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Member of Assembly
92nd District
THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIR
People with Disabilities

COMMITTEES
Codes
Environmental
Conservation
Health
Judiciary

February 17, 2022

Honorable Carl E. Heastie, Speaker
New York State Assembly - LOB 932
Albany, NY 12248

Dear Mr. Speaker and Ms. Chairwoman,

As Chair of the Committee on People with Disabilities, I am writing in response to your request for budget recommendations. After discussions with you, colleagues, staff and community members, I respectfully offer the following comments and recommendations for Assembly one-house resolution and the final State Fiscal Year (SFY) 2022-2023 budget.

OPWDD BUDGET

- **Cost of Living Adjustment (COLA)**

The Executive proposes a 5.4 percent cost of living adjustment to increase wages for voluntary-operated human service providers. For Human Services agencies, this would be a combined state share total of \$411 million, including \$242.8 million for the Office of People with Developmental Disabilities (OPWDD).

Note that OPWDD Human Services agencies have had minimal or no COLA's for over 10 years and the current cost of living increase is over 7% which is devastating OPWDD Human Services agencies who have about a 25% staff vacancy rate at all levels and they are continuing to bleed staff daily.

I request that the Assembly MODIFY this proposal to add an additional \$251.2 million to the governor's proposal for Office of People with Developmental Disabilities (OPWDD) for a total of \$500 million – an 11% COLA.

- **Mental Hygiene Worker Retention Bonuses**

The Executive proposes \$208 million to support bonuses for frontline, direct care and clinical workers employed by the State and community-based providers, including \$133.2 million for OPWDD.

Note that while OPWDD promotes this bonus as being “up to \$3000 per worker,” the “up to” is an important modifier. Most workers will receive two installments of \$500 which will do little to stop the bleeding of workers who can find jobs at far higher pay with signing bonuses in the thousands. \$3000 should be the guaranteed minimum bonus.

*I request that the Assembly MODIFY this proposal to add an additional \$116.8 million to the governor’s proposal for Office of People with Developmental Disabilities (OPWDD) for a total of **\$250 million**.*

I request that the Assembly Amend the HMH Article VII Part D proposal, to change qualifications to 15 hours (now 20) for Part-time and 30+ hours (now 40+) full-time to mirror FMAP guidelines.

- **Minimum Wage**

The Executive includes funding for an additional \$40.7 million for staff at not-for-profits associated with the increase in the State’s minimum wage, including \$33.3 million for OPWDD.

Note that OPWDD Human Services agencies have had minimal or no COLA’s for over 10 years and the current cost of living increase is over 7% which is devastating OPWDD Human Services agencies who have about a 25% staff vacancy rate at all levels and they are continuing to bleed staff daily. Adding additional sums for only minimum wage earners causes a compression of salaries and discourages workers from moving up to higher level positions which have more responsibility and the same pay.

*I request that the Assembly MODIFY this proposal to add an additional \$59.3 million to the governor’s proposal for Office of People with Developmental Disabilities (OPWDD) for a total of **\$100 million**.*

- **Child and Adolescent Needs and Strengths Assessments**

The Executive provides \$10 million to increase the level of Child and Adolescent Needs and Strengths (CANS) assessments and reassessments conducted for children and youth up to the age of 17 that are eligible for services under OPWDD. CANS assessments assist care managers in creating person-centered plans for supports and services and ensure individuals are receiving services in line with their needs.

Note that while OPWDD promotes this program as an extension of an existing adult assessment program to those in school, it is in fact a new program.

First, the consensus of the disability community is that the CAS program is a failed experiment that adds another level of expensive bureaucratic interference. The existing CAS is time consuming, expensive and inaccurate. (Anecdotally, both agencies and families have found virtually all reports have errors with no process available to correct the errors.) Second, assessments of children should be incorporated into the existing Individual Education Plan (IEP) process conducted by the school professionals who know the children and are preparing them for transition. This would improve the transition process by requiring interaction between OPWDD and school professionals.

*I request that the Assembly **REJECT** this CANS proposal and **eliminate** all funding for the existing CAS program.*

- **Community Based Service Expansions**

The Executive's proposal includes an increase of \$60 million to support the creation of additional capacity for services for individuals with developmental disabilities, including an expansion of certified housing supports and rental subsidies to individuals living in an apartment, as well as an expansion of day programs, employment options, and respite services.

I request that the Assembly MODIFY this proposal to add an additional \$40 million to the governor's proposal for Office of People with Developmental Disabilities (OPWDD) for a total of \$100 million.

- **Office of the Chief Disability Officer**

The Executive proposes \$330,000 to support the creation of the Office of the Chief Disability Officer (CDO) within OPWDD. The CDO would address roadblocks that prevent individuals with disabilities from finding employment and provide recommendations to ensure businesses have the resources to hire individuals with disabilities.

