



Legislative Retrospective

**A comprehensive look at the
2023 Legislative Session**



Legislative
Retrospective

Published by
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A letter from the President



At long last, the worldwide COVID-19 pandemic has ended, at least on paper, and we are emerging into a new world, forever changed. Our lives have gone hybrid, our meetings are virtual, and the ways we now approach work, school, and entertainment have been fundamentally altered. The hope of pandemic relief money held so much promise at the end of last year's legislative session, and my letter to our members at that time was filled with pride in our industry and the work we had undertaken to raise home care's profile in the legislature. One budget cycle cannot make up for more than a decade of underfunding, however, and implementation of the 2022 state budget underscored the ways in which the funding stream is deeply flawed.

This year, I am no less proud of our advocacy on behalf of our members and the people they serve. Our relentless drive to pair wage mandates to commensurate reimbursements to providers, our insistence on transparency and accountability for Managed Long Term Care Plans (MLTC) and the Department of Health, and our focus on legislative solutions to challenges our members raised yielded some notable achievements.

I am pleased to report that HCP's advocacy helped spur the legislature to reject multiple ill-conceived policies proposed in Governor Hochul's Executive Budget. We have made strides toward increased transparency with the introduction of the Fair Pay Accountability Act and our support of a bill, currently awaiting delivery to the governor, requiring the Department of Health to annually publish home care usage data on its website. Although the late budget and compressed legislative session presented challenges, we remained focused and committed to our goal of driving change. Newly seated Assembly Health Chair Amy Paulin said, "A late budget means lost leverage," and that was certainly the case this year.

A recent report by the State Comptroller shows a worsening financial picture for the state, and lawmakers are predicting that the next budget will include painful cuts. Tough times are ahead. HCP is ready and determined to continue advocating for meaningful investments in home care. The 2023-24 state budget failed to address long-standing industry-wide challenges. Claims that the unfunded wage actions implemented in the state budget are "cost neutral" are inaccurate and deceptive; raising the wage by \$1.55 costs providers more than \$1.55. Ensuring the successful implementation of the wage mandates coming in January requires sufficient funding and commensurate reimbursements, timely contract amendments, and clear, consistent instructions from the state to all stakeholders.

Despite challenges on the horizon, we are beginning to see positive changes across the nation and here in New York. There is a growing recognition of home spaces as vital to our health and well-being, and it's no wonder that New York's aging population overwhelmingly wants to age in place - at home, in the community.

We are proud of our industry's tenacity, and we are committed to continuing to reflect that tenacity as we advocate for policies that will make a positive difference. With your support, we are confident that we can achieve great things in the coming year and beyond.

We are all in this together — and we wouldn't have it any other way.

A handwritten signature in black ink, appearing to read "Kathy Febraio". The signature is fluid and cursive, written in a professional style.

Kathy Febraio
HCP President/CEO

2023 Legislative Retrospective

NYS Political Landscape

The 2023 legislation session was marked by transition. Governor Kathy Hochul began her first term as the elected executive after a narrow victory over Lee Zeldin in the closest gubernatorial contest in almost 30 years. One of her first actions was to nominate Hector LaSalle for the vacant chief judgeship of the New York Court of Appeals. LaSalle's nomination and subsequent rejection by the Senate highlighted a widening rift between the governor and her party in the legislature.

After three years of pandemic restrictions that all but eliminated in-person interaction in the halls of the Capitol, Albany was once again buzzing with advocates, lobbyists, school groups, and activists. Coming on the heels of an election, the state budget season got off to a slow start. New legislators needed to get settled into their offices, new staff required training and onboarding, and changes in committee assignments and leadership contributed to an air of barely controlled chaos.

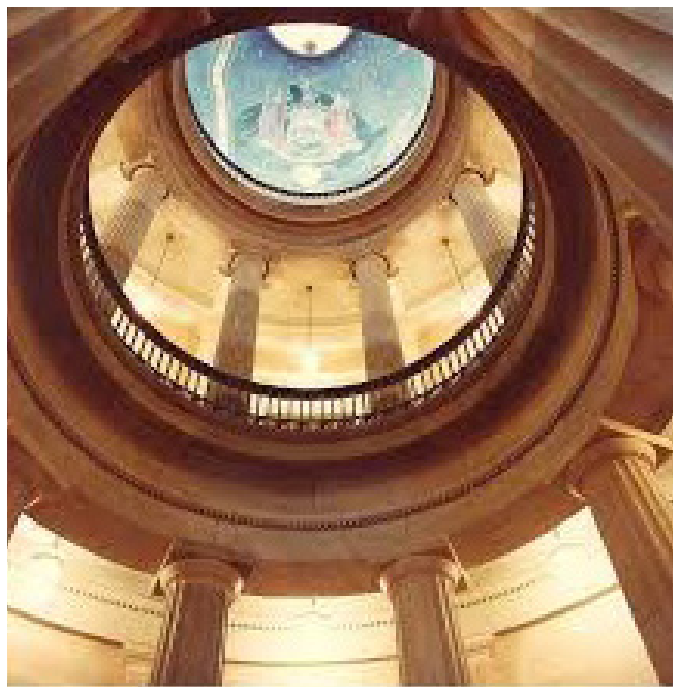
Assembly Member Amy Paulin began her tenure as Assembly Health Committee Chair, following the retirement of Assembly Member Dick Gottfried who had served as Health Chair for three decades. Paulin wasted no time in delving into the granular details of her new leadership role, tapping Mark Kissinger to serve as her Senior Policy Advisor for the Assembly Health Committee. Kissinger previously served as Special Advisor to the New York State Department of Health (DOH/the Department). Despite being new to her role, Paulin met early and often with home care advocates, including HCP, to better understand the sector's complexity and its concerns surrounding payment structures, reimbursements, staffing, regulatory burdens, and unfunded wage actions that have come to define our industry. She rapidly demonstrated herself to be a tenacious advocate for home care, fighting harder than anyone to win legislative advances to bring stability to our industry.

