

THE 2011-12 EXECUTIVE STATE BUDGET

**A Joint Hearing Before
THE SENATE FINANCE AND
ASSEMBLY WAYS AND MEANS COMMITTEES
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**Testimony by:
Joanne Cunningham
President
Home Care Association of New York State (HCA)**



Introduction and Background: A \$1 Billion Assault on Home care

My name is Joanne Cunningham and I am the President of the Home Care Association of New York State.

HCA represents approximately 500 members, including Certified Home Health Agencies (CHHAs), Long Term Home Health Care Programs (LTHHCPs), Licensed Home Care Services Agencies (LHCSAs), Managed Long Term Care Plans (MLTCs), and Hospices which form the core of New York's cost-effective home and community based care system.

Altogether, HCA's provider-based home care members represent decades of clinically successful care-management expertise and are vital to New York's health care system: 1) as a less expensive home-based alternative to nursing home care; 2) so that patients can safely recuperate at home for post-hospital care, at less expense to the health care system; and 3) as a means of preventive chronic care management, reducing a patient's chances of having to go to the hospital and utilize costlier services.

Newborns and mothers, the frail-elderly, persons with disabilities, chronically-ill patients and their families – as well as hospitals, nursing homes and physicians – all rely on the home care safety-net to reduce costs, ensure the most appropriate utilization of services, prevent premature or unwanted nursing home placement, support family efforts to manage an individual's chronic or disabling health condition, and keep patients home, where the vast majority of New Yorkers want to be, especially when they become sick and require additional supports.

Every single day, home care saves millions of Medicaid dollars and keeps the health system functioning while providing life-saving and life-sustaining care to hundreds of thousands of New Yorkers. Without these services, hospitals and emergency rooms would overflow; elderly, chronically ill, and disabled patients would be institutionalized; and taxpayers would be paying higher Medicaid costs.

The disastrous proposals advanced this year by the Executive's Medicaid Redesign Team (MRT) pursue a lethal and misguided path of direct cuts, unfunded wage mandates and a one-size-fits-all approach to care management that will collapse long-standing, successful program models as part of an unprecedented \$1 billion blow to New York's home care system. (Please see the attached

Key Resources and Appendices (attached to testimony)

- *MRT Proposals Impacting Home Care* – an impact analysis showing \$1 billion in proposed reductions to home care)
- *Vital Signs* – a report on the fiscal condition of home care providers
- *HCA Analysis of Medicaid Redesign Team Proposals*
- *A Blueprint for Home Care Reform and Efficiency* – HCA's reform proposals
- *HCA's Fact Check* – a report that sets the record straight about home care costs/utilization profiles

spreadsheet entitled *MRT Proposals Impacting Home Care* for details of each cut.) This assault on home care is not only unwise and untenable, but it is disproportionate. While home care represents 12% of Medicaid, the home care cuts, reduction actions, and unfunded wage mandates total 36% of all provider impacts included in and resulting from the MRT package.

Largely designed internally within the Executive, and therefore reflective of the Executive's own policy perspectives, the MRT proposals are rooted in inaccurate assumptions about New York's home care system (as shown in the attached HCA-prepared *Fact Check* report) and represent a tangle of conflicting, ill-defined and inexact policy goals patched together with little consideration for the impact on patients, the system as a whole, and the existing care-management expertise that exists in our provider-based home care infrastructure.

In the strongest terms possible, I urge the Legislature to reject, amend and reshape critical features of this destructive MRT package – which directly, irresponsibly and disproportionately threatens the very survival of New York's home care system. Instead, I ask the Legislature to embrace the constructive, cost saving reforms and efficiency provisions that have been advanced by HCA from our position outside the MRT.

MRT Cuts, Structural Changes and Unfunded Wage Mandates

HCA has identified three main categories that pose the greatest threat to New York's home care system as part of a \$1 billion assault on home care in the form of: 1) direct cuts, 2) mandatory managed care enrollment, and 3) unfunded wage mandates.

Together, this represents the perfect storm that will quite literally be the death knell for New York's home care system. Patients will lose services, jobs will be cut, hospitals and nursing homes will be overwhelmed with increased care needs, and any short-term cost savings will just morph into higher costs to other sectors.

HCA's position on each of these reductions, and others included in the MRT package, are described in the attached *HCA Analysis of Medicaid Redesign Team Proposals*. What follows is a summary of our position on the three main home care impacts.

Direct Cuts The MRT package includes several direct home care cuts, including: 1) a global spending cap of no greater than a four percent annual growth rate on Medicaid spending; 2) an expenditure cap totaling \$200 million (state and federal shares) aimed at CHHAs; 3) elimination of the Medicaid Trend Factor for CHHAs, LTHHCPs and personal care providers; and 4) an across-the-board two percent cut.

The global spending cap created by the MRT reflects an astounding contradiction of state policy. While on one hand the state is maintaining and expanding an open entitlement to services and benefits, on the other hand, the state is imposing an arbitrary cap that will cut payment to providers regardless of their service obligations under the entitlement. This sets in motion a system that, over a short period of time,

could drive providers into bankruptcy. The budget language gives the Commissioner unbridled discretion as to how to reduce spending to meet the cap, including changes to rates, programmatic features to the Medicaid program, benefit coverage and others. HCA's analysis of MRT fiscal impact on providers does not even account for the damage that will be done by the imposition of the global cap.

The direct cuts to providers are devastating to New York's home care system, given that 70% of home care providers are already operating in the red, due to past budget cuts and unfunded mandates, based on data contained in independently certified cost reports submitted to the Department of Health (DOH). The financial condition of New York's home care system, based on this data was reported in a financial condition analysis completed by HCA and New York Association of Homes and Services for the Aging (NYAHS) called *Vital Signs*, which is attached to this testimony.

