

Week Starting – September 29, 2017 Published 09/29/2017 – 9:31AM (1PCA, 2Articles)
North Shore LIJ MLTC Plan Closing and New "Transition Rights"
Appellate Court Ruling Rattles Home Care Industry, Raises Fears of 'COLLAPSE'
Updated 10/01/2017 – 12:58PM (1Article)
All the Work, Half the Pay

Previous Week Starting – September 22, 2017	Published 09/22/2017 – 10:16AM (1Consumer, 1PCA) Updated 09/23/2017 – 1:46PM (1Consumer) Updated 09/28/2017 – 9:27AM (1PCA)
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CDPAP Agency Listing – Being Planned, Suggestions Welcome

On September 16, 2013 the New York State Department of State accepted the Certificate of Incorporation submitted by **Consumer Directed Services, Inc.** under section 404 of the Not-for-Profit Law. A certificate that included the following statement:

To insure that the corporation remains focused on the empowerment of the people being served, as the service population grows, the corporation will expand the Board of Director Membership to insure that a majority of its seats are held by people with disabilities.

On November 12, 2015 the United States Internal Revenue Service determined that Consumer Directed Services, Inc. is exempt from Federal Income Tax under Internal Revenue Code **Section 501 (c) (3).**

*We are pilgrims on a journey; we are travelers on the road;
We are here to help each other walk the mile and bear the load*

Excerpt from - *The Servant Song*- Richard Gillard (1974)

To assist Consumers with the problem of finding new Personal Care Assistants, [Consumer Directed Services, Inc.](#) created a FREE Employment Information Bridge between Consumers and Personal Care Assistant (PCA) Candidates.

Consumers / Advocates

To search for a PCA Candidate complete the form at the following link [Consumer / Advocate - Search for a PCA Candidate](#). When your information is received it will be enrolled in the email database, and posted on the website for a month, distributed to all of the members of the Consumer Directed Services database (Consumers, PCA Candidates, and a variety of other Employment Resources), and published in the Consumer Directed Services Newsletter for a month.

To just add your information to the Consumer Directed Services database, a Consumer or Advocate need only send me an email to elitcher@consumerdirectedservices.com and include your name and the text **Newsletter Request**. When your information is received it will be enrolled in the email database and you will begin receiving future issues of the Consumer Directed Services Newsletter and other emails related to the program's goal.

Personal Care Assistant (PCA) Candidates

To include your information in the Newsletter and email database, complete the form at the following link: [Look for a PCA Job \(FREE\) - New York City Metro](#). When your information is received, your information will be published in the Newsletter for a month, and you will begin receiving future issues of the Consumer Directed Services Newsletter and other emails related to the program's goal.

Also, to access our list of Currently Available Jobs, please use the following link: [JOBS](#)

Previously distributed Newsletters (**from January 12, 2011 to present**) have been archived on the [Consumer Directed Services](#) home page. Finally, if you have any questions, comments, or recommendations about this service, or should you wish to remove your address from this list, please contact send an email to elitcher@consumerdirectedservices.com.

Best Regards, Ed Litcher

Consumers Searching

Consumers Wanted: *For an Employment Information Bridge to work it requires traffic to flow in both directions. If you are in a Consumer Directed Personal Assistance Program, you will eventually need to find a new Home Care Worker. And up to now you may have relied upon Friends, Family, an Agency or you may have chosen to put your own advertisement on the Internet (See the list of Internet resources on the PCA Employment Agency page of this newsletter). Therefore, to help you find the PCA Candidate of your choice, I urge you, to do everything you ordinarily do, to consider an Internet resource and to try*

www.ConsumerDirectedServices.com.

*Finally, if you try Consumer Directed Services, please spread the word. Tell your friends and associates about this **FREE** service.*

T.P. () on Friday, September 22, 2017 at 11:07:16

Neighborhood Name: HUNTINGTON STATION

Available Transportation: Auto,

Phone: 631-424-6811

Best Time: 8 am -8 pm

E-mail: mtjmtj250@gmail.com

Email Authorization: Yes

Consumer Age: Older than 70

Consumer Gender: Female

Payroll Method: Agency

Type of Candidates: Personal Care / Home Health

Candidate Experience: Seniors,

Description of Special Diets: diabetic

Description of Languages: English

Preferred Candidate Gender: Female

Required Documentation: Social Security Number,, Proof of Identity,, Recommendations

Hours: 8

Days: 40

Start Time: 8am

Pay Per Hour: 16

Valerie Kuhi () on Thursday, September 21, 2017 at 13:46:25

Neighborhood Name: Kips Bay
City, Town or Borough: Manhattan
Available Transportation: Subway, Bus,
Consumer Age: Older than 70
Consumer Gender: Female
Payroll Method: Agency
Type of Candidates: Personal Care / Home Health
Candidate Experience: Seniors, Visual / Auditory Impairments,
Preferred Candidate Gender: Female
Required Documentation: Social Security Number, Proof of Identity,
Hours: 12
Days: 1
Start Time: 9pm
Pay Per Hour: \$11/day

Comments: I AM LOOKING FOR A CARETAKER FOR MY 105 YEAR OLD MOTHER.
Caretaker needs to be patient, kind, soft spoken and reliable. Please send a resume to irdmore@aol.com. I am in need of a person for the night shift on Wednesday nights with the possibility of another night and substituting on an as needed basis

Mr. Brown () on Tuesday, September 12, 2017 at 21:16:52

Neighborhood Name: Flatbush Junction
Available Transportation: Subway, Bus,
Phone: 347-434-4112
Best Time: 9am-10pm
Consumer Age: Older than 70
Consumer Gender: Male
Payroll Method: Agency
Type of Candidates: Personal Care / Home Health
Candidate Experience: Seniors, Visual / Auditory Impairments, Special Diets, Languages
Description of Languages: English
Preferred Candidate Gender: Female
Required Documentation: Social Security Number, Proof of Identity,
Description of Schedule: day and nights
Pay Per Hour: 11.00
Comments: none smoker. home care experience

James () on Monday, September 11, 2017 at 11:20:24

City, Town or Borough: Staten Island, New York
Available Transportation: Subway, Bus, Train, Other Transportation,

Description of Other Transportation: Staten Island ferry

Phone: 1-347-576-7806

Best Time: Daytime

E-mail: James.Allen412@yanoo.com

Email Authorization: Yes

Consumer Age: Between 31 and 50

Consumer Gender: Male

Payroll Method: Agency

Type of Candidates: Personal Care / Home Health

Candidate Experience: Paraplegia, Quadriplegia, Hemiplegia, Amputation, Wheelchairs,

Description of Languages: English

Preferred Candidate Gender: Female

Required Documentation: Social Security Number, Proof of Identity, Recommendations

Hours: 12

Days: 4

Start Time: 8am to 8pm

Pay Per Hour: 12.00

Comments: Please do not reply if you live in Manhattan, Queens, Bronx etc. and do not have a vehicle. This is a 12 hour shift and the consumer needs someone who is responsible, experienced and on time.

