Committee on Civil Service and Labor

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The Council of the City of New York

COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION

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COMMITTEE ON CIVIL SERVICE AND LABOR

Hon. Carmen De La Rosa, *Chair*

**March 24, 2022**

**RESO. NO. 24-2022:** By Council Members Hudson, Barron, Hanif, Ossé, Brannan, Gutiérrez, Cabán, Ayala, Gennaro, Joseph, Ung, Avilés, Sanchez, Won, Louis, Farías, De La Rosa, Restler, Narcisse, Brewer, Rivera, Williams, Bottcher, Menin and Nurse

**TITLE:** A Resolution calling upon the State Legislature to pass, and the Governor to sign, S.5374-A/A.6329-A, the Fair Pay for Home Care Act

1. **Introduction**

On March 23, 2022, the Committee on Civil Service and Labor, chaired by Council Member Carmen De La Rosa, held a hearing on Resolution No. 24 of 2022, sponsored by Council Member Hudson, calling upon the State Legislature to pass, and the Governor to sign, S.5374-A/A.6329-A, the Fair Pay for Home Care Act. This resolution was previously heard at a hearing on March 22, 2022, at which time the Committee received testimony from home care workers, advocates and other interested parties.

1. **BACKGROUND**

 "Home care workers" are workers who provide certain types of services to older adults and individuals with disabilities in their own homes rather than in a nursing home or other group care facility.[[1]](#footnote-2) Home care services can include personal care or health-related services such as assisting a consumer with dressing, grooming and other daily activities as well as tube feeding, injections and other medically related activities.[[2]](#footnote-3) Home care services also incorporate fellowship and protection such as assisting a consumer with hobbies, games and keeping company.[[3]](#footnote-4)

 Home care workers are commonly referred to by a number of different job titles, such as home health aide, personal care aid, certified nursing assistant (CNA), provider, or caregiver.[[4]](#footnote-5) Home care workers may be paid with private funds, Medicaid funds, or some other combination.”[[5]](#footnote-6) Medicaid is the primary funder for home care services in New York state, representing 87% of home care and personal care services. Many non-profit home care programs are 100% Medicaid funded.

The New York state home care sector is made up of a variety of organizational models including:[[6]](#footnote-7) Certified Home Health Agencies (CHHAs); Licensed Home Care Services Agencies (LHCSAs); Programs of All-Inclusive Care for the Elderly (PACE); Long-Term Home Health Care Programs (LTHHCPs); Consumer Directed Personal Assistance Program Fiscal Intermediaries (CDPAP FIs); hospices, independent living centers, and community support organizations, among others.[[7]](#footnote-8) The Expanded In-home Services for the Elderly program (EISEP), administered by the New York State Office for the Aging (NYSOFA) through the State’s county-based Area Agencies on Aging, supports non-medical in-home services for older adults who want to remain at home but who need help with everyday activities and do not qualify for Medicaid.[[8]](#footnote-9) Managed Long Term Care (MLTC) plans are insurance plans that are paid a monthly premium by the New York State Medicaid program to approve and provide home care and other long term care services. Services may include nutrition, meals, physical therapy, medical equipment and/or transportation, depending upon the specific services authorized for an individual.

**III. New York State Home Care Workforce**

 In recent years, New York state’s aging population and the increasing desire among the elderly and those with disabilities for at-home care have combined to generate explosive growth in demand for home care workers.[[9]](#footnote-10) According to recent estimates, approximately 3.5 million New Yorkers are currently aged 65 or over, and more than half will need some kind of long-term care in their lifetime.[[10]](#footnote-11) There are also over a million New Yorkers living with disabilities, chronic illnesses or other functional complications.[[11]](#footnote-12) Research findings suggest that the aging population will, in turn, dramatically increase the need for long-term care among older residents of the State.[[12]](#footnote-13)

