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Consumer Directed Personal Assistance Association of New York State

April 22, 2020

Donna Frescatore
State Medicaid Director
Office of Health Insurance Programs
NYS Department of Health
Corning Tower
Albany, NY 12237

Re: Temporary Suspension of Certain Regulations Related to
Onboarding Personal Assistants During COVID-19 Outbreak

Dear Ms. Frescatore:

We write to request that the Department of Health temporarily suspend regulations that require newly hired personal assistants (PA) within the Consumer Directed Personal Assistance (CDPA) program receive a health assessment; produce documentation that their vaccine schedules are current or that they have received a titer; as well as purified protein derivative (PPD) tests for tuberculosis (TB), during the COVID-19 state of emergency. PAs are increasingly leaving their positions for reasons related to the COVID-19 pandemic, while practitioners and laboratories are occupied and unable to perform the assessments necessary to onboard replacements. A temporary relaxation of these rules will ensure that consumers can continue to remain in their homes with their loved ones and that the state fulfills its *Olmstead* obligations.

As Medicaid advocates, the health and safety of CDPA consumers and PAs is the utmost priority for us. We understand the importance of vaccines and TB tests to this end. However, given the extreme situation we are currently in, the priority is to make sure that consumers receive assistance with activities of daily living according to their approved plans of care. Without this assistance, many of these consumers will be forced into institutions against their will, which, as continuing coverage in New York and across the country has proven, is especially dangerous during a pandemic.

Personal Assistants are frontline workers who have selflessly continued to serve their employers. Unfortunately, that has resulted in many having to leave their jobs due to COVID-19 symptoms due to exposure while performing or traveling to their jobs, or to take care of their families who may be in quarantine or isolation or because their children's school or child care center has temporarily closed. This is exacerbating an existing staffing shortage. Without an immediate suspension of the aforementioned regulations, consumers cannot hire replacements making seniors and people with physical disabilities particularly vulnerable.

The medical practitioners and laboratories required to provide vaccine and TB test documentation are overwhelmed with responding to the COVID-19 pandemic. While doctors cancel routine appointments in order to care for an influx of seriously ill patients, laboratories are focused on producing and evaluating COVID-19 tests. It is therefore impossible for consumers to hire replacement PAs with these regulations in place. A temporary suspension of this requirement will safeguard their services and assist displaced workers who would like to become PAs.

New York has a commitment to facilitate long-term care services in the least restrictive setting possible. While we agree with the vaccine and TB test requirements under normal circumstances, they are what is blocking consumers from receiving critical services within the community during these extraordinary times. We urge you to immediately and temporarily suspend these requirements and protect the wellbeing of the more than 70,000 New Yorkers who rely on CDPA.

Sincerely,

Consumer Directed Personal Assistance Association of New York State
ADAPT Capital Region
All Heart Home Care
ARISE
BHRAGS Home Care Corp.
Brooklyn Center for Independence of the Disabled
Campaign for New York Health
Caring Across Generations
Caring Professionals
Center for Disability Rights
Center for Elder Law & Justice
Center for Independence of the Disabled, NY
Cerebral Palsy Associations of NYS
Children's Defense Fund - New York
Chinese-American Planning Council
Coalition for the Homeless
Commission on the Public's Health System

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Consumer Directed Choices, Inc.
Empire Justice Center
Finger Lakes Independence Center
Hand in Hand: The Domestic Employers Network
Elara Caring
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Independent Living, Inc.
The Legal Aid Society
Link Homecare CDPAP
Long Island ADAPT
Long Island Center for Independent Living, Inc.
Medicaid Matters New York
Medical Solutions Inc
Mental Health Association in New York State, Inc (MHANYS)
National Association of Social Workers - New York City Chapter
New York Association on Independent Living
New York Legal Assistance Group (NYLAG)
New York Statewide Senior Action Council
Rockland Independent Living Center, Inc. dba BRIDGES
Self-Direct Inc.
Self-Initiated Living Options, Inc.
Southern Tier Independence Center
Trusted Choice Homecare
Venture Forthe Inc.
Western New York Independent Living

Cc: Assembly Member Richard N. Gottfried
Senator Gustavo Rivera
Meghan Baldwin
Lana Earle
Mark Kissinger