

## **1. OLDER AMERICANS ACT MODERNIZATION**

### **A) Status/Background**

The COVID-19 public health emergency has exposed the Older Americans Act as one that is outdated and in need of modernization in policy and program, and in need to keep up with the growth of the older population. A modernized Act needs to provide the flexibilities to meet local priorities and needs that differ geographically and differ in cost; to make investments in programs and services that have been added to the state's portfolios through numerous Amendments but have not been supported with federal funding; and to build back better with the lessons learned from COVID. These changes are needed in the short term when the disaster declaration lapses and into the future.

The pandemic forced the closure of congregate sites, social adult day care programs, and other community sites where older adults would receive services, supports, nutrition, evidence-based programs, application and assistance support, caregiver and respite, information and assistance, and much more. The network of aging services providers had to retool and change their method of service delivery virtually overnight and to provide services in a different way, such as the use of technology, more services in the home, delivering groceries and supplies, expanding home delivered meals, expanding transportation to critical medical appointments, combatting social isolation, delivering prescriptions, and more. Both the federal emergency disaster declaration and the state's Executive Orders gave the network maximum flexibility to meet needs as they arose and to do so based on the unique needs in the community, without having a bureaucracy push back, all while accounting for funding, documenting who was served and how, and maintaining quality. This flexibility needs to be continued permanently.

Our state saw an increase in service demand of almost 75% and that need has not waived. It provided an opportunity for people in need to connect with our support services whom we never would have interacted with without the pandemic and maintaining this level of service is important to meet basic needs and to help meet our mission of helping older adults maintain their independence, with dignity.

Finally, of our entire budget, we receive about \$77 million from the Administration for Community Living which dwarfs the need. The state general fund invests \$147 million into NYSOFA, we receive about \$35 million annually from the Medicaid global cap and the counties contribute about \$275 million annually. Our federal share has either been flat funded or has gone down slightly over the past decade while need and complexity of care increases, and the Older Americans Act routinely is amended to add more work for us without reimbursement. There needs to be a major investment from the federal government to keep pace with need, complexity of care, and emerging challenges in addition to modernizing.

### **Statutory/Regulatory Changes**

1. Eliminate the 10% state/county match for any new investments in OAA programs beginning in 2021 and thereafter.
2. Eliminate the restrictive transfer language between Congregate (Title IIIC1) and Home Delivered Meals (Title IIIC2) which would provide flexibility for the counties to meet locally determined needs in the nutrition program.
3. Continue Flexibility in the Use of All Older Americans Act Funding to meet locally determined needs that vary from county to county.
4. Change the eligibility criteria under Title IIIE – the National Family Caregiver Support Program to 50 for older relative caregivers to access the supports.
5. Expand Older Americans Act Eligibility for Young Onset Alzheimer's.

6. Amend the Long Term Care Ombudsman (LTCOP) training requirements.

### **Appropriations Request**

1. Increase the overall investment to the Older Americans Act to keep pace with the growth of the aging population, the increase in demand for services as a result of the pandemic and to meet new challenges learned from the pandemic, including overall modernization.
2. Invest in the Aging network workforce to go from a system of service delivery reliant on volunteers to a system with trained, certified staff.
3. Provide an annual appropriation in the Older Americans Act to pay for technology support, training, device purchases, access to WIFI and to support telehealth.
4. Provide an annual appropriation in the Older Americans Act for Lifespan Respite Care Programs and State Coalitions rather than a grant program – to increase states ability to expand a variety of respite and caregiver programs and assure sustainability
5. Provide an annual appropriation for elder abuse education and outreach
6. Increase funding for the State Health Insurance Programs
7. Increase funding for state Legal Assistance Programs
8. Increase funding for the Long Term Care Ombudsman Program
9. Provide an annual appropriation for State Aging and Disability Resource Centers (ADRCs)
10. Fully Fund the Senior Community Employment Program (SCSEP)

