represented by <u>The Legal Aid Society Employment Law Unit</u> and *pro bono* firm <u>Katz Banks Kumin LLP</u>.
 - CONTACT: PA's with payment problems should complete this <u>survey</u> <u>http://legalaid.nyc/PA-Survey</u>.

See Home Health Care News <u>Caregivers Sue CDPAP's Fiscal Intermediary For Wage Theft</u> (April 27, 2025), NY Law Journal <u>Fiscal Intermediary Sued for Wage Theft</u> (April 25, 2025); WTEN ABC News10 Buffalo and Albany <u>CDPAP caregivers sue PPL, claiming weeks of underpayment</u> (Apr. 28, 2025):

Assistance Group

Many problems with payment!

- Countless problems are happening with payment, particularly with 24-hour cases and overnight shifts. See Calderon complaint* and extensive press for examples.*
- Consumer can only approve time in same device used by PA difficult if multiple PAs.
- PPL Call centers deluged, long wait times, lack of language capacity, don't call back, poor training.
- Weekly survey by Caring Majority & CDPAANYS reveals huge problems. Next slide

<u>*https://legalaidnyc.org/wp-content/uploads/2025/04/1-Complaint.pdf</u>



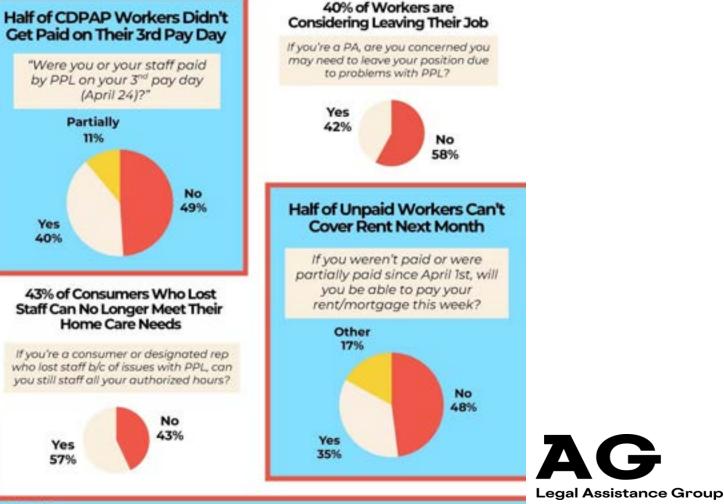
93

htttp://health.wnylc.com/health/news/97/#Latest%20press

Survey Results

A Deepening Crisis: Half of Unpaid CDPAP Workers Face Eviction Next Week

On PPL's third week of operations, a Caring Majority Rising survey finds that half of CDPAP workers still aren't getting paychecks - and nearly half of them won't be able to pay rent this month. Without immediate intervention from state leadership, hundreds of thousands of caregivers face a triple threat: being forced into homelessness while losing their health insurance and the wages they depend on to live.



Caring Majority Rising Survey April 25-28, 2025

https://tinyurl.com/PASur veyWeek3

Methodology

CARING

MAJORITY RISING

Caring Majority Rising conducted an online survey of CDPAP consumers and workers from April 25-28, 2025. 492 respondents replied to the survey. 77% were Personal Assistants and 22% were consumers and designated

Where to Get Help - do ALL of these!

- PPL 1-833-247-5346*
 Payment issues <u>CDPAP.payroll@pplfirst.com</u>
 PPL TIMESHEETS <u>NYCDPAP_TS@pplfirst.com</u>
 PPL HR: 1-833-746-8283 or <u>NYPPLHR@pplfirst.com</u>
- NYS DOH CDPAP Transition hotline at 833-947-8666
 weekdays 9am to 5pm or email <u>StatewideFI@health.ny.gov</u>
- Personal Assistants not paid correctly ALSO contact:
 - NYS Department of Labor at 888-469-7365. See https://doi.ny.gov/unpaidwithheld-wages-and-wage-supplements
 - In NYC, Long island & Westchester -- PA's with payment problems should also complete this <u>survey</u> <u>http://legalaid.nyc/PA-Survey</u>.. (Legal Aid Society lawsuit)
 - Upstate PAs Emina Poricanin at <u>emina@poricaninlaw.com</u>
- Consumers report problems to NYLAG Engesser hotline at 212-946-0359 or <u>CDPAPlawsuit@nylag.org</u>. Limited staffing capacity. Common concerns reported to Department of Health, and triaging emergency situations.

*PPL language lines other than English at https://pplfirst.com/programs/new-york/ny-consumer-directedpersonal-assistance-program-cdpap/



Should Consumer Switch from CDPAP to Traditional Personal Care? 6 factors

About **60,000** of 280,000 CDPAP consumers have switched from CDPAP to "personal care," provided by a traditional home care agency (LHCSA). Many FI's are operated by a company that also operates a LHCSA.

SIX FACTORS TO CONSIDER:

 Family relationship - Is PA consumer's child? Or daughter- or son-in-law? Or consumer's parent? If so – that family member MAY not be the aide in traditional home care.

Other family members are OK (sibling, cousin, aunt, niece) but may only reside with consumer if presence needed because of amount of care required

- 2. Does consumer need aide to perform "skilled tasks?" If so, traditional aide *may not* perform these tasks you must arrange for a nurse, or family or friends to do them informally.
 - PCA may not administer meds -- put pill in consumer's mouth, inject insulin, suction, tube feeding, but may bring pre-poured med to consumer, use hoyer lift.

-- Continued next slide --



Should Consumer Switch from CDPAP to Traditional Personal Care? Con'd

FACTORS TO CONSIDER before switching to regular Personal Care:

97

- 4. Aide will now be **employee of the LHCSA** which might assign aide to another consumer! Or change hours. Consumer no longer in control.
- 5. Aide must go through 2 weeks training to be certified for personal care.
- 6. Network Is the LHCSA in the plan's or county's provider network?

See

http://health.wnylc.com/health/news/97/#switch%20CDPAP%20to%20PCA https://www.health.ny.gov/health_care/medicaid/program/longterm/cdpap/doc s/cdpap_vs_pcs_factsheet.pdf; New York Legal Assistance Group

2A. CDPAP PPL HEALTH INSURANCE



Access to health care WORSE not BETTER with PPL

90

NYLA

Legal Assistance Group

New York

- <u>DOH said in its FAQ</u> and elsewhere that PAs will be better off because PPL provides health insurance, while many former FIs did not.
- **NOT TRUE.** Some FIs DID offer good insurance.
- Most PAs have low income so are eligible for NYS Essential Plan* - State subsidized comprehensive insurance.
 \$0 premium - \$0 deductible – low copay.
 Income up to 250% Federal Poverty Line (\$39,125 single/ \$52,875 two)(higher)

than Medicaid – 138% FPL).

 Those with higher incomes can get premium subsidies for ACA Qualified Health Plans.

*https://info.nystateofhealth.ny.gov/EssentialPlan

PPL Health Insurance for PAs -

PPL offers two (terrible) health insurance plans. Which plans are available to a PA depends on:

- LOCATION is consumer in "Wage Parity" area (NYC, Long Island, & Westchester) or upstate?
- Is PA "part-time" or "full-time" defined as 130 hours/month or more (30 hours/week+).

DOH FAQ on PPL Health Insurance (4/25/25)*

PPL info at https://pplfirst.com/cdpap-resources/ (click on *Benefits & HR*)

<u>*https://www.health.ny.gov/health_care/medicaid/program/longterm/cdpap/docs/sfiworker_insurance_faq.pdf</u>

Legal Assistance Group

PPL Health Insurance for PAs	
NYC, Long Island, Westchester	Rest of State
 Anthem BasicWellness plan + Flexcard - All PA's part-time and full- time will be auto-enrolled in this plan. Preventative services only No medical treatment No premium - but wage cut \$0.87/hour in NYC, \$1.03 in Westchester/ Long Isl. (= \$150 - \$175/mo @ 40 hours/week) No opt-out unless PA has Medicare 	 BasicWellness plan not offered. No insurance offered for part-time workers under 130 hours/ month. They are better off – can get NYS Essential Plan, Premium subsidies for ACA qualified health plans, keep other coverage through spouse, retiree plan.
 Anthem SecureHealth high-deductible plan – PAs statewide who work 130 hours or more in a month (30 hours/wk) offered OPTION to enroll in this plan. (Downstate this is an option instead of the BasicWellness plan). \$212/mo premium (single) \$692 - family 	
 \$6,350 deductible (single) (\$22,700 for a family) 	
 Simply being offered this plan, even if don't enroll, disqualifies PA from Essential Plan, premium subsidies for ACA qualified health plans. 	
 DOH FAQ gives false hope that could be eligible – but not eligible. 	



Full-Time PAs Statewide

Coordinating Anthem SecureHealth plan with other coverage

- While enrollment in the SecureHealth high-deductible plan is optional for PAs working 130 hours/mo. or more, PA's other insurance might require them to enroll. This depends on "coordination of benefits" (COB) rules that vary between plans.
 - As of May 7th, PPL has still not released its full policy with COB rules.

If worker has:

- **MEDICAID** PA should NOT be required to enroll in this plan. Should be able to stay in Medicaid managed care plan. See next slide.
- Coverage from Spouse's employer or PAs' own retiree plan Some plans might require the PA to enroll in and use PPL insurance as their primary coverage, and use spouse's or their own retiree insurance as secondary. Depends on COB rules in policy.
- PA has another job with good insurance Some COB rules say the insurance PA has had for a longer time is primary.
- Medicare PA can simply opt not to enroll and keep Medicare as primary. See below about Medicare and the second PPL plan.

Full-Time PAs Statewide (130+/mo)

Anthem SecureHealth plan and Medicaid

- Most PAs working 130 hours/month or more have income too high for Medicaid unless they have dependents.
- Medicaid usually requires you to enroll in employer coverage and use that as primary coverage – but not if you must pay a premium.
- <u>DOH PPL FAQ</u> says if it is cost-effective for the State, Medicaid will pay the \$212/mo. PPL premium and that if not cost-effective, you'll stay in Medicaid managed care plan (FAQ p. 2 Q3).
- FAQ fails to mention that per DOH guidance it is NEVER cost-effective for Medicaid to pay the premium for a high-deductible plan.*
- So PA's with Medicaid should never be required to enroll in the SecureHealth plan; PA can remain in Medicaid managed care plan.

*18 NYCRR 360-3.2(h), GIS 15 MA/014: Health Insurance Premium Payment (HIPP) Program Changes



2nd PPL Health Plan – Downstate Only More on Anthem BasicWellness plan

- PPL will not allow PAs to opt out of this plan EXCEPT for those who have Medicare.
 - Medicare beneficiaries who want to opt out <u>must complete and</u> <u>submit this form</u>* with a copy of the Medicare card. May upload to PPL portal.
- DOH FAQ says PA in this plan is still eligible for Essential Plan or premium subsidies for Qualified Health Plans (p. 2 Q1)
- If PA has other insurance through spouse, retirement or other job, "coordination of benefits" rules dictate which plan is primary.
 - Some plans have agreed to remain primary because this is just a wellness plan not real health insurance. Worth a try to point this out.





Upstate Part-Time PAs (< 130 hours/month)

No health insurance offered.

- PAs are better off may qualify for low-cost:
 - NYS Essential Plan or
 - Premium subsidies for Qualified Health Plans thru ACA.
 - Medicaid,
 - Or keep other coverage through spouse, retirement, or other job without worrying about coordination of benefits
- These PAs should contact 1-855-355-5777 or visit https://nystateofhealth.ny.gov



More info & press on PPL Health Care

Fiscal Policy Institute - <u>How the CDPAP Transition Could Leave</u> <u>Thousands of Home Care Workers Uninsured</u> (Michael Kinnucan 3/17/25)

New School Center for NYC Affairs <u>Why Is the State Jeopardizing Health</u> <u>Insurance for Home Care Workers?</u> by Barbara Caress (4/23/25)

Queens Daily Eagle <u>PPL's Health Insurance is a Raw Deal for Workers --</u> <u>The State Must Change That</u> (Op Ed by Rebecca Antar, The Legal Aid Society and Michael Kinnucan, Fiscal Policy Institute)(4/29/25)

NY Focus <u>Fraudster-Linked Company Set to Begin Massive</u> Insurance Contract for Home Health Workers (3/20/25)

More here http://health.wnylc.com/health/news/97/#WAGES%20+%20BENEFITS

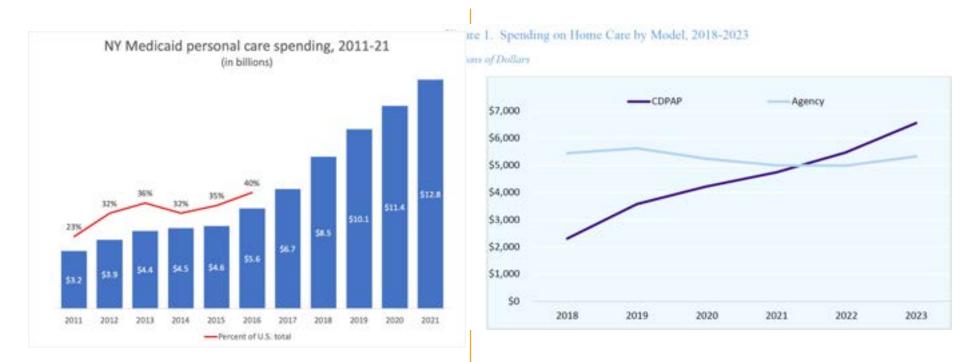


2B. PPL SINGLE FI TRANSITION – WHY IS THIS HAPPENING?

Why did Governor push for this change in the 2024 State Budget?



Why? CDPAP has grown a lot since 2019 State says will save \$.5 – 1 billion



NY was concerned about fraud within CDPAP, though no significant fraud found by investigative agencies

Sources: Empire Center; Fiscal Policy Institute

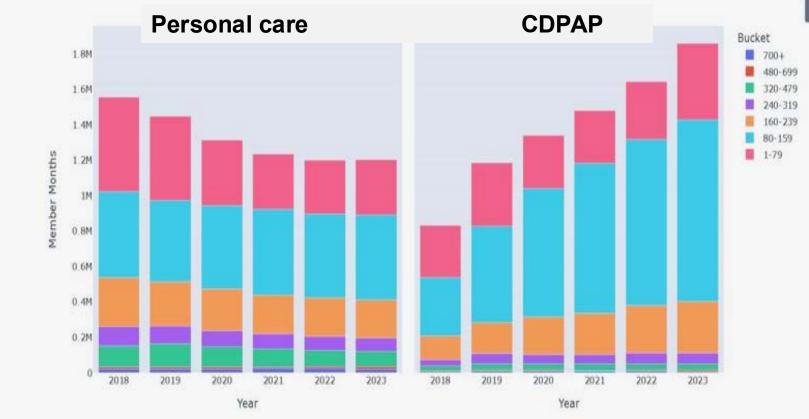


But Reason for CDPAP Growth not from Fraud!

