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**Joint Legislative Public Hearings on
2025-2026 Executive Budget Proposal
Health**

Written Submission by

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INTRODUCTION

Empire Justice Center is a statewide, multi-issue, multi-strategy not-for-profit civil legal aid provider focused on changing the complex systems impacting low income and marginalized New Yorkers. With a focus on poverty law, Empire Justice takes a 360-degree approach to the areas of law we practice in, providing individual legal representation, policy research and analysis, training and technical assistance as well as impact litigation.

Our work cuts across all significant areas of poverty law and involves three inter-related services:

We practice the law: Empire Justice Center provides a range of legal assistance from our Telesca Center and Library offices in Rochester, Albany, Yonkers, White Plains, Central Islip, and Hempstead. We provide one on one representation and undertake impact litigation to address systemic issues impacting low income and marginalized communities.

We teach the law: Our history as a backup center for civil legal services providers began in the 1970's and while federal funding for these services was eliminated during the mid 1990's, we have sustained that work in specific service areas where we continue to provide training, technical assistance and other legal support services to civil legal aid providers as well as a variety of other community-based organizations, keeping them apprised of changes in the law and regulations.

We change the law: In order to ensure that the needs of low-income families are heard within the state's policy making processes, we engage in both legislative and administrative advocacy on a range of issues impacting our clients and we do the same as needed at the local and federal levels.

The health law team is dedicated to ensuring access to quality, affordable health coverage for all New Yorkers. **We respectfully request the following**

1. **We ask the legislature to include an additional \$1.5 million in funding for Community Health Advocates, and we request that the final budget includes \$7 m for CHA.**
2. **We support the recommendations of the Health Care for All New York and Medicaid Matters New York coalitions, including**
 - a. **Protect and Improve Health Insurance Coverage**
 - b. **Regulate Hospitals to Protect New Yorkers from Medical Debt**
 - c. **Allocate Some Managed Care Organization (MCO) Tax Revenue to Promote Health Care Affordability for New Yorkers**
 - d. **Reduce the Role of Managed Care in Essential Programs and Implement Reform in Managed Care Programs**
3. **We ask the legislature to take steps to achieving Pay Parity for Civil Legal Services nonprofit providers in New York State, including by approving in this year's one house**

and final budgets the increase to JCLS funding \$150 million, and by including \$80M total for the Interest on Lawyers Account (IOLA) Fund to support its grantees and ensure that budget language designates IOLA as a “fiduciary fund.”

- 4. We ask the legislature and the Executive to reaffirm New York’s commitment to transgender and nonbinary New Yorkers, including medically necessary, gender affirming care—creating a fund to back medically necessary care.**
- 5. We ask the legislature and the Executive to address nonprofit contracting in New York State.**

New York Should Increase Funding for Community Health Advocates (CHA) to \$7 million in FY 26

CHA helps New Yorkers navigate today’s complex health care systems by providing individual assistance, outreach, and education to communities throughout New York State. Since 2010, CHA has handled 528,000 cases for consumers, helping them save approximately \$216 million in healthcare related costs.¹ CHA reduces or eliminates consumers’ medical debt in over 91% of its cases. Every dollar invested in CHA yields an estimated \$5.73 in savings to consumers. Empire Justice Center is grateful that the Governor’s budget includes \$ 5.5 million for CHA and we urge the Legislature to allocate an additional \$1.5 million in funding for this resource, which helps so many New Yorkers maximize their health insurance. The increase from the executive comes at a time when organizations are seeing a dramatic increase in the volume of calls and requests for assistance, in part due to the 2020 law that the CHA hotline number be included on adverse determination notices as outlined below.