I am requesting that the Assembly ACCEPT this proposal.

- **Housing Subsidy Enhancements**

The Executive provides \$13 million for housing subsidies under the Individual Supports and Services (ISS) and Self-Direction (SD) programs. This funding would support an increase in subsidy payments and properly reflect reimbursement of administration of the subsidies with the change in policy.

Note that the OPWDD proposed increase is woefully insufficient. First, housing subsidies under the Individual Supports and Services (ISS) and Self-Direction (SD) programs have had minimal or no increases for many years and are insufficient to support the services for which they are intended. Second, the current cost of living increase is over 7%. Third, the recent sudden dramatic spike electric, heating and other energy costs will cause many who receive these subsidies to fall into arrears and lose their living accommodations.

I request that the Assembly MODIFY this proposal to add an additional \$12 million to the governor's proposal for this Office of People with Developmental Disabilities (OPWDD) program for a total of \$25 million.

*I request that the Assembly MODIFY this proposal to add an additional **one-time** \$25 million to the governor's proposal for this Office of People with Developmental Disabilities (OPWDD) program for an **Emergency Electricity and Heating Fund** a total of \$25 million.*

- **Room and Board Supplemental Payments**

The Executive includes \$9.5 million to align room and board supplemental payments with the actual cost and reimbursement of providers for the total amount of OPWDD-approved costs incurred.

Note that OPWDD the proposed increase of \$9.5 million is woefully insufficient. First, subsidies under this program have had minimal or no increases for many years and are insufficient to support the services for which they are intended. Second, the current cost of living increase is over 7%. Third, the recent sudden dramatic spike electric, heating and other energy costs will cause many who receive these subsidies to fall into arrears and lose their living accommodations.

*I request that the Assembly MODIFY this proposal to add an additional \$10.5 million to the governor's proposal for this Office of People with Developmental Disabilities (OPWDD) program for a total of **\$20 million**.*

*I request that the Assembly MODIFY this proposal to add an additional **one-time** \$15.5 million to the governor's proposal for this Office of People with Developmental Disabilities (OPWDD) program for an **Emergency Electricity and Heating Fund** a total of **\$25 million**.*

- **Crisis Services Expansion**

The Executive proposal would provide \$4.5 million to expand Crisis Intervention Services for Individuals with Intellectual and/or Developmental Disabilities (CSIDD). Funding would support rate enhancements for Intensive Behavioral Services (IBS) and improve access to county-based mobile crisis services.

Note that the proposed increase of \$4.5 million is insufficient. The current Crisis Intervention Services for Individuals with Intellectual and/or Developmental Disabilities (CSIDD) programs are not available to most who need them.

*I request that the Assembly MODIFY this proposal to add an additional \$10.5 million to the governor's proposal for this Office of People with Developmental Disabilities (OPWDD) program for a total of **\$20 million**.*

- **Independent Living Opportunities**

The Executive provides an additional \$15 million in funding to support the expansion of independent living opportunities for individuals with intellectual and developmental disabilities.

Note that OPWDD the proposed increase of \$9.5 million is woefully insufficient. First, subsidies under this program have had minimal or no increases for many years and are insufficient to support the services for which they are intended. Second, the current cost of living increase is over 7%. Third, the recent sudden dramatic spike electric, heating and other energy costs will cause many who receive these subsidies to fall into arrears and lose their living accommodations.

*I request that the Assembly MODIFY this proposal to add an additional \$10.5 million to the governor's proposal for this Office of People with Developmental Disabilities (OPWDD) program for a total of **\$20 million**.*

*I request that the Assembly MODIFY this proposal to add an additional **one-time** \$15.5 million to the governor's proposal for this Office of People with Developmental Disabilities (OPWDD) program for an **Emergency Electricity and Heating Fund** a total of **\$25 million**.*

Article VII Proposal

- **Temporary Operators**

The Executive proposes Article VII language that would give the Office of Mental Health (OMH) and OPWDD the permanent authority to appoint temporary operators.

*I request that the Assembly modify this proposal, by extending it for an additional **ONE (1) year**.*

OTHER BUDGET ITEMS FOR PEOPLE WITH DISABILITIES

- **MEDICAID TREND FACTOR**

It has been about 14 years without a COLA for many sectors covered by Medicaid. Some estimate that a simple cost of living increase each year would have increase rates some 31%. Given the added costs of the pandemic, this chronic under-funding, the growing aging population, Bureau of Labor Statistics the cost of living increase and the dramatic increase in energy costs, we an across the board **7.5% Medicaid rate increase to all Human Services providers including OPWDD, OMH and Long Term Care providers.**

- **NEW YORK STATE CENTER OF EXCELLENCE**

The number of people with Developmental Disabilities is increasing at a rapid pace. New York needs to establish a formal collaborative effort with clinical professionals and academics to develop a science-based response: analysis of trends, study of causes, plans for services, etc.