HCP Agenda

HCP's legislative priorities and public policy agenda for the 2023 session focused on industry-wide challenges related to the ongoing workforce shortage, patient access to 24-hour care, the continuing fight for fair reimbursements, and addressing the overall lack of transparency and accountability within the managed long-term care (MLTC) system.

We continued our unwavering commitment to winning reimbursements to home care providers that are commensurate with state-mandated wage actions and related costs. To this end, our primary goal was the adoption of statutorily required contractual mechanisms to assure that MLTC plans pass through in whole the state funding for incremental advancements in minimum wage.

HCP sought to increase data integrity and transparency by advocating for requiring DOH to publish key data sets including aggregated Licensed Home Care Services Agencies (LHCSA) cost reports and home care service authorization and usage data. HCP supported three bills addressing DOH data transparency: one addresses access to Health Emergency Response Data System (HERDS) survey data; the second requires annual reports on home care usage including service hours authorized vs. hours used and the number of people receiving home care services who make a permanent move into an institutional setting; and the third addresses the availability of aggregated Licensed Home Care Services Agencies (LHCSA) cost report data. We helped to author and championed the Fair Pay Accountability Act which would require the Department to establish a regional minimum hourly base reimbursement rate for home care and personal care based on defined elements; post publicly the regional minimum hourly base reimbursement rate; and post cost report data of plans and providers in a simple and accessible manner.



Our work with the Caring Majority continued into its third year, allowing us to amplify our concerns about the unreimbursed costs of providing care while supporting a fair wage for home care workers. The collaborative advocacy efforts for fair pay and fair reimbursement garnered wide-ranging press coverage, bringing attention to legislators and the public.



Budget Session

State of the State Address

The opening event of the 2023 legislative season took place on Tuesday, January 10, when Governor Hochul delivered her State of the State Address. This address marks the first public look at what will become the governor's policy agenda for the coming year.

This year's State of the State highlighted the governor's broad objectives which included expansions in housing, business, and agriculture; transportation and childcare overhauls; citizen safety and education; and addressing environmental concerns. Hochul's agenda was also aimed at "lifting up all New Yorkers" and improving State Government operations. The future of New York's health

care system was also a priority, with fixing the continuum of care for mental health specifically named as a goal.

Of particular interest to home care providers was the governor's proposal to index the state minimum wage to inflation based on our regional Consumer Price Index (Northeast Region's CPI). Absent commensurate increases in state funding, HCP was troubled this would create another unfunded wage increase with negative financial ramifications for home care providers whose ability to pay their employees is directly tied to state investments in health care.

The governor also took aim at New York's Medicaid Buy-in Program for Working People with Disabilities, stating that without Medicaid coverage the annual median out-of-pocket cost for a home health aide is more than \$66,000. This cost is clearly out of reach for lower-income households and individuals. The Medicaid Buy-In Program offers Medicaid coverage to people with disabilities who are working and earning more than the allowable limits for regular Medicaid. This program allows this population subset to earn more income without the risk of losing vital health care coverage. The governor noted that for the disabled population, the choice between maintaining Medicaid coverage and pursuing employment is a harrowing one. Hochul stated she would submit a federal waiver proposal to expand the Buy-In Program to help protect beneficiaries from falling off the "benefits cliff" should they earn money through employment.

HCP noted in its response to the State of the State Address that the impact of any wage increases doesn't just land on Medicaid-paid services providers. These costs are also borne by non-Medicaid payers including private pay consumers, a fact left unaddressed by the governor. We urged Hochul to recognize the total impact and propose relief measures to minimize the negative impact on patient access to care as well as on providers' viability in the market.

The State of the State also included a proposal to reform the Certificate of Need (CON) and public need process, reducing red tape and speeding up the approvals process for health facility establishment, construction, and renovation. Other issues related to accessing aging services and long-term care the governor highlighted included: investing in care teams to help empower low-income New Yorkers to age in place; providing respite for family caregivers; and establishing reporting, accreditation, and quality improvement initiatives for assisted living residences.