JCD () on Thursday, September 7, 2017 at 17:07:43

Neighborhood Name: Medford Long Island

City, Town or Borough: Suffolk County

Available Transportation: Auto,

E-mail: Kmkenney106@aol.com

Email Authorization: Yes

Consumer Age: Between 51 and 70

Payroll Method: Agency

Type of Candidates: Personal Care / Home Health

Candidate Experience: Paraplegia, Quadriplegia, Wheelchairs,

Description of Languages: English only

Preferred Candidate Gender: Female

Required Documentation: Social Security Number,

Hours: 8

Days: 5

Start Time: 8am
Description of Schedule: Full time 8am to 4 pm
Pay Per Hour: \$13.69

Alan Herzog () on Wednesday, September 6, 2017 at 11:17:10

Neighborhood Name: Astoria
City, Town or Borough: Queens, New York City
Available Transportation: Bus, Train,
Phone: 718-545-0772
Best Time: after 12pm
Consumer Age: Between 51 and 70
Consumer Gender: Male
Payroll Method: Agency
Type of Candidates: Personal Care / Home Health
Candidate Experience: Seniors, Visual / Auditory Impairments,
Preferred Candidate Gender: Female
Required Documentation: Social Security Number, Proof of Identity, Recommendations
Hours: 7
Days: 5
Start Time: 9am
Description of Schedule: Monday to Friday - 9am to 2pm – Total Hours 35

Comments: my requirements and expectations are as follows:

- Must be able to take instruction
- Must be able to cook, clean, do laundry, go places with me, help with personal care such as -
showering
- Must be punctual and willing to work

I want someone that wants and respects this job as they would any other. Communication is number one if they cannot come for any reason what so ever.

Prospective applicants can phone me at 718-5450772. If you get my voice mail, please speak clearly with your name and phone number so I can call you back.

RUTH CHEN () on Tuesday, September 5, 2017 at 14:32:31

Neighborhood Name: FOREST HILLS, QUEENS
Available Transportation: Subway, Bus,
Phone: 347-678-0168

Best Time: 9am -9pm
E-mail: Angie.DelMissier@gmail.com
Consumer Age: Older than 70
Consumer Gender: Female
Payroll Method: Agency
Type of Candidates: Personal Care / Home Health
Candidate Experience: Seniors, Wheelchairs, Lifters,
Preferred Candidate Gender: Female
Required Documentation: Social Security Number, Proof of Identity,
Hours: 12
Days: 4
Start Time: 8pm
Description of Schedule: 12 hour Shifts, Four Day a Week
Pay Per Hour: 11

Deb () on Monday, September 4, 2017 at 14:53:55

Neighborhood Name: Bayside Queens
Available Transportation: Subway, Bus, Train, Auto, Other Transportation,
Description of Other Transportation: access a ride
Phone: 718-279-0467 or 718-785-1023
Best Time: 9am-9pm
E-mail: debb7302@aol.com
Email Authorization: Yes
Consumer Age: Between 31 and 50
Payroll Method: Agency
Type of Candidates: Personal Care / Home Health
Candidate Experience: Wheelchairs,
Description of Special Diets: fiber diet
Description of Languages: English
Preferred Candidate Gender: Female
Hours: sleep-in
Days: 2or 3
Start Time: 9

Comments: looking for an English speaking person to work 2 or 3 days. I'm in wheelchair chair with cerebral palsy don't have balance and cannot walk must strong to assist me. Tell you more when someone calls.

Maxine Gervey () on Saturday, September 2, 2017 at 11:54:09

Neighborhood Name: Mount Sinai
Available Transportation: Train, Auto,
Phone: 917-657-7500
E-mail: [sfisch12282004@hotmail.com](mailto:sfish12282004@hotmail.com)

Email Authorization: Yes

Consumer Age: Older than 70

Consumer Gender: Female

Payroll Method: Agency

Type of Candidates: Personal Care / Home Health

Candidate Experience: Seniors, Mental Impairments / Alzheimer's Disease, Special Diets,

Description of Special Diets: Fluid Restriction

Description of Languages: English

Preferred Candidate Gender: Female

Required Documentation: Social Security Number, Proof of Identity, Recommendations

Hours: 5.5

Days: 5

Start Time: 8-10am, 4-8pm

Description of Schedule: Split day. Consumer goes to a Day Program 6 days a week.

Pay Per Hour: \$11.00

Comments: We participate in CDPAP program through the Recco Agency. Candidates are not permitted by law to work more than 40 hrs per week, have up to date physical and PPD. NON-SMOKERS ONLY. The shift is split due to the program she attends. Mornings are getting her up, showering, dressing, right breakfast and taken to program. Afternoon is light housekeeping, dinner & bedtime routine.

Nancy () on Friday, September 1, 2017 at 12:37:00

Neighborhood Name: Riverdale

City, Town or Borough: Bronx

Available Transportation: Subway, Bus,

Phone: 718 601 4714

Best Time: 4pm

E-mail: nancy3@gmail.com

Email Authorization: Yes

Consumer Age: Older than 70

Consumer Gender: Male

Payroll Method: Self Pay

Type of Candidates: Personal Care / Home Health

Candidate Experience: Seniors,

Preferred Candidate Gender: Male

Hours: 12

Days: 5

Start Time: 8:00am

Comments: I need an aide for the day shift Monday – Friday 8am to 8pm in Riverdale NY,
must be able to transfer a 140 pound male.

Janel () on Friday, September 1, 2017 at 11:59:36

Neighborhood Name: Van Cortlandt Park

City, Town or Borough: Bronx

Available Transportation: Subway, Bus,

E-mail: bblin@aol.com

Email Authorization: Yes

Consumer Age: Between 51 and 70

Consumer Gender: Female

Payroll Method: Agency

Type of Candidates: Personal Care / Home Health

Candidate Experience: Wheelchairs,

Preferred Candidate Gender: Female

Required Documentation: Proof of Identity, Recommendations

Hours: 9

Days: 7

Start Time: 9:am

Description of Schedule: schedule can be flexible

Pay Per Hour: Concepts

Comments: Work with individual who has speech disability. I have cerebral Palsy. I am looking
for someone reliable, with good English skills, reading and speaking. I seek someone
compassionate; trust worthy to enjoy working with a semi-hip 67 year old. No drugs please.

Robin Cassidy () on Wednesday, August 30, 2017 at 14:26:53

Neighborhood Name: Ronkonkoma

City, Town or Borough: Suffolk County, Long Island

Available Transportation: Bus, Train, Auto,

Phone: 631 467 5206

Best Time: 6am to 12a

E-mail: talkingrobin8@gmail.com

Consumer Age: Between 51 and 70

Consumer Gender: Female

Payroll Method: Agency

Type of Candidates: Personal Care / Home Health

Description of Other Type of Candidates: animals & home health

Candidate Experience: Wheelchairs, Special Diets,

Description of Special Diets: diabetic, kosher-style

Preferred Candidate Gender: Female

Required Documentation: Social Security Number, Proof of Identity,

Hours: 7a-11pm

Days: 7

Description of Schedule: varies from p/t to f/t depending on person, total care needed

Pay Per Hour: 13.00

Comments: must be cat loving, non-smoking person. Driving a plus as is knowledge of Jewish culture.