### **B) Impact to the State**

#### **Statutory/Regulatory Changes**

1. The Older Americans Act requires a 10% state/local match. Given the impact of the pandemic on state and local budgets, any increases in OAA funds may be moot due to the fact that counties may not be able to secure the match. Following the states lead several years ago, additional investments in state funded programs administered by NYSOFA waived our state match requirements for the same reason. Additional funds invested at the federal level should also waive the match to assure that all counties have the opportunity to maintain and expand services without putting more pressure on county budgets.
2. Without increased federal financial support, older adults will be discontinued from programs that meet basic human needs such as nutrition, and will have to be placed on waiting lists or wind up utilizing the emergency food networks that are already overstressed. Food is medicine and one of the most important health tools to maintain independence is access to nutritious foods. Absence of balanced nutrition supports worsens health disparities and negatively impacts social determinants of health. This places additional burden on State and county finances to bridge the gap and may impact spend-down to Medicaid. Given the state and county budget problems, increased federal assistance is needed and is overdue.
3. Enormous flexibility was provided in meeting the needs of older adults under the federal disaster declaration. The CARES Act contained a provision allowing for transfers up to 100%, without prior approval, between funding under Subparts 1 (Congregate Nutrition Services) and 2 (Home Delivered Nutrition Services) of Title III-C of the Older Americans Act (“OAA”), amended the definition of “homebound” for purposes of home-delivered meals eligibility to include an individual who is “unable to obtain nutrition because the individual is practicing social distancing,” and waived the dietary guideline requirements under these nutrition programs. Additionally, New York’s request for and the federal declaration of a major disaster in the State

pursuant to Section 401(a) of the Stafford Act, in conjunction with OAA Section 310(c), allowed for the use of any portion of existing OAA allocations for disaster relief for older individuals. This resulted in all funding under any section of the OAA being available for needed activities such as providing drive through, take out, or home delivered meals, conducting well-being checks via phone, in-person, or virtual means, and providing homemaker, chore, grocery/pharmacy/supply delivery, or other services. The flexibility that was provided in the use of OAA funding is necessary in meeting these and future needs.

4. The National Family Caregiver Support Program (NFCSP) is one of the vehicles for reaching this important group of caregivers and delivering services and supports. The NFCSP supports a variety of programs that help meet the mental, physical, educational, and nutritional needs of older relative caregivers. As a result of the opioid epidemic and the COVID-19 pandemic, more caregivers are in need of support. Changing the eligibility age to 50 would ensure that these caregivers receive the needed services to support them in their role. Additionally, the United Hospital Fund published an analysis of the devastating and unprecedented impact of COVID-19 on children in New York state. Working with Boston Consulting Group, the research team estimated that 4,200 children in the state, one out of every 1,000, had lost a parent or guardian to COVID-19 between March and July of 2020. That's more than the number of children who lost a parent on 9/11 (United Hospital Fund Newsletter, Fall/Winter 2020).
5. Expand the Older American Act eligibility across all Titles to include services and supports identified in the Act to individuals with young onset Alzheimer's and other neurocognitive diseases. Many individuals under age 60, with Alzheimer's and other neurocognitive diseases, do not have an identified caregiver and require long term services and supports in home and community-based setting. There is need for dedicated funding to provide home and community based long term services and supports for individuals dealing with Alzheimer's and other neurocognitive diseases, inclusive of those experience early onset under age 60. Early access to services and supports help to maintain functionality, slow regression, and delay both enrollment in Medicaid and placement in nursing homes. Not only does the state have savings to the Medicaid program but OAA services and supports significantly contribute to an individual's quality of life.
6. During the pandemic the numbers of LTCOP volunteers has dropped significantly. Flexibility is necessary in the implementation of the programs training standards that are specified in the LTCOP federal regulations section "Functions and Responsibilities of State Long Term Care Ombudsman" - section 45 CFR 1324.13 (c)(2) to ensure the program can meet its mission and goal. The amendments being requested would allow for authorizing different types of volunteer experiences and allowing for recruits to complete their in person certification training through the use of online learning and telephonic technology platforms. As a result, LTCOP would have the ability to offer creative alternatives for volunteers who cannot meet traditional ombudsman certification training requirements, or who are unwilling to enter a facility during the pandemic to complete their certification training. Presently in order for a volunteer to provide/ or perform the following functions, e.g., handle resident data, change of a facility/setting, compliant follow up, conduct out-reach to facility resident and staff—they must have first completed the same training requirements to become certified as a frontline volunteer interacting with facility staff and residents.

