

GOVERNOR PATERSON'S DEFICIT REDUCTION PLAN

A Hearing Before

THE ASSEMBLY WAYS AND MEANS COMMITTEE

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**Delivered By:
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**On Behalf of the
Home Care Association of New York State, Inc. (HCA)**



Opening Remarks

Good afternoon. My name is Joseph Twardy, President and Chief Executive Officer of the Visiting Nurse Service (VNS) of Schenectady and Saratoga Counties. I am also the Treasurer of the Board of Directors of the Home Care Association of New York State (HCA), on whose behalf I will be testifying today.

The Visiting Nurse Service of Schenectady and Saratoga Counties is a nationally recognized home health leader in terms of patient outcomes, quality indicators, and patient satisfaction. We have served our community for over 90 years and last year we provided close to 100,000 visits to patients, most of which were discharged from a hospital immediately prior to our care. We have post-acute and long-term services along with having safety net services including maternal child health and mental health services.

Our largest service lines are dedicated to fast tracking patient discharges from the Capital District's hospitals and keeping patients, who in every way qualify for nursing home placement, in their homes. Our primary scope of service is directly targeted at reducing healthcare cost and improving efficiency and communication along the health care continuum through reducing hospital length of stays, diverting nursing home placements and being the physicians' eyes and ears in the patient's home.

HCA is a statewide not-for-profit organization representing over 400 home health care providers, allied organizations and individuals concerned with the provision of home care in New York State, and approximately 400,000 patients statewide.

HCA's mission is to promote and enhance the quality, accessibility and availability of home care by enabling its members to meet the health and assistive needs of frail elderly, chronically ill and disabled New Yorkers. The people whom we serve include the frail elderly, persons with post-acute and chronic illnesses and disabilities, and individuals with maternal and child health needs. Home care agencies also provide public health and other services in support of their communities. Our services, through the care provided by visiting nurses, therapists, medical social workers, home health aides and other allied professionals, help patients recuperate and receive rehabilitation safely at home following a hospital stay. We also provide long term home care and management for chronic conditions so that, whenever possible, patients can avoid having to enter or re-enter a hospital or nursing home and can optimize their ability to function.

Overview

The Governor's Deficit Reduction Plan (DRP) proposes a devastating **ten-percent cut** in home care funding for the period November 15, 2009 to March 31, 2010. This reduction, of **nearly \$200 million** (state and federal shares), will decimate the home care system. In fact, if the Governor's proposal is passed in its entirety, home care will have received total cuts of nearly **half-a-billion dollars in state and federal share monies just since 2008** (please see attached chart).

While the state Division of Budget's materials show home care reductions of about \$71 million, the impact is much greater due to home care providers also facing a loss of federal

matching funds which are currently provided to New York at an enhanced rate due to the economic stimulus legislation. It seems penny-wise and pound foolish for New York to risk the loss of these additional federal Medicaid funds by imposing draconian cuts in state financing for home care.

This is unconscionable for a state that has made so much past progress in realigning its long term and post-acute care system towards cost-effective home and community-based models of care. Other states have looked to New York as the leader in providing a variety of home and community-based services, but this will all change if home care reimbursement is decimated.

Also, these cuts will not save Medicaid monies, but shift people into more expensive levels of care. Such phantom savings are contrary to what many studies that shown; that is, how home care saves dollars by preventing the need for patients to be admitted or readmitted to the hospital or nursing home (where the cost of care is often higher). Home care succeeds at preventing health conditions from becoming worse – and rising to the level of a costlier hospital intervention – and/or provides a range of health, therapeutic and assistive services that keep patients out of the nursing home where bed capacity is at a premium.

In addition, such a magnitude of cuts will stifle technological innovation which many home care agencies have championed –often with very little government startup support. Home care providers have been in the vanguard of utilizing telehealth and other technological advances to improve the delivery of care at home. Telehealth in particular has been shown to reduce the utilization of hospital and emergency care and improve the management of chronic

illnesses. Yet these efforts will be stifled if agencies' budgets are cut to the bone.