Akeem Trujeque () on Tuesday, August 29, 2017 at 16:26:31

Neighborhood Name: Soundview

City, Town or Borough: Bronx

Phone: 347-605-2740

E-mail: akkeyz@hotmail.com

Email Authorization: Yes

Consumer Age: Between 31 and 50

Consumer Gender: Male

Payroll Method: Agency

Type of Candidates: Personal Care / Home Health

Preferred Candidate Gender: Female

Required Documentation: Proof of Identity,

Hours: 12

Description of Schedule: looking for a back up, part time for now 12 hour shifts

Pay Per Hour: 11

Comments: if you do not have experience its ok as long as you are willing to work and learn. I still live an active lifestyle.

Alex () on Tuesday, August 29, 2017 at 09:58:07

Neighborhood Name: East Village

City, Town or Borough: Manhattan, NYC

Available Transportation: Subway, Bus, Train, Auto,

Phone: 847-567-8408

E-mail: Alexbtrust@gmail.com

Email Authorization: Yes

Consumer Age: Between 21 and 30

Consumer Gender: Female

Payroll Method: Self Pay

Type of Candidates: Personal Care / Home Health

Preferred Candidate Gender: Female

Required Documentation: Social Security Number, Proof of Identity,

Description of Schedule: 24-hour live-in care during weekdays

PCA Information

Consumer Directed Services is not an Agency and makes no representation (positive or negative) regarding the appropriateness of any PCA Candidate, or the terms and conditions of any employment relationship. All employment and payment decisions are the exclusive responsibility of the Consumer.

Note: If you are seeking employment from a Consumer who is receiving their service authorization from a New York State Medicaid funded Consumer Directed Personal Assistance Program, the Consumer is permitted to consider your employment only if you can pass ALL of the following New York State reviews.

1. You are an adult of at least 18 years of age.
2. The Consumer is not your spouse or (if the Consumer is younger than 21) is not your child.
3. You do not live in the home of the Consumer (unless their service requires it).
4. You are not the Designated Representative (Surrogate) of the Consumer.
5. You do not have any financial control over the Consumer.
6. Your information must pass a Federal and State Government Exclusion List Review.
- 7 You have a verifiable Social Security number and the qualified documents needed to prove that you are eligible to work in the United States.

The State of New York also requires each Personal Care Assistant to complete a Health Assessment BEFORE you begin work.

The Health Assessment includes:

- A basic physical exam - blood pressure, height, weight, etc.
- A TB (Tuberculosis) Screen (PPD) or a chest x-ray if the test is positive or if the test would not be appropriate
- A Measles and Rubella Screen or Vaccine
- A drug test of Urine (forensic toxicology)
- Documentation of vaccination against influenza, or wearing of a surgical or procedure mask during the influenza season

In addition to the above New York State requirements, the municipality in which the Consumer lives may also impose additional health assessments or legal reviews. The Consumer Directed Personal Assistance Program your Consumer chooses will require the completion of a Memorandum of Understanding (Consumer / Personal Care Assistant Agreement) to clarify the employment relationship, and they may require other documents to help them effectively complete their role as the Consumers Fiscal Intermediary.

PCA Candidates

Elijah McComb () on Thursday, September 28, 2017 at 23:59:30

Address: 2563 Decatur Ave. Apt.8

Phone: 646-920-5212

Best Time: Days

E-mail: mccombelijah@gmail.com

Email Authorization: Yes

Gender: Male

Type of Position: Personal Care / Home Health

Worked with a CDPAP Consumer/Surrogate: No

Consumer/Surrogate References Available: No

Enrolled with a CDPAP: No

Experience: Children, Teens, Young Adults, Seniors, Ventilators, Wheelchairs, Lifters, Other Equipment,

Can pass the New York State Review: Yes

Had a Health Assessment in the past 12 months: No

Have or can get a copy of my recent Health Assessment: Yes

Other Documentation Available: Proof of Identity, Recommendations

Certificate/License: Personal Care, Driver's License,

Hours per Week: 30

Days per Week: 3

Preferred Start Time: 5 pm Fri

Days I Would Like to Work: Friday, Saturday, and Sunday

I am willing to work a 24 Hour Sleep-In schedule: Yes

Target Salary Per Hour: \$12

Target Salary Per Day: \$160

Target Salary Per Week: \$570

Comments: I have experience with patients who are completely immobile: cooking/feeding; cleaning/housekeeping; bathing; changing of diapers, clothes, and bedding; using lifts and wheelchairs(transfers); administering oxygen tanks, inhalers, and medicine; keeping schedule of time sheets, task lists(food, medicine, turnovers/position changing/applying ointment to sores, appointments); escorting patient to appointments; receiving and communicating procedures and possible issues with the patient, doctors, nurses, HHAs, and family members; going above and beyond to ensure a clean, safe, and comfortable environment for the patient within standard policy (spending quality time with patient, taking patient outside for some fresh air).

Nana Brenya () on Wednesday, September 27, 2017 at 10:44:47

Address: 4460 Park Avenue Bronx, NY 10457

Phone: 347-993-9437

E-mail: nanabrenya1055@gmail.com

Email Authorization: Yes

Gender: Female

Type of Position: Personal Care / Home Health

Worked with a CDPAP Consumer/Surrogate: No

Experience: Seniors,, Quadriplegia,, Amputation,, Wheelchairs,, Lifters,, Other Equipment,, Mental Impairments / Alzheimer's Disease,, Visual / Auditory Impairments,, Special Diets,

Description of Special Diets: Low sodium diet for diabetics

Can pass the New York State Review: Yes

Had a Health Assessment in the past 12 months: Yes

Have or can get a copy of my recent Health Assessment: Yes

Other Documentation Available: Proof of Identity,, Recommendations

Certificate/License: Personal Care,, Driver's License,

Hours per Week: 168

Days per Week: 6

Preferred Start Time: 8am-8pm

Days I Would Like to Work: Mon-Sat

I am willing to work a 24 Hour Sleep-In schedule: Yes

Target Salary Per Hour: \$18-\$35

Comments: Experienced PCA with over ten years experience in Senior Care assisting with ADL such as:

- Meal preparation
- Personal care
- Medication management
- Doctor's appointment
- Recreation activities
- Ambulation
- Grocery shopping
- Laundry
- Light Housekeeping

Shannon McIntyre () on Wednesday, September 20, 2017 at 11:28:52

Address: 57 Lakeview Drive

Phone: 631-448-1529

Best Time: after 10am

E-mail: smac8145@gmail.com

Email Authorization: Yes
Gender: Female
Type of Position: Personal Care / Home Health
Worked with a CDPAP Consumer/Surrogate: No
Consumer/Surrogate References Available: No
CDPAP Agency Name(s):Recco
Experience: Young Adults, Seniors, Visual / Auditory Impairments, Special Diets,
Description of Special Diets: pika, diabetes
Can pass the New York State Review: Yes
Had a Health Assessment in the past 12 months: Yes
Have or can get a copy of my recent Health Assessment: Yes
Other Documentation Available: Proof of Identity,
Certificate/License: Driver's License,
Hours per Week: 25
Days per Week: 3-5
Days I Would Like to Work: Monday - Friday
Target Salary Per Hour: 14-17
Comments: I have experience with disabled adults and would love to continue in the field. I have worked with many kinds of different mental disabilities in group homes and am up to date with all CPR first aid and SCIP training. I've also been working with my sick family members currently fighting stage 4 cancer.