## **Appropriations Request**

1. State and local governments primarily finance aging services programs (162 million, \$315million respectively) with federal sources amounting to \$77 million. In addition, states are required to follow the Older Americans Act which is amended frequently to add more work for the states and counties without reimbursement. Coupled with the significant growth in the older population that is projected to continue to grow for decades and the fact that aging services network addresses the social determinants of health, helps older adults maintain their independence, keeps their economic and social resources in the community and prevents higher levels and higher costs of care, a significant investment is needed across the board to meet current waiting lists (11,000) and to expand services and modernize.
2. In 1965 when the Older Americans Act was passed, it was set up as a system heavily reliant on volunteers to deliver services. These include meal delivery, long term care ombudsman program, health information counseling, meal preparation, senior center staff, transportation and more. There is no professional system that is structured this way. Over the past 20 years, the number of volunteers has eroded considerably, the type of volunteer experience has changed, and this has had a major impact on our capacity to provide services. The aging network is a highly skilled, professional network that has enormous cross systems responsibilities, and it is unconscionable to not pay for the service that we provide and rely on volunteers and a volunteer corps that is dwindling year by year. It is long past time to replace the expectation that volunteers will provide service with the expectation that our ability to provide service is consistent because we pay for employees to do the work. This will assure consistent capacity across the service network and make service provision dependent upon a corps of volunteers and the ability to recruit and retain volunteers.
3. COVID has led all systems into a need for technology-based solutions. These solutions will only work if the resources are there to help purchase equipment, access WIFI, train individuals and their caregivers to use it and support them in using it. Without these resources, individuals will be unable to access telehealth, program and service delivery and ways to combat social isolation through connectivity, resulting in poor health outcomes and increased Medicaid costs to the state.
4. Lifespan Respite Care programs are coordinated systems of accessible, community-based respite care services for family caregivers of children and adults of all ages with special needs. Such programs reduce duplication of effort and assist in the development of respite care infrastructures at the state and local levels. Lifespan Respite Care programs work to improve the delivery and quality of respite services available through the following objectives:
  - Expand and enhance respite services in the states;
  - Improve coordination and dissemination of respite services;
  - Streamline access to programs;
  - Fill gaps in service where necessary; and
  - Improve the overall quality of the respite services currently available.

Through NYS's implementation of its Lifespan Respite Care Systems Grant, the New York State Caregiving and Respite Coalition (NYSCRC) continues to develop and serve as the state's focal point for resources, technical assistance and training, and evidence-based/best practice information for caregivers and the professionals serving them. It also provides mini-grants that foster volunteer-based respite supports to help meet gaps in services to underserved populations and individuals across the age and disability spectrum. Additionally, created and

maintains the New York Lifespan Respite Virtual Resource Center (VRC), an innovative approach designed to coordinate online access to information about caregiving and respite training, technical assistance, and related materials.