Executive Budget Proposal

The 2023-24 Executive Budget Proposal was released on February 1 and ignored financial investments in home care, even while it proposed tremendous outlays in every other health care sector such as hospitals and nursing homes. Despite being the overwhelming setting of choice for aging New Yorkers, the Executive Budget Proposal did more to shore up institutional settings while setting the stage for home care industry-wide contraction.

The governor's proposal did not address the flawed implementation of last year's home care worker minimum wage increase. While insurance companies reaped the benefit of increased spending in the state's Medicaid program that was intended to fund the wage

increase, there was no direction given to pass the money along to the home care agencies, who must make payroll with increased expenses and no commensurate increased income. The spending proposal also failed to advance any plan to comprehensively address systemic and decades-long underinvestment in home- and community-based services.

The governor's budget proposal did include three policy items specific to home care. First, the Executive Budget Proposal would have halted the home care worker minimum wage at \$18.00/hour until the general minimum wage caught up, then indexed it with all other minimum wages to CPI.

HCP opposed this action. Home care workers should not be minimum wage workers, and the Executive Budget Proposal attempted to roll back progress made last year in recognizing this essential workforce with home care minimum wage increases. Rather than halting the earning potential of highly trained and much-needed workforce, HCP asserted that this year's budget must correct the flawed implementation of last year's minimum wage increases by making sure insurance companies pass Medicaid dollars on to home care providers.

HCP's position, clearly articulated at every step of the budget process, was that absent a definitive reimbursement mechanism like a benchmarked rate, funds allocated to pay for home care will not make their way to the providers who are footing the bill for the wage increase. Rather, minimum wage increases must be paired with fair reimbursements to providers and must be funded sufficiently in the state budget. Additionally, we requested tax relief in the form of a credit for businesses that have incurred costs related to raising wages for home- and community-based services not reimbursed under Medicaid.

The governor also sought MLTC reforms, establishing performance categories for MLTCs with the primary goal of having each plan contract with "the minimum number of LHCSAs and Fiscal Intermediaries (FI)" necessary to provide care to the greatest number of enrollees.

HCP opposed this action. Enrollment data suggests that fewer than ten MLTCs would have met the criteria based on the number of members. It was unclear what "the minimum number..." meant or who defined that number. In practical terms, this meant that MLTCs would likely contract with fewer LHCSAs and FIs than they had in the past, leaving the viability of any given provider up to the discretion of the MLTCs.

By rewarding MLTC insurance plans in such a manner, insurance companies would decide the future of home care, squeezing out small agencies and providers in remote areas of the state. HCP was deeply concerned that giving the plans this much discretion would have a chilling effect on provider complaints about individual plans.

Instead, HCP reiterated that MLTC reform must focus on benchmarked reimbursement rates and clear direction to pass Medicaid dollars through to providers. We insisted that DOH must hold plans accountable to their contracts to provide sufficient services to maintain health and safety at home. We continued to advocate for improved data integrity and transparency of key indicators of MLTC spending on direct care, with a particular focus on reimbursement rate adequacy, transparency, and consistency.

Finally, The Executive Budget Proposal eliminated Wage Parity in the Consumer Directed Personal Assistance Program (CDPAP), replacing it with a subsidy to assist workers in obtaining health insurance through the New York State of Health (NYSOH).

HCP opposed this action. Wage Parity funds may be paid as salary, benefits, or a combination of both. The governor's proposal would have resulted in many home care workers taking significantly less money home in every paycheck. Furthermore, not every home care worker would have benefited from the NYSOH subsidy (e.g., if they receive benefits through a spouse, parent, or other payer).

With a disappointing policy slate presented by the governor, HCP's Public Policy team turned their attention to the legislative response as both the Assembly and Senate prepared their one-house budget bills.

One-House Budget Bills

In mid-March, the Senate and Assembly released their own budget proposals, rejecting the governor's plan to return home care jobs to minimum wage. The Senate called for a \$2 increase for home care workers over two years. It also included language protecting home care providers from more unreimbursed wage increases by directing DOH to apply to the Centers for Medicare and Medicaid Services (CMS) for a directed payment methodology and creating an oversight and enforcement mechanism to ensure that MLTCs offer adequate provider reimbursements. HCP advocated with the Assembly to adopt the Senate proposal, giving home care providers some hope for financial stability.

Both the Senate and Assembly rejected to varying degrees the ill-conceived MLTC reforms proposed by the governor. Additionally, both houses rejected the elimination of Worker Wage Parity (WWP) from the Consumer Directed Personal

Assistance Program (CDPAP), a proposal which, if implemented, would have taken cash out of the paychecks of CDPAP workers, driving many from the home care workforce.

HCP Initiatives

Throughout the budget session, HCP's Public Policy team delivered testimony to inform legislative budget hearings, met with elected officials and their staff to provide subject matter expertise and to raise the concerns and perspective of our membership, and continued our coalition work to link home care worker wages to sufficient reimbursements to providers. Our consistent messaging drove home the point that the current home care funding mechanism is broken and must be fixed.

