



Testimony of:
NEW YORK STATE CENTER FOR ASSISTED LIVING (NYSCAL)
on the
2018-19 New York State Executive Budget Proposal
Health & Mental Hygiene
Article VII Bill
Monday, February 12, 2018
Van Buren Hearing Room A
Legislative Office Building 2nd Floor
Albany, New York

Presented by:
Amy Kennedy, R.N., B.S.N., M.P.A.
Executive Director, NYSCAL
33 Elk Street Albany, New York
518-462-4800
[Akennedy@nyscal.org](mailto:AKennedy@nyscal.org)

Introduction

Good afternoon and thank you for allowing me the opportunity to testify on the health and Medicaid proposals included in the 2018-19 Executive Budget. My name is Amy Kennedy and I serve as the new Executive Director of the New York State Center for Assisted Living, also known as NYSCAL, the assisted living arm of the New York State Health Facilities Association (NYSHFA).

It is an honor and privilege for me to be here today representing NYSCAL, with over 100 Adult Care/Assisted Living Communities across New York State. Our providers serve nearly 12,000 individuals who are frail, elderly, disabled, and mentally ill. They pride themselves on providing a high level of quality care in programs that enrich the lives of the residents we serve. Our testimony today will highlight some of the proposals contained within the Governor's Executive Budget Proposal.

NYSCAL and would like to outline several of the proposals we support, and recommend a few additions based on feedback from our membership. Many of the current needs of our providers are tied to reimbursement that directly impacts service delivery to the residents they serve. As the Executive Director of an adult home, an Assisted Living Program (ALP), and an enriched housing assisted living program for nearly 25 years, I understand the struggles our members face in the delivery of patient-centered care. As a registered nurse, I've witnessed how the landscape has shifted as providers have had to acclimate to the multitude of changes that have taken place in the delivery of care and our changing population.

We are pleased to see Governor Cuomo's Executive Budget include different options to expand access to ALP for existing providers and for the development of new programs where there is demonstrated need. These proposals will enhance the lives of residents and assist resource-challenged facilities take on transformational projects, quality improvement initiatives, and activities that enhance the experience of the resident. I would like to highlight the programs we are in support of and then briefly discuss the dire need for the SSI increase that the legislature passed unanimously last session only to be vetoed by the Governor:

- I. Expedited approval process for ALP
- II. Additional ALP awards by the Commissioner
- III. Alzheimer's and Dementia Voucher Program

- IV. Current funds included in the Executive Budget
- V. ALP readiness with Managed Long-Term Care (MLTC)
- VI. Supplemental Security Income (SSI) Increase

NYSCAL Supports the following Executive Budget Proposals for inclusion in the Senate and Assembly one-house bills:

I. NYSCAL is supportive of the expedited review process for ALP slots:

The Executive Budget proposes to allow existing Assisted Living Program (ALP) providers an expedited approval process for nine additional ALP slots by redistributing awarded but unused ALP slots. This proposal permits the Department of Health (DOH) to allow “eligible applicants in good standing” the ability to be licensed for additional beds within ninety days of DOH’s receipt of an application. The number of additional assisted living program beds will be based on previously awarded beds with withdrawn or denied by DOH. Additionally, for ALP providers licensed on or before April 1, 2020 may apply for an additional increase of nine beds every two years.

NYSCAL is in favor of these proposals but is seeking more information about what constitutes “good standing” to the Department. While this proposal will help existing providers, basing the number of awarded beds on prior solicitation runs contrary to needs-based reviews as suggested through the ALP Certificate of Need (CON) legislation that was vetoed by the Governor A.7727-A/Lupardo (2017).

II. NYSCAL is supportive of awarding 500 additional ALP beds in counties with either one ALP/no ALP and counties with high utilization:

NYSCAL requests your support of the two proposals each allowing for the distribution of 500 ALP beds. One such proposal allows for the solicitation and award of 500 beds in counties where utilization of existing program beds is higher than 85%. These are for providers that serve only public pay residents, and maintain collaborative agreements with an ACF, a nursing home, or a general hospital. The proposal further requires applicants to have an existing managed care agreement and be participating in VBP models where such models are applicable.

The second 500 bed proposal is for the solicitation and award of ALP beds in counties where there are no ALP beds or only one ALP provider. The same standards

in the aforementioned proposal apply regarding collaborative agreements and contracting.

While NYSCAL is incredibly supportive of this proposal, we would request the language mandating a collaborative agreement with a managed care entity and/or value based payment participation be amended or stricken.

III. NYSCAL is in support of the Alzheimer's Disease and Dementia Voucher Program:

The Governor has included a proposal to subsidize the cost of assisted living for those living with Alzheimer's Disease & dementia that are not Medicaid eligible. The program will authorize up to 200 vouchers through an application process and pay up to 75% of the average pay rate. While we are interested in this proposal, several items are undefined and we would expect to see rules and regulations outlining the details of the application process and eligibility. I will be participating in the task force working in collaboration with DOH to develop these criteria should this proposal be in the Enacted State Budget.

IV. NYSCAL is in support of funding for ACFs in the following areas:

Enhancing the Quality of Adult Living (EQUAL):

This program has been funded at \$6.5 million. These funds are available to enriched housing programs and adult homes that serve recipients of Supplemental Security Income (SSI) or Safety Net Assistance benefits including ALPs and Assisted Living Residences. This funding is used to enhance residents' quality of care and life experiences in the ACF setting and is often used for necessary upgrades or maintenance, staff training, upgrades to rooms, transportation for resident services, community outings, resident activities, emergency preparedness, and facility restoration projects. As a previous Executive Director of a ALP, this grant funding allowed the facility to replace and repair needed carpeting which improved the environment of the resident's home.