- WORKER SHORTAGE worsened during COVID forcing consumers to switch to CDPAP from traditional home care.
- CDPAP is a scapegoat for growth in MLTC enrollment due to INCENTIVES in MLTC MODEL – paid a flat monthly premium for all consumers, plans have incentive to recruit *more* consumers who need *low* hours.
 - Plans reward Fl's and other contractors when they recruit more members with low hours
 - Plans earn profits by denying *increases* in hours of home care to those who need it. See next slide.
- NY allowed any FI to operate no requirements to be non-profit, rooted in disability community. Now threw out baby with bathwater.
- DOH claims fraud but without any evidence



CDPAP growth all in low-hour cases (pink and blue) – Fl's rewarded by plans for bringing in these consumers.



Pink + blue bars (under 159 hours/mo.) grew from 76% to 95% of all CDPAP members from 2018 to 2023.

Data from Fiscal Policy Institute, based on Managed Care Cost & Operating Reports (MCCOR) filed by plans with State Dept. of Health. 2023 data is extrapolated from data for the 1st half of 2023.



3. MANY MLTC PLANS CLOSED IN 2024 AND MORE IN 2025 – WHAT ARE CONSUMER TRANSITION RIGHTS?



MLTC Plan Closures 2024-25

- Elevance, formerly known as Anthem, is buying Centers Plan for Healthy Living – merging 2 largest MLTC plans. (sale still pending)
 - Will have 114,000 members more than one-third of all MLTC enrollees in partial cap plans
 - Earlier Elevance/Anthem had acquired Integra.
 - Affects NYC, Long Island, Westchester, Rockland, Erie, Niagara
- In 2024, 5 small upstate plans closed due to 2023 state law requiring all MLTC plans to close unless they sponsor a Medicare Advantage D-SNP plan with 3 stars.
 - VNS Choice acquired 4 upstate plans in 2024-- Kalos, Elderwood, Prime Health Choice, & Senior Network Health (SNH). Total about 3,000 MLTC members.
 - Elderplan/HomeFirst acquired Evercare Choice (700 members)
- June 1, 2024 Archcare acquired by VillageCareMax MLTC.

* Article on plan closings with more info at http://health.wnylc.com/health/entry/217/



MLTC Policy 17.02:* Details Consumer Rights When a Plan Closes or Merges

Notice Procedure

- Members of the closing plan will receive a notice from NY Medicaid Choice providing 60 days for the member to select a new plan or be auto-assigned to a new plan.
- Tip: Clients should take their time and wait until the end of the selection period. This will make it clearer that the transfer was involuntary, not voluntary. NO transition rights for voluntary switches.
- Transition rights
 - The new MLTC plan must continue the enrollee's existing plan of care, and utilize existing providers, for the earlier of the following: (i) one hundred twenty (120) days after enrollment; or (ii) until the new plan has conducted an assessment and the enrollee has agreed to the new plan of care.

*https://www.health.ny.gov/health_care/medicaid/redesign/mrt90/mltc_policy/17-02.htm; NYLAG Fact Sheet & article on Transition Rights at <u>http://health.wnylc.com/health/entry/232/</u> and htp://www.wnylc.com/health/download/797/

What happens after Transition Period?

- Before Nov. 8, 2021, MLTC plan could reduce hours only for limited reasons in. <u>MLTC Policy 16.06</u>, which is based on *Mayer v. Wing*, 922 F. Supp. 902 (S.D.N.Y. 1996). Reasons are:
 - 1. Medical condition improved, reducing need for assistance
 - 2. Social circumstances changed (ex. daughter moved in)
 - 3. Mistake made in original authorization (very limited ground)
- **BEWARE**: Nov. 8, 2021 -change in State regulation allows plans to reduce hours *after transition period* if plan claims that HRA/DSS or previous plan "authorized more services than are medically necessary," without proving any *change*. Plan notice may simply:
 - indicates a clinical rationale that shows review of the client's specific clinical data and medical condition**
- The new regulation only applies after a Transition Period ends. MLTC Policy 16.06* still restricts other MLTC reductions otherwise.
- Plan must still send written adverse notice of the reduction with appeal and Aid Continuing rights.
 First request plan appeal, and if denied, request fair hearing.



4. NYS FAIR HEARING BACKLOG

Pre-Hearing Dispositions (PHD)



Long-delayed Fair Hearings → new

Pre-Hearing Disposition (PHD) Process

- NYS has > 10,000 hearings pending past 90-day deadline in federal regulations most of all states. State reached agreement with CMS to address backlog that goes through 12/31/2025.
- DOH requiring plans* to authorize home care in amount requested in the hearing through a PHD. This is for hearings that are:
 - Over 1 year old
 - Have Just one issue
 - Appellant has aid continuing or <u>Varshavsky interim relief</u> (including home hearings)(<u>http://health.wnylc.com/health/entry/228/</u>)
 - Involve discontinuances, reductions, or inadequacy (ie not approval of medical equipment or a new service)
- Plan must issue a new Service Authorization to member.
- OTDA issues PHD hearing is resolved fully in appellant's favor (sample PHD <u>http://health.wnylc.com/health/download/884/</u>).
- If plan wants to reduce hours in the future, must comply with DOH MLTC Policy 16.06** only if improvement in condition or other change

* MLTC Policy 25.01 and a February 4, 2025 Letter to Managed Care Plans.

<u>**MLTC Policy 16.06:</u> Guidance on Notices Proposing to Reduce or Discontinue Personal Care Services or Consumer Directed Personal Assistance Services. See article on PHDs with all links at <u>http://health.wnylc.com/health/entry/254/</u>.



5. FEDERAL MEDICAID DEFENSE



Federal Budget Reconciliation Process

- Expedited budget process available to Congress in specific circumstances
- In Senate, reconciliation bills are not subject to the filibuster and scope of amendments is limited*
- Currently, the Administration and Congress seeking to extend 2017 tax cuts and potentially enact new tax breaks and increase spending on military and border security
- Congress passed a budget resolution directs the House Energy and Commerce Committee to identify \$880 billion in spending reductions
- Medicaid and SNAP are at risk of cuts. Fed Medicaid cuts would force States to cut eligibility, services and/or reduce payments. Millions could lose coverage.
- Committee Mark Up expected the week of May 12; Speaker Johnson aims to have the full house vote before Memorial Day

*Explainer: <u>https://www.cbpp.org/research/introduction-to-budget-reconciliation</u>



Medicaid is Vital to New Yorkers & our economy!

- Nearly 7 million New Yorkers are enrolled in Medicaid!
- In New York, it provides insurance for four in nine children and covers nearly 50 percent of all births, allowing mothers to deliver safely and children to have a healthy start to life.
- Medicaid is the main payor for long term supports and services in the community and for nursing homes.
- Check out NY Medicaid Matters materials: <u>https://medicaidmattersny.org/federal-issues/</u> including fact sheets which highlight the importance of Medicaid for each congressional district in New York.

Legal Assistance Group

New York

6. ON THE HORIZON

a. Medicaid Eligibility and Client Management (MECM) System – Applications moving online
b. MRT-2 Cuts Could be Implemented:

- Three ADL Thresholds for MLTC, Personal Care, CDPAP
- 30-Month Lookback



Medicaid Eligibility and Client Management (MECM) System – Applications moving online!

- Multi-year plan to move non-MAGI applications and eligibility from local DSS (WMS system) to NYS of Health exchange (NYSOH).
- NYS DOH contracted with Deloitte to develop MECM.
- 2.4 million Medicaid cases managed by LDSS: people 65+ or disabled with Medicare, MSP, SSI recipients
- Stage 1 of MECM: ~ Sept. 30, 2025 live on NYSOH
 - Applications for non-MAGI Medicaid without a spend down or long term supports and services (NOT those seeking home care or using a pooled trust)
 - Applications for MSP
- Updated technology with more administrative / ex parte renewals.
- <u>https://www.health.ny.gov/health_care/medicaid/program/medicaid_modernization/</u> has timelines, more info

MRT-2 Cuts Enacted in 2020

30-Month Lookback & 3-ADL Thresholds

- The 2020 NYS budget enacted two cuts that have been on hold ever since:
 - 30-month Lookback for home care, ALP
 - 3-ADL Thresholds for MLTC, personal care & CDPAP
- NYS is not allowed to implement them until CMS approves how NYS spent billions in COVID ARPA funding. As of May 6, 2025, still not approved.*
- Known as Medicaid Redesign Team-2 or MRT-2.

Check here to see status <u>https://www.medicaid.gov/medicaid/home-community-based-services/guidance-additional-resources/arp-section-9817-state-spending-plans-and-narratives-and-cms-approval-letters</u>



122

3 ADL Minimum Requirement for MLTC, PCA, CDPAP

Summary:	Restricts eligibility for PCS & CDPAP and MLTC enrollment to persons requiring <i>limited assistance</i> with a minimum 3 ADLs (<i>cueing</i> assistance with 2 ADLS if have dementia, Alzheimer's);			
	Eliminates "housekeeping" – max 8 hours/week if independent with ADLs but need help with chores			
Authority:	Enacted in the 2020-2021 Executive Budget, amending New York SSL § 365-a and 365-f; PHL § 4403-f			
Procedural Posture:	CMS determined a State Plan Amendment (SPA) wasn't necessary; 1115 Waiver Amendment "closed out" 10/31/2024. No more CMS approvals necessary.			
Timeline for Implementation:	If not repealed or stopped, implementation is anytime after CMS approves ARPA spending. DOH reported that ARPA funds were spent by 6/30/24, but CMS must "close out" or approve spending. See slide 54.			
Waiver amendment request - https://www.medicaid.gov/medicaid/section-1115-				
demonstrations/downloads/ny-medicaid-rdsgn-team-pa7.pdf; view comments at				
nttps://1115publiccomments.medicaid.gov/jfe/form/SV_1YbhGzdijrBxCId (Summary of responses) ⁹⁴				



123

3 ADL Requirement

ADL counts only if need "Limited Assistance with "Physical Maneuvering"

Unless dementia or Alzheimer's diagnosis, ADL counts toward the minimum only if needs "at least limited assistance with physical maneuvering."

The UAS (CHA) instructions define seven degrees of assistance:

- 1. Independent
- 2. Independent, setup help only Article or device placed within reach, no physical assistance or supervision in any episode.
- 3. Supervision Oversight/cuing. Will Not Count unless has Dementia diagnosis
- Limited assistance Guided maneuvering of limbs, physical guidance without taking weight. This is minimum amount of need to count. Should include "Contact guarding" (hovering).
- 5. Extensive assistance Weight-bearing support (including lifting limbs) by one helper where person still performs 50% or more of subtasks.
- 6. Maximal assistance Weight-bearing support (including lifting limbs) by two or more helpers; or, weight-bearing support for more than 50% of subtasks.
- 7. Total dependence Full performance by others during all episodes.

Even now, NYIA nurses say "independent" with ADLs when really needs supervision or limited assistance. Must point out needs in assessment!



30-Month Lookback for Home Care, ALP

Summary:	30-month review of financials for MLTC enrollment, new applicants for PCS/CDPAP, ALP; uncompensated transfer results in a transfer penalty
Authority:	Enacted in the 2020-2021 Executive Budget, amending New York SSL § 366(5)(e)
Procedural Posture:	Sec. 1115 Waiver Amendment pending at CMS since 3/25/21*; NYSDOH has not yet submitted a State Plan Amendment (SPA) to CMS or issued GIS/ADM
Timeline of Implementation:	Even if CMS approves ARPA expenditures soon (slide 54), still unlikely to start before 2026 because state must submit SPA to CMS and get it approved, still awaiting CMS approval 1115 waiver amendment,* then develop and issue regulations/guidance for Local DSS to implement this big change.

*https://www.health.ny.gov/health_care/medicaid/redesign/mrt2/proposals/index.htm; https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/ny-medicaid-rdsgn-team-pa9.pdf



7. REFERENCES – 2025 MEDICAID LIMITS & WHERE TO GET HELP



REFERENCE: 2025 Financial Limits for Medicaid and Medicare Savings Program

• Non-MAGI Medicaid

	Household Size of 1	Household Size of 2
Income	\$ 1,800.00	\$ 2,433.00
Resources	\$ 32,396	\$ 43,781

• Medicare Savings Program (MSP):

	FPL	Household Size of 1	Household Size of 2
Qualified Medicare Beneficiary (QMB)	<= 138%	\$ 1,800.00	\$ 2,433.00
Qualified Individual (Q1)	138% - <= 186%	\$ 2,426.00	\$ 3,279.00

****Does not include \$20 unearned income disregard.**



Medicaid / MSP Limits 2025

- GIS 25 MA/03 2025 Federal Poverty Levels
 - All new and pending applications, income must be compared to the 2025 FPLs.
 - All redeterminations effective 1/1/2025 or later, must be retroactive to 1/1/2025 based on 2025 FPLs.
 - No Mass Re-Budgeting will be done

https://www.health.ny.gov/health_care/medicaid/publication s/docs/gis/25ma03.pdf

https://www.health.ny.gov/health_care/medicaid/publication s/docs/gis/25ma03_att1.pdf



128

Complaints to NYS Dept. of Health (DOH)

- State Complaint Number for MLTC Problems 1-866-712-7197 or <u>mltctac@health.ny.gov</u>
- Complaints about Independent Assessor NYIAP
 E-mail Independent.assessor@health.ny.gov
- Mainstream managed care plan complaints <u>managedcarecomplaint@health.ny.gov</u>
- CDPAP PPL complaints see next slide



CDPAP - Where to Get Help

- PPL 1-833-247-5346*
 Payment issues <u>CDPAP.payroll@pplfirst.com</u>
 PPL TIMESHEETS <u>NYCDPAP_TS@pplfirst.com</u>
 PPL HR: 1-833-746-8283 or <u>NYPPLHR@pplfirst.com</u>
- NYS DOH CDPAP Transition hotline at 833-947-8666
 weekdays 9am to 5pm or email <u>StatewideFI@health.ny.gov</u>
- Personal Assistants not paid correctly ALSO contact:
 - NYS Department of Labor at 888-469-7365. See https://doi.ny.gov/unpaidwithheld-wages-and-wage-supplements
 - In NYC, Long island & Westchester -- PA's with payment problems should also complete this <u>survey</u> <u>http://legalaid.nyc/PA-Survey</u>.. (Legal Aid Society lawsuit)
 - Upstate PAs Emina Poricanin at <u>emina@poricaninlaw.com</u>
- Consumers report problems to NYLAG Engesser hotline at 212-946-0359 or <u>CDPAPlawsuit@nylag.org</u>. Limited staffing capacity. Common concerns reported to Department of Health, and triaging emergency situations.