Throughout the Legislative Session, HCP members provided timely information and assistance to HCP's Public Policy team. They also responded to HCP Action Alerts by contacting their state legislators, which kept our issues at the forefront of policymakers' minds.

We partnered with Assembly Health Committee Chair Amy Paulin and her staff to craft a legislative solution called the [Fair Pay Accountability Act](#). This bill defines the expenses that comprise the cost of care, creates a floor under which the reimbursement rate may not drop, creates a process for rate adjustments to meet annual wage increases, and adds overall transparency to the process.

HCP's Public Policy team and other home care advocates worked tirelessly throughout the budget process to press for a fix to the broken home care funding mechanism. With so many wage-related bills floating around Albany, stakeholder presence at the Capitol kept the focus on tying wages to reimbursements, pointing to the deeply flawed implementation of 2022's multiple minimum wage increases.

A well-timed article appearing in the online news outlet *In These Times* illustrated our case. In her piece titled [Insurance Companies are Destroying New York's Home Care Industry](#), author Lily Meyersohn adeptly explained the [Fair Pay for Home Care](#) bill and its importance for New Yorkers. Through the voices of patients, caregivers, providers, and advocates, Meyersohn called out the managed long-term care plans as the catalysts to a broken payment process in a very non-transparent taxpayer-funded system.



HCP's President/CEO Kathy Febraio was quoted in the article. Referencing an HCP letter to the state legislature, she explained that lawmakers' "well-intentioned efforts" to curtail the home care workforce crisis had been sidestepped by MLTC plans that diverted state home care investments to insurance executives' pockets leaving home care agencies to bear the cost.

Indeed, according to *In These Times*, MLTCs in New York State pocketed a 5.5% profit margin last year, an amount that is twice the national average for this type of enterprise. The article repeated what HCP had previously reported about a DOH all-stakeholder call in September 2022: Per the Department, there is "neither a floor nor a ceiling regarding reimbursements [from MLTC plans] to home care provider agencies."

Kathy's remarks referred to the state budget for the solution, stating HCP had been "hoping for more" from policymakers, as accountability is key. She added that HCP had been "loud and clear" in its message to the governor and legislators that "structural challenges within the payment system need to be addressed."

“structural challenges ... need to be addressed.”

Budget Inaction

Budget negotiations between the governor and the legislature stagnated well past the April 1 due date, frustrating lawmakers and advocates alike. Multiple budget extenders bought additional negotiating time but allowed the rumor mill to run rampant as most policy talks took place behind closed doors. News outlets reported on various issues that the governor and legislature were at odds about, including bail reform and Hochul's housing initiative.

The challenge for HCP was keeping lawmaker attention on issues immediately relevant to home care like the Fair Pay Accountability Act, and fixing the funding mechanism for Medicaid home care services.

A Conceptual Agreement

To almost everyone's surprise, in the late evening of April 27, Governor Hochul announced a "conceptual agreement" on the 2023-2024 State Budget, signaling that compromise had been reached on enough priority issues to begin printing budget bills. Lawmakers had already left Albany for the week because they had not anticipated such a consensus.

In the same news cycle, HCP reported that we had received a preview of a home care wage package purportedly in play in state budget negotiations. Intel from multiple sources indicated that 1199/SEIU had signed off on a budget package that reduced WWP in home care and redirected those savings to a subsidy for employer-sponsored health coverage such as 1199's National Benefit Fund for Home Care Employees.

The union-backed proposal that was ultimately included in the final budget makes the following home care specific wage actions:

- Delays the planned statewide \$1/hour home care worker minimum wage increase from October 1, 2023 to January 1, 2024: and adds to that increase:
 - **DOWNSTATE:** On January 1, 2024, the home care worker minimum wage within New York City and the counties of Nassau, Suffolk and Westchester will increase from \$17/hour to \$18.55/ hour. The budget sets the home care worker minimum wage in this region at \$19.10/ hour in 2025 and \$19.65/ hour in 2026;
 - Offsetting this modest minimum wage increase, the budget included cuts to Worker Wage Parity beginning January 1, 2024 for home care aides who perform Medicaid-reimbursed work within **New York City and the counties of Nassau, Suffolk and Westchester** by \$1.55, to \$2.54 in New York City and \$1.67 in Westchester and Long Island.
 - **UPSTATE:** in the Remainder of the State (ROS), the home care worker minimum wage will increase from \$16.20/ hour to \$17.55/ hour on January 1, 2024, with scheduled increases to \$18.10/ hour in 2025 and \$18.65/ hour in 2026.
- Beginning in 2027, wage increases will be linked to the CPI.
- Created a \$2.55 differential between the home care minimum wage and the general minimum wage until 2031.
- Caps the difference between the home care worker wage and the general minimum wage at \$3.00.
- Continued WWP in the CDPAP.