According to a 2021 report published by the CUNY Graduate Center, approximately 223,530 home care workers were employed in New York state in 2019.[[13]](#footnote-14) Of that total, 72.5% or an estimated 162,800 home care workers were employed in New York City.[[14]](#footnote-15) The report’s findings predict that the number of home care worker jobs in New York State is expected to rise from 440,000 in 2018 to over 700,000 by 2028.[[15]](#footnote-16) This increase is largely driven by employment in home care agencies, private households, and public programs like the Medicaid Consumer Directed Personal Assistance Program (CDPAP).[[16]](#footnote-17) However, at the current levels of recruitment and retention the State is already unable to keep pace with demand.[[17]](#footnote-18) According to recent estimates,

“approximately 100,000 new home care workers are needed each year, including about 27,000 to meet rising demand and 72,000 to replace departing workers.”[[18]](#footnote-19)

High turnover rates among home care workers adds to the problem.[[19]](#footnote-20) Since home care work is typically poorly paid, as well as physically and emotionally stressful, it may be difficult for employers across the state to recruit new workers and retain existing ones.[[20]](#footnote-21) “Available data suggests that the COVID-19 pandemic has increased demand for home care even more, while further depressing the labor supply,” thus widening the gap between care needs and care provision.[[21]](#footnote-22) According to home care advocates, in-home health care services are especially important for immigrant seniors and families because language-accessible and culturally competent home care options are available, while these options are lacking in institutional settings.[[22]](#footnote-23)

For New York home care workers, the most pressing issue appears to be inadequate pay and lack of benefits.[[23]](#footnote-24) A significant number of home care workers employed in New York rely on public assistance and lack health insurance coverage despite working full-time or multiple jobs.[[24]](#footnote-25) Researchers at the CUNY Graduate Center, as well as labor leaders and advocates have called for large scale improvements in home care worker compensation including public funding for wage increases and health insurance coverage.[[25]](#footnote-26) Some other notable issues cited by State home care workers include:

* Stressful, complex, and high-risk work environments;
* Failure to receive full pay for all hours worked;
* Inconsistent work schedules and fluctuating income due to gaps in employment resulting from a patient’s death or hospitalization; and,
* A lack of opportunities for career advancement, promotions or raises.[[26]](#footnote-27)
1. **The Fair Pay for Home Care Act**

The Fair Pay for Home Care Act, sponsored by Senator Rachel May and Assemblyman Richard Gottfried, would respond to the home care labor shortage by providing a livable wage to workers,[[27]](#footnote-28) thereby ensuring the role of home care worker remains competitive, making it easier to recruit and retain qualified employees.[[28]](#footnote-29) The Fair Pay for Home Care Act would establish a minimum base wage and Medicaid provider reimbursement rate for home care workers at 150% of the regional minimum wage.[[29]](#footnote-30) The legislation requires the regional minimum hourly base reimbursement rates to be determined by the commissioner of health and to include the costs of overtime, employment taxes, disability insurance, workers compensation, and reasonable administrative costs as well as certain capital costs and allowable profits and reserves.[[30]](#footnote-31) The CUNY School of Labor and Urban Studies estimates that in New York City, this would translate to a wage of $22.50 hourly, and 40,000 annually.[[31]](#footnote-32) This would be a significant increase over the $15.93 per hour and $22,000 annual wage New York City’s home care workers currently earn.[[32]](#footnote-33) Advocates point to the mounting evidence that improving compensation for home care workers would help to alleviate the existing shortages in the occupation and spur employment growth in other fields.[[33]](#footnote-34)

The CUNY study found that increasing the compensation of home care workers would yield net economic benefits.[[34]](#footnote-35) Primarily, implementing higher wages would attract more workers to the home care field and would cause some home care aides who currently work part-time to seek more hours.[[35]](#footnote-36) The study projects that raising wages would attract approximately 8,390 to 33,090 new home care workers annually[[36]](#footnote-37) and could resolve the home care workforce shortage in less than five years.[[37]](#footnote-38) Additionally, the combined value of new savings, tax revenues, and economic spillover effects resulting from improved compensation would far exceed the cost of increased wages.[[38]](#footnote-39) The study found that increasing health coverage, and payroll taxes would total approximately $4 billion per year, however the estimated total economic benefit would be $7.6 billion and approximately 5.4 billion in benefits for New York State.[[39]](#footnote-40) Low-income workers spend a disproportionate share of their wages locally on housing, childcare, gas, local grocers and restaurants.[[40]](#footnote-41) The economic multiplier effects that would result from the wage improvements would create nearly 18,000 jobs in other industries because home care workers would spend their additional earnings on goods and services, stimulating job creation in a range of occupations. [[41]](#footnote-42)