5. An investment through the Justice Department would provide each Area Agency on Aging an allocation to operate an Elder Abuse Education and Outreach program as coordinated by the State Unit on Aging. NYS would be able to provide a coordinated statewide Elder Abuse Education and Outreach program working with establish federal entities on Elder Abuse which would help to identify and mitigate elder abuse in all its forms, including financial exploitation.
6. NY SHIP works directly with 150,000 Medicare beneficiaries annually to educate them about the Medicare Program, supplemental policies, Medicare Advantage, Medicare Part D, Medicaid and low-income subsidy programs. Additional time is allocated to provide problem resolution for beneficiaries who have difficulty in resolving prescription and billing issues. NY SHIP funding has remained relatively constant over the past several years and is not adequate to meet the growing demand for health insurance counseling and assistance. In 2021, NY SHIP received \$2.37 million to administer local services through an aging network of 59 local programs (also known as the Health Insurance Information, Counseling and Assistance Program [HIICAP]) located within every county-based Area Agency on Aging. The HIICAP network is comprised of 59 Coordinators, 300 counselors and 250 volunteers. The counseling and application assistance provided through the HIICAP network equates to an estimated annual savings of \$100 million among beneficiaries.
7. The Legal Assistance Program is an advocacy program providing older individuals, age 60 or older, with legal advice and representation, including representation in court. Under the program, older adults are provided with legal advice and representation pertaining to income, health care, long-term care, nutrition, housing and utilities, defense of guardianship, abuse, neglect and exploitation, and age discrimination. The provision of legal assistance at the local level is funded through Title III-B of the Older Americans Act. Currently, the New York State Office for the Aging requires each of the fifty-nine (59) area agencies on aging to spend a minimum of seven percent (7%) of the Title III-B funds allotted to them. In some counties in New York State that amounts to only ten to fifteen thousand dollars (\$10,000-\$15,000) being spent on legal assistance annually. As a result, funding for legal assistance either runs out and area agencies on aging are not able to serve older individuals as the year progresses or area agencies on aging are not able to provide the full complement of legal assistance that older individuals may need. Due to the continued COVID-19 pandemic it is likely that older adults need for legal help will increase, especially health care, eviction, loss of income, and nutrition. It is anticipated that this heightened sense of need will require area agencies on aging to provide more legal assistance at greater levels of intensity. Without additional funding it is unlikely that area agencies on aging will be able to provide older adults with this much needed assistance.
8. The Office of the State Long Term Care Ombudsman provides advocacy services to anyone currently residing in a long-term care facility. This program's main function of the ombudsman program is to assist residents and their representatives with any quality of life or quality of care issues they have while residing in the facility. COVID-19 has had a tremendous impact on LTCOP generating an increase in both the number of contacts for information from individuals and in complaints received. NYS LTCOP during the pandemic has had an increase of 45% in instances of providing information and assistance to those contacting the program and a 40% increase in the number of complaints received from FFY 2019 to FFY 2020. At the same time, the number of

volunteer ombudsmen has declined by 28% and the capacity to provide direct / in person access to an ombudsman s is presently limited to approximately 50% of nursing homes in New York State. This, coupled with the complexity of these complaints, is providing evidence for the need of increased support and assistance to residents. In order to meet this demand, increased federal funding is imperative to provide assistance from an ombudsman, however the current level of funding provided from the Federal government is making it more and more difficult to meet the needs of individuals.

9. NY Connects complies with federal statute for establishment of Aging and Disability Resource Centers (ADRC) as prescribed by the 2016 Reauthorization of the Older American Act (OAA) and is statutorily mandated through the New York State Elder Law §203(8). As a result of the federal Balancing Incentive Program (BIP), authorized under section 10202 of the Patient Protection and Affordable Care Act of 2010 (ACA), NY Connects was expanded geographically and functionally enhanced. The implementation of BIP required that NY Connects broaden the populations it serves and add new partners to fully assume the required No Wrong Door (NWD) structural reform. Each NY Connects is a collaboration consisting of the Area Agency on Aging (AAA) and/or a subcontractor(s) of an AAA, local Department of Social Services (LDSS) and the Independent Living Center (ILC). Although BIP funding concluded in September 2017, NYS continues to provide sustainability funding for the operation of the expanded and enhanced NY Connects NWD System. NY Connects is an essential component of the State's efforts to rebalance the long-term services and supports (LTSS) system so that individuals can live independently and remain at home and in their communities.