Criminal History Record Check (CHRC) Funding:

We appreciate the \$1.3 million for expenses related to CHRC for ACFs. All non-licensed employees providing direct care to residents according to the plan of care, and those that have access to living quarters are all subject to CHRC. This

would include CNAs, HHAs, dietary aides, hairdressers, housekeepers, and maintenance.

I've worked in healthcare long enough before strong, interoperable systems were implemented for CHRC and have dealt with the consequences from when background checks aren't available. Administrators work to screen out candidates that are not interested in the provision of care but despite these best efforts, mistakes do happen. Before CHRC when I was the administrator of an ACF, I had a young lady that interviewed beautifully, and was subsequently hired. She took excellent care of the residents. I later was informed by a son of a resident that someone had stolen his mother's identity and opened a credit card in her name, charging several hundreds of dollars in retail merchandise.

While completing an investigation with the local authorities, it was determined the aide I had hired had several felony arrests on her record. For the resident, her family, our facility, and myself this was devastating. When you become an administrator, it is your responsibility to take care of everyone in your building, and luckily important mechanisms like the funding of CHRC allow me to screen out unqualified candidates. Had this program existed now I would have found prior issues on her record and not offered her a job.

ENABLE Grant:

We were pleased to see the Governor will maintain its funding, approximately \$2 million. In my previous facility the use of these grants funded a Dakim computer, which is a web-based training program for brain wellness. This program allowed residents in a memory care unit to work on cognitive functions including memory and language and work to maintain cognitive function.

Statewide Health Care Facility Transformation Program (SHCFTP):

NYSCAL was pleased to see that the third round of the Statewide Health Care Facility Transformation Program (SHCFTP) would be funded at \$425 million and include Assisted Living Programs (ALPs) as eligible entities. Like other eligible providers, ALPs can use funding for capital projects, debt retirement, working capital/non-capital projects that facilitate health care transformation and expand access to care. The population served in an ALP setting is becoming more complex and individuals previously served in the nursing home or ALP can sometimes live

in the community. While we are excited to meet the challenges that lie ahead, ALPs haven't received funding for other important upgrades such as Electronic Medical Records (EMRs) for example.

Unlike in years' past, this proposal has expanded on the original language to include modernizing physical plants, increasing the quality of resident care or experience in nursing homes, and improving HIT capability, which could include telehealth. We already have members discussing how they could use telehealth to better provide continuity of care for the residents they serve, and this program will provide an excellent opportunity to exercise some creativity and teamwork in the provision of care for their communities. While we are highly supportive of this proposal, NYSCAL believes the "set aside" of \$60 million for all community-based health care providers in New York State (home care, diagnostic and treatment centers, mental health clinicals, OASAS providers, primary care offices, and ALP providers) seems insufficient to result in the transformation the State is looking for. We respectfully request the Legislature consider expanding this pool since this is the first year ALP providers have had the ability to meaningfully participate in transformational activities through this program.

Despite all of these positive proposals in the Executive's Budget, absent from them are increases in reimbursement to assist the poorest of New Yorkers and those care providers who serve them in their facilities. The Governor outlined his commitment to social justice, ending homelessness, and protecting the Medicaid program in his State of the State, and denying the SSI increase runs contrary to those goals.

V. Assisted Living Programs in Managed Long-Term Care (MLTC):

NYSCAL is aware that the Department of Health (DOH) is planning to transition the ALP benefit and population into mainstream and Managed Long Term Care (MLTC) on October 1, 2018 in New York City and January 1, 2019 for the rest of the State.

At this time we have not been updated with respect to the transition plan for this population and benefit, and the association has a few concerns related to this plan.

- **Network Adequacy:** Unlike nursing home providers, there are counties without enough ALPs. This provides a network adequacy barrier.

VI. Supplemental Security Income (SSI) Rate Increase (State Share):

New York State has many providers who provide quality care to individuals whose only source of income is social security supplemental income (SSI). These adult care facilities provide care for the neediest individuals those with mental illness, physical frailties and those without a family support system. Adult Care Facilities have been impacted by rising costs such as minimum wage increase, health insurance premiums for staff and inflation costs of food. However, the SSI rate has remained frozen for the past 10 years at \$41.00 per day. As a result, many of the SSI facilities can no longer handle these financial losses and have been forced to close their doors.

During my career, I've participated in closure planning for facilities, and did so at the McCauley Assisted Living Program here in Albany, New York. The McCauley closed its doors in March 2015 which forced half of a facility of low-income seniors to find alternative housing. All closures bring consequences, one of which was residents were sometimes transitioned to higher levels of care than needed. Additionally, many of The Sisters of Mercy, all of which had lived and served in this area, now lived in the ALP and were forced to go elsewhere. Many of the nuns serving at the McCauley had to leave the area and the community they had served members of this community since 1995. The McCauley's original business model was built on accepting 50% private pay and 50% Medicaid residents to break even. The percentage shifted to accommodate more Medicaid residents as the need grew, but the reimbursement became less and less representative of the cost of care, contributing to the accumulation of large annual deficits.

We are requesting a phased-in increase of \$4.00 per year, for a total of \$20.00 per resident, per day. This will bring the SSI payment to \$61.00 per resident per day. It is imperative that the State increase the SSI rate so these facilities can continue to provide quality care and services to our frail elderly and disabled SSI recipients.

Conclusion

We thank you for your willingness to listen to our testimony today and for your support on these measures. The New York State Center For Assisted Living (NYSCAL) respectfully requests the Legislature increase the State portion of the Supplemental Security Income (SSI) rate to help increase the quality of care and services to low-income residents and help prevent further closures of SSI facilities.

It is an honor to be here today and share our thoughts and areas for opportunity with you all.