Enacted FY 2023-2024 State Budget

More than a month late and after six budget extenders, on Wednesday, May 3, 2023, the governor signed the Fiscal Year 2023-2024 New York State Budget into law. The \$229 billion state budget avoids increases to personal income taxes and ties New York’s minimum wage hikes to an inflationary measure.

The Medicaid Global Spending Cap was extended through Fiscal Year 2025 and includes savings of \$475 million from a Global Cap Index Update. The final budget also reauthorized the Health Care Reform Act (HCRA) through March 31, 2026. Related provisions and funding streams are likewise extended. HCRA is a major component of New York State’s Health Care financing laws. It governs hospital reimbursement methodologies and targets funding for a multitude of health care initiatives. The law also requires that certain third-party payors and providers of health care services participate in the funding of these initiatives through the submission of authorized surcharges and assessments.

The enacted budget included the provisions of the 1199/SEIU-backed budget package described above, delaying the implementation date for the statewide \$1/hour home care worker minimum wage increase to the first of the year. With other provisions related to WWP in the state budget, the minimum wage for home care workers on January 1, 2024, will be \$17.55 upstate, \$21.09 downstate including WWP, and \$20.22 for Westchester and Long Island, also inclusive of WWP.

Upstate	\$16.20	\$17.55	\$18.10	\$18.65
Downstate: NYC	\$17.00	\$18.55	\$19.10	\$19.65
NYC WWP Rate	\$4.09	\$2.54	\$2.54	\$2.54
Total Downstate: NYC	\$21.09	\$21.09	\$21.64	\$22.19
Downstate: NSW	\$17.00	\$18.55	\$19.10	\$19.65
NSW WWP Rates	\$3.22	\$1.67	\$1.67	\$1.67
Total Downstate: NSW	\$20.22	\$20.22	\$20.77	\$21.32

* NSW=Nassau, Suffolk, & Westchester Counties

Favoring institutional care settings like nursing homes with a 6.5% increase in Medicaid reimbursement rates, the state budget contained no language to either increase reimbursements to home care providers or to substantively increase transparency or accountability for Medicaid Managed Long Term Care (MLTC) plans.





2023-24 State Budget

Managed Long Term Care, Procurement

Governor's Proposal	HCP Position	FINAL STATE BUDGET
<p>MLTC Performance: Establish performance standards for MLTC plans including commitment to contracting with the minimum number of home care agencies and fiscal intermediaries (FI); includes criteria for number of enrollees, geographic distribution of providers, quality improvement measures, among others.</p>	<p>Opposed to reforms that reward MLTCs that contract with the fewest number of Licensed Home Care Services Agencies (LHCSA), a move that would result in many LHCSAs shutting their doors.</p> <p>While MLTC reform and oversight are needed, it must not be done at the expense of a diverse and competitive LHCSA marketplace.</p>	<p>Moratorium on new MLTC plans extended until 2027.</p> <p>Changed the language regarding the number of licensed agencies for network adequacy from a “minimum” number to an “adequate” number.</p> <p>Readiness to carry out services promptly and within compliance of the maximum wait time requirements for certain service categories.</p> <p>A commitment to “quality improvement”.</p> <p>Accessible and geographic distribution of network providers.</p> <p>Cultural and language competencies specific to the enrollees.</p> <p>The ability to “serve enrollees across the continuum of care”.</p> <p>Value-based readiness and experience.</p>
<p>MLTC Procurement: If by 10/2024 DOH determines an insufficient number of MLTC plans meet quality standards, DOH would initiate a competitive bid no sooner than 4/1/2026.</p>	<p>No position.</p>	<p>Allows DOH to look back 3 years and deny eligibility for a plan contract to poor performing MLTCs or to plans with excessive penalties or statements of deficiency.</p>
<p>Fiscal Intermediary (FI) Procurement: Repeals FI Procurement process. Replaces it with a new, undefined process.</p>	<p>Opposed to allowing DOH the wide latitude to define yet another process to determine which FIs will receive a contract.</p>	<p>Omitted from the budget which means the process defined in the SFY 2022-23 budget remains in place.</p>