Precarious Home Care System

With the advent of deep home care cuts on the horizon late last year, HCA and the New York Association of Homes and Services for the Aging (NYAHSA) compiled a joint report entitled *Unstable Ground*, which found that **nearly half of home care agencies surveyed would consider closing their doors under a ten-percent Medicaid cut.**

While home care providers' reimbursement was not cut by 10% last year, the potential for such action exists today, as the home care community stares down the barrel of proposed cuts at a level that almost 50 percent of home care providers found to be unsustainable 12 months ago –an assessment that was made well before providers were cut an additional \$145 million (state and federal shares) in the 2009-10 Executive Budget, and before the home care community was further slammed by an unprecedented level of new unfunded mandates in recent months.

For instance, the state recently mandated that home care providers participate in a massive and costly statewide billing audit following the expiration of a federal program known as the Third Party Liability (TPL) Demonstration Project. The TPL utilized a fair and efficient sampling methodology to reconcile payment responsibility for Medicare/Medicaid dual eligible claims. But with the TPL's expiration, providers are being forced by the state to re-bill Medicare for at least 30,000 dual-eligible patients whose claims were previously billed to Medicaid. The sheer volume of administrative activity and cost related to this billing process – including medical

record extraction and the photocopying of files – is nothing short of enormous, diverting precious and already limited resources away from patient care. The financial cost to providers varies from a few hundred thousand dollars to over a million dollars for the largest agencies, with many providers reporting that this activity will require tens of thousands of staff hours to complete.

HCA has taken a lead role in first working with the Centers for Medicare and Medicaid Services to obtain an extension of TPL or some other resolution of this issue and is also seeking Congressional support for a legislative solution.

In addition to the TPL audit, home care providers are faced with the new expense of mandatory seasonal flu and H1N1 vaccines for staff. While the home care community supports the public health goal of reducing infection rates – indeed, large numbers of caregivers already have attempted to voluntarily obtain flu immunizations – mandatory vaccination and the reporting requirements that accompany this new directive add significantly to an agency's purchasing and administrative costs.

Adding further to provider administrative costs, the state recently implemented its new Home Care Registry which further imposes new and costly administrative obligations for agencies who must access the registry to verify the credentials of home health aides as well as enter information into the Registry for new home health aide trainees. Obtaining all of the information required for the Registry takes away precious time from delivering patient care. In addition, providers have encountered several problems with the September 2009 start up of

the Registry and have had to spend an inordinate amount of time in attempting (unsuccessfully) to access the Registry and contacting the Department of Health (DOH) Helpline on numerous occasions to get these problems addressed.

In addition to these new resource intensive demands, many agencies are also facing increasingly aggressive audits by more than one state and/or federal agency at the same time; staffing shortages; rising costs; difficulties obtaining responsible and timely reimbursement from managed care plans. The home care community, along with other health care sectors, is also being targeted for reductions in Medicare reimbursement that would cut home care by **\$57 billion** over ten years. Any cuts to Medicare home care will adversely affect home care providers whose patients include many individuals dually eligible for Medicare and Medicaid. In New York State, most home care providers have negative margins on their Medicare cases and any additional Medicare cuts will be hard to sustain. Such cuts will also negatively impact New York's Medicaid home care program because reducing Medicare availability for dual eligible patients will result in added pressure on Medicaid to pay for home care.

These cuts and unfunded mandates also come at a time of great upheaval in the home care system caused by the proposed implementation of a change in the reimbursement system for Medicaid home care services that the DOH estimates will reduce reimbursement to certified home health agencies (CHHAs) by about \$200 million (combined state and federal monies) and proposals to ban subcontracting for home health aide services provided by licensed home care services agencies (LHCSAs). The proposals to change Medicaid home care reimbursement from a fee-for-service to an episodic payment system and to ban

subcontracting are being discussed by the Home Health Care Reimbursement Workgroup that was established in the 2009-10 Budget.

While HCA and our members have provided input to the Workgroup, we have expressed strong concerns about the proposed episodic payment system, in particular the inadequacy and consequences of DOH's proposed outlier payment methodology, which would severely constrain payments for outlier cases – patients who are most in need and, as a result, the highest utilizers of services. In addition, we are concerned that DOH is planning to institute such a monumental change without analyzing and testing any changes prior to implementation on a broader scale. Unless significant work is done to address HCA's concerns, HCA will continue to oppose the proposed payment system.