*PPL language lines other than English at https://pplfirst.com/programs/new-york/ny-consumer-directedpersonal-assistance-program-cdpap/



Keep in Touch – and Please Donate!

Join our newsletter: https://go.nylag.org/Subscribe-to-EFLRP





eflrp@nylag.org

Monday intake hotline from 10am-2pm-212-613-7310

Do not delay in requesting the fair hearing!

Please Donate to support EFLRP! <u>https://nylag.org/?form=EFLRP</u>



Other Legal Services

www.Lawhelpny.org



131

THANK YOU

More information at nylag.org





II ELDER LAW FEEDBACK?

30th Annual



PACE: IS "ALL INCLUSIVE CARE" A MODEL FOR THE FUTURE?



Moderator: Louis

Pierro

Founding Partner,

Pierro, Connor & Strauss



Michelle Mazzacco Executive Vice President, Continuing Care Network, St. Peter's Health Partners Michael Flaherty Executive Director, Eddy SeniorCare PACE, St. Peter's Health Partners Linda Spokane President and Program Director, PACE at Hudson Headwaters

Valerie Osborn Director, DSNP Strategy & Government Programs, MVP Health Care



Becky Preve Executive Director, Association on Aging in New York







Michelle Mazzacco

Executive Vice President, Continuing Care Network, St. Peter's Health Partners

Michelle Mazzacco

Executive Director, Eddy SeniorCare PACE, St. Peter's Health Partners



PACE

Program of All-Inclusive Care for the Elderly

EDDY SENIORCARE LIVING AT HOME.

YOUR GOAL, OUR PRIORITY





PACE – The Best Kept Secret!





ALTH PARTNERS

Eligibility

- At least 55 years young
- Reside is the zip code area covered by PACE center
- Eligible for nursing home level of care per NYS DOH assessment \bullet
- Able to live safely in the community at the time of enrollment **NOTE:** Although 100% qualify for nursing home care, 94% live in the community!



'S HEALTH

ty Health

The Average PACE Participant

The average PACE participant is **76 years old** and has **multiple, complex medical conditions, cognitive** and/or functional impairments, and significant health and long-term care needs.





A Member of Trinity Health

\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$ S PACE PARTICIPANTS^{IV} \$ C Are dually eligible for Medicaid and Medicare \$ \$ ſ J **Don't automatically** Are Medicaid-only rule it out if you S r don't have Medicaid \$ coverage yet!!! \$ Pay a premium (Medicare-only and other) C J S r

\$\$\$\$\$\$\$\$\$\$\$\$

's Health S

ty Health

What is PACE? Program of All-Inclusive Care for the Elderly



PACE is a unique model of care:

• **Provider** of a care, support and services



• Insurer (Medicare & Medicaid)



Program of All-Inclusive Care for the Elderly:

Long Term Care Program providing comprehensive medical and social services to frail, elderly people (participants) and delaying or preventing unnecessary nursing home placement

A unique "under-one-roof" model that includes a day center, primary care center, home health, medical equipment, medications, medical supplies, nursing, case management, PT/OT/SLP rehab, outpatient rehab clinic, dietitians/meals/food, social work, transportation and medical specialty services (including behavioral health).

A program providing all of the services that a nursing home would provide (plus more), while enabling the participant to remain in the community



Integrated, Comprehensive Care...a More Efficient Use of Health Care Resources

- Primary Care
- Nursing
- Social Work
- Transportation
- Rehab Therapy
- Recreational Therapy
- Nutrition
- Day Center/Activities
- Home health care
 CDPAS
- Case Management
- On Call 24/7/365

- Personal care
- Medications
- Audiology/Hearing Aids
- Dentistry/Dentures
- Optometry/Glasses
- Podiatry
- Behavioral Health
- Medical Specialists
- Tests, x-rays, etc.
- ER, Hospital, Rehab, Respite, LTC

Coordinates/follows/pays for participant care across all settings: ER, Hospital, Inpatient Rehab, Specialists, Respite, Long Term Care



Being with PACE = Better Outcomes!

- ✓ Reduced hospital admissions: 24% lower than other dually eligible beneficiaries who receive Medicaid NH care
- Better preventative care: vision, hearing, flu shots and pneumococcal vaccines, and more!
- ✓ High participant satisfaction: 4.1 out of 5 stars
- ✓ Less likely to suffer depression: 80% who were depressed on enrollment no longer at 9 months
- ✓ Better access to care including medical specialists



Caregiver Satisfaction – Off the Charts!

• There is high caregiver satisfaction. Results from the I-SAT survey, which is a collaboration between Vital Research and CalPACE, indicates that over the last three years, over 95% of family/caregivers are willing to recommend their PACE program to others who could benefit from this service.[∞]





PACE is Designed to Support Caregivers!

- Care Coordination!
- Goals of care conversations/advance directives
- Transportation
- Care in the home (home health aides, CDPAS, PT/OT, nursing, social work, RD and more!)
- Less errands medications, medical supplies, medical equipment – all delivered to your door!
- Less financial worry get away from copays and worrying about who is covering what one plan, no cost for covered services other than Medicaid spenddown if applicable.

• AND MORE!



Our Expertise is Managing Chronic Illness

- Heart Failure
- Cardiopulmonary Disease (COPD)
- Diabetes
- Chronic Kidney Disease
- Etc.

20

PACE is designed to "ramp up" services gradually as chronic illnesses progress, to slow the progression, manage symptoms and treatment burden, know the patient's goals and wishes, maximize independence and quality of life.

> Eddy SeniorCare ST PETER'S HEALTH PARTNERS

PACE in New York State

There are 185 PACE organizations operating in 33 states and the District of Columbia. More than 300 PACE centers serve over 83,000 participants across the country.

NY	ArchCare Senior Life	H4393	New York	11/1/2009	837
	Catholic Health LIFE	H1518	Buffalo	11/1/2009	246
	CenterLight Healthcare	H3329	Bronx	2/1/1992	6643
	Complete SeniorCare	H8777	Niagara Falls	9/1/2011	136
	Eddy SeniorCare (Trinity)	H3322	Schenectady	10/1/1996	435
	ElderONE	H3331	Rochester	5/1/1992	761
	Fallon Health Weinberg-PACE	H6596	Amherst	3/1/2016	215
	PACE at Hudson Headwaters	H2397	Glen Falls	2/1/2025	0
	PACE CNY	H3321	North Syracuse	12/1/1997	624
	Total Senior Care, Inc.	H8800	Olean	2/1/2009	113



Key Differences

- Coordinating all care, seeing the entire schedule of services (doctors, home health, day center, etc.)
- Assessing needs and approving (speed of process, focus on prevention and overall outcomes/total cost of care, ability to cover services/products not traditionally covered, more control of timely delivery)
- We are in participant homes; the "full picture"
- PACE physicians see 5-6 participants a day, same day visits are the norm
- Care Team is together under one roof, communicating with each other daily; the Interdisciplinary Team receives updates daily at min.
- Low Staff Turnover (continuity of care)



Challenges

- Best kept secret
- OTC Cards
- Enrollment is a "big decision"—changing primary care provider, insurer, possibly specialists all at one time



Two Eddy SeniorCare PACE Centers

Rotterdam
 Since 1996



1938 Curry Road Rotterdam Former "Malozzis"

LathamSince 2020



385 Watervliet Shaker Rd Latham Former St. Joseph Provincial House



THANK YOU! Email us for a Tour or with Questions

Michael Flaherty, Executive Director, Eddy SeniorCare michael.flaherty@sphp.com

Michelle Mazzacco, Executive Vice President, Continuing Care Network, St. Peter's Health Partners Michelle.Mazzacco@sphp.com





Linda Spokane

President and Program Director, PACE at Hudson Headwaters





PACE: Is "All-Inclusive" A Model of the Future?

Linda Spokane President & Program Director PACE at Hudson Headwaters

SENIOR CARE BUILT AROUND YOU

154

Hudson Headwaters Health Network

System of 25 community health centers providing care across 7,900 square miles and seven counties:

- Clinton
- Saratoga
- Essex
- Franklin
- WarrenWashington
- Hamilton

Hudson Headwaters is the **sole provider** in much of this rural, medically underserved region. In the Glens Falls area, we are the primary care "safety net" provider.

In 2024:

- 116,455 unique patients seen
- Employ a total staff of 1,000+ including 80+ physicians, 125+ advanced practice clinicians and 295 nurses



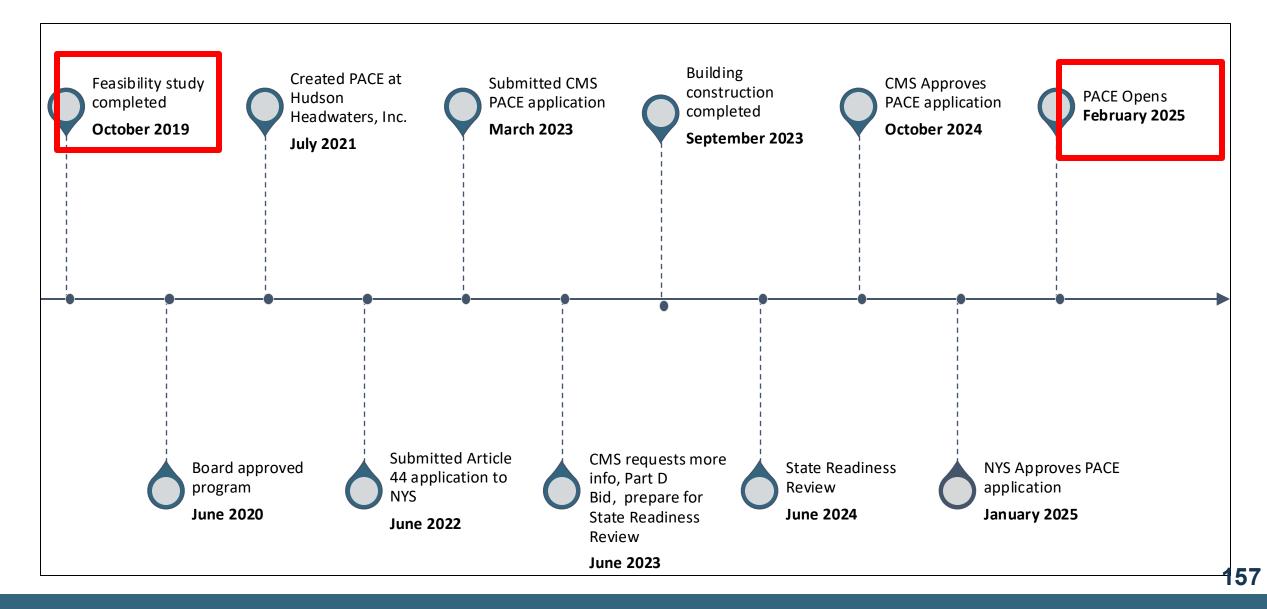


50 Years of Service

	im						
1974 CHHC	1975-1978 WHC NCHC ILHC	1981 HHHN (FQHC)	1985-2004 BHC SLHC THC HCBS PAH MFH	2005-2017 Dental MHC FEKHC WMSC CFH HHWH WMFH	2019-2022 PFH HLSH SLFH TLFH Mobile Health	2023-2024 GFFH FHM FHLP PPAH	2025 PACE Pharmacy Salem



Our PACE Journey





Challenges

- NYS application process is confusing and complex
- Lack of transparency
 - Initial capitalization and reserve requirement calculations
- Significant upfront investment
 - Day Center
 - Staffing
 - NYS reserve/initial cap
 - Breakeven is at least 3-4 years out from program start
- PACE model is not well understood



Recommendations

- Reduce barriers to entry
 - Streamline application process
 - Reduce initial capitalization requirements for new programs
 - Make available capital/start-up funding for qualified non-profits to open/expand PACE
- Recognize and support PACE as a viable, scalable, community-based model to meet the needs of chronically ill older adults in NYS

PACE Day Center















PACE Day Center

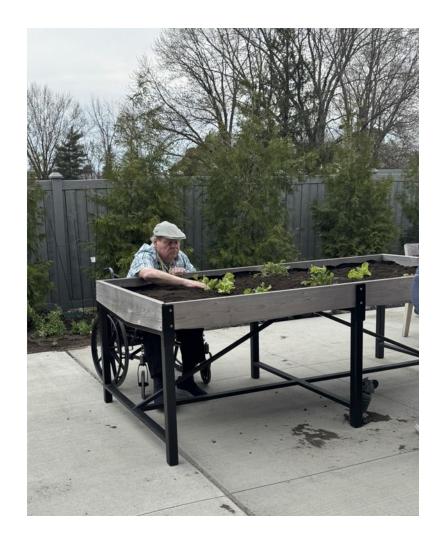














Thank You

Linda Spokane Email: <u>lspokane@pacehh.org</u> Phone: 518.886.7212



163



Valerie Osborn

Director, DSNP Strategy & Government Programs, MVP Health Care





MVP DualAccess Plans (HMO D-SNP)

Dual Special Needs Plans from MVP

Valerie Osborn Director, DSNP Strategy & Government Programs

©2024 MVP Health Care

What is a Dual Special Needs Plan?

- A Dual Special Needs Plan is a special type of Medicare Advantage Plan for people who are "Dual Eligible".
- The term "Dual Eligible" means that you qualify for both **Medicare** and **Medicaid.**
- Dual Special Needs plans are designed specifically to cover certain costs that someone on a Medicare or Medicaid plan alone would normally have to pay for.



How Can I Qualify for Medicare and Medicaid?

You may qualify for Medicare if you are:

- 65 and older
- Have certain medical conditions such as Amyotrophic Lateral Sclerosis (ALS) or End Stage Renal Disease (ESRD)
- Between the ages of 18 and 64 and have received Social Security Disability benefits for a total of 24 months

Qualifying for Medicaid is based on a combination of factors such as:

- Certain disabilities and conditions
- Income
- Family size



Why Medicare Advantage?

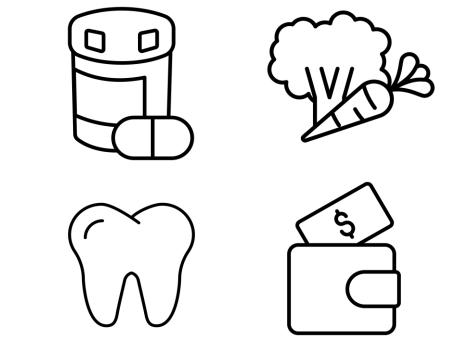
When you become eligible for Original Medicare, enrolling in a Medicare Advantage can give you extra benefits without costing you extra money.