Workforce, Minimum Wage, Worker Wage Parity

Governor's Proposal	HCP Position	FINAL STATE BUDGET
<p>Home Care Worker Minimum Wage: The Executive Budget Proposal halts the home care worker minimum wage at \$18.00/hour until the general minimum wage catches up, then indexes it with all other minimum wages to CPI.</p>	<p>Opposed. Rather than halting the earning potential of this trained and much-needed workforce, we proposed that this year's budget must correct the flawed implementation of last year's minimum wage increases by making sure insurance companies pass Medicaid dollars on to home care providers.</p>	<p>Delays the statewide \$1/hr home care worker minimum wage increase from October 1, 2023 to January 1, 2024, at which time:</p> <p>DOWNSTATE: the minimum wage within New York City and the counties of Nassau, Suffolk and Westchester will increase from \$17/hr to \$18.55/hr. The budget sets the home care worker minimum wage in this region at \$19.10 in 2025 and \$19.65 in 2026. Downstate workers are also impacted by the cuts to Worker Wage Parity detailed below.</p> <p>UPSTATE: in the Remainder of the State (ROS), the home care worker minimum wage will increase from \$16.20/hr to \$17.55/hr with scheduled increases to \$18.10 in 2025 and \$18.65 in 2026.</p> <p>Caps the difference between the home care worker wage and the general minimum wage at \$3.00. Beginning in 2027, wage increases will be linked to the CPI.</p>
<p>Worker Wage Parity (WWP): Remove CDPAP aides from WWP law in NYC, Long Island and Westchester, decreasing their paycheck or supplemental benefits.</p>	<p>Opposed.</p>	<p>Omitted from state budget.</p> <p>Offsetting the modest minimum wage increase detailed above, the budget included Worker Wage Parity cuts for home care aides who perform Medicaid-reimbursed work within New York City and the counties of Nassau, Suffolk and Westchester by \$1.55, to \$2.54 in New York City and \$1.67 in Westchester and Long Island.</p> <p>(Not included in Executive Budget Proposal or legislative one-house budget bills.)</p>
<p>CDPAP Premium Assistance: CDPAP aides would be eligible for premium assistance under the New York Health Exchange for individual market coverage.</p>	<p>Opposed. This provision was linked to removing CDPAP from WWP.</p>	<p>Omitted from state budget.</p>
<p>Advanced Home Health Aide: Removes "direct" supervision and replaces it with "supervision". Eliminates the 2-week supervision requirement.</p>	<p>No position.</p>	<p>Included in state budget. Program extended through 2029.</p>
<p>Interstate Licensure Compacts: Allows New York to join the Interstate Medical Licensure Compact and the Nurse Licensure Compact, enabling doctors and nurses to relocate to New York and use their existing licenses to practice in the State.</p>	<p>No position.</p>	<p>Omitted from state budget.</p>

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<p>General Minimum Wage: Increases the minimum wage automatically each year to keep pace with inflation. After reaching \$15 per hour, each region's minimum wage would increase based on the year-over-year Consumer Price Index (CPI)-W for the Northeast Region. Capped annual increases at three percent.</p>	<p>No position. HCP expressed concern over how the general minimum wage and the home care minimum wage would interact.</p>	<p>Downstate the hourly rate will increase to \$16 (from \$15) on January 1, 2024. Upstate the rate will increase to \$15 (from \$14.20) on January 1, 2024. Both regions will see \$.50 increases in 2025 and 2026. Beginning in 2027, wage increases will be linked to the CPI.</p>
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Investment in Health Care System

Governor's Proposal	HCP Position	FINAL STATE BUDGET
<p>Creates a \$1 billion Statewide Healthcare Facility Transformation Program V to fund capital projects for eligible providers including home care and hospice. Up to \$500M for eligible providers in support of projects which: promote innovative, patient-centered models; increase access to care; improve quality and provider financial sustainability. Up to \$500M would go to health care providers to improve information technologies and telehealth capacity.</p>	<p>Support.</p>	<p>Provides up to \$490 million for innovative, patient-centered projects and \$500 million for health technology and telehealth projects.</p> <p>Enables funding for projects that assist in developing underserved areas.</p>

Access to Care

Governor's Proposal	HCP Position	FINAL STATE BUDGET
<p>Decreases the income threshold to access the Private Pay program, from 400% of the federal poverty level (FPL) to 250% of the FPL to allow more elders to access the program to purchase services from the state Office for Aging Programs (nutrition, home services, etc.).</p>	<p>Support.</p>	<p>Included in state budget.</p>
<p>Essential Plan Program Changes: Submits a 1332 state innovation program waiver to expand eligibility up to those with income at 250% of the federal poverty level, allows pregnant people to stay in the Essential Plan for one year post-partum regardless of income changes. Delays implementation of Medicaid coverage expansion for undocumented people over age 64.</p>		<p>Adopts Executive Proposal but modifies it to allow Medicaid coverage expansion for undocumented people over age 64 by 1/1/2024.</p>

Department of Health

Governor's Proposal	HCP Position	FINAL STATE BUDGET
		<p>MLTC Plan and Provider Enforcement: Authorizes DOH to assess penalties and fines for non-compliance by providers regarding worker pay and by insurers for not disclosing contract terms or payment amounts upon request from the DOH.</p> <p><i>(Not included in Executive Budget Proposal or legislative one-house budget bills.)</i></p>
		<p>Electronic Visit Verification (EVV): DOH is authorized (in consultation with the Office of the Medicaid Inspector General) to promulgate regulations to implement the EVV program. The legislation repeals current statutory requirements regarding verification organizations, exception reports, conflict reports and participating providers. Repeals section 363-e regarding pre-claim review for participating providers. <i>(Not included in Executive Budget Proposal or legislative one-house budget bills.)</i></p>

Statutory Program Extenders

Governor's Proposal	HCP Position	FINAL STATE BUDGET
<p>Extends authorization for spousal budgeting in long-term care waiver programs including MLTC through March 31, 2028.</p> <p>Extends authorization for episodic payment per 60-day period of care for Certified Home Health Agencies (CHHA) through March 31, 2027.</p> <p>Extends a limitation on reimbursement of CHHA and long-term home health care programs' administrative and general costs to not exceed a statewide average through March 31, 2027.</p>	No position.	Included in state budget.