Indeed, New York State funding for health law services has never been more critical. In previous years, funding for CHA services was reduced, and advocates have slowly been working to build back to the prior funding level as the needs of New Yorkers continues to increase. In 2020, it became law that the CHA hotline number was to be included on all adverse decisions for consumers beginning in 2022. In 2023 and 2024, CHA saw a significant increase in insurance denials over 2022 – the year the law took effect and the number was included on notices. We are grateful that the funding has been slowly increasing in subsequent years and are very pleased to see a substantial increase from the Executive this year. We ask that the Legislature continues to support these critical services at a total of \$1.5 million because we anticipate ongoing issues with Medicaid and Affordable Care Act subsidies that are set to expire this year – both are dependent on federal funding.

¹ Community Health Advocates, *Our Impact* available at <https://www.cssny.org/publications/entry/community-health-advocates-annual-report-2024-cha> (last accessed Feb. 3, 2025).

Investing in programs such as these not only benefits families, but it also can prevent costlier care from arising.

For example, Empire Justice Center worked with a 4-year-old client in Monroe County, with complex medical conditions, including nonverbal Autism Spectrum Disorder, medically intractable epilepsy, severe global cognitive and developmental delays, insomnia, and Dravet Syndrome, was initially denied a Cubby Bed with accessories by the state Medicaid agency. A Cubby Bed ensures that children who have special needs or autism are safe and comfortable at night. The beds can be completely enclosed, similar to a tent. The agency argued that the equipment was not medically necessary, not cost-effective, and did not meet the criteria for Durable Medical Equipment under the Medicaid program. Our Health Law Team pursued a Fair Hearing to advocate for the child and their family. After thorough representation, the Administrative Law Judge (ALJ) ruled in our favor, affirming that the Cubby Bed was indeed medically necessary. The child's mother was both surprised and grateful for the outcome, deeply appreciative of the support and advocacy provided throughout the process. This decision ensures that the family will soon receive a \$13,000+ bed, which is expected to help the child maintain a safer, healthier sleep schedule. Notably, this specialized bed is also anticipated to reduce the frequency of seizures, offering the child a more peaceful and secure environment, ultimately improving the quality of life for both the child and their family.

Another client of ours, a 55-year-old client enrolled in the Health and Recovery Plan (HARP) in Suffolk County had encountered significant challenges over the past few years in obtaining a replacement set of dentures, facing multiple denials. Unable to afford the \$4,200 out-of-pocket cost, the client was left without a solution. Our team collaborated closely with the client's healthcare providers to gather comprehensive supporting documentation that substantiated the medical necessity of the dentures. While the request fell short of the standard 96-month eligibility for replacement, the evidence provided highlighted the client's serious underlying health conditions, which warranted the new dentures. As a result of these efforts, the plan reversed its initial denial on internal appeal, ensuring the client would receive the medically necessary dentures. This successful outcome underscores the critical role of coordinated advocacy in securing essential healthcare resources for individuals in need.

As you can see, CHA services have a significant impact on the lives of our clients – both financially and in terms of stabilizing health outcomes.

ASK: We ask the legislature to include an additional \$1.5 million in funding for CHA, for a total of \$7 million in the enacted budget.

Protect and Improve Health Insurance Coverage

Regulate Hospitals to Protect New Yorkers from Medical Debt

Empire Justice Center supports the position of the End Medical Debt Campaign regarding the No Blank Check Act to strengthen protections for patients when seeking medical care. Rather

than asking them to sign a “blank check” when seeking treatment, patients should be given a good faith estimate of the cost of care. Amending § 2. Article 28 of the public health law to add section 2831 to ensure that providers obtain consent for payment in advance for services rendered for cost of care. These types of notices are already required for Medicare beneficiaries, who sign advanced beneficiary notices prior to receiving care. These notices should be standard for those with other types of insurance and who are self-pay as well.

Allocate Managed Care Organization (MCO) Tax Revenue to Promote Health Care Affordability for New Yorkers

The \$1.4 b State-share tax revenue approved by CMS is currently proposed to be allocated to the health care industry. Empire Justice Center supports the position of Health Care for All New York, that these funds should be directly to promote affordability for New York consumers by

- a. Expanding subsidies for Child Health Plus (CHP) to ensure affordability for those who pay premiums and align coverage start dates to the first day of the month of application;
- b. Funding Navigators and Consumer Assistance Programs like CHA
- c. Allocating Funds to Protect Patients from Federal Cuts.