*I request that the Assembly MODIFY the Governor's proposed Budget to add an additional **\$750,000 to create a Center of Excellence.***

- **WORKPLACE TRANSITION**

While most people with Developmental Disabilities want to work or engage in some other meaningful activity, only 30% of people with disabilities nationwide are employed. New York needs to establish a formal collaborative effort with clinical professionals, academics, SED and employers to develop better ways to prepare people with disabilities for employment and place them in employment. OPWDD needs to establish its own unit and not rely on other agencies to develop strategies, employer training and tools to place its clients in jobs.

I request that the Assembly MODIFY the Governor's proposed Budget to add an additional **\$750,000** to fund an OPWDD effort.

- **NEW YORK STATE ACADEMIC DENTAL CENTERS**

Lack of dental care for people with intellectual and developmental disabilities-primarily adults— is at a crisis level. There are few dentists who provide dental care to this population. To increase the number of dentists trained to provide this specialized care, we need a permanent fellowship program. Proposal: To Address Oral Health Disparities, six (6) fellowships that provide advanced clinical training in this specialized oral health care, one for each centers located in Rochester, Stonybrook, Columbia, Touro, NYU and Buffalo.

*I request that the Assembly MODIFY the Governor's proposed Budget to add an additional **\$750,000.***

- **OPWDD TASK FORCE ON SPECIAL DENTISTRY**

Lack of dental care for people with intellectual and developmental disabilities of all ages is at a crisis level. There are few dentists who provide dental care to this population. Most often such dental care requires operating rooms and anesthesia. Such services require an increase in Medicaid rates – an additional expenditure of Medicaid and State funds to cover the costs.

*I request that the Assembly MODIFY the Governor's proposed Budget to add **\$1,500,000.***

- **EARLY INTERVENTION**

Include an 11% rate increase for Early Intervention Providers that have not received increases in more than 25 years.

I request that the Assembly MODIFY the Governor's proposed Budget to add an additional appropriate sum equal to an 11% increase.

- **DEAF/BLIND/HARD OF HEARING -- NY ASSOCIATION FOR INDEPENDENT LIVING**

Current \$1,000,000 funding for home modifications to keep individuals in their homes for the entire state is insufficient. The programs has had minimal or no increases for many years.. Current cost of living increases are over 7%. Recent sudden dramatic spike electric, heating and other energy costs will further accelerate costs making these modifications cost prohibitive. The NY Association is requesting \$9 million.

I request that the Assembly MODIFY this proposal to add an additional \$3 million to the governor's proposal for a total of \$4 million.

- **BRAIN INJURY ASSOCIATION OF NY**

The Continuum of Care Program for those with brain injuries over the age of 22 needs additional funding.

I request that the Assembly MODIFY the Governor's proposed Budget to add an additional \$800,000

- **DEAF/BLIND/HARD OF HEARING -- Co-Navigator Pilot Program**

I request that the Assembly to add the Governor's proposed Budget \$500,000 for a pilot program.

- **SPINA BIFIDA ASSOCIATION NORTHEASTERN NEW YORK:**

I request that the Assembly MODIFY the Governor's proposed Budget al to add an additional \$75,000

EDUCATION BUDGET ITEMS FOR PEOPLE WITH DISABILITIES

- **4201 SCHOOLS**

Staff must have dual certification in subject area and deaf and hard of hearing. Schools are unable to attract/retain staff due to low salaries in high cost-of-living areas. (for example, in Westchester, 4201 teachers assistants' starting salary is \$29,000-\$30,000 in County where median income is about \$80,000.) These schools need at least parity with Foundation Aid increases.

I request that the Assembly MODIFY the Governor's proposed Budget to add an additional \$5.8 million.

- **853 SCHOOLS**

SED has requested funding for a consultant to review rate methodology (\$1.25 million).

I request that the Assembly MODIFY the Governor's proposed Budget to add an additional \$1.25 million.

- **ACCES-VR Adult Extended funding**

I request that the Assembly MODIFY the Governor's proposed Budget to add an additional \$10 million.

ARTICLE VII PROPOSALS

1. CENTER OF EXCELLENCE.

New York needs to establish a formal collaborative effort with clinical professionals and academics to develop a science-based response to the rapid increase in number of people with Developmental Disabilities

2. WORKFORCE — DIRECT-CARE STAFF PERSONAL INCOME TAX CREDIT (S.7643/A.9200)

Up to \$5,000 for households earning under \$100,000, to recognize for DSPs who support individuals with disabilities to provide additional recruitment and retention incentives.