Benefits and Features	Original Medicare	MVP DualAccess Plans (HMO D-SNP)
Coverage for Hospital Stays	\checkmark	\checkmark
Coverage for some medical care, like doctors appointments	\checkmark	\checkmark
Preventive services, like vaccines and screenings	\checkmark	\checkmark
Prescription drug coverage	No coverage	\checkmark
Dental, vision and hearing coverage	No coverage	\checkmark
Your own personal care team	No coverage	\checkmark
Free transportation to medical appointments	No coverage	\checkmark
Prepaid cards for OTC products, healthy groceries and utilities	No coverage	\checkmark
Free meal delivery after an inpatient hospital stay	No coverage	\checkmark

MVP's Dual Special Needs Plans: MVP DualAccess Plans

With MVP DualAccess Plans, you'll get the added benefits of Medicare Advantage while keeping all your Medicaid benefits, for no additional cost to you:

- \$0 co-pay for doctor and specialist visits
- \$0 co-pay for mental health services
- \$0 cost-share for Part D prescription drugs
- \$0 virtual care through our Gia® by MVP mobile app
- \$200/year for eyewear
- \$0 co-pay for preventive and comprehensive dental*
- Up to \$2,000 for hearing aids (every three years)
- Up to \$175 per month to spend on healthy groceries, overthe counter purchases, or utilities such as electricity, water, heat, internet, or telephone (based on your specific plan)



*Available through in-network providers only. Service limitations may apply. See the Evidence of Coverage for more information.

Meet Your MVP Care Team

A group of dedicated professionals to ensure your needs are met

All MVP DualAccess Plan members are **assigned a dedicated care team to address their physical**, **behavioral**, **and social health needs**.

Each Care Team includes:

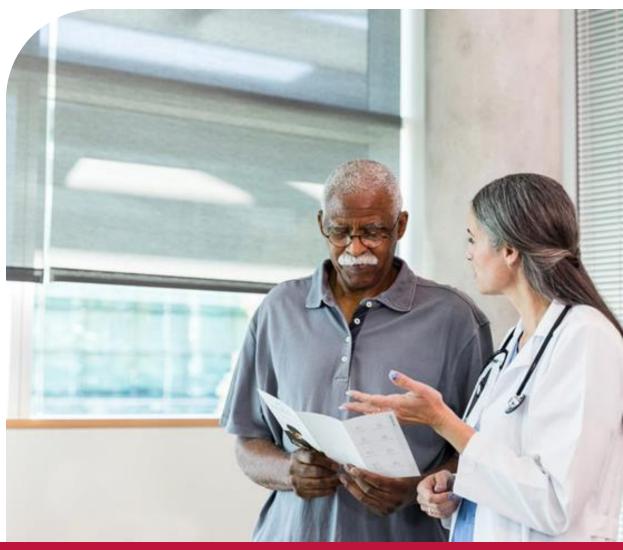
- A Registered Nurse Care Manager (RNCM)
- A Community Service Care Coordinator (CSCC)
- A Licensed Clinical Social Worker (LCSW).

Members can expect to have a close, personal relationship with their team.



What Can My MVP Care Team Help Me With?

- Understanding and accessing your benefits
- Scheduling medical appointments
- Arranging transportation to and from appointments
- Creating a care plan that meets your personal needs and goals
- Accessing the services, equipment, and supplies you need (such as living arrangements or diabetes supplies)
- ...and more!



Why MVP Health Care?

We treat you as a person, not just a number.

- MVP is your local community health plan.
- All DSNP MVP Care Team members live in the same counties, towns, and villages that you do!
- They have first-hand knowledge of local providers, community-based organizations, and resources that they can help connect you with.



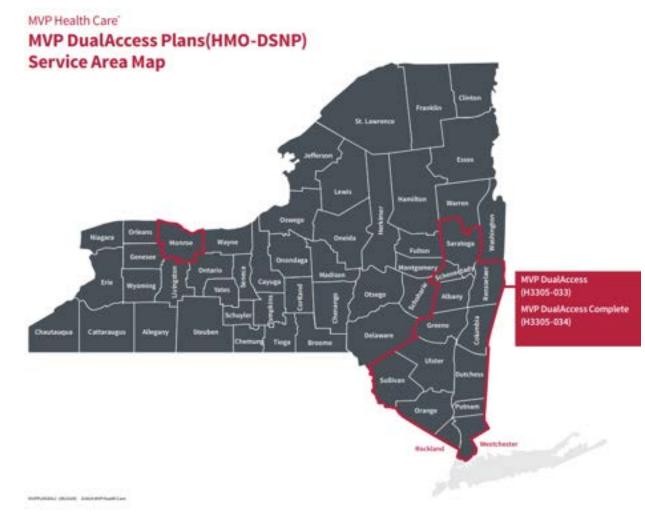
Where Are MVP DualAccess Plans Available?

MVP DualAccess Plans are available in the following Counties:

Capital Region: Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady Counties.

Hudson Valley Region: Dutchess, Orange, Putnam Rockland, Sullivan, Ulster, Westchester Counties.

Finger Lakes Region: Monroe County.



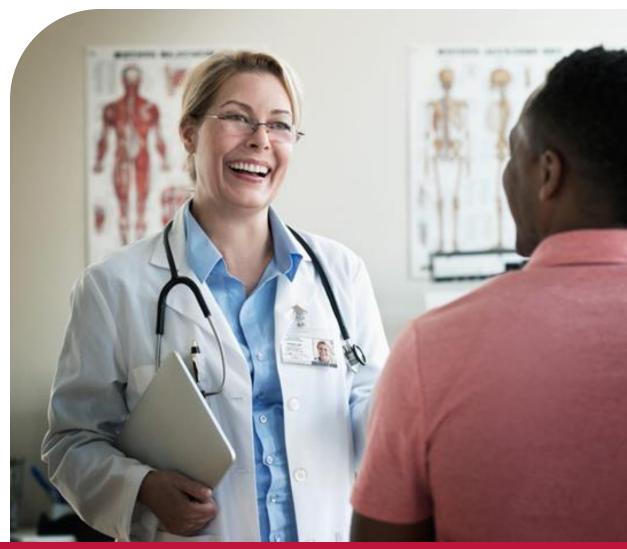
Will My Prescriptions be Covered with MVP DualAccess Plans?

- MVP DualAccess Plans include prescription drug coverage for hundreds of generic and brand name medications.
- All MVP DualAccess Plans offer a **\$0 co-pay for Part D Prescription drugs.**
- Receive medications right to your door with our mail order delivery program!



Will My Doctors and Specialists be covered Under MVP DualAccess Plans?

- MVP DualAccess provides access to more than 60,000 doctors and hospitals across New York and in additional areas.
- This includes top specialists and physicians, leading urgent care centers, labs, and more.
- An MVP Medicare Advisor can help you check if your doctors are in our network.



When Can I Enroll in MVP DualAccess Plans?

- You can enroll in MVP DualAccess plans as soon as 3 months before your 65th birthday.
- If you are under the age of 65, you can enroll after you have collected Social Security Disability Insurance (SSDI) for over 24 months and are eligible for original Medicare.
- Monthly Special Elections Periods (SEP) beneficiaries who want to enroll based on individual circumstances.
- We've got you covered! MVP Medicare Advisors can help you understand and complete each step of the enrollment process.

-0-0-0-0-

Thank you for joining us!

Contact an MVP Medicare Advisor to enroll today!

Contact: Call 1-800-324-3899 (TTY 711)

October 1-March 31, seven days a week, 8 am–8 pm Eastern Time April 1–September 30, Monday-Friday, 8 am–8 pm

MVP Health Plan, Inc. is an HMO-POS/PPO/HMO D-SNP organization with a Medicare contract and a contract with the New York State Medicaid program. Enrollment in MVP Health Plan depends on contract renewal. This plan is a dual eligible special needs plan (D-SNP). Your ability to enroll will be based on verification that you are entitled to both Medicare and medical assistance from a state plan under Medicaid. Every year, Medicare evaluates plans based on a 5-star rating system. For accommodations of persons with special needs at meetings, call 1-800-324-3899 (TTY 711). MVP Health Care complies with applicable Federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, or sex (including sexual orientation and gender identity). ATENCIÓN: si habla español, tiene a su





Becky Preve

Executive Director, Association on Aging in New York





Non Medicaid

- Individuals above Medicaid Income
- Unable to privately pay for the services
- Full assessment by certified case management staff
- Services authorized including personal care level 1, person care level II, and respite services



- Lack of necessary funding via Federal, State, and Local funding
- Lack of licensed home care provider agencies to fill cases
- Lack of acknowledgment in State budget for mandated rate increases
- Authorizations are lower than Medicaid home care due to resources

Innovations

- Direct employment of home care workers through Area Agencies on Aging
- Exclusive contracts with Licensed home care providers for AAA cases
- Consumer directed personal care assistant program
- Deployment of technology to assist in the home

Cost Benefit

- Average client served 83 year old, low income female, lives alone, 4-10 chronic conditions and needs ADL, IADL assistance
- Average length of service 7 years
- Cost less than \$10K per year vs. \$160k in skilled nursing facilities
- Over 200 million in state savings on Medicaid Utilization

Impact of Direct Employment

- Aides are able to have reliable employment
- Health insurance coverage
- County vehicle
- Part of Care Team
- Elimination of the waitlists and significantly improved retention
- Aides are able to move past benefit cliff



- Significant reductions in Older Americans Act and related funding at Federal Level
- Impacts will be reduction in services already provided
- Changes to Medicaid will push additional clients to AAA's
- Advocacy made easy:



IIEDER LAW QUESTIONS? FEEDBACK?

30th Annual





COMING UP AFTER LUNCH:

INSURING LONG TERM CARE – PRIVATE & PUBLIC ALTERNATIVES TO MEDICAID

MEDICAID HOME CARE IN TRANSITION

PLUS: A VIDEO UPDATE ON STANLEY'S CDPAP TRANSITION TO PPL!



30th Annual II ELDER LAW FORUM **LUNCH TIME!** PLEASE ENJOY YOUR MEAL AND WE WILL SEE YOU BACK HERE IN 50 **MINUTES!**

ALBANY: LUNCH SERVED IN FORT ORGANGE COURTYARD / KOI POND VISIT EXHIBITORS AND QUALIFY FOR APPLE WATCH RAFFLE

Share the Forum on Social Media! #ELF2025

INSURING LONG-TERM CARE: PRIVATE/PUBLIC ALTERNATIVES TO MEDICAID



Moderator: Louis Pierro Founding Partner, Pierro, Connor & Strauss



Shelley Mayer 37th Senate District, Sponsor of Bill S1179, *New York Long Term Care Trust Act* **Shawn Britt** Director Long-Term Care Initiatives, Advanced Consulting Group, Nationwide



Robert Vandy President, Advisors Insurance Brokers



Howard Krooks Chair, Elder Law Practice Group, Cozen O'Connor; Past President of NAELA





Shelley Mayer

37th Senate District, Sponsor of Bill S1179, New York Long Term Care Trust Act

NY'S LONG TERM CARE TRUST ACT

S1179/A1499 (Mayer/Kelles)

Senator Shelley B. Mayer State Senate District 37

The Costs of Long Term Care

Medicaid impact:

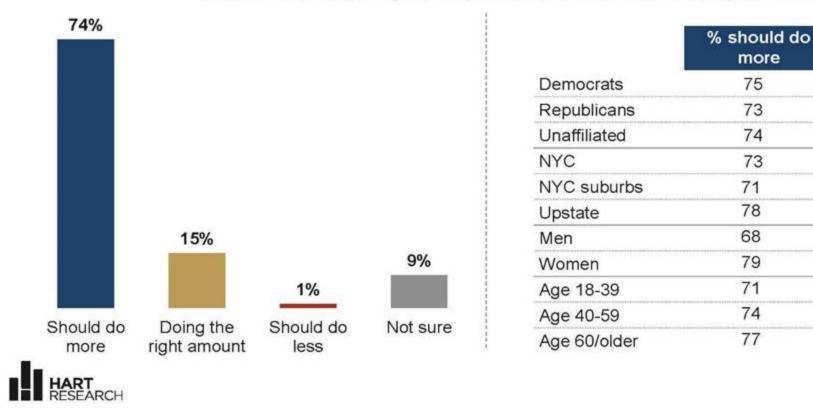
- In 2021, elderly and disabled New Yorkers were 20.7 percent of Medicaid enrollees, but accounted for 59 percent of Medicaid spending, primarily for long term services and supports
- In 2020, 43 percent of New York's Medicaid budget went to long-term care

Personal financial impact:

- Average annual cost of nursing home care in NY is \$159,000; home care average annual cost is \$66,000
- In 2018, Americans paid approximately \$55 billion in out-of-pocket expenses for long term care
- 67% of caregivers struggle to balance work and unpaid caregiving responsibilities; 16% have stopped working because of caregiving responsibilities
- Average cost of long term care insurance premium purchased at age 55 is \$2,075 for men; \$3,700 for women
- Recent years have seen burdensome LTCI rate increases and insurers leaving the market 192

Voters say New York State should do more—not less—to make affordable, high-quality home care available.

Do you think that New York State should do less, is doing the right amount, or should do more to make affordable, high-quality home care available to everyone who needs it?



By 83% to 9%, New Yorkers prefer home care over institutional care for themselves or a family member.



193

Washington's Long-Term Services and Supports Trust Act

- Enacted in 2019.
 - Codified at <u>Title 50B of the Revised Code of Washington</u>
- Established the WA Cares Fund, overseen by the Long Term Services and Supports Trust Commision
- Premiums collected starting in July 2023
 - Contribution set at .58% of pay (58 cents out of every \$100)
- Program benefits accessible as of July 2026
- Lifetime benefit of \$36,500
- Wide range of long term care services covered

WA Cares Fund Timeline

2014	2019	2021	2022	2023	2024	2026
Experts explore ways to cover all Washingtonians at affordable premium and land on universal public insurance program	Governor Inslee signs the LTSS Trust Act into law	Legislature improves coverage for adults with disabilities that onset prior to age 18	Legislature provides pathway to partial benefits for near-retirees and establishes voluntary exemptions for certain groups (out-of-state workers, workers on non- immigrant visas, military	January: Exemption applications available for certain groups July: Workers begin contributing	Legislature makes benefits portable	July: Benefits become available for qualified, eligible individuals See how the fund works

WA Cares Fund In Action

Automatically contribute

Automatically contribute 0.58% of your paycheck to the fund during your working years, starting in July 2023.

Learn more: Calculate how much you might contribute

Meet contribution requirement

After contributing for 10 years (or less if you are nearing retirement or have a sudden need), you can access your benefit when you need care.

Learn more: How long you need to contribute to the fund

to the fund

3

Have a care need

You must also have a care need that requires assistance with activities of daily living in order to access your benefit.

Learn more: What are the care need requirements

Apply for your benefit

After meeting the care need and contribution requirement, you can apply online to access your benefit starting in July 2026.