Regarding the proposed ban on subcontracting by LHCSAs, HCA has pointed out that the functions of the LHCSAs are unique and could not easily or inexpensively be replicated by other types of home care agencies — namely those agencies that provide skilled clinical services to patients through the work of nurses, therapists and social workers. Banning LHCSA contracting would not result in savings to the home care system; instead it would result in layoffs and dislocation of thousands of home care workers, increased costs to the home care system, and the loss of continuity of care for thousands of patients.

HCA Initiated Solutions

The home care community certainly understands the enormous fiscal pressures confronting New York State. There is no questioning this economic reality which has punished not only

the state but also the very patients we serve and the private and public funding streams that home care agencies depend upon in order to meet the needs of our most vulnerable patients. This is why the Home Care Association of New York State has been a proactive and constructive partner in developing solutions that meet these very challenges.

Anticipating the need for realistic cost-containment reforms, the home care community has proposed legislation – entitled the “Home Care Accessibility, Efficiency and Improvement Act” (S. 5179) – to advance positive, constructive alternatives to home care cuts through home care program enhancements, regulatory reforms, workforce flexibility measures, quality and performance standards, a realignment of financial incentives and other components.

In addition to promoting cost-efficiencies in the delivery of care, HCA-EIA would increase consumer accessibility to cost-effective home care, promote better and more appropriate home and community-based care for patients, and improve the overall policy/regulatory environment for the operation of New York’s home care system.

Among its provisions are: a new initiative to employ home telehealth remote monitoring technology; development of a Federal-State Medicare Shared Savings Partnership to incentivize state-generated Medicare savings by cycling those dollars into New York’s Medicaid program; increased flexibility in the deployment of home health personnel; increased access to consumer insurance coverage for home care; and regulatory relief.

These constructive proposals are rooted in sound public policy concepts that have the patients' interests and the interests of New York's health care system at its core. Unfortunately, the Paterson administration has not as yet embraced these constructive, principled and carefully thought-out proposals for reform and cost-reduction. Instead of constructive proposals that are a win-win for New York and its citizens, home care is instead treated to nearly \$200 million in needless, across-the-board cuts. The ideas contained in HCA-EIA preempt the need for further cuts. These proposals will save dollars and they will save vital programs for the elderly, chronically ill and persons with disabilities.

In striving to close New York's deficit, policymakers must consider the ways in which our home care system is already helping to control the cost of Medicaid while meeting the task of providing quality care to patients in their setting of choice – at home. If the state wants to control health care costs, it simple doesn't make sense to further endanger cost-effective home care services by enacting more of the same cuts. Ask any home care patient, a patient's family, or a home care nurse, therapist, or home health aide and they will tell you about the powerful experience of home care. In fact, HCA recently launched an online petition calling upon state legislators to embrace the home care community's ideas for reducing health care costs.

Hundreds of patients, caregivers, home care agency leaders and others have signed the petition, accompanying their signature with testimonials like the following:

“My mother received care through a long term home health care [program] for over five years, allowing her to remain out of a nursing home. This was an invaluable service for her and our family, and saved the health care financial system thousands of dollars. Don't reduce funding for this critical program.”

“As a home care provider I know that continuing to cut reimbursement by the government is affecting our ability to serve residents. Continuing to cut reimbursement for home care services will cause more people to return to hospitals or be admitted to

nursing homes, costing the state taxpayers more. Hospitalization costs about \$2,000 a day; homecare services – which may include nursing, rehab and home health aide [services] – can cost between \$1,000-\$4,000 per month! And we keep people safe at home. Cutting home care will hurt New Yorkers' health care, but it also, in the very short run, will be financially expensive.”