Legislative Proposals in the State Budget

Not all proposals in the state budget originated with the governor. Below are proposals that originated in the legislature, with their final disposition in the state budget.

Issue	Legislative Proposal	FINAL STATE BUDGET
Fair Pay for Home Care	Senate Proposal: Increase home care minimum wage by \$2.00 by 10/1/2025. Provision for Directed Payment Model.	Omitted from state budget. See Workforce, Minimum Wage, Worker Wage Parity section.
Fair Pay Accountability Act	Assembly Proposal: Define what expenses comprise MLTC reimbursement rates to providers, creating a floor under which the rate may not drop, creating a process through which rates are adjusted to meet annual wage increases, and adding overall transparency to the process.	Omitted from state budget.
Medicaid Look Back	Senate Proposal: Amends the look-back period to allow asset transfers to care for a spouse or family member.	Omitted from state budget.
Eligibility Standards for Personal Care	Senate Proposal: Eliminates raising the number of Activities of Daily Living (ADL) functional impairments required for eligibility for Personal Care.	Omitted from state budget, so the number of ADLS needed for PCA does increase.
Grants to Licensed Home Care Services Agencies (LHCSA)	Senate Proposal: \$50 million in grants to LHCSAs.	Omitted from state budget.
Grants to Certified Home Health Agencies (CHHA)	Senate Proposal: \$25 million in grants to CHHAs.	Omitted from state budget.



At a Glance: Minimum Wage and Worker Wage Parity From the Budget Session to the Legislative Session

It was a very quick pivot from the Budget Session which ended on May 3 to the Legislative Session which was scheduled to end on June 8. Had the state budget passed on time, there would have been an additional month during which advocates could influence the legislative process. The fast timeline led to legislative inertia, and the session “fizzled to an end” according to the *New York Times*. The Senate concluded its legislative work on June 10, and the Assembly took a break and returned on June 20, for a quick session to consider bills that largely represented local-level concerns.

After a tough year that was remarkable for the inter-party fighting, state Democrats did not deliver on the governor’s chief policy goal, neither introducing nor passing any legislation to tackle the state’s affordable housing crisis. Neither were there any significant advances for the home care industry.

As was the case last year, lawmakers’ attention was narrowly focused on a handful of issues that mired the legislature and the governor in a stalemate. The end of the session included passage of a bill to create a commission to study slavery’s lasting impact on racial disparities in New York and to recommend remedies, passage of the Clean Slate Act, and some limited campaign finance reforms. Legislators were able to set the date for the 2024 presidential primary: April 2.



HCP's Campaign

Despite a disappointing and anticlimactic end to the legislative session, HCP’s advocacy on public policy issues raised awareness about the challenges facing the home care industry and built solid support in the legislature. We pursued an aggressive advocacy and grassroots strategy focused on the impacts of minimum wage increases across the industry, stressing the need for adequate reimbursement to home care providers. We monitored legislation and weighed in where we felt we could influence and inform legislative outcomes, and celebrated incremental victories when we could.

The introduction of the Fair Pay Accountability Act was one such incremental victory. This legislation resulted from input and strong advocacy by HCP and other stakeholders. It establishes a reliable and predictable mechanism to

ensure that home care providers receive adequate managed care reimbursement in order to pay their employees mandated wages and benefits while covering the full cost of care. It defines the elements that comprise a regional minimum hourly base reimbursement rate, directs the Department to establish and publicize rates and provider and plan cost report data, sets a floor underneath which rates may not fall, adjusts the rates annually, directs DOH to apply for a state-directed payment to support the mandated reimbursement rates, and provides an accountability process should the directed payment not be approved.








The bill was introduced in both houses and referred to the Assembly and Senate Health Committees. Bills introduced in this session remain active in the 2024 session and do not need to be reintroduced, setting us up for a strong start when the legislature returns in January.