Learn more: How to apply for your benefit



Once approved, you can access your benefit of up to \$36,500 (adjusted up to inflation) to pay for care. Those born before 1968 typically have lower contribution requirements and benefits.

Learn more:

How you can use your benefit to receive services

https://wacaresfund.wa.gov/how-it-works

The New York Long Term Care Trust Act

- Modeled after Washington State's Long-Term Services and Supports Trust Act which established the WA Cares Program
- Establishes the New York long term care trust program to provide long term care benefits for eligible residents
- Makes benefits available to all New York workers, financed by a modest payroll tax
- Lifetime benefit of \$73,000 may be used for a wide range of services and supports
- Addresses unmet need for long term care, not covered by Medicare, Medicaid, or private long term care insurance

Key Provisions

- Eligible for services and supports if need assistance with at least two activities of daily living
- Expedited eligibility determination in case of immediate need
- \$73,000 total benefit if have paid premiums for ten years
- Pro-rated benefit for current "near-retirees"
- Benefit portable out of state If have paid in for at least three years
- Employee pays premium through payroll tax no employer share
- Premium contribution rate to be set at lowest amount possible to maintain program on sound footing
- May be exempted from contribution if have private insurance coverage as of Jan 1 when law takes effect, and in some other circumstances

Key Provisions, cont'd

- Creates Long Term Care Trust Commission to provide guidance to relevant agencies; ensure adequacy of benefits, solvency and sustainability of program
- Creates Long Term Care Trust Advisory Panel to determine annual adjustments to benefits, and make recommendations to Commission
- Establishes Long Term Care Trust Fund, funded by premiums
- Program administered by Department of Health in coordination with other state agencies
- DOH to register long term care services and supports providers
- Wage protections for workers providing long term care services
- Premium collection to start two years after effective date, benefits available five years after effective date

Thank you!



Shawn Britt

Director Long-Term Care Initiatives, Advanced Consulting Group, Nationwide





Developments in Long Term Care Insurance Financing Part II

30th Annual Elder Care Law Forum

Important things you should know

• Not a deposit • Not FDIC or NCUSIF insured • Not guaranteed by the institution • Not insured by any federal government agency • May lose value

This material is not a recommendation to buy or sell a financial product or to adopt an investment strategy. Investors should discuss their specific situation with their financial professional.

If you have questions regarding your particular situation, contact your legal or tax advisors.

This information is general in nature and is not intended to be tax, legal, accounting or other professional advice. The information provided is based on current laws, which are subject to change at any time, and has not been endorsed by any government agency.

Nationwide Investment Services Corporation (NISC), member FINRA, Columbus, Ohio. Nationwide Retirement Institute is a division of NISC.

Nationwide, the Nationwide N and Eagle and Nationwide Retirement Institute are service marks of Nationwide Mutual Insurance Company. © 2025 Nationwide

FOR DISTRIBUTION TO THE PUBLIC NFM-24784AO (5/25)

Important things you should know

When evaluating the purchase of a variable annuity, your clients should be aware that variable annuities are long-term investment vehicles designed for retirement purposes and will fluctuate in value; annuities have limitations; and investing involves market risk, including possible loss of principal.

This information assumes that the life insurance is not a modified endowment contract, or MEC. As long as the contract meets the non-MEC definitions of IRC Section 7702A, most distributions are taxed on a first-in/first-out basis. Surrender charges may apply to partial surrenders. Loans and partial surrenders from a MEC will generally be taxable, and if taken prior to age 59 ½, may be subject to a 10% tax penalty. Loans and partial surrenders will reduce the cash value and the death benefits payable to your beneficiaries, and withdrawals above the available free amount will incur surrender charges. If your contract were to lapse with a loan outstanding, the loan amount in excess of basis will be treated as a distribution and all or a portion will be subject to income tax.

The underlying investment options to a variable annuity or life insurance product are not publicly traded mutual funds and are not available directly for purchase by the general public. They are only available through variable annuity/variable life insurance policies issued by life insurance companies.

FOR DISTRIBUTION TO THE PUBLIC NFM-24784AO (5/25)

Important things you should know

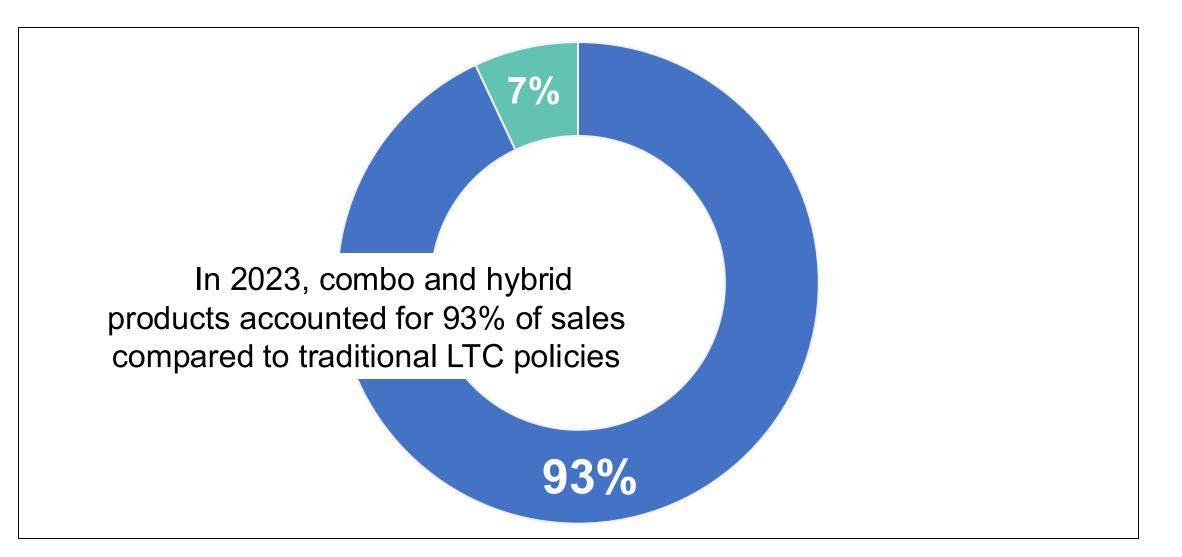
As your clients' personal situations change (i.e., marriage, birth of a child or job promotion), so will their life insurance needs. Care should be taken to ensure these strategies and products are suitable for long-term life insurance needs. You should weigh your clients' objectives, time horizon and risk tolerance as well as any associated costs before investing. Also, be aware that market volatility can lead to the possibility of the need for additional premium in the policy. Variable life insurance has fees and charges associated with it that include costs of insurance that vary with such characteristics of the insured as gender, health and age, underlying fund charges and expenses, and additional charges for riders that customize a policy to fit your clients' individual needs.

Not all Nationwide products and services are suitable for all clients or situations. There may be products, issued by other companies, which better suit your clients' goals. Be sure to consider your clients' objectives, their need for cash flow and liquidity, and overall risk tolerance when using any strategy.

This information was developed to promote and support products and services offered by Nationwide. It should not be taken as tax advice. It was not written or meant to be used by any taxpayer to avoid tax penalties, and it cannot be used by any taxpayer for that purpose. Life insurance and annuities are issued by Nationwide Life Insurance Company or Nationwide Life and Annuity Insurance Company, Columbus, Ohio, member of Nationwide. The general distributor for variable insurance products is Nationwide Investment Services Corporation, member FINRA.

FOR DISTRIBUTION TO THE PUBLIC NFM-24784AO (5/25)

Long-term care products in the 21st Century



Reasons for Enhanced Development of LTC Products

Guarantee premiums and benefits

I

- Oouble duty products to help with affordability
- Simplify the underwriting process
- One policy that will pay multiple care service types

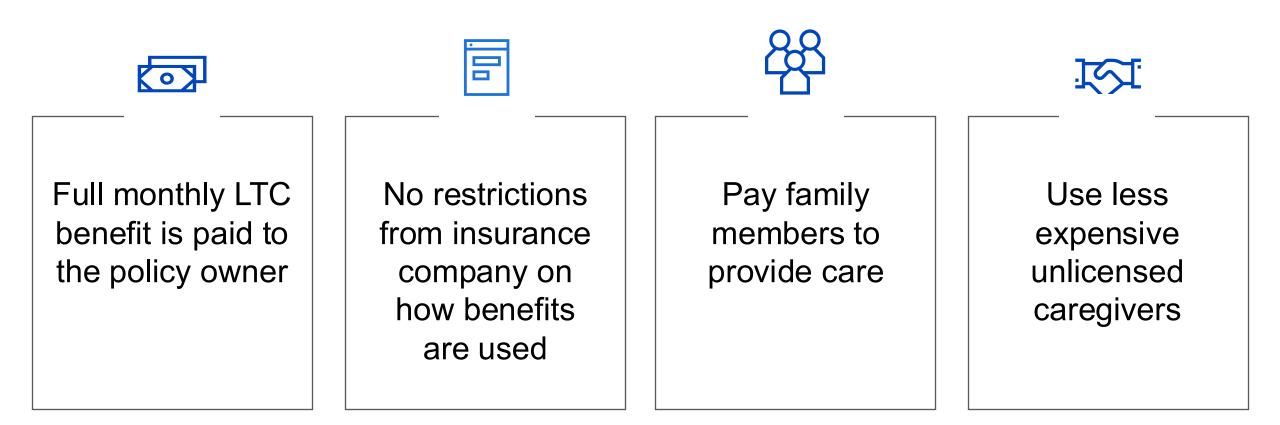
Today's Hybrid and Combo LTC Products

A new kind of LTC products

- Hybrid LTC policies
- Life insurance with a LTC Rider
- LTC Annuities
- Joint life versions can be more economical

Cash Indemnity LTC Benefits

Offered by some insurance companies



State and Federal Programs partnering with Private insurance



 Private policy can cover LTC costs after state benefits ends



Federal Programs

- Federal (WISH Act) designed as catastrophic back-end coverage
- Private policy can pay for front end care until eligible for federal benefit



Robert Vandy

President, Advisors Insurance Brokers



AN INTEGRITY COMPANY



Advisors Insurance Brokers

AN INTEGRITY COMPANY

Developments in Long Term Care Insurance Financing

2025 Elder Law Forum

11 Executive Park Drive, Clifton Park, NY 12065 518-371-5522 | Toll-free: 800-695-8224 Fax: 518-371-6131 | www.advisorsib.com

Our Policy is Taking Care of You

Long-Term Care | Life | Disability | Annuities | Medicare | Benefits

Quick Review of Past LTC Insurance Environment

- A LOT has changed in 30 years
- Traditional LTC Insurance was once the only game in town
- What happened to LTC insurance in general?
- What happened to the NYS Partnership for LTC?
- Today, many more options are available
- Can we count on ANY one source to tackle the whole LTC financing issue?









Traditional LTC Insurance -Evolution

- 1995 vs. 2025
- Carrier & product choices
- Underwriting changes
 - We need to qualify medically to get LTC insurance
- Stable rates turned out not to be why?
- NEW purchasers should I expect future rate increases like past?









The NYS Partnership for Long Term Care



- Began in the early 1990's
 - NY was one of 4 original states
- We once had many carriers
- Minimum benefits have sometimes equaled fewer choices when rate increases happen
- Where is the Partnership today?







What should I know...what should I do...?

- Reimbursement vs. Indemnity/Cash payment models
 - Read your policy
- If you have an existing LTC Insurance policy
- If you have an existing NYS Partnership LTC Insurance policy
 - Keep it if you can!
- Windshield vs. rear view mirror thinking
 - Pricing today vs. past









Where do we go from here (as an insurance industry)...?

- Further flexibility in payment models is helpful
 - E.g. cash alternatives with traditional LTC insurance
- The 10% "participation" rate needs to improve
- Is some coverage better than none?
- Recent state based LTC insurance initiatives
- Evaluate ALL your options and embrace multiple potential sources of funding

Our Policy is Taking Care of You Long-Term Care | Life | Disability | Annuities | Medicare | Benefits www.advisorsib.com | Toll-free: 800-695-8224











AN INTEGRITY COMPANY

What about all those "other options..."

Our Policy is Taking Care of You are | Life | Disability | Annuities | Medicare | Benefits

Long-Term Care | Life | Disability | Annuities | Medicare | Benefits www.advisorsib.com | Toll-free: 800-695-8224



Howard Krooks

Chair, Elder Law Practice Group, Cozen O'Connor; Past President of NAELA



Insuring Long Term Care – Public/Private Alternatives to Medicaid

May 15, 2025

Howard S. Krooks, JD, CELA Cozen O'Connor 1801 N. Military Trail, Suite 200 Boca Raton, Florida 33431 (561) 750-3850 Hkrooks@Cozen.com

Miami Office – 200 S. Biscayne Boulevard, Floor 30, Miami, Florida 33131 New York Office – 3 WTC, 175 Greenwich Street, 55th Floor, New York, New York 10007 Philadelphia Office – 1650 Market Street, 28th Floor, Philadelphia, Pennsylvania 19103



Emerging Public Models

The Compact for Long Term Care

- Medicaid is the primary payor of care in NYS for SNF care (about 75%) and home care services (NYS ranks number one in the nation)
- Brainchild of elder law attorneys and Gail Holubinka (expert on public and private alternatives to long term care – ran NYS Partnership Program)
- Report issued in 2005
- Included in Governor's Approved Budget in 2007 as pilot program
- Never implemented never funded



Emerging Public Models

The Wish Act (Well-Being Insurance for Seniors to be at Home Act)

- Bi-partisan effort championed by Representatives Thomas Suozzi (D-NY) and John Moolenar (R-MI) – reintroduced in March 2025
 - Creates Trust Fund (similar to Social Security Trust Fund)
 - Designed primarily to pay long term care costs at home
 - Income based criteria would evaluate one's income level and after an elimination period of 1-5 years (during which individual would pay privately), federal government would provide a monthly benefit (up to \$5,000/month) to cover at home costs
 - "We have a storm coming in this country. Spending down your assets and living in poverty on medicaid is no way to end a life. Seniors deserve to age in dignity and at home with the care they need, and the WISH Act can make that happen." Thomas Suozzi

Emerging Public Models

The Wish Act (Well-Being Insurance for Seniors to be at Home Act)

- Bi-partisan effort championed by Representatives Thomas Suozzi (D-NY) and John Moolenar (R-MI) – reintroduced in March 2025
 - Designed to cover six hours per day of personal care assistance
 - Would require payroll contributions (split by employer and employee)
 - Would not affect eligibility for other government benefit programs
 - Can also be used for home care, adult day care, assisted living and skilled nursing facility care
 - Would reduce reliance on Medicaid and private pay funds and allow seniors to remain home longer



The End!