3. WORKFORCE — CREDENTIAL AND CAREER LADDER PROGRAMS

Include A. 8408 in the SFY 2023 Budget to implement a statewide standardized DSP credential program for the OPWDD Human Services agencies.

4. WORKFORCE — STATE OPWDD — TIER 6

While OPWDD DSP's and management personnel are generally better compensated than those in Human Services voluntary agencies, like the voluntary agencies the state services are suffering from an extreme shortage of workforce with a vacancy rate similar to their 25% staff vacancy rate at all levels. The state workforce is similarly to bleed staff daily. The Assembly should MODIFY the Governor's proposal to modify the Tier Six provision to match those of prior tiers retroactively for Office of People with Developmental Disabilities (OPWDD) staff to provide additional recruitment and retention incentives.

5. WORKFORCE — RECRUITMENT AND RETENTION —IMPLEMENTATION OF STATEWIDE RECRUITMENT PROGRAMS —

Expand BOCES and Community College Programs statewide to create a pipeline for the DSP care field. Provide incentives for Colleges to develop certification programs to train for DSP and lower management positions. Form alliances with Immigrant groups and International Internship programs to provide temporary and/or permanent additional employees.

6. WORKFORCE — NURSES ACROSS NEW YORK TUITION LOAN FORGIVENESS PROGRAM (HMH ARTICLE VII PART A)

Amend proposal to specify that OPWDD and OMH funded places of employment and Long-Term Care Facilities are eligible workplaces

7. WORKFORCE — EFFECTIVE DATE OF CHILDREN’S CAMP PROFESSIONALS LEGISLATION

Camps need mental health and behavioral health specialists to deal with the significant rise in the number of children with developmental disabilities and with behavioral health issues. We should change/advance the effective date to immediate.

8. WORKFORCE — PRIVATE DUTY NURSE

Include A4073 - authorize parent or other family caregiver who is RN to be paid to care for child who qualifies for these services.

9. RESIDENCES — OCFS “GRADUATES”

There is a serious shortage of residential opportunities for individuals transitioning from school – especially those with complex needs who resided in and improved in OCFS locations. We should authorize OCFS residential programs (on grounds of “Special Schools”) to continue to support individuals who aged-out of their programs where they have excess capacity or can create and support additional capacity.

10. RESIDENCES — COMPLEX NEEDS RESIDENTIAL AND DAY SERVICES PILOT PROGRAMS

There is a serious shortage of residential opportunities for individuals transitioning from school – especially those with complex needs. So many students could only find suitable placement out-of-state. We should include enhanced OPWDD/SED Children’s Residential Program’s (CRP) funding for the three CRP Centers of Excellence to develop programs to support 30 OPWDD Complex Needs clients in-state in lieu of their out-of-state schools and provide immediate cost savings of more than \$1.7 million by preventing out of state placements.

11. EDUCATION — 853, 4201, 4410, and Special Act Schools

- All should be given the proposed 11% increase and permanently given parity with future Foundation Aid increases
- Discontinue rate reconciliation, adjust the cost screens and implement Interim Plus rates
- Develop a new tuition rate methodology with stakeholder input
- Hold all harmless for 5 years while the rate methodology is being studied and revised.

12. EDUCATION — 4410 and 853 Schools

Include in teacher pipeline initiatives

13. EDUCATION — 4410 Schools

Allow reserve funds similar to other schools

14. DUE PROCESS FOR TRANSITIONAL CARE

Include A8486 – due process for out-of-state OPWDD clients ordered to return in-state.

15. STATEWIDE HEALTH CARE FACILITIES TRANSFORMATION PROGRAM IV - HMMH ARTICLE VII PART K

Amend to include I/DD community-based providers.

16. LONG TERM CARE FACILITIES

- a. Remove the capital component from the “70/40” direct care spending requirement calculation. Capital Medicaid dollars are legally required to be spent on the associated capital project. Including those dollars in the 70/40 calculation disincentivizes providers from investing in needed capital improvements for infection control and quality of life.
- b. Authorize Medication Technicians in nursing homes
- c. Carve out managed long term care population from statewide procurement for non-emergency medical transportation.

17. Managed long-term

Eliminate requirements for competitive procurement of care plans.

As Chair of the Committee on People with Disabilities, I hope that the Assembly can continue to demonstrate our commitment to New York’s disability community by taking the above-referenced actions. I look forward to working with you on these issues and I thank you again for your consideration of these recommendations.

Sincerely,

Thomas J. Abinanti, Chair
New York State Assembly
Committee on People with Disabilities

CC: Helene Weinstein, Chair, New York State Assembly Ways and Means Committee