***New York State Budget Updates: Fiscal Year 2023***

Prominent advocates and offices from across the state including 1199 SEIU, AARP,[[42]](#footnote-43) and offices for the aging from 40 New York counties are calling on Governor Hochul to sign the Fair Pay for Homecare Act into law.[[43]](#footnote-44) The Governor did not include the measure in her FY’23 budget proposal released in January.[[44]](#footnote-45) However, the State did apply for $2.2 billion in federal pandemic relief aid to fund $3,000 bonuses for home care workers who remain in their jobs for one year or more.[[45]](#footnote-46) The measure was criticized by advocates who said this plan does little stave off the collapse of the home care industry.[[46]](#footnote-47)

This month, both the State Senate and State Assembly included plans to raise home care worker wages in their one-house budget proposals.[[47]](#footnote-48) The State Senate proposal allocated $625 million while the Assembly proposal allocated $2.5 billion to worker wages.[[48]](#footnote-49) Although, both include substantial amounts of funding for home care workers in other ways, including cost of living adjustments and resources for people who make under a certain amount per year.[[49]](#footnote-50) The Governor and legislative leaders must negotiate and finalize the State budget by April 1, 2022. [[50]](#footnote-51)

1. **UPDATE**

The Committee on Civil Service and Labor passed this resolution by a vote of 10 in the affirmative, zero in the negative and zero abstentions.

Res. No. 24

..Title

Resolution calling upon the State Legislature to pass, and the Governor to sign, S.5374-A/A.6329-A, the Fair Pay for Home Care Act.

..Body

By Council Members Hudson, Barron, Hanif, Ossé, Brannan, Gutiérrez, Cabán, Ayala, Gennaro, Joseph, Ung, Avilés, Sanchez, Won, Louis, Farías, De La Rosa, Restler, Narcisse, Brewer, Rivera, Williams, Bottcher, Menin and Nurse

Whereas, According to a 2021 Mercer report, healthcare labor shortages are projected in every state across the U.S., with New York facing the worst home care worker shortage in the country; and

Whereas, The home care worker industry is one overwhelmingly staffed by women, immigrants, and people of color according to a 2020 report by PHI, a national organization working to strengthen the direct care workforce through research, advocacy, and workforce innovation; and

Whereas, The 2020 report by PHI found that 90 percent of direct care workers are women, 3 in 5 are people of color, and 1 in 4 are immigrants; and

Whereas, New York's population is projected to grow by 3 percent between 2021-2040, while the 65 and older population is expected to grow by 25 percent, and the number of adults over age 85 will grow by 75 percent, according to a City University of New York (CUNY) Graduate Center report on public investment in higher pay for New York State home care workers; and

Whereas, As a result of an aging population in New York, CUNY has also identified the number of home health aides and careers in personal care aide is projected to rise to more than 700,000 by 2028, up from 440,000 in 2018; and

Whereas, Older adults should be able to age at home with dignity, as the vast majority of people prefer, according to the American Association of Retired Persons (AARP), which found that 76 percent of Americans ages 50 or older wanted to remain in their current residence as they age; and

Whereas, In 2019, a statewide survey of homecare agencies from CUNY found that 17 percent of positions went unfilled because of staff shortages, leaving many New Yorkers with unmet home care needs to consequently experience hospitalization or admittance to costly nursing homes to access needed services; and

Whereas, In July 2021, a New York State Senate Aging Committee report found that home care agency staffing shortages meant the agencies had to turn away as many as 30 percent of new cases; and

Whereas, The Aging Committee’s report also found that more than 1 in 7 low wage workers in NYC is a home care worker, 1 in 4 home care workers live below the federal poverty level, and over half rely on public assistance; and

Whereas, Data published by the Integrated Public Use Microdata Series (IPUMS USA) found that nationally, home care workers have the lowest median annual earnings of $17,200, followed by residential care aides with $21,000, and nursing assistances working in nursing homes who earn $23,300 annually; and