NY Connects has continuously demonstrated that it is a trusted source of reassurance for New Yorkers who may have feelings of unease during such an uncertain time. As the pandemic continues, NY Connects has been able to assist callers in providing applicable information and linking them to the appropriate sources to get the help they need. During the first eight months of the COVID-19 pandemic (3/1/2020 – 10/31/2020) there were 211,330 contacts made (This includes follow ups, quick information and Person-Centered Counseling), 202,620 units of information requested, 355,785 units of information provided, and 272,901 actions taken. Additionally, from 1/1/2020 through 12/13/2020, the NY Connects website received over 1.6 million website hits.

There is currently no federal funding to support a federally mandated program.

10. SCSEP is the only employment and training program specifically for older adults. It provides subsidized, part-time, community service training for unemployed, low-income (125% of poverty) adults 55 or older who are unemployed and have low employment prospects. (1) Enrollment priority is given to veterans and qualified spouses, then to individuals who are over 65, have a disability, have low literacy skills or limited English proficiency, reside in a rural area, are homeless or at risk of homelessness, have low employment prospects, or have failed to find employment after using services through the American Job Center system. SCSEP participants are placed in temporary assignments with federal, state, county, city, or nonprofit community organizations, where they have an opportunity to sharpen and develop skills while searching for a permanent job. While working in these temporary training assignments participants are paid the prevailing federal or state minimum wage, whatever is higher. SCSEP participants benefit by:
  - Participating in on-the-job training (minimum 18 hours per week).
  - Earning at least current minimum wage while training.

- Developing job search skills.
- Improving job skills and developing new ones.
- Establishing a current work history and an up-to-date resume.
- Receiving workers' compensation insurance.
- The opportunity for a yearly physical examination.
- The possibility of entering unsubsidized employment.

However, a significant decrease in employment and training opportunities resulting from the COVID-19 emergency has had a devastating impact on SCSEP participants and older workers in general. SCSEP participants must prepare for a post-pandemic landscape that will require the ability to work remotely. This presents additional barriers to employment for older workers ill-equipped for remote work environments. The U.S. Bureau of Labor Statistics. (2019, September 24) Job Flexibilities and Work Schedules, reports 75 percent of U.S. workers age 65 and older report being unable to telecommute. Assisting older adults affected by unemployment in developing the tools, connectivity, and technological skills necessary for navigating a rapidly changing (and potentially remote) post-pandemic job market should be part of the training SCSEP participants receive.

### **C) Funding Account and Amount of the Request**

NYSOFA requests an overall increase in the Older Americans Act of \$2.7 billion. With a state share of the national amount for New York being 6.5%, that would bring about \$175.5 million to NYS as follows.

- Overall Funding Increase (minus nutrition) includes but is not limited to - \$35 million
  - Reduce waiting lists
  - Enhance the home care rate for personal care I and II
  - Expand PCI and II and case management
  - Provide additional transportation
  - Combat social isolation
  - Increase access to social model adult day services
  - Expand health and wellness services, evidenced based interventions
  - Other locally determined needs
- Invest in sustainable nutrition support - \$55 million
- Invest in Aging Services network workforce - \$20 million
- Expanding eligibility to younger onset Alzheimer's and to age 50 for caregiver and respite support – \$26 million
- Provide annual appropriation for technology access - \$5 million
- Provide annual appropriation for Lifespan Respite Care Programs - \$1 million
- Provide annual appropriation for elder abuse education and outreach - \$2 million
- Provide increase funding for state SHIP Programs - \$5.5 million
- Provide increase in funding for state legal assistance programs - \$3 million
- Provide increase in funding for the long-term care ombudsman program - \$3 million
- Provide an annual appropriation for Aging and Disability Resource Centers - \$20 million
- Fully fund the Senior Community Employment Program (SCSEP)

### **D) Congressional Delegation Engaged to Date**

Unknown

### **E) Timeline for Action**

Annual Appropriation Process  
Annual Legislative Process