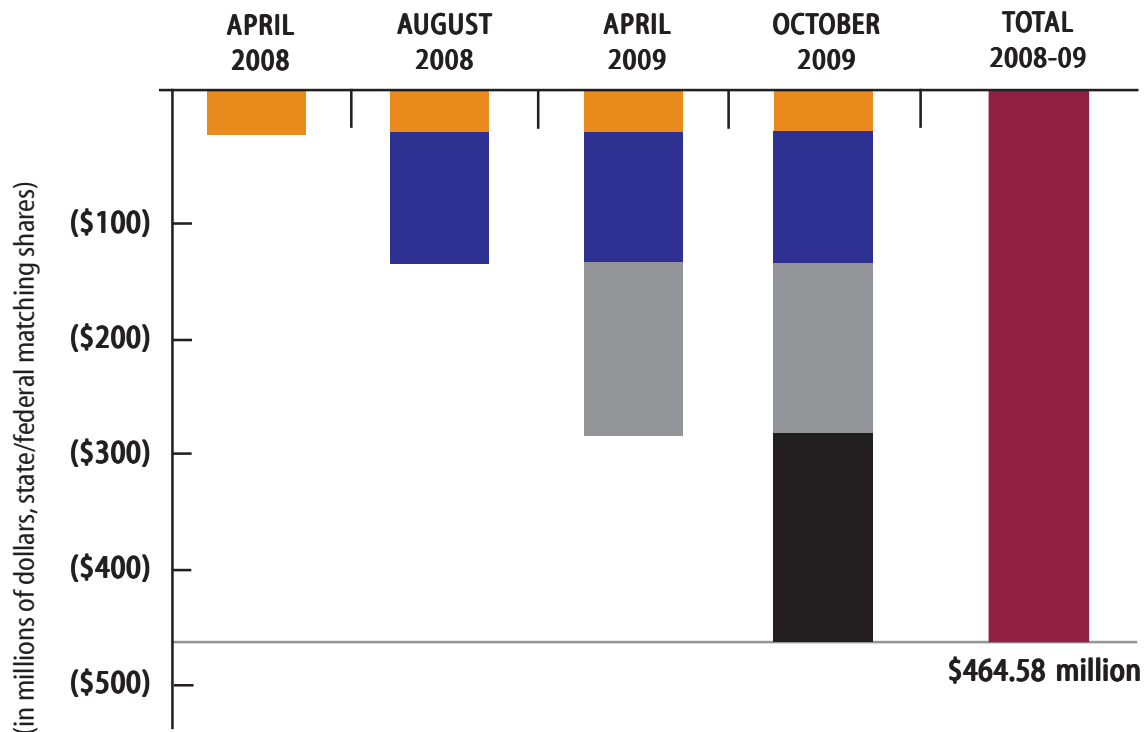
Concluding Comments

HCA appreciates the opportunity to share these comments with you today. We understand the broad challenges before the state, but urge your continued recognition of the fundamental role that home care plays in keeping people safe in the most preferred and often less expensive setting. Implementing catastrophic reductions that will lead to institutionalization is not the road that we, and hopefully you, believe New York State should be taking.

We look forward to providing further, detailed input and to working with you productively to resolve the state’s budget deficit by viewing home care as an important positive resource toward that goal.

State Budget Medicaid Cuts to Home Care

With Governor Paterson's October 2009 deficit-reduction proposal, State Budget cuts to home care approach a cumulative **half-a-billion dollars** (state/federal matching shares) since April 2008. This does not include the millions of dollars in new costs to providers that have resulted, or will result, from an unprecedented level of unfunded mandates, including: costs associated with aggressive state audit practices, a state mandate that health care employers must provide influenza immunizations for all health care workers, and an enormously costly statewide billing audit mandated by the state following the expiration of a federal program (known as the Third Party Liability Demonstration Project) for efficiently and fairly reconciling payment responsibility for Medicare/Medicaid dual eligible claims.



- April 2008 – Enacted 2008-09 State Budget (\$28 million, state/federal)**
 - 35% Reduction to Trend Factor (CHHA, LTHHCP, PC)

- August 2008 – Enacted Deficit Reduction Plan (\$107.5 million, state/federal)**
 - 1.3 percentage point reduction to 2008 Trend Factor (CHHA, LTHHCP, PC); 1% premium reduction for MLTCs; \$960,000 Upstate workforce money cut

- April 2009 – Enacted 2009-10 State Budget (\$145.08 million, state/federal)**
 - Elimination of remaining 2008 & 2009 Trend Factors and Trend Banking Factors (CHHA, LTHHCP, PC); 0.35% Gross Receipt Tax (all home care); MLTC premium reduction; non-renewal of \$16 million Upstate workforce monies; \$5 million Medicare Maximization targets

- October 2009 – Governor's Proposed Deficit Reduction Plan (\$184 million, state/federal)**
 - Proposed cuts to home care (\$63.4 million), personal care (\$71.4 million), MLTC (\$38.2 million) and home nursing (\$10.9 million).