Whereas, Home healthcare workers in NYC made an average of $15.93 per hour in 2020, far below the living wage of $21.77 for a single person in Manhattan, as per the Massachusetts Institute of Technology’s living wage calculator for New York; and

Whereas, Realizing the dire working conditions of home care personnel, Senator Rachel May and Assembly Member Richard Gottfried introduced S.5374-A/A.6329-A, entitled the “Fair Pay for Home Care Act,” to raise home care wages to 150 percent of the minimum wage, allowing home care workers to make at least $35,000 a year on average; and

Whereas, Home care workers make up one of the largest and most important sectors of our economy and deserve fair pay for the vital services they are providing to the City’s most vulnerable communities; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the State Legislature to pass, and the Governor to sign, S.5374-A/A.6329-A, the Fair Pay for Home Care Act.

AH

LS #7024

02/16/2022

1. U.S. Dep’t of Labor, *Paying Minimum Wage and Overtime to Home Care Workers A Guide for Consumers and their Families to the Fair Labor Standards Act*, at 6 (Revised on March 2016), *available online* <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/Homecare_Guide.pdf>. [↑](#footnote-ref-2)
2. *Id.* [↑](#footnote-ref-3)
3. *Id.* [↑](#footnote-ref-4)
4. *Id*. at 7; *See also* N.Y. Pub. Health Law § 3614-c (d) (defining the term “home care aide”). [↑](#footnote-ref-5)
5. *Supra* FN 1 at 7. [↑](#footnote-ref-6)
6. New York State Senate Committees on Aging, Health, and Labor, *Addressing the Crisis in the Long-term Care Workforce Report and Findings*, at 7 (July 27, 2021), *available at* <https://www.nysenate.gov/sites/default/files/article/attachment/long-term_care_workforce_hearing_report_2021.pdf>. [↑](#footnote-ref-7)
7. *Id.* [↑](#footnote-ref-8)
8. *Id.* [↑](#footnote-ref-9)
9. Isaac Jabola-Carolus, Stephanie Luce, Ruth Milkman, *The Case for Public Investment in Higher Pay for New York State Home Care Workers: Estimated Costs and Savings*, at 1, CUNY Graduate Center (2021), *available online* <https://slu.cuny.edu/wp-content/uploads/2021/03/The-Case-for-Public-Investment-in-Higher-Pay-for-New-York-State-H.pdf>. [↑](#footnote-ref-10)
10. New York State Senate Committees on Aging, Health, and Labor, *Addressing the Crisis in the Long-term Care Workforce Report and Findings*, at 1 (July 27, 2021), *available at* <https://www.nysenate.gov/sites/default/files/article/attachment/long-term_care_workforce_hearing_report_2021.pdf>. [↑](#footnote-ref-11)
11. *Id.* [↑](#footnote-ref-12)
12. Isaac Jabola-Carolus, Stephanie Luce, Ruth Milkman, *The Case for Public Investment in Higher Pay for New York State Home Care Workers: Estimated Costs and Savings*, at 5, CUNY Graduate Center (March 2021). [↑](#footnote-ref-13)
13. *Id*. at 9. [↑](#footnote-ref-14)
14. *Id*. [↑](#footnote-ref-15)
15. *Id*. at 5. [↑](#footnote-ref-16)
16. *Id*. [↑](#footnote-ref-17)
17. *Id*. at 1. [↑](#footnote-ref-18)
18. New York State Senate Committees on Aging, Health, and Labor, *Addressing the Crisis in the Long-term Care Workforce Report and Findings*, at 1 (July 27, 2021), [↑](#footnote-ref-19)
19. Isaac Jabola-Carolus, Stephanie Luce, Ruth Milkman, *The Case for Public Investment in Higher Pay for New York State Home Care Workers: Estimated Costs and Savings*, at 5, CUNY Graduate Center (March 2021). [↑](#footnote-ref-20)