Reduce the Role of Managed Care in Essential Programs and Implement Reform in Managed Care Programs

- a. Low-income older adults and those living with disabilities often rely on home care services to live safely in their homes. Managed long-term care (MLTC) plans, funded through Medicaid, often deny the hours they need to remain safe, yet the plans are still being paid to provide these services.
- b. Enhance transparency by posting Managed Medicaid Cost and Operating Reports (MMCOR) data and other data sets that demonstrate plan activity, like denials on New York State Open Data website;
- c. Address systemic inequities by collecting and reporting managed care data based on race, ethnicity and disability, at a minimum;
- d. Add health equity standards to the model contracts and managed care rate setting methodologies;
- e. Revamp the Department of Health system for taking and addressing complaints and use individual complaints to identify and address systemic issues;
- f. Address capacity concerns to ensure that Medicaid enrollees have timely access to medical, mental health and dental providers.

Reaffirm New York’s commitment to transgender and nonbinary New Yorkers, including medically necessary, gender affirming care—creating a fund to back medically necessary care.

Transgender and nonbinary New Yorkers are our valued neighbors, family members, colleagues and friends. Transgender and nonbinary people deserve medical care as much as any other group of people with specific health needs. Gender affirming care is evidence-based, medically necessary care. Despite this medical necessity, gender affirming care has come under increased

attack as a political wedge issue, with hundreds of bills being targeted at the approximately 1% of the United States population which is transgender. These efforts have cumulated in Federal attacks, as one Trump EO defines “sex” in such a way that seeks to erase the existence of transgender people, and another EO seeks to delegitimize gender affirming care, particularly for young people. These cruel attacks have been shown to increase depression and suicidality among young people. New York has been a beacon for families seeking to continue medically necessary care for transgender people, and New York must maintain its commitment to evidence-based, medically necessary care, including funding that care if the Federal government cuts off funding to Medicaid and other Federal reimbursements.

ASK: Reaffirm New York’s support for transgender and nonbinary New Yorkers and commit to funding care as necessary.

The need for Pay Parity in the Civil Legal Services

We also want to take this opportunity to give an overview of what is happening in the field of civil legal services. Unlike in criminal cases – in which people have a right to an attorney – civil legal service providers’ ability to take on clients depends on securing government contracts and private fundraising, even though civil cases determine people’s access to the “Essentials of Life”, including housing, food, education, and safety. Our Chief Judge’s Permanent Commission on Access to Justice has estimated up to a \$1 billion gap¹ between current funding and unmet civil justice needs. A detailed analysis by the Interest on Lawyer’s Account (IOLA) Fund for the 2024 report to the Chief Judge from the Permanent Commission² estimated that for every \$1 in civil legal services funding, \$7.50 is generated.

This work is critical to our clients and to our state as a whole, and unfortunately, our field is facing a recruitment and retention crisis. Lawyers and other staff continue to leave legal services agencies like Empire Justice Center for government jobs at an alarming rate because civil legal services organizations statewide are unable to achieve pay parity with those attorney counterparts working in government positions, such as the New York State Attorney General’s Office. The combination of higher salaries and a government pension is difficult to compete against, particularly for mid-career attorneys.

Notably, last year, both of Empire Justice Center’s health law attorneys who had been with the organization for many years to positions with the state and we continue to struggle to fill those positions. Our staff love the work, but without the ability to increase salaries and fund infrastructure, we simply can’t compete. We continue to struggle to fill these positions and that means that families like those we described above will go unassisted until we do. Vacant attorney positions in civil legal services have become the norm. A recent study by the Chief Judge’s Permanent Commission on Access to Justice found that there is a 13% vacancy rate for attorney positions across the state. Just filling those positions would provide legal assistance to an estimated 50,000 individuals over the course of one year. Or put another way, an estimated 50,000 individuals are not able to access legal assistance as a result.