Insuring Long Term Care – Public/Private Alternatives to Medicaid

Howard S. Krooks, JD, CELA Cozen O'Connor 1801 N. Military Trail, Suite 200 Boca Raton, Florida 33431

Miami Office – 200 S. Biscayne Boulevard, Floor 30, Miami, Florida 33131 New York Office – 3 WTC, 175 Greenwich Street, 55th Floor, New York, New York 10007 Philadelphia Office – 1650 Market Street, 28th Floor, Philadelphia, Pennsylvania 19103



II ELDER LAW FEEDBACK?

30th Annual



MEDICAID HOME CARE IN TRANSITION



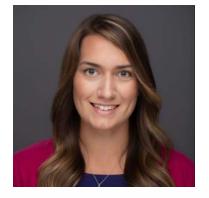
Moderator: Aaron Connor Managing Partner, Pierro, Connor & Strauss



Al Cardillo President & CEO, Home Care Association of New York State



Frank Hemming Partner, Pierro, Connor & Strauss Valerie Bogart Of Counsel, Evelyn Frank Legal Resources Program, New York Legal Assistance Group



Sarah Grimes Director of Business Development, NYSARC Trust Services



Suzanne Paolucci LCSW, Owner & Operator, NY Care Consultants





Aaron Connor

Managing Partner, Pierro, Connor & Strauss



Case Study Update:

- At the 2023 Forum, you met Stanley, retired state worker
- <u>Ardent goal</u> is to age in his own Waterford, NY home
- He had just won his long
 legal case to prove that an
 MLTC had made an error in
 awarding him far fewer hours
 of home care than necessary.





In 2024: Stanley won a second case, prevailing on the MLTC to reimburse him for \$69,615 of his own money paid to home care aides while his legal case dragged on.

In 2025: Stan is among hundreds of thousands of consumers and their aides using CDPAP, required to transition to PPL.

HOW DID THIS GO? CUE THE VIDEO!



Al Cardillo

President & CEO, Home Care Association of New York State





THE FUTURE OF HEALTH AND LONG-TERM CARE FOR NEW YORK STATE

Confronting Challenges, Shaping Solutions, Empowering Care. Panel on Medicaid Home Care in Transition

Al Cardillo President & CEO Home Care Association of NYS HCANYS

May 15, 2025

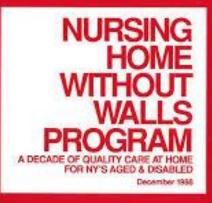
Home / Events / 30th Annual Elder Law Forum



In Appreciation

Honorable Senator Tarky Lombardi, Jr.

Tarky Lombardi, Jr., Chairman New York State Senate Health Committee



Home / Events / 30th Annual Elder Law Forum

Where are We & Where are we Going with Home Care in NYS

- The Good News: service innovation, proven value, the preferred care setting, the health and medical venue of the future
- The Challenges: State of Affairs in Home Care Nationally and in NYS
- Opportunities: Go forth boldly



disability history museum--Home Health Care



https://www.phcsonline.com/blog1/ wound-vac-home-health-care/



Home / Events / 30th Annual Elder Law Forum

The Good News



- **Preferred & Growing Setting for Care** 9 out of 10 NYers over 50 would prefer care at home.
- Occupational leader "Employment of home health and personal care aides is projected to grow 21 percent from 2023 to 2033, much faster than the average for all occupations." US Bureau of Labor Statistics.
- **Cost Effectiveness** CMS forecasts home health VBP to save \$3.4 Billion in the Medicare program over the 2024-2027 period through interventions that improve outcomes and reduce alternative high medical costs.

AGING IN NEW YORK STATE: QUICK STATISTICS

It is estimated that the national cost of chronic conditions will reach \$864 billion by 2040, with chronic conditions among older adults being more costly, disabling, and difficult to treat – and also the most preventable ^{1,2}

It is projected that the number of people aged 60 and over with functional impairments will grow by over 20% by 2025 with 81% living in the community, and 19% living in nursing homes or other group care facilities¹

Nearly 9 out of 10 New Yorkers say it is extremely or very important to have long-term care services that would help them or a loved one stay at home for as long as possible² Nearly 9 in 10 New Yorker aged 50 and older would prefer to receive long-term care at home with caregiver assistance, if they or a loved one needed such care²

Home / Events / 30th Annual Elder Law Forum

From the National Alliance for Care at Home Federal Brief https://allianceforcareathome.org/wp-content/uploads/Value-Medicaid-HCBS-Risk-Reductions.pdf

"An independent evaluation of Money Follows the Person, a grant program that transitioned individuals from institutional settings to the community, found that total spending on older adults decreased by 20 percent during the first year and 27 percent during the second year following their move to the community.3 In fact, every state across the country spends less on per person HCBS on institutions."

Projected spending increases from HCBS reduction in caseload:

Reduction in HCBS case-load	Estimated spending increase			
5%	\$6,553,144,810			
10%	\$18,626,900,560			
15%	\$30,700,687,090			

A 5% shift from HCBS to institutional care would result in an additional \$6.5 billion of annual Medicaid expenditures nationwide – \$65 billion over the 10-year budget window – thus undercutting the potential savings from Federal Medicaid reforms.

Home / Events / 30th Annual Elder Law Forum

The Good News - cont.

- Innovation & Quality
 - > Advanced care at home
 - Skilled procedures
 - Technological applications
 - Artificial Intelligence
 - Collaborative/Integrated models of care
 - Partners across the Continuum
 - ✤ Hospital-Home Care
 - Community Medicine & Paramedicine
 - Home Health-Mental Health Integration
 - More

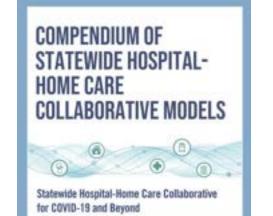
bridgeable

as Work Tools Approach Team

Home care: The next frontier in healthcare innovation

By all measures, the home is the future of healthcare. Not only will more people receive care in their homes, but many medical procedures that have historically been carried out in institutional settings will be administered in patients' living rooms. This shift is being accelerated by improvements to automation and Artificial Intelligence (AI), such as chatbots, that are enabling "care anywhere," in Canada and across the globe.

https://www.bridgeable.com/ideas/home-care-the-next-frontier-in-healthcare-innovation/



COLLABORATIVE MODELS OF COMMUNITY MEDICINE & PARAMEDICINE



See example of results & outcomes next slide

https://hcanys.org/healthcare-development-and-innovations/grant-fundedinitiatives/collaborative-models-of-community-medicine-and-paramedicine

Compendium of Statewide Hospital-Home Care.

Home / Events / 30th Annual Elder Law Forum

COLLABORATIVE MODELS OF COMMUNITY MEDICINE & PARAMEDICINE



Decreases emergency department visits by



Decreases hospital admissions by 78%

Source: Data collected by year 1 pilot site representatives.

Performance Results 6 Months Prior and 6 Months Post Program Implementation



Percentage Change 6 Months Prior vs. 6 Months Post						
# of ED visits	688	265	61% decrease			
# of EMS/911 Calls with Transport	292	130	55% decrease			
# of EMS/911 Calls Without Transport	249	100	60% decrease			
# of Hospital Admits	419	92	78% decrease			

Source: Data collected by year 1 pilot site representatives.

Home / Events / 30th Annual Elder Law Forum

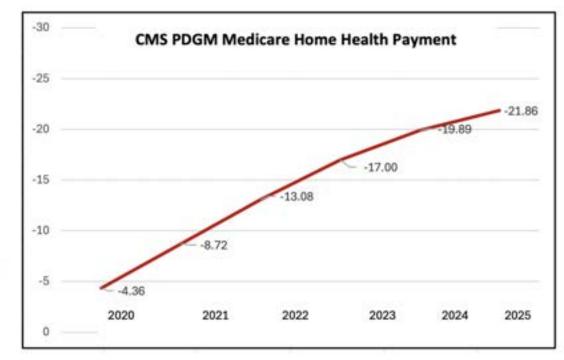
State of the Industry - Federal

Severe Federal Medicare Home Health Cuts during 2020 - 2024

Impact of The Cuts on Home Health, Hospitals, The Health System

Since 2020, every iteration of CMS's payment rule depletes the system, compounding cuts of -4.36% in 2020, - 4.36% in 2021, - 4.36% in 2022, -3.92% in 2023, -2.89 in 2024, for a combined total of 19.89%. CMS has just recently finalized an additional 1.975% payment reduction for CY 2025, for a total accumulated cut of over 21.86%.

These reduced levels are further subject to Medicare sequestration cuts of 2%, and wage-region index adjustments in the new proposed payment rule *reducing* the New York City area wage by over 4% and the wage index for the Long Island region by over 5%! These cuts are unsustainable for Medicare home health services to elderly and disabled constituents.



Meanwhile, national Medicare home health funding was already down even prior to these cuts.

Projection that over 50% of home health agencies nationally will be underwater from these cuts.

Home / Events / 30th Annual Elder Law Forum

Federal cont.

- Reconciliation Bills House, Senate, Funding, Cuts, Program
 - Current House-Senate bill development (Energy and Commerce Committed) currently targets \$850 billion in reductions, some major proportion of which will be from Medicaid.
 - Congressional markup initiated May
 - Renewal of NYS current 1115 waiver beyond 2027 is unlikely as is, as CMS has advised state Medicaid directors of desired changes in posture.
 - Public health COVID-19 Funding Clawback
 - > Nonmedical in-home services and other Aging Services funding reduction.
- CMS 2026 Hospice Rule issued
- CMS 2026 Home Health PDGM Rule to anticipated be issued in late June.
- Hospice Special Focus Program on hold.
- Drug Enforcement Agency Rule for Telehealth Prescribing major implications
- HIPAA-Security Rule major implications for system.

Home / Events / 30th Annual Elder Law Forum

State of the Industry - NYS

Eroding funding, agency sustainability, access impact

Currently, the majority of NY's CHHAs are functioning well below sustainable fiscal margins, and are without the funding needed for the capacity to meet the current, and substantially rising, demand for care.



Statistics are based on data studies by HCANYS & VNSHealth of official cost reports, Medicare data, provider survey & related

Home / Events / 30th Annual Elder Law Forum

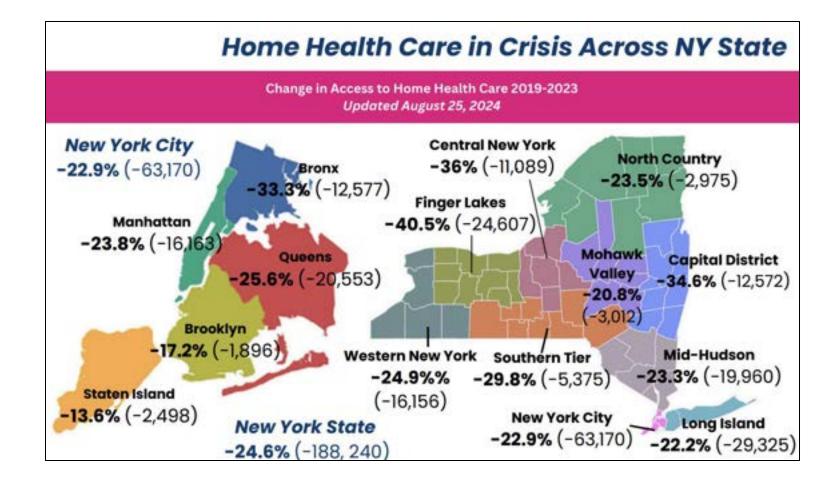
State of the Industry - Patient & Access Impacts from Under-funding & Workforce Shortage

-24.6% est. change in home health access from 2019 to 2023 in NYS.

188,000 est. total Medicare enrollees who needed but did not receive home health care 2020-2023.

19.89% total Medicare home health payment cuts 2020-2024 (FFS).

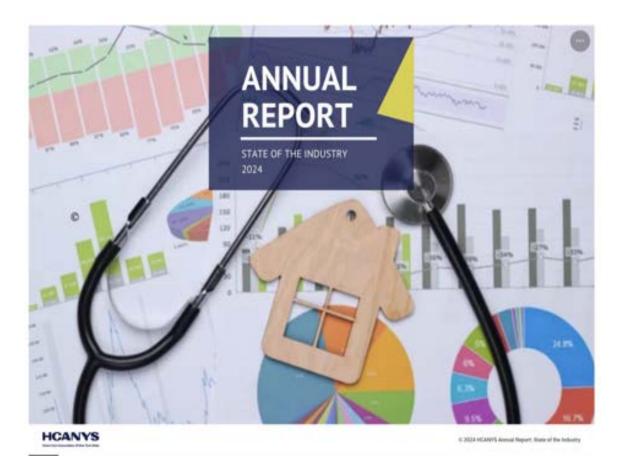
8.2%-9% proposed CY2025 payment cut in NYC, LI, Westchester (PDGM budget neutrality and wage index adjustment).



Statistics courtesy of VNSHealth Studies

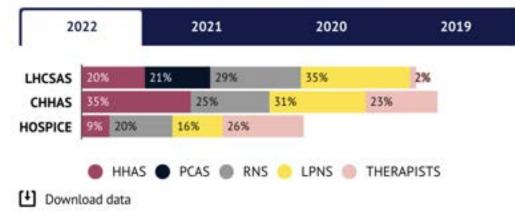
Home / Events / 30th Annual Elder Law Forum

State of the Industry - Patient & Access Impacts from Under-funding & Workforce Shortage

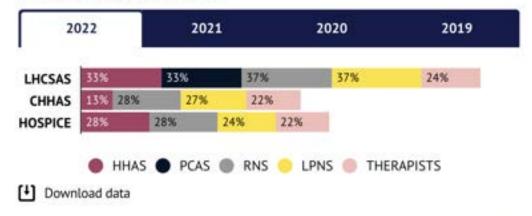


https://hcanys.org/advocacy-and-policy/hcanys-priorities-positionpapers/2024-state-of-the-industry-report

AVERAGE PERCENTAGE OF UNFILLED POSITIONS ¹



AVERAGE TURNOVER RATES ¹



O

Home / Events / 30th Annual Elder Law Forum

State of the Industry - Consumer Directed Personal Assistance Program



Changes and implications of 2024-25 Enacted reforms and ongoing implementation.

Home / Events / 30th Annual Elder Law Forum

Home & Community Based Services Priority Recommendations

Analysis & Response to 2025-26 Executive Health Budget Proposals

2025-26 NYS State Budget

- Priorities:
- Funding
- > WorkforceSupport
- Program & Regulatory Imperatives

Urgently Fund The State Aid for Home Health Community Need Program

Update and fund the statutory provisions in public health law for State Aid to Certified Home Health Agencies to Meet Community Need across NYS regions. Accomplish by incorporating A.1493 (Paulin) and S.6981 (Webb) language in the Health and Medicald Article VII budget bill (see attached initiative) and the associated funding at \$70 million (combined federal/state shares) for underserved populations and regions, staffing including nursing, and technological support.