2023 Legislative Session

Bills of Interest to Home Care; HCP Position and Outcome

HCP Position / Action Legend:		
<p>▲▲ = Strong Support ▲ = Support ◆ = Watch ▼ = Oppose 📧 = Grassroots "Take Action" messages sent 📄 = Memorandum Issued ✍️ = Signed on to Letter</p>		
Bill and Description	HCP Position / Action	Outcome
<p>S6963 (Rivera and May)/A7335 (Paulin) establishes regional minimum hourly base reimbursement rates for home care aides. The "Fair Pay Accountability Act" defines the elements that comprise a regional minimum hourly base reimbursement rate, directs the DOH to establish and publicize rates as well as provider and plan cost report data, sets a floor underneath which rates may not fall, adjusts the rates annually, directs DOH to apply for a state-directed payment to support the regional minimum hourly base reimbursement rates, and provides an accountability process should the directed payment not be approved.</p>	<p>▲▲ 📄 📧</p>	<p>Senate: Health Committee Assembly: Ways and Means Committee</p>
<p>S6123 (Rivera)/A5750 (Paulin) relates to the submission of claims for services provided by home care agencies. Clarifies that providers will use federally approved forms to submit claims to insurance companies and reasserts that insurers (both Medicaid Managed Care and Medicaid Managed Long Term Care plans) can neither require contracting with nor use of a specific billing entity nor impede the timely processing and payment of claims. It accomplishes this without impeding an insurer's ability to review or audit claims for fraud, waste, and abuse.</p>	<p>▲▲ 📄 📧</p>	<p>Senate: Advanced to Senate Calendar Third Reading Assembly: Rules Committee</p>
<p>S6960 (Rivera) / A6221-A (Paulin) ensures that the state implements federal conflict of interest (COI) requirements in a manner that ensures limited disruption of services.</p>	<p>▲ 📄 📧</p>	<p>Senate: Finance Committee Assembly: Ways and Means Committee</p>

<p>This legislation ensures that DOH assesses and reports on issues relating to the end of the public health emergency, and the readiness and ability of providers of services through the Nursing Home Transition and Diversion (NHTD) and Traumatic Brain Injury (TBI) waivers to both maintain their level of services and comply with federal conflict of interest rules prior to the implementation of the provisions.</p>		
<p>S1683A (Hinchey)/A1926A (Gonzales-Rojas) requires the Department of Health to annually publish information about home care services usage on the department's website.</p>		<p>Passed in both houses unanimously: Awaits delivery to the governor for approval or veto.</p>
<p>S6641 (Rivera) / A7365 (Paulin) allows for the provision of oversight of Local Health Departments (LHD) core public health nursing services under Article 6 of the Public Health Law. Does not affect services provided by Article 36 entities.</p>		<p>Passed in both houses unanimously: Awaits delivery to the governor for approval or veto.</p>
<p>S7551A (Myrie)/A1029C (Cruz) relates to the automatic sealing of certain convictions. The “Clean Slate Act” preserves the ability of entities already required under state or federal law to obtain fingerprint-based criminal history checks, like home care, to pierce the seal.</p>		<p>Passed in both houses: Assembly Vote: 83 Yes / 64 No Senate Vote: 38 Yes / 25 No</p> <p>Awaits delivery to the governor for approval or veto.</p>
<p>S328 (Rivera)/A6346 (Paulin) relates to eligibility for home care services under Medicaid; repealer. This legislation eliminates the requirement that applicants for Medicaid services in the home be assessed as needing at least limited assistance with physical maneuvering with activities of daily living (ADL).</p>		<p>Senate: Finance Committee Assembly: Ways and Means Committee</p>
<p>S1531 (Hoylman-Sigal)/A7154 (McDonald) relates to adult vaccination reporting requirements. Changes from an opt-in system to an opt-out system.</p>		<p>Senate: Health Committee Assembly: Passed Yes: 92 No: 48</p>
<p>S5329A (Harckham)/A6813 (Paulin) relates to the functions of the Medicaid Inspector General with respect to audit and review of medical assistance program funds and requiring notice of certain investigations.</p>		<p>Senate: Passed Yes: 59 No: 0 Assembly: Ways and Means Committee</p>
<p>S5473 (Rivera)/A7473 (Simon) provides for payments for home and community-based long term care services. This bill would require Medicaid Managed Care Plans to amend contracts with home care providers</p>		<p>Senate: Health Committee Assembly: Health Committee</p>

<p>90 days prior to the effective date of minimum wage mandates; prohibits the use of funds appropriated by the state for the direct care costs of minimum wage mandates to offset other obligations to the provider.</p>		
<p>S5658 (Rivera)/A7182 (Paulin) relates to the health care transformation fund. This legislation designates at least 25% of the funds deposited into the State Health Care Transformation Fund to community-based health care providers.</p>	<p>▲ 📄</p>	<p>Senate: Finance Committee Assembly: Health Committee</p>
<p>S5777 (Skoufis) / A5811 (Meeks) would expand Worker Wage Parity to upstate regions of the state.</p>	<p>▼ 📄</p>	<p>Senate: Health Committee Assembly: Health Committee</p>
<p>S6561 (Persaud) / A6899 (Epstein) would limit the number of hours a home care aide could be required to work to no more than 12 hours in a day and no more than 50 hours in a week.</p>	<p>▼ 📄</p>	<p>Senate: Labor Committee Assembly: Labor Committee</p>
<p>S1977A (Ramos)/A46A (Rosenthal) creates an employee lien against the property of employers accused of wage theft to secure payment of wages due.</p>	<p>▼ 📄</p>	<p>Senate: Judiciary Committee Assembly: Ways and Means Committee</p>