An immediate step to help retain and attract candidates to provide resources for providers to increase salaries so that they are competitive with government counterparts who are doing substantially similar legal work. The gap between the two is significant, but not insurmountable. A survey and recently released report from the NY Legal Services Coalition² provides data, showing that pay for attorneys in civil legal services organizations outside of NYC are paid **21%** less than their counterparts in the Attorney General's office. Those inequities only grow throughout their careers and, after 21 years of civil legal services employment, experienced civil legal services attorneys are paid **38% less** than their counterparts in the AG's office in some parts of the state.

While New York State cannot fix this element of the justice gap overnight, it is also abundantly clear that the gap will widen without both a direct investment from New York State in civil legal services, and the preservation of one of its core funders, the Interest on Lawyers Account (IOLA).

There are two notable steps toward progress that can be made this year.

First, we are deeply grateful that New York Unified Court System and our Chief Judge listened to providers when we testified at the Chief Judge's 2024 Hearing on Civil Legal Services and included a significant increase in funding for Judiciary Civil Legal Services (JCLS) in their budget submission for SFY 2026⁵. Indeed, the court highlighted the increases in civil legal services funding as a priority: "The UCS is committed to meeting the critical needs of low-income and underrepresented New Yorkers. The FY 2026 Budget includes an increase of \$45.5 million, for a total budget of \$150 million."

This funding will be essential in Empire Justice's efforts to increase salaries and it will also be incredibly helpful in adapting to changes in funding that may occur from the federal level.

Additionally, Civil Legal Services' providers other primary source of general funding is the Interest on Lawyers Account (IOLA). We will cover this more in depth in our Public Protection testimony, but for the purposes of this hearing, we request that the final budget includes \$80 million total in appropriations for the Interest on Lawyers Account (IOLA), rather than the current \$77.5 million and ensures the final budget language continues to recognize IOLA as a fiduciary fund. IOLA is not taxpayer money and determinations of how to use the dollars are made by the IOLA Board of Trustees. The Board of Trustees made a plan for the \$80 million appropriation and therefore, we ask that both the Governor and the Legislature appropriate the funds they need to execute their plan.

New Yorkers need a stable legal services system to help them navigate crises including health crises, domestic violence, eviction, foreclosure, and access to benefits they are entitled to. We

²New York Legal Services Coalition white paper: *Pay Parity: New York Needs a Shared Vision to Achieve Pay Parity for All Attorneys Working to Close the Justice Gap*. <https://nylscoalition.org/2025payparity> (Accessed 2/11/2025.)

respectfully ask both houses of the legislature to support this critical investment in their one houses and in the final budget.

ASK: Make steps to achieving Pay Parity in the Civil Legal Services in New York State, including by supporting approving in this year's one house and final budgets the proposed increase to JCLS funding totaling \$150 million, and by including \$80M total for the Interest on Lawyers Account (IOLA) Fund to support its grantees and ensure that budget language designates IOLA as a "fiduciary fund."

Reform New York's contracting and payment processes through uniformity, streamlined systems, identifying best practices and efficiencies to be implemented across contracts and agencies

Legal services providers are a critical part of New York's social safety net. Along with our not for profit sector colleagues, New York State contracts with Empire Justice Center to provide civil legal services to low income and marginalized New Yorkers facing homelessness, hunger, loss of income and more. Challenges in the not for profit contracting and payment processes result in financial crisis, staffing instability and fewer services for clients, undermining the goals of the contracts. In particular, slow execution of contracts and payment results in financial crisis and incurred debt with related, often non-reimbursable interest payments. Common sense, practical steps, like automatic advances, automatic interest payments when contract execution is delayed and allowing providers to be reimbursed for interest payments and obvious expenses related to running organizations in a consistent way across all agencies and contracts will help to streamline processes for state agencies and providers. It will also help nonprofits stay solvent.

ASK: Reform New York's contracting and payment processes through uniformity, streamlined systems, identifying best practices and efficiencies to be implemented across contracts and agencies.

Thank you for this opportunity.