 The Executive Budget provides over \$500 million in new funding for all major health provider sectors, but completely overlooks home health for the third successive year. Demand for skilled home health care is substantially increasing, while funding has eroded to the point of unsustainability and diminished access. Current HCA data studies show 58% of CHHAs providing services at steep and worsening losses. The omission of home health from the Executive budget proposal is unjustifiable, inequitable vs the support being provided to the other sectors, and jeopardizes the operation of the balance of the health care.

Hospital at Home

Modify the Executive's proposal to require that the program be provided under a collaborative relationship between the acute care hospital and an Article 36 state certified/licensed home care provider for the in-home acute and post-acute care components; also, consider targeting funds under Transformation Safety Net Program to support the development and hospital-home health collaborative rollout of the program.

Home Health & Hospice Workforce

Support the below-listed Executive budget health workforce proposals, with modifications. The Executive proposals include: the nurse licensure compact (support); the Nurses Across NY program (modify to add \$2M dedicated for the home care and hospice sectors), expansion of the Increasing Training Capacity in Statewide Health care Facilities grant program (modify to include and create parity for home care and hospice in this program). HCA also recommends amending language to require the NYS Department of Health (DOH) to adequately reimburse health plans and providers for the 2025 Minimum Wage increase, and to Incorporate the NYS Preceptor Stipend Program (A.2331 McDonald) into the Health or Education Article VII budget bill.

CHHA Episodic Payment System

Support the Executive proposal for continuation of the CHHA episodic payment system, with modifications (aligned with newly introduced bill A.7013-A of 2025 -Paulin) that add flexibility to the methodology, update the rates, and support adequate CHHA rates by payors beyond Medicaid. The current methodology is not responsive to costs over the base year (outdated since 2013-15), nor to any emerging staff, wage or operational factors, nor been adjusted for trend factor in over 15 years.

HCANYS

Home Care Association of New York State

Support Hospice Funding

HCANYS supports the Executive proposal to increase hospice funding. We further recommend that disbursement of the funds be direct to the hospice agencies and not based on Medicaid service claims only, as this greatly under-represents hospice's service base. (HCA current data studies show 40% of hospices providing services at a loss.)

MLTC/PACE

Reject the Executive's proposed elimination of the quality pool funding.

Nursing Home Transition and Diversion Program (NHTD)

Reject the Executive's proposed enrollment cap on the NHTD program. NHTD is currently an essential option in the delivery system.

Consumer Directed Personal Assistance Program (CDPAP)

While CDPAP is not currently addressed in the Executive Budget, HCANYS looks forward to legislative efforts to support this vital program.



Home / Events / 30th Annual Elder Law Forum

• State Budget Outcome for HCBS:

- \$0 provided for the \$70 million in requested annual state aid program for home health in the Executive Proposal; \$30 million included in Senate & Assembly one-House; \$0 in final Budget.
 - Supplemental funding provided for most health sectors in final budget (but no supplemental aid home health care) \$305 supplemental for hospitals; \$300 for Safety Net Transformation Pool operating support (for hospitals and hospital projects); \$230 million for nursing homes, assisted living programs, and hospice; \$50 million for increased MA physician fees; \$20 million for enhanced rates for clinics; \$45M for nonmedical SOFA community services.
 - A.1493 (Paulin) and S.6981 (Webb) State Aid for Home Health Community Need (\$70 million)
 - A.7013-A of 2025 Paulin) and S.7052 (Webb) CHHA EPS Rate Support.
- Executive Proposed to cap NHTD; omitted from Senate & Assembly one-House; however, NHTD capped in final Budget.
- MLTC/PACE Quality Pool eliminated in Executive Proposal; restored in Senate & Assembly one-House; restored (to some extent) in final Budget.

Home / Events / 30th Annual Elder Law Forum

- State Budget Outcome for HCBS, cont:
 - Multiple workforce initiatives in Executive Proposal; partially sustained in in Senate & Assembly one-House; partially included in final Budget.
 - Executive Proposal for "Hospital at Home" (allowing home care w/o license) Assembly one-House omitted; Senate one-House include; omitted in final Budget.
 - No CDPAP Reconsiderations or Support in Executive Proposals; no CDPAP in Senate & Assembly one-House; no CDPAP in final Budget
 - Metropolitan Commuter Transportation Mobility Tax Payroll tax increase to help fund MTA, inclusive of tax on health care providers.

Home / Events / 30th Annual Elder Law Forum

Areas of Opportunity - Federal & State

- Regulatory Relief Federal call for propoals
 - OMB Regulatory Relief initiative (call for proposals; 5/12 response date)
 - Medicare Regulatory Relief initiative (call for proposals; 6/10 response date)
 - Major opportunities for both administrative relief and benefit design flexibility e.g., flexibility with the homebound requirement, ability to participate in partnerships, antiquated federal straightjacketing of home health and hospice
- Collaboration, Partnership Opportunities
- > Compliance HCA EVV workgroup, and opportunities because of HCA scope of membership
- > AI and technology applications in home health
- > NYS Master Plan on Aging
- > More

Home / Events / 30th Annual Elder Law Forum

Make an impact!

"If you can't fly, then run, If you can't run, then walk, If you can't walk, then crawl, But whatever you do, you have to keep moving forward[®]

Martin Luther King Jr.

MLK inspirational message echoed from the window of a community health center in Donegal, Ireland -- AC, 2024



Frank E. Hemming III, Esq.

Partner, Pierro, Connor & Strauss





ASSET PROTECTION PLANNING FOR MEDICAID

PRESENTED BY:

FRANK E. HEMMING III, ESQ. PARTNER

MEDICAID IN NEW YORK STATE



Chronic Care Medicaid

- Nursing home care
- 5-year lookback
- Transfer penalties = # of mos.



Community Medicaid

- Home health care
- Assisted living facility
- Medicaid managed long-term care
- Adult day care
- NO lookback under current rules

N.Y. MEDICAID INCOME & ASSET LIMITS

	INCOME / MTH		ASSET LIMIT		
YEAR	SINGLES	COUPLES	SINGLES	COUPLES	
2025	\$1,820	\$2,453	\$32,396	\$43,781	
Difference over 2024	\$ +68	\$ +82	\$+1,221	\$+1,469	

- Community Spouse Income Allowance:
- Community Spouse Resource Allowance:
- Institutionalized Spouse Income Allowance: \$ 50

Pierro, Connor & Strauss, LLC

\$ 3,948 (+94.50 over 2024)

\$74,820

EXEMPT ASSETS

Some assets that are exempt:

- **\$32,396**
- Your home
 - Exempt if you, a spouse or minor or disabled child lives there
 - Transfer exemptions may apply
 - "Intent to return home" provides temporary exemption if in a nursing home
 - Liens + Estate Recovery must be planned for.
- One Car
- Pre-paid burial
- Income producing property business assets
- Life insurance face value less than \$1,500!



IRA in "Periodic Payment Status"- major exception

WINDOW OF OPPORTUNITY FOR LEGAL PLANNING: STILL OPEN

Implementation of law imposing a 30-month lookback on applicants for asset transfers after Oct. 2020 has been **delayed multiple times**

No lookback for asset transfers scheduled -based on current NYS DOH Guidance



LEGAL STRATEGIES TO AVOID A SPENDDOWN

Creation + Trust Funding of an Irrevocable Trust

Used to hold assets in excess of Medicaid allowance – >House, stock, life insurance with cash value, etc.



MEDICAID ASSET PROTECTION TRUST

Home

Cash from Bank Accounts Stock Portfolio Non-Qualified Annuity CDs

<u>Add'l options</u> Life Insurance Business Real Estate MAPT

- Income can be paid or accumulated
- Principal can NOT be given back to the Grantors directly
- Principal can be paid to children or others (who can use it for any purpose)

PROTECTING ASSETS WITH SECURITY

KEEP OUT

- Some Cash
- IRA, Roth, 401(k)



MAPT Security Features

- Power to change Trustees
- Power to change beneficiaries

Can revoke under NY Law with consent of beneficiaries

MEDICAID ASSET PROTECTION TRUST RESULTS:



- Long Term Care costs will be covered if Medicaid is needed
- No probate or court involvement
- Home is protected
- Assets are preserved
- Legacy is secure
- Wishes upon death will be followed

THANK YOU!

Frank Hemming III, Esq. fhemming@pierrolaw.com 518-459-2100 www.pierrolaw.com

PIERRO, CONNOR

& STRAUSS, LLC

••••

Trusted Counsel



Valerie Bogart

Of Counsel,

Evelyn Frank Legal Resources Program, New York Legal Assistance Group (NYLAG)



MLTC Advocacy Tips

Elder Law Forum – Afternoon Panel May 16, 2024

Valerie Bogart, Of Counsel





ABOUT NYLAG

The New York Legal Assistance Group (NYLAG) is a leading non-profit that provides free civil legal services, financial counseling, and engages in policy advocacy efforts to help people experiencing poverty.



NY INDEPENDENT ASSESSOR AND HOME CARE APPLICATIONS --TIPS



UPDATE: Filing Immediate Need Applications

- Before Immediate Need applicant had to submit application package to DSS, which made 3-way call with NYIAP to schedule assessments.* Could not contact NYIAP directly.
- 4/10/24 State directive** gives Applicant option to do NYIAP assessments on their own first, then submit Immediate Need package to DSS, informing DSS of when assessments conducted and providing Outcome Notice, if any.** Or may still follow original procedure.

*GIS 22 MA/09 Implementation of Assessments Conducted by NYIA Based on Immediate Need ** <u>GIS 24 MA/02</u>



264

TIPS for NYIA assessments

- Ask for in-person rather than Telehealth assessment.
- Family member, care manager or rep should be present (in person or on telehealth) and point out all needs, limits of informal help by family.
- 3-day rule UAS/CHA instructions require assessor to record the person's *actual* level of involvement in self-care and the type and amount of support *actually* received during the *last 3 days only.**
 - Only a consumer who had help paid or by family during 1 or more of the 3 days before assessment -- is found to need ADL assistance!
 - Make sure family member or paid aide is with client and helps during at least one of the 3 days prior to the NYIA nurse assessment and report help provided.
- Verbal Cueing assistance mislabeled as "independent." Point out the ADLs and IADLS for which client needs verbal cueing – reminding to use walker, cueing on post-elimination hygiene after toileting, appropriate dressing, cueing to feed self.

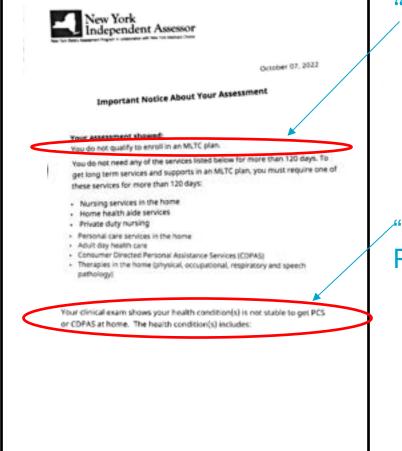
UAS-NY Reference Manual, Aug. 2022 edition pp. 28-33 (on file NYLAG)



265

265

"Bad" NYIA Outcome for MLTC Enrollment and "Bad" NYIA Outcome for PCS/CDPAS



"You do not qualify to enroll in an MLTC plan"

- You are not eligible for MLTC because don't need long-term services
 > 120 days
- If condition was "stable," may submit notice to DSS/HRA to request "Housekeeping" - max 8 hr/week*

"Your health condition(s) is not stable to get PCS or CDPAS at home"

 NYIA cannot even suggest that you try for housekeeping at the LDSS because you won't qualify without a stable medical condition

*NYC - Fax NYIA notice to HRA Home Care Services Program Central Intake **718-230-0424 and 718-230-0841 (new fax no's 4/2025)**



NYIA Update – as of May 8, 2025

- NYIA is still only assessing home care for:
 - NEW applicants seeking to enroll in MLTC, or
 - requesting NEW personal care or CDPAP from a managed care plan or LDSS
- NYIA is not yet conducting RE-assessments for ongoing Medicaid home care recipients.
 - These are still done by the plan (MLTC or mainstream managed care) or LDSS/HRA.
 - Includes both annual and as-needed reassessments.



267

TIPS ON REQUESTING INCREASES IN HOURS

and APPEALS & HEARINGS



IF requesting 24-hour care – explain how needs meets definitions in regulations

Regs define two types of 24-hour care for those who, because of medical condition, need assistance daily with toileting, walking, transferring, turning or positioning.

- Split Shift "uninterrupted care, by more than one personal care aide, for more than 16 hours in a calendar day for a patient who …needs assistance with such frequency that a live-in 24-hour PCA would be unlikely to obtain, on a regular basis, 5 hours daily of uninterrupted sleep during the aide's eight hour period of sleep."
- 2. Live-in "care by one personal care aide for a patient …whose need for assistance is sufficiently infrequent that a live-in 24-hour personal care aide would be likely to obtain, on a regular basis, five hours daily of uninterrupted sleep during the aide's eight hour period of sleep."
 - Home must have adequate sleeping accommodations for aide.

GIS 15 MA/024 (12/2015), 18 NYCRR 505.14(a), (b)(3)(ii)(b), MLTC Policy 15.09 <u>https://www.health.ny.gov/health_care/medicaid/redesign/mltc_policy_15-09.htm</u>



Submitting a Request for More Hours

 Must request be in writing? NO – can be made by phone or in person to the plan nurse or care manager. If a request is made orally, confirm in writing!

– Submitting in writing is BETTER.