Jessica D. () on Tuesday, September 19, 2017 at 14:25:44

Address: Bronx
Phone: (347) 774-2925
Best Time: Anytime
E-mail: Jessicad15@hotmail.com
Email Authorization: Yes
Gender: Female
Type of Position: Personal Care / Home Health
Worked with a CDPAP Consumer/Surrogate: Yes
Enrolled with a CDPAP: Yes
CDPAP Agency Name(s): Concepts of Independence
Experience: Children, Young Adults, Seniors, Paraplegia, Quadriplegia, Ventilators,
Wheelchairs, Lifters, Other Equipment, Mental Impairments / Alzheimer's Disease, Special
Diets,
Can pass the New York State Review: Yes
Had a Health Assessment in the past 12 months: Yes
Other Documentation Available: Proof of Identity,

Certificate/License: Personal Care, Home Health Aid, LPN or PN, Other,
Description of Other Certificate/License: CCMA, CAN

George Liggins () on Saturday, September 9, 2017 at 15:54:05

Phone: 917-572-6075

Best Time: any

Gender: Male

Type of Position: Personal Care / Home Health

Worked with a CDPAP Consumer/Surrogate: Yes

Years Employed with a Consumer/Surrogate: 8 Years

Enrolled with a CDPAP: Yes

CDPAP Agency Name(s): Concepts of Independence/Chinese America

Experience: Teens, Young Adults, Seniors, Paraplegia, Quadriplegia, Hemiplegia, Amputation, Ventilators, Wheelchairs, Lifters, Mental Impairments / Alzheimer's Disease, Visual / Auditory Impairments,

Can pass the New York State Review: Yes

Had a Health Assessment in the past 12 months: Yes

Have or can get a copy of my recent Health Assessment: Yes

Other Documentation Available: Proof of Identity, Recommendations

Hours per Week: 60

Days per Week: 5

Preferred Start Time: any

Days I Would Like to Work: Monday through Friday day or night

I am willing to work a 24 Hour Sleep-In schedule: Yes

Target Salary Per Hour: Depends on the company

Kamala Singh () on Friday, September 1, 2017 at 19:35:34

Address: 8676 208th St

Phone: 347-548-4087

Best Time: Evenings

Gender: Female

Type of Position: Personal Care / Home Health

Worked with a CDPAP Consumer/Surrogate: Yes

Enrolled with a CDPAP: Yes

CDPAP Agency Name(s): Concepts of Independence

Experience: Seniors, Paraplegia, Quadriplegia, Ventilators, Wheelchairs, Lifters, Other Equipment, Mental Impairments / Alzheimer's Disease, Visual / Auditory Impairments, Special Diets,

Description of Special Diets: Vegetarian

Description of Languages: English

Can pass the New York State Review: Yes

Had a Health Assessment in the past 12 months: Yes

Have or can get a copy of my recent Health Assessment: Yes

Hours per Week: 36

Days per Week: 3

Preferred Start Time: 8pm

Days I Would Like to Work: Friday night, Saturday night, Sunday night

Target Salary Per Hour: \$12

Comments: I am also interested in 12 hours day shifts for Saturday and Sunday if night shifts are not available. Preferred start time 8 am to 8 pm.

Articles Related to the CDPAP

All the Work, Half the Pay

**Home care workers do not get paid for every hour of their 24-hour shifts.
Recent court rulings could change that fact, and upend an industry**

Sun, Oct 1, 2017 at 8:54 AM

Crains New York

[Caroline Lewis](#)

<http://www.crainsnewyork.com/staff/clewis/caroline-lewis>

Published: October 1, 2017 - 8:00 am

Lai Yee Chan worked piece-rate in the city's textile factories for more than a decade to support her three children after she emigrated from China in the late 1980s. She sometimes labored until 2 a.m. for such brands as DKNY and saw co-workers faint from the stifling summer heat in a Midtown warehouse.

Chan's current workplace, the apartment of an elderly man with Alzheimer's who was partially paralyzed by a stroke, looks nothing like the factory floor. But during the seven years when she cared for him in 24-hour shifts, it felt like a sweatshop just the same.

Chan is part of a cohort of New York home care workers that has filed more than a dozen class-action lawsuits against employers to challenge an industry wide practice known as the 13-hour rule, a state-sanctioned policy in which home care workers are paid for just 12 or 13 hours of a 24-hour shift.

"Getting paid for 12 or 13 hours is exploitation," said Chan, 62. "This should never have happened in a civilized society."

Last month a panel of state appellate court judges agreed. After reviewing two of the lawsuits, the judges ruled that the 13-hour policy was illegal. Although the

agencies named as defendants, New York Health Care and Future Care Health Services, want to appeal the decisions, Chan is hoping the rulings will be upheld and serve as legal precedent in her own case.

As Chan and her colleagues celebrated last month, owners of the state's 1,500 or so registered home care agencies were frantically contacting their trade associations for guidance on what to do next. They had followed the lawsuits for years through multiple appeals and delays, and now their worst fears were materializing.

Eliminating the 13-hour rule would effectively double the cost of providing the round-the-clock assistance many elderly and disabled New Yorkers rely on to remain at home. The rulings also could put agencies on the hook for back wages for any employee who worked a 24-hour shift in the past six years, according to the statute of limitations in New York. That alone could amount to billions of dollars, one trade group estimated. Many of the agencies are nonprofits operating on tight margins and say they could be forced to shutter.

"As far as potential costs, it will destroy the industry," said Matthew Hetterich, director of corporate business development at Utopia Home Care, based in Kings Park, Long Island, and president of the Long Island Chapter of the New York State Association of Health Care Providers.

How the state's court cases are resolved could determine the future health of home care agencies, the well-being of workers and the choices that families make about the care of their loved ones.

The cost of caring

Home care is one of the fastest-growing areas of employment in the country, driven by demand from an aging population and a seismic shift in the health system away from costly institutions such as hospitals and nursing homes. In New York home care employed nearly 200,000 as of July, an 8% increase over July 2016. The lion's share, about 149,000, works in New York City, where the home care workforce grew by 12% during that period.

That growth has put a lot of pressure on the industry. New York's Medicaid program, which insures low-income residents, is the largest source of revenue for

many home care employers. Some agencies rely on it for more than 90% of their income. Medicaid spent \$7.2 billion on home care in fiscal 2017, with the state and federal governments splitting the tab.