20. *Id*. at 1. [↑](#footnote-ref-21)
21. *Id*. at 5. [↑](#footnote-ref-22)
22. New York State Senate Committees on Aging, Health, and Labor, *Addressing the Crisis in the Long-term Care Workforce Report and Findings*, at 7 (July 27, 2021), *available at* <https://www.nysenate.gov/sites/default/files/article/attachment/long-term_care_workforce_hearing_report_2021.pdf>. [↑](#footnote-ref-23)
23. *Id*. at 2. [↑](#footnote-ref-24)
24. *Id*. [↑](#footnote-ref-25)
25. *See e.g.,* Isaac Jabola-Carolus, Stephanie Luce, Ruth Milkman, *The Case for Public Investment in Higher Pay for New York State Home Care Workers,* at 6,CUNY Graduate Center (March 2021); New York State Senate Committees on Aging, Health, and Labor, *Addressing the Crisis in the Long-term Care Workforce Report and Findings*, at 17 (July 27, 2021). [↑](#footnote-ref-26)
26. *Id*. at 2. [↑](#footnote-ref-27)
27. N.Y.S. Senate Bill No. S5374A, Session 2021-2022, *available online* <https://www.nysenate.gov/legislation/bills/2021/S5374>. [↑](#footnote-ref-28)
28. Isaac Jabola-Carolus, Stephanie Luce, Ruth Milkman, *The Case for Public Investment in Higher Pay for New York State Home Care Workers,* at 1,CUNY Graduate Center (March 2021). [↑](#footnote-ref-29)
29. *Id.* [↑](#footnote-ref-30)
30. *Id.*  [↑](#footnote-ref-31)
31. *Id.* at 2. [↑](#footnote-ref-32)
32. *Id.* [↑](#footnote-ref-33)
33. *Id.*  [↑](#footnote-ref-34)
34. *Id.*  [↑](#footnote-ref-35)
35. *Id.*  [↑](#footnote-ref-36)
36. *Id.*  [↑](#footnote-ref-37)
37. *Id* at 1. [↑](#footnote-ref-38)
38. *Id* at 2. [↑](#footnote-ref-39)
39. *Id.*  [↑](#footnote-ref-40)
40. *Id.*  [↑](#footnote-ref-41)
41. *Id.*  [↑](#footnote-ref-42)
42. Dennis Slattery, *NY Lawmakers, Advocates Push Hochul on Pay Increases for Home Health Workers,* N.Y. Daily News (Jan. 13, 2022), available at: <https://www.nydailynews.com/news/politics/new-york-elections-government/ny-albany-lawmakers-want-pay-increase-for-home-health-workers-20220113-57bhbdo6tvbvjijrowvumrpcgm-story.html> [↑](#footnote-ref-43)
43. Rebecca Lewis, *County Officials Call on Hochul to Increase Wages for Home Health Workers*, City and State (Dec. 7, 2021), available at: <https://www.cityandstateny.com/politics/2021/12/county-officials-call-hochul-support-increased-wages-home-care-workers/187363/> [↑](#footnote-ref-44)
44. Michelle Del Ray, *Legislature Includes Fair Pay for Home Care In Budget Proposals,* The Albany Times Union (March 14, 2022), available at: <https://www.timesunion.com/state/article/Senate-and-Assembly-include-Fair-Pay-for-Home-17001273.php> [↑](#footnote-ref-45)
45. *Governor Hochul Announces Direct Payment to Healthcare Workers as part of $10 billion Relief Plan* (January 5, 2022), available at: <https://www.governor.ny.gov/news/governor-hochul-announces-direct-payments-healthcare-workers-part-10-billion-healthcare-plan> [↑](#footnote-ref-46)
46. *Id* at 18. [↑](#footnote-ref-47)
47. Joshua Solomon, *Democrats Defend Costs to ‘Fair Pay for Home Care Act,’* TheAlbany Times Union (March 15, 2022), available at: <https://www.timesunion.com/state/article/Democratic-leadership-defends-costs-to-pay-for-17004341.php#:~:text=The%20bill%2C%20included%20in%20the,high%20as%20%2422.50%20an%20hour>. [↑](#footnote-ref-48)
48. *Id* at 21. [↑](#footnote-ref-49)
49. *Id.*  [↑](#footnote-ref-50)
50. *Id*. [↑](#footnote-ref-51)