- 1. Avoids disputes later about what was actually requested E.g., Plan may interpret a general request for 24 hour care as live-in even if split shift is what was intended (and locks in Varshavsky increase to requested hours below).
- 2. Starts clock for plan to decide request (14 calendar days/ 72 hours expedited)*.
- 3. Request nurse to reassess if change in condition (for now this is plan nurse NOT NYIAP nurse)
- 4. Request may be from doctor, family member, or consumer must specify why needs assistance with each ADL and over what Span of Time day/night
- 5. Family should clarify in writing exactly what days/times available and willing to provide informal caregiving
- Submit requests via fax, email, or certified keep fax confirmation or other proof date received by the plan

*Plan may extend deadline for 14 days if needs additional info and the extension is in enrollee's interest. 42 C.F.R. 438.210(d)

Legal Assistance Group

10

If requesting less than 24 Hour Care

- Regulations less specific but MLTC Policy 16.07 helpful. Plans can uses specific "task based assessment" with certain important restrictions.
- MLTC Policy 16.07* requires plans to consider ---
 - SPAN OF TIME in which needs arise -- "All plans, including those that use task-based assessment tools, must evaluate and document when and to what extent the enrollee requires assistance with IADLs and ADLs and whether needed assistance can be scheduled or may occur at unpredictable times during the day or night...must ... meet any unscheduled or recurring daytime or nighttime needs." (emphasis added)
 - Unscheduled needs: ambulation, toileting, transferring (AT&T)
 - Scheduled needs: turning/positioning, medication reminders, meals, bathing, dressing, preparing for bed and getting up in morning
- If client eligible for 24-hour care, but requesting less because family provides some informal care voluntarily to cover 24/7, plan may not use "task based assessment." Plan must cover the full span of time family is not available. 18 NYCRR 505.14(b)(5)(v)(d)(known as "Mayer-3"); MLTC Policy 16.07

https://www.health.ny.gov/health_care/medicaid/r edesign/mrt90/mltc_policy/16-07.htm

Legal Assistance Group

11

New York

Safety Monitoring

- "When an enrollee requires safety monitoring, supervision or cognitive prompting to assure the safe completion of one or more IADLs or ADLs, the task-based assessment tool must reflect sufficient time for such safety monitoring, supervision or cognitive prompting for the performance of those particular IADLs or ADLs. Safety monitoring, supervision and cognitive prompting are not, by themselves, independent or "stand-alone" IADLs, ADLs, or tasks." MLTC Policy 16.07
- Supervision or cognitive prompting IS allowed to ensure consumer ambulates safely (does not wander or remembers to use walker), prepares meals safely (does not leave stove on), etc. Always tie the aide's verbal or supervisory assistance to a specific ADL or IADL, instead of saying needs "safety monitoring" or "supervision."
- No hours will be authorized for companionship or to alleviate anxiety.

New York

Legal Assistance Group

Service Requests & Appeals Process

273

Legal Assistance Group

Member or Provider Requests Services* (if no request, skip)

-Plan Deadline: 14 calendar days/72 hours if fast tracked**

Plan sends "INITIAL Adverse Determination" notice (IAD)

-Notice to Reduce, Suspend, or Stop Services, 10+ days prior

-Denial Notice, or deadline above has lapsed and no response

Member Requests Plan Appeal –EXHAUSTION required

-Deadline to appeal: 10 days for Aid Continuing

Form provided in IAD, fax # on top, keep confirmation

Plan sends "FINAL Adverse Determination" notice (FAD)

Silver lining for -Deadline: 30 calendar days/ 72 hours Fast Track**

reductions: 2 chances for aid continuing!!***

Member Requests Fair Hearing

-Deadline: 10 days for AC (but thru 12/31/25 get AC if request in 120 days – Varshavsky increase after day 45 if homebound

New York

-Optional: External Appeal if med. nec. but no AC or Varsh.

*See Fact Sheet "Requesting Services from a Managed Care Plan" http://www.wnylc.com/health/afile/202/723/1/.

**Plan may extend 14 days if need more info & in member's interest

***<u>https://www.health.ny.gov/health_care/managed_care/plans/appeals/docs/2018-04-20_alj_info.pdf</u> Slide 54

After Plan Appeal and FAD: Request Fair Hearing Request a fair hearing when:

- - Client has a Final Adverse Determination (FAD) denying the Plan Appeal, OR

27

New York

4

Legal Assistance Group

- (1) you requested a Plan Appeal, (2) the processing time has lapsed and Plan didn't issue FAD.* This qualifies as "deemed exhaustion."
- Client has a reduction without notice or wrong notice, (1) you can prove it's a reduction, and (2) plan refuses to provide aid continuing
- Note in hearing request that client is *homebound*, and ask for aid continuing if it's a reduction
- Medicaid Advantage Plus (MAP) fair hearing is automatically requested – no need to request it. (These are "integrated" combo Medicare Advantage/MLTC plans)

30 calendar days/ 72 hours Fast Track

Indicate Homebound Status in FH Request

- Homebound appellants have special protection due to Varshavsky v. Perales
 - Homebound definition for Varshavsky because of mental or physical disabilities, cannot travel to a fair hearing without substantial hardship or medical detriment.
 - Need doctor's letter unless has 24-hour care.
- Varshavsky injunction says that if ALJ can't render a fully favorable decision for a homebound appellant after the 1st Phone hearing, OTDA can't issue a decision. Instead, case is referred for a second hearing in client's home
- Because of backlog scheduling hearings, if the 2nd home hearing is not held and decided **45 days after the hearing request**, OTDA must order plan to Increase hours to the amount requested to the plan and in the hearing. This is called *Varshavsky aid continuing* or a *Varshavsky increase*.
 - This is one reason important to specify 24-hour split shift in request for increase to plan, not just "24-hour care."
- The Varshavsky "increase" continues until the second hearing is held and decided, which may be months or even years. See below re hearing backlog.

See more on Varshavsky http://health.wnylc.com/health/entry/228/

gal Assistance Group

Watch out for Medicaid Advantage Plus (MAP) members!!! No Varshavsky rights.

After a Medicaid Advantage Plus (MAP) member loses the Plan Appeal, the plan must automatically forward case for a hearing.

OTDA policy denies MAP members Varshavsky benefits.

- MAP plans are fully capitated—cover all Medicare/ Medicaid benefits in one insurance product. The Medicare part is thru an "aligned" Dual-SNP (Special Needs Plan) operated by same company.
- Beware of marketing! Lure of an over-the-counter card drives member to switch Medicare plans. When they drop the "aligned" Dual-SNP they LOSE HOME CARE!!
- 60,000 people now receive home care thorugh MAP plans vs 308,000 in regular MLTC (and 10,000 in PACE)

Check here to see which type of plan client is in -<u>https://www.health.ny.gov/health_care/managed_care/mltc/mltcplans.htm</u> or <u>https://www.nymedicaidchoice.com/program-materials</u> (scroll down to *Health Plan Lists* then to *Long Term Care Plans* by region)

Legal Assistance Group

New York

External Appeals

- After losing the plan appeal, the Final Adverse Determination explains the right to request an External Appeal before the NYS Dept. of Financial Services, instead of or in addition to requesting a Fair Hearing. Fair Hearing decision controls if do both.
- Which cases are eligible?
 - Denials from health plan based on the following 3 reasons: **medical necessity**, experimental/investigational services, out-of-network services
 - Recommended for denials of increases in hours, DME, e-mods
 - Not recommended for reductions, discontinuances (no aid to continue here); notice & procedural arguments best handled in fair hearings
- Option for Standard or Expedited Review decision rendered in
 - Standard: 30 days
 - Expedited: 72 hours-- requires MD signature on a form VERY FAST!! consider in urgent cases where care needed before Varshavsky relief kicks in at 45 days
- All forms and portal to file papers at <u>https://www.dfs.ny.gov/complaints/file_external_appeal</u>
- NY Public Health Law Part 49.



Long-delayed Fair Hearings → new

Pre-Hearing Disposition (PHD) Process

- NYS has > 10,000 hearings pending past 90-day deadline in federal regulations most of all states. State reached agreement with CMS to address backlog, which goes through 12/31/25.
- DOH requiring plans* to authorize home care in amount requested in the hearing through a PHD. This is for hearings that are:
 - Over 1 year old
 - Have Just one issue
 - Appellant has aid continuing or <u>Varshavsky interim relief</u> (including home hearings)(<u>http://health.wnylc.com/health/entry/228/</u>)
 - Involve discontinuances, reductions, or inadequacy (ie not approval of medical equipment or a new service)
- Plan must issue a new Service Authorization to member.
- OTDA issues PHD hearing is resolved fully in appellant's favor (sample PHD <u>http://health.wnylc.com/health/download/884/</u>).
- If plan wants to reduce hours in the future, must comply with DOH MLTC Policy 16.06** only if improvement in condition or other change

* MLTC Policy 25.01 and a February 4, 2025 Letter to Managed Care Plans.

<u>**MLTC Policy 16.06:</u> Guidance on Notices Proposing to Reduce or Discontinue Personal Care Services or Consumer Directed Personal Assistance Services. See article on PHDs at <u>http://health.wnylc.com/health/entry/254/</u>.



COMPLAINT NUMBERS



Complaints to NYS Dept. of Health (DOH)

- State Complaint Number for MLTC Problems 1-866-712-7197 or <u>mltctac@health.ny.gov</u>
- Complaints about Independent Assessor NYIAP
 E-mail Independent.assessor@health.ny.gov
- Mainstream managed care plan complaints <u>managedcarecomplaint@health.ny.gov</u>
- CDPAP PPL complaints see next slide



PPL/CDPAP problems – where to call

- PPL 1-833-247-5346*
 Payment issues <u>CDPAP.payroll@pplfirst.com</u>
 PPL TIMESHEETS <u>NYCDPAP_TS@pplfirst.com</u>
 PPL HR: 1-833-746-8283 or <u>NYPPLHR@pplfirst.com</u>
- NYS DOH CDPAP Transition hotline at 833-947-8666
 weekdays 9am to 5pm or email <u>StatewideFI@health.ny.gov</u>
- Personal Assistants not paid correctly ALSO contact:
 - NYS Department of Labor at 888-469-7365. See https://doi.ny.gov/unpaidwithheld-wages-and-wage-supplements
 - In NYC, Long island & Westchester -- PA's with payment problems should also complete this <u>survey</u> <u>http://legalaid.nyc/PA-Survey</u>.. (Legal Aid Society lawsuit)
 - Upstate PAs Emina Poricanin at <u>emina@poricaninlaw.com</u>
- Consumers report problems to NYLAG Engesser hotline at 212-946-0359 or <u>CDPAPlawsuit@nylag.org</u>. Limited staffing capacity. Common concerns reported to Department of Health, and triaging emergency situations.

*PPL language lines other than English at https://pplfirst.com/programs/new-york/ny-consumer-directedpersonal-assistance-program-cdpap/



 $\mathbf{281}$

THANK YOU

More information at nylag.org

f 💟 🖾 in





Sarah Grimes

Director of Outreach & Community Relations, NYSARC Trust Services



Preserving Income & Accessing Medicaid with a Pooled Trust

Don't let income limits prevent you from receiving critical Medicaid services. Pooled services. Pooled trusts help people with disabilities and seniors maintain financial financial eligibility while preserving their hard-earned income.

30th **Annual Elder Law Forum | May 15, 2025** Presented by: Sarah Grimes Director of Business Development NYSARC Trust Services





How Pooled Trusts Work

[]欧 \sim

Deposit Excess Income

Place income above \$1,820/month into an irrevocable pooled supplemental needs trust.

Qualify for Medicaid

Meet Medicaid's financial eligibility requirements without giving up income or depleting life savings.

Pay Your Expenses

Use trust funds for rent, utilities, personal needs, and medical costs not covered by Medicaid.

Maintain Quality of Life

Live comfortably at home longer while accessing essential healthcare services and reducing cost of care.

Sally Needs a Pooled Trust to Qualify for Medicaid

Total gross monthly income Social security and retirement distributions	\$3,500 per month
Medicaid allowable income	-\$1,800
Age, Blind and Disabled Disregard	-\$20
Eligible Medical Deductions (Part B Premium, etc.)	<u>-\$185</u>
Required Deposit into Pooled Trust	\$1,495 per month
Pooled Trust Admin Fee	<u>- \$90</u>
Approximate monthly amount in Pooled Trust Plus \$1,820/month in checking and up to \$32,396 in assets	\$1,405 per month 283



Establishing a Pooled Trust

Reduce Assets Above Limits

Address any resource limit issues by properly transferring excess assets.

Apply for Medicaid

Complete Medicaid application and obtain disability determination if needed.

Join a Pooled Trust

Submit trust documents to Medicaid agency and begin monthly deposits to activate services.

Submit Expenses

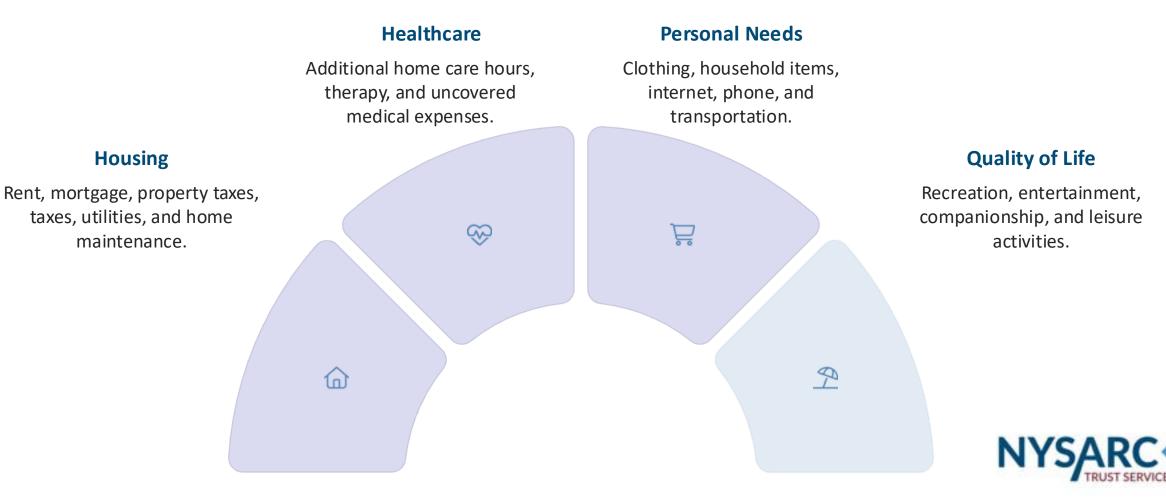
Request trust to pay eligible bills that improve your quality of life.



What Your Trust Can Pay For

Non-profit trustee distributes funds for the **primary benefit of the Medicaid applicant** to pay for essential living, healthcare, personal, and recreational expenses to help maintain a better quality of life.

No cash to beneficiary or spouse. No gifts for others.



Trust Costs and Management



Costs

- One-time enrollment fee
- Monthly administration fees
- Annual costs (if applicable)
- All costs deducted from trust



Funding Methods

- Monthly deposits from bank
- One-time deposits (inheritance, settlements, retroactive benefits)
- Family contributions (third party only)



Accessing Funds

- 24/7 online portal
- Email, fax, or mail
- Direct vendor payments
- Credit card with receipts
- Reimbursements to third parties



Questions? Contact NYSARC Trust Services at (518) 439-8323 or intake@nysarc.org





Suzanne Paolucci

LCSW, Owner & Operator, NY Care Consultants





Sep 17, 2023 · 🕄

One of the best moments these last two weeks was crossing paths with a champion in my professional field-Valerie Bogart taught me everything I know about Advocacy. Loved running into her.

...





IIEDER LAW QUESTIONS? FEEDBACK?

30th Annual



30th Annual **ELDERLAW ELDERLAW Solution CLOSING REMARKS & APPLE WATCH RAFFLE**

THANK YOU FOR ATTENDING!

One last thanks to our Speakers and Sponsors! Fill out your feedback form, please.

> JOIN US NEXT YEAR FOR THE 31st ANNUAL ELDER LAW FORUM THURSDAY, MAY 14, 2026