HOME CARE ECONOMICS

Around three-quarters of Americans over age 40 would prefer to receive long-term care in their own home, a 2016 survey conducted by the Associated Press and the University of Chicago found. Whether they can afford it is another matter.

Medicare, the federal health plan for people over 65, does not pay for long-term care, contrary to what 4 in 10 Americans think. And if a patient does not have private long-term care insurance, home health aides must be paid for out of pocket until the patient's savings are depleted enough to become eligible for Medicaid, the state insurance program for people earning up to 138% of the federal poverty level.

To be eligible for Medicaid, an individual cannot have more than \$825 in monthly income and \$14,850 in assets. Putting money into a trust for the next generation is one of several legal loopholes people exploit in order to qualify.

Often families must make tough decisions to get their loved ones the care they need. Bronx resident Susan Maloney said her mom, who suffered from dementia in her final years, received several years of 24-hour home care before her death last year. At first Maloney, a hospital administrator, said, "We thought it was best to go through an agency because if someone's out sick or goes on vacation, they can send a replacement."

But, she said, "Getting someone who actually cared about what they did and cared about my mom was difficult because most felt they were being taken advantage of."

Maloney's mom had planned ahead and paid into a generous long-term-care insurance policy. But Maloney paid out of pocket to stretch the hours it paid for and to supplement the caregivers' wages because she felt the home-care agencies paid them too little.

Eventually she decided it would be more affordable and the aides would make more if she just hired them directly.

“The problem is, near the end, when both of the aides we hired started having personal crises at same time, there was no backup,” Maloney said. “It was the most stressful thing I had ever gone through.”

By the time Maloney’s mom moved into the nursing home where she spent her final year, Maloney had spent about \$100,000 of her parents’ and her own savings on home care, in addition to what insurance paid.

Maloney tried to keep her mom in the Brooklyn apartment she had lived in for 50 years for as long as possible. “Even though people were passing away, she still knew some people,” said Maloney. “She would go outside and sit on the benches. She had a social circle.”

But there were advantages to eventually putting her mom in a nursing home in the Bronx, Maloney said. “She had a pretty good quality of life while she was there. And when I visited, I didn’t have to make grocery lists; I could just sit and spend time with her.”

But state officials have stubbornly clung to the 13-hour rule to help keep costs down.

"As an industry we can only pay our workers what we're getting paid," said Hetterich. "This is not the case of an evil business that wants to make more and more money."

The home care agencies named in the class-action suits have pointed to a 2010 opinion letter from the state Department of Labor asserting that aides can be paid for 13 hours of a 24-hour shift. (Workers are also supposed to get three hours for meals and eight hours of sleep during each shift, at least five of which are uninterrupted—something aides say is far from guaranteed.) The department based its guidance on a minimum-wage exemption for workers who live full time with their clients.

But the September state appellate court decisions ruled that the Labor Department erred in its interpretation of the law. Employees who don't live with their clients full

time must be paid for all the hours they are at work, regardless of whether they are sleeping or eating on the job, the judges said.

Asked about next steps, the Health Department said it is currently reviewing the rulings. The state Department of Labor did not return *Crain's* requests for comment.

24-hour shifts

While working 24-hour shifts in Chinatown between 2007 and 2014, Chan's workday did not really start or end. She would wake up in a bed catty-corner to the one her client slept in, make him oatmeal for breakfast, bathe him, clothe him, clean the apartment and launder his clothes. When her client had the energy, she would lift him into his wheelchair and take him to church or to hear music in nearby Columbus Park. His lunch and dinner were meals that she cooked, blended into the consistency of baby food, and fed to him.

At night, while he slept, she monitored his breathing, periodically helped him shift positions and changed his diaper every two hours, the same as in the daytime.

As his Alzheimer's progressed, he often woke up yelling. Chan would try whatever she could think of to get him back to sleep. "Hear that siren?" she would ask in Cantonese, their shared language, if an ambulance went by outside. "If you don't go back to sleep, they'll take you away."

That line rarely worked, Chan said with a chuckle. On a summer afternoon a few weeks before the rulings were handed down, Chan chatted with other home health aides as they shared a box of sweet buns at the Chinese Staff and Workers' Association, a grassroots labor organization in Chinatown.

The women, current or former employees of the Chinese-American Planning Council Home Attendant Program, are plaintiffs in two class-action lawsuits pending against the nonprofit home care agency. Speaking through a translator, the women agreed that their profession can be incredibly isolating.

"In home care you face the same person every day," said Chan. "The patient doesn't speak much. In the garment factory, you can talk among the workers. You can chat."

Home health aides who had worked for various agencies told *Crain's* they suffered from depression as well as physical injuries from lifting patients while working 24-hour shifts.

One such worker, Leticia Panama Rivas, a 40-year-old Queens resident from Ecuador, said working as a home attendant 24 hours a day, five days a week for four years left her with a back injury and a failed marriage. "I never saw my husband," said Rivas, who is involved in a class-action suit against her former employer, First Chinese Presbyterian Community Affairs Home Attendant Corp.

For her part Chan cobbled together part-time hours from different agencies for about seven years before she was assigned to her 24-hour case. The job kept her away from her husband in Brooklyn for three to five days at a stretch. But working longer hours did not substantially improve her family's finances. Only during the period when Chan was at her client's home five days a week, 24 hours a day, did her income surpass \$30,000 per year.

Chan accepted the 24-hour assignment, fearing, like many home health aides, that if she didn't, her agency would slash her hours or make her wait months for another job.

It was not until she got a mysterious check for about \$250, which the Chinese-American Planning Council said was compensation for all of the overtime she was owed between 2007 and 2013 that she started to question the legality of the 13-hour rule. "The check kind of opened my mind," she said.

Chan and two colleagues filed suit against the Chinese-American Planning Council in March 2015, with a petition for class-action status. She was encouraged by a Manhattan Supreme Court judge's decision in September of that year not to grant her employer's request to dismiss the case.

She never guessed it would be her union, 1199SEIU United Healthcare Workers East that would prevent the trial from proceeding in court.

Growing pains

Demand for home care is expected to accelerate as the baby-boom generation ages. But a labor shortage is already underway.

"We have a very challenging environment with respect to recruitment and retention of staff," said Al Cardillo, executive vice president of policy and program services at the Home Care Association of New York State. "Dealing with turnover is a major expense."

Home care agencies in New York turn away an average of 37 cases per month because they are short-staffed, according to a recent survey by the Home Care Association. At least three agencies reported having to decline more than 100 cases each month.

Recruitment has gotten tougher in part because minimum-wage increases in the state mean workers can now earn just as much in fast food and retail, industry leaders say.

A decade ago, the state minimum wage was \$7.15 per hour, and home care workers typically earned about \$10 per hour. That was a blessing for attorney Thomas Small, a 52-year-old Brooklynite with spinal muscular atrophy. Small participates in the state's Consumer-Directed Personal Assistance Program, which allows people to use their Medicaid benefits to recruit and hire aides directly.