Our findings are based on a review of home care Medicaid cost reports for 2008, the most recent year available. Yet home care services have been hit with \$434 million in state and federal share cuts since 2008. If 70% of providers were operating in the red in 2008, the devastation of nearly half-a-billion cuts enacted since that time, as well as the new onslaught of direct-cut reductions under the MRT proposal, will lead to home care agency closures, setbacks in patient care, and major job losses.

**Managed
Care
Enrollment**

Beyond traditional rate cuts, which alone would ravage much of New York's home care infrastructure, one of the most devastating and misguided proposals in the MRT package would divert chronically ill, disabled and frail elderly patients into Managed Long Term Care (MLTC) programs and others care coordination programs as identified by the Commissioner. This policy change, unless explicitly including CHHAs and LTHHCPs, would omit these entities and eradicate decades of successful care management experience that already exists in these models.

MLTCs are an important component of the long term care continuum, but New York's CHHAs and LTHHCPs – along with MLTCs and LHCSAs – form the backbone of our system to coordinate and manage health care at home by ensuring that patients get the appropriate level of care to help them stay out of the hospital or nursing home and manage complex health conditions at home.

From a cost-saving perspective, CHHAs utilize pioneering methods of chronic-care management that focus on the integration of primary care, acute care and home-based care to manage patients' health, improve outcomes, and reduce costs, while the LTHHCP, also known as the "Nursing Home Without Walls," provides a home-based alternative to nursing-home care for chronically ill, elderly and disabled populations, at an average of 50% the cost of nursing-home care. The hallmark of the services provided by CHHAs and LTHHCPs is care coordination and care management of patients. By definition, this is the clinical expertise these programs offer patients.

Given the existing clinical, health-utilization, and care-management successes of these current programs, there is no reason to force New York's chronically ill, frail elderly and disabled patients into any one model of care when the diverse needs of these highly vulnerable patients are being successfully and cost-effectively met by a continuum of home care programs with a proven, specialized care-management expertise.

Direct cuts and projected enrollment changes alone amount to **\$593 million in state and federal share reductions to home care.**

Unfunded Wage Mandate A third disastrous and misguided MRT proposal would unfairly mandate so-called "living wage increases" for workers at the same time that providers are deluged with chronic cuts and underpayments which already fail to provide the reimbursement necessary to support such wage increases.

The home care community certainly supports a payment system that provides adequate reimbursement for services and compensation for caregivers. But this proposal amounts to an unprecedented form of state wage control for a single category of worker without any corresponding payment support from the state.

Given that the MRT's primary charge is to reduce Medicaid costs, the inclusion of a wage mandate shows the conflicting, contradictory and incoherent goals of this entire Medicaid Redesign process. Rather than reduce costs, the proposed wage mandate will add new expenses for providers who are already struggling to stay financially stable due to prior-year cuts – which, as previously mentioned, have left 70% of providers operating in the red – at the same time that home care agencies face the threat of unprecedented devastation to existing programs and care-management models under other proposals advanced in the MRT process. Unbelievably, the budget language would authorize the Commissioner to actually increase the wage mandate on home care providers at his or her discretion. This is outrageous state control of the wages of a non-public entity.

Additionally, the budget language would enable a labor organization to bypass an employer and bargain directly with the state over the wages that would be required to be paid to workers.

This wage mandate proposal alone would have an impact of **\$418 million** for home care and personal care in the 2011-12 state fiscal year. This fiscal analysis was done by HCA's sister home care organization, the New York State Association of Health Care Providers (HCP).

HCA Efficiency Proposals

Despite the enormous importance of home care in the overall functioning of New York's health system, neither HCA nor any other statewide representative of long term care is a member of the

MRT; therefore, HCA's perspectives have not been adequately heard or addressed in the shaping of policies that disproportionately impact the home care system.

New York's home care system was designed with the express purpose of addressing patient needs in the most appropriate settings, and saving health care costs. It is ironic that the vast majority of cuts, reductions and restructuring proposals target this cost-effective infrastructure.

HCA's exclusion from the MRT process has not only disenfranchised the home care sector and the citizens that receive these services, but also created a missed opportunity to employ HCA's policy expertise in examining ways that home care reforms and efficiencies can be achieved in a responsible manner that doesn't imperil access to services and demolish our existing cost-effective home care system.

Despite not having a seat at the MRT table, HCA has repeatedly shared with the Executive and Legislature our own proposals for making the Medicaid system more efficient. These proposals are outlined in HCA's *Blueprint for Home Care Reform and Efficiency* (also attached to this testimony).

Our eleven proposals include such cost-savings ideas as:

- \$150 million to \$200 million in savings through the use of new tools to precisely and consistently authorize home health aide and personal care services;
- \$150 million in savings by ensuring that nursing-home-bound patients, whenever possible, are appropriately matched to the LTHHCP, a model of care whose very existence is threatened by the MRT package despite a record of serving patients in the community at 50% the cost of nursing home care;
- \$20 million in savings by allowing for flexibility in the use of home care staff resources; and
- Millions of dollars in payment reforms.

Conclusion

HCA's *Blueprint* provides dozens of reform and efficiency ideas largely ignored by the Cuomo Administration in its vetting of proposals for MRT consideration. HCA understands that the state faces enormous fiscal challenges and we are prepared to work with the Legislature on a more responsible approach to achieving Medicaid efficiencies. Unfortunately, the MRT process has left outside community stakeholders with less than a month for public and legislative review of proposals that affect care for millions of patients, leaving little opportunity for a truly deliberative, multilateral process.

The time is now for the Legislature to aggressively get engaged in this process. Without significant amendment and rejection of the MRT proposals impacting home care, New York's home and community based care system will be substantially shut down.