"It wasn't uncommon to get 40 or 50 people to respond to a Craigslist post, and I could weed through applicants and find people who were really good," said Small, who is policy and outreach director at Concepts of Independence, a nonprofit that helps administer the state's personal assistance program. "Now I run an ad and get five or six responses."

Facts

THE AVERAGE NUMBER of cases home care agencies turn away every month is 37

100 CASES PER MONTH are turned down by at least three home care agencies

While some are demanding a greater investment in the home care workforce, the Cuomo administration is helping employers cope with the gains their employees have already made in recent years, including the minimum-wage increase. The state is investing \$6 billion in new funds in the home care workforce between fiscal years 2015 and 2021, the Health Department said. Yet some in the industry say it is still not enough.

A feeling of betrayal

In late June 2016, Chan marched to the front desk of her union's headquarters and delivered a petition with 70 signatures demanding that 1199 "make a serious effort to investigate whether there was any wrongdoing, illegal activity or corruption conducted by the union staff in dealing with workers' pursuit of their back wages."

In December 2015, months after Chan's case had been filed and the motion to dismiss it had been denied, 1199 finalized an agreement with the Chinese-American Planning Council amending their contract. It added a section requiring that all claims asserting that the Chinese-American Planning Council violated state or federal labor laws must be resolved through private mediation and arbitration. The provision, which has become increasingly common in home care contracts, was voted on by union members and ultimately added to all the labor agreements 1199 had negotiated with 50 home care employers, said Helen Schaub, state policy and legislative director for 1199.

A judge decided the provision could apply to Chan's case retroactively and ordered Chan and her employer into arbitration.

The union said it added the arbitration clause because it is more expedient than going through the courts and would benefit workers. Chan disagreed.

She was further disappointed by her union's decision not to pursue the claim that the 13-hour rule violated state and federal regulations. The union opted to represent only the workers' claims that they did not get the requisite sleep and meal breaks.

By 1199's estimate, just 8% of the state's home care workers are assigned to 24-hour cases. "From our perspective, in terms of how to best represent our members,

we spent a lot of time and energy winning the \$15 minimum wage, which affects 100% of members, versus a smaller portion working on live-in cases," Schaub said.

Chan's case is now in mediation. But the feeling that her powerful union abandoned her persists. As she and others lost faith in 1199, their relationship with two independent labor organizations, the Chinese Staff and Workers' Association and the National Mobilization Against Sweatshops, deepened.

Home care workers spread awareness of their campaign to end the 13-hour rule via word of mouth, while labor organizers drew up fliers asking in multiple languages, "Do you work long hours? Are you paid for all the hours you work of your 24-hour shift? And overtime pay?"

The fliers further implored, "Join us!"

WORKING OVERTIME

Carmen Carrasco, a 65-year-old Brooklyn resident who moved to the United States from the Dominican Republic when she was 19, gets to sleep in her own bed only one night a week. She splits her time between two 24-hour cases for two agencies. Although she is on call 72 hours per week for each agency, she does not earn overtime pay from either one. Under the so-called 13-hour rule, only 39 of the 72 hours she works are tallied.

WEDNESDAY THROUGH FRIDAY

Anibal Carrasquillo, a bedridden 47-year-old born with cerebral palsy, cannot form words. But it is no secret how he feels about Carrasco, his aide of 15 years. He smiles broadly when she enters his room in the apartment he shares with his mother in a Lower East Side housing project overlooking the FDR Drive.

For lunch on a Wednesday afternoon in August, Carrasco prepared noodles with ground turkey, blended into an orange paste. Spooning the food into her patient's mouth as he watched *Two and a Half Men* in Spanish on the TV above his bed, Carrasco sometimes had to remind him to swallow. "Coma, coma, coma, Papa," she said. "Swallow, swallow, swallow."

More than once during the hour long meal, Carrasquillo opened his mouth wide, mischievously exposing the food inside. “Oh, how lovely,” Carrasco responded in Spanish.

Taking care of Carrasquillo three days a week requires superhuman patience, but he has stolen Carrasco’s heart. “He’s a sweetheart,” she said in Spanish. And while she must attend to the occasional nighttime diaper change, she usually gets enough sleep.

She has learned the hard way, however, that no two cases are alike.

SUNDAY THROUGH TUESDAY

A few blocks from her apartment in Williamsburg, Carrasco cares for a woman whose husband died last year. The husband had Alzheimer’s and required constant care, especially near the end of his life, when he would complain of the pain he suffered at night.

“He didn’t sleep at all at night,” Carrasco said. “He didn’t let me sleep.”

Caring for both of them earned Carrasco only an extra 50 cents an hour, standard in the collective-bargaining agreements 1199SEIU United Healthcare Workers East negotiates with employers.

“I was dying to get out of that situation because I was getting sick,” Carrasco said. In addition to feeling stressed and exhausted, she had to be rushed to the hospital twice for vertigo.

But when she complained to her coordinator about the assignment, Carrasco said, she was told to hold out just a little longer.

“He eventually died,” Carrasco said. “Gracias a Dios.”

Although Carrasco plans to retire soon, she has joined the movement to end the 13-hour rule. She is one of three named plaintiffs in a class-action suit filed in June against the United Jewish Council of the East Side Home Attendant Service Corp., where she was employed from 2000 to 2015.

“I don’t know what’s going to happen,” she said, “but there has to be radical change.”

Home care workers who showed up at the labor groups' narrow, adjacent offices on Grand Street were connected with lawyers at the Urban Justice Center, Virginia & Ambinder, and other firms. Chan and fellow home health aides celebrated last month's court decisions alongside organizers and labor lawyers. They said their fight is just beginning.

"Often you win this judgment in court and it ends up just being pieces of paper because it's so easy for employers to move money around and essentially plead bankruptcy and not pay," said Sophie DeBenedetto, an organizer with National Mobilization Against Sweatshops.

The Chinese-American Planning Council Home Attendant Program has already insisted it doesn't have the money to pay, said Chan.

Making it work

The director of the Chinese-American Planning Council Home Attendant Program and several other home care executives declined to speak to *Crain's* about the 13-hour rule.

One firm that did comment was Hometeam, a venture-backed startup that serves a mix of private-pay and Medicaid patients and has built its brand on creating well-paying careers for home health aides.

But Hometeam too has taken advantage of the 13-hour rule. A classified ad that the company posted online in August for sleep-in positions in New York City offered \$154 for a single 24-hour shift—the equivalent of \$6.42 per hour. Only aides working at least four 24-hour shifts in a week would earn overtime, upping their hourly wage to the equivalent of \$7.14.

"I don't think it's unreasonable to want an aide to be paid [for all 24 hours]. I want aides to be paid that," said Josh Bruno, founder and chief executive of Hometeam, in an interview at his company's Chelsea headquarters in May. "But it's true to say

we would have sweeping changes and change a lot of people's lives if that happens."

In the private-pay market, Bruno said, families will likely find alternatives to home care if it becomes too expensive.

It has already become harder for Medicaid patients to be approved for 24-hour home care, thanks in large part to the Cuomo administration's Medicaid-reform efforts, said David Goldfarb, a Manhattan attorney specializing in elder law.

Rather than being reimbursed directly from the government, home care agencies typically contract with managed-care organizations in order to get paid. The state pays the plans a set amount up-front to cover the needs of each Medicaid beneficiary, which incentivizes them to control the cost of care.

Moving forward, Goldfarb said, "I think the state is going to have to recognize that the funds have to be made available to cover whatever the law says you have to pay people for continuous care."

But changes intended to benefit workers could lead to unintended consequences, said Allison Cook, New York policy manager at PHI, a national advocacy and training organization for home care workers that is affiliated with a home care agency in the Bronx.

In 2015, for example, the Obama administration extended to home care workers the minimum wage and overtime protections that have been afforded to other workers for decades under the Fair Labor Standards Act. Agencies then began splitting up individual cases among workers in order to avoid paying overtime, Cook said. As a result more aides now divide their time between multiple agencies to survive.

Despite rate increases from the state, insurers still are not paying enough to cover overtime, said Hetterich of Utopia Home Care. Ultimately, he said, patients pay the price.

"When the Fair Labor Standards Act changed and new overtime rules were implemented, we had a lot of comments from families about having two or three different caregivers," he said. "The biggest concern from the industry standpoint is,

we do a lot of work with elderly patients who suffer from Alzheimer's and dementia. People with those diseases don't handle change or strangers very well."

Another wage mandate could push more of the home care industry into the informal economy, at least for those who can afford to pay out of pocket, warned Bruno.

"Instead of aides choosing to work through agencies, they will increasingly choose to work independently," Bruno said. "Families and aides will meet in the middle somewhere, but it will be in the gray market."

Some success

Chan is not waiting on the courts to improve her working conditions. In 2014 she consulted with her client's wife about splitting each 24-hour shift in two. There was already another aide working the days that Chan was off, and at first her client's wife was concerned about the prospect of having four aides instead of two, Chan said.

Eventually the wife agreed. After her client's insurance plan sent an inspector to his home, the patient was approved for what is known as a split-shift case in December 2014, Chan said.

Medicaid plans can authorize split-shift care if a patient requires assistance with such tasks as going to the bathroom and changing positions with "such frequency that a live-in 24-hour personal care aide would be unlikely to obtain, on a regular basis, five hours daily of uninterrupted sleep during the aide's eight-hour period of sleep," according to the Health Department's website.

But insurance plans are reluctant to approve the arrangement because of the cost, elder law attorney Goldfarb said.

Healthfirst, the Medicaid plan that insures Chan's client, declined to discuss its policies on split-shift cases, as did the Health Department.

Some consumer advocates raise concerns about splitting up cases. "Patients grow attached," said Maria Alvarez, executive director of the Statewide Senior Action Council. "It's a very personal thing."

But Chan said the change has made a big difference. "It's better for our jobs and improves our health, and it also allows the patient to get better service," she said.

Now that she is not exhausted all the time, Chan has the energy to engage her patient more. He has even begun talking a little.

"I ask him, 'Who am I?'" Chan said. He cheekily answers, "Chan Gu Niang," using the Chinese honorific usually reserved for younger women.

"I ask him, 'Who is your friend?'" Chan said. "And he says, 'You.'"

The demands of workers and organizers go beyond full compensation, said DeBenedetto of the National Mobilization Against Sweatshops. Her organization will continue to encourage workers to sue their employers for back wages, but it also is seeking to work with legislators, consumer-advocacy organizations and other groups to draft legislation ending mandatory 24-hour shifts.

If the decisions striking down the 13-hour rule are upheld, the state could re-evaluate everyone approved for 24-hour care and convert the more demanding cases into split-shifts, said Bryan O'Malley, executive director of the Consumer Directed Personal Assistance Association of New York State.

"Some people would be able to switch from live-in to 13-hour care, and people would leave at the end of the day," he said. "But many people would still need 24/7 care, and it would certainly drive up the cost of providing services. There's already increased pressure on Medicaid, and this would certainly exacerbate that."

Denying aides full pay for all the hours they are on call poses its own threat to the system, said Carmela Huang, Chan's attorney from the Urban Justice Center.

"If these workers are denied their full rights," Huang warned, "we're creating a permanent underclass of workers who are engaged in some of the most difficult and important work."

http://www.crainsnewyork.com/article/20171001/HEALTH_CARE/170929853?template=print

North Shore LIJ MLTC Plan Closing and New "Transition Rights"

Wed, Sep 27, 2017 at 5:22 PM

Valerie J. Bogart, Director
Evelyn Frank Legal Resources Program
New York Legal Assistance Group
7 Hanover Square, 18th Floor
New York, NY 10004

The letter - North Shore LIJ - Letter to members closing redacted -
(<https://drive.google.com/file/d/0B1UgXr1KtCdKLTRCR1pTNWVPVzRmeE13cGQ4UzZXU0h4TWhZ/view?usp=sharing>)

was sent by North Shore LIJ MLTC plan to its members last week. As of August 1, 2017 its enrollment is:

NASSAU - 1,843, NEW YORK - 2,742, SUFFOLK - 1,171, Total - 5,756

This will be the first plan's closure that will be governed by the new DOH guidance, **MLTC Policy 17.02, MLTC Plan Transition Process – MLTC Market Alteration**, 9/22/2017,

https://www.health.ny.gov/health_care/medicaid/redesign/mrt90/mltc_policy/17-02.htm

DOH had given a draft of this guidance to consumer coalitions – Medicaid Matters NY and the Coalition to Protect the Rights of NY Dual Eligibles, which submitted extensive recommendations. Unfortunately, none of these recommendations were accepted in the final version. Here's a summary of the policy:

GOOD:

- Members will be **auto-assigned** to a new plan if they don't pick one on their own, and the **new plan must continue the same amount of services with the same providers for some time** (how long? See below..). This is positive and a change from former policy by DOH, but this “transition protection” is in part nullified by the “bad” procedures described below.
- The requirement that the new plan continue the same services seems to apply whether the consumer pro-actively now finds a new plan and enrolls on their own, or waits to be auto-assigned.
- If consumer finds their own new plan, does not need a [Conflict Free eligibility and enrollment assessment \(CFEEC\)](#) by [NY Medicaid Choice](#). Can just call NYMC and enroll (“blind” enrollment)
- In the case of North Shore LIJ, members will be passively enrolled into [Centers Plan for Healthy Living](#), an MLTC plan that apparently entered into an agreement to take all members who don't choose another plan. It must continue same hours under above transition policy. (Centers Plan was a small plan but similarly acquired Centerlight MLTC members when that plan closed, so is now the 2nd largest plan, behind Fidelis MLTC.

BAD

- New plan must only continue services for longer of (i) 120 days after enrollment; or (ii) until the new plan has conducted an assessment and the enrollee has “agreed” to the new plan of care.
- **No mention that plan may only reduce services at the “later of” date for [Mayer v Wing](#) reasons** – if member's condition has improved or some other change. No cross-reference to clear DOH policy forbidding reductions otherwise – see [MLTC Policy 16.06: Guidance on Notices Proposing to Reduce or Discontinue Personal Care Services or Consumer Directed Personal Assistance Services](#). [Mayer v. Wing](#), 922 F. Supp. 902, 911 (S.D.N.Y. 1996), as codified in [18 NYCRR505.14\(b\)\(5\)\(c\)](#).
- **What is to protect member who “agrees” to a reduction not knowing his or her rights** to have same services continue unless their circumstances have changed. No notice requirement.

- **No mention that plan must give written notice BEFORE reducing services** with right to request an appeal.
- **Requirement that new plan continue same services does not appear to apply to members who transfer plans when they hear rumors of old plan closing or even when it hits the press**– Policy only says no one may be “transitioned” until plan closure approved by DOH. But rumors start before. Unclear exactly what “transitioned” means..

ICAN – the [Independent Consumer Advocacy Network](#) funded by State DOH to advocate for members of Medicaid managed care plans providing long term care, including MLTC plans, was not included on the notice.

GOOD: NH residents will not be required to move to a different NH.

“Permanent nursing home residents shall be allowed to remain in their nursing homes and be accommodated through an out-of-network arrangement if the nursing home is not part of the receiving plan’s network.”

How to advise clients -

Advise them that they can choose a different plan if they want, and assist them to make that selection **by 11/10/2017**. They should not need a CFEEC and can simply call NYMC to enroll. Or they can wait and be auto-enrolled into Centers Plan.

Advise callers about their transition rights – that new plan must continue same hours and same providers for 120 days or until they are reassessed, if earlier. The new plan is prohibited from implementing a reduced service plan in less than 120 days without the member’s consent. **Advise clients to express their rejection of any such reduction or discontinuance of any services in writing, to guard against plan staff notating alleged oral consent in their charts.**

If plan does threaten to reduce services, whether after 120 days or next assessment, **[request a Fair Hearing right away](#)*** to secure Aid Continuing**, if plan fails to give advance written notice that conforms with [MLTC Policy 16.06](#). We may see cases where plan claims client “agreed” to a reduction.. in such cases

client should still receive a notice alleging that agreement. If there is no advance written notice, request a fair hearing.

If you do not handle these matters or fair hearings, please refer the client to ICAN. <http://icannys.org/get-help/>

*****HEADS UP FOR CHANGES IN FAIR HEARINGS IN 2018**

Federal Medicaid managed care regulations revised under the Obama administration will go into effect by April 1, 2018 and possibly earlier. These regulations will require that Medicaid managed care members first request an Internal Appeal by the plan, which must be decided by the plan before the member may request a Fair Hearing.

42 CFR § 438.408(e)(1). This will be a huge change in the rules in NYS and will affect nearly 5 million Medicaid recipients in managed care and MLTC plans. These rules may be in effect by the time the new plan gets around to reducing services after 120 days! So all advocates will need to change their automatic impulse to request a fair hearing and instead request an Internal plan appeal first. For more about the internal appeals process as it stands now – when “exhaustion” of internal appeals is NOT required -- see [Appeals & Grievances in Managed Long Term Care - Consumer Rights](#). Note that some time frames and other procedures will be changed somewhat under the new federal regulations.

Appellate Court Ruling Rattles Home Care Industry, Raises Fears of 'COLLAPSE'

<http://www.politico.com/states/new-york/city-hall/story/2017/09/14/appellate-court-ruling-rattles-home-care-industry-raises-fears-of-collapse-114494>

Mon, Sep 25, 2017 at 12:20 PM

By [DAN GOLDBERG](#) (<http://www.politico.com/states/new-york/staff/dan-goldberg>)

09/14/2017 03:12 PM EDT

Home care agencies across New York state are scrambling as a state Appellate Court [decision](http://www.courts.state.ny.us/courts/ad2/Handdowns/2017/Decisions/D53339.pdf) (<http://www.courts.state.ny.us/courts/ad2/Handdowns/2017/Decisions/D53339.pdf>) could cost them tens of millions of dollars and threatens to upend the industry.

The case centers around Lilya Andryeyeva, a live-in home health aide employed by New York Health Care, and Adriana Moreno, a live-in home health aide employed by Future Care Health Services. The employees claimed their companies violated the state's minimum wage law by failing to pay them for each hour worked.

Home care agencies, relying on a 2010 opinion from the state Department of Labor, have typically paid employees like Andryeyeva for 13 hours of work per day, assuming that they are allowed eight hours of sleep and three hours for meals. The agency makes clear that if residential employees do not receive that time to eat and sleep they should be paid for those hours.

Recently, however, several employees have challenged that rule, arguing in court that it violates minimum wage laws.

New York's law requires the minimum wage be paid "for the time an employee is permitted to work, or is required to be available for work at a place prescribed by the employer."

Because Andryeyeva and Moreno were not permitted leave their clients' side, they should be paid for all 24 hours, their lawyers argued.

The Second Department of the Appellate Division agreed and, in a unanimous opinion, wrote that the Department of Labor's interpretation is "neither rational nor reasonable."

ADVERTISING

"The plaintiffs were required to be at the clients' residences and were also required to perform services there if called upon to do so," the court wrote. "To interpret that regulation to mean that the plaintiffs were not, during those nighttime hours,

‘required to be available for work’ simply because it turned out that they were not called upon to perform services is contrary to the plain meaning of ‘available.’”

A spokesman for the Department of Labor said the department is reviewing the decision, "has a strong commitment to protecting workers and will continue to enforce the labor law to its fullest extent."

The case was appealed to the Second Department after a 2014 [ruling](http://caselaw.findlaw.com/ny-supreme-court/1678502.html) (<http://caselaw.findlaw.com/ny-supreme-court/1678502.html>) from state Supreme Court Justice Carolyn Demarest who reached the same conclusion.

The Appellate Court's ruling, which may yet be appealed, could devastate the home care industry, requiring employers to pay for an additional 11 hours of work per day. The Second Department also ruled a class-action suit may go forward, meaning employers could be on the hook for up to six years of back pay to thousands of employees.

“This turns upside down the longstanding compensation practice of home care agencies with respect to live-in aides, and raises questions about how providers are supposed to compensate their aides going forward,” said Emina Poricanin, an attorney with Hodgson Russ LLP, the firm that represented the New York State Association of Health Care Providers.

Claudia Hammar, president of the Association of Health Care Providers, said she is “extremely disappointed.”

“This decision is at odds with well-established rules of the New York State Department of Labor, which the home care agencies have relied on in good faith for the last decade,” she said. “This ruling has the potential to collapse the long term home health care system. Without intervention from the state, providers who are already struggling with low reimbursement rates will be exposed to new claims and will be unable to continue providing live-in services, directly jeopardizing the well-being of New York's most vulnerable populations.”

The Home Care Association of New York State has met with the Cuomo administration and stressed that without state action, its members will be decimated as home care providers could face millions of dollars worth of financial liabilities.

“The court's decision, which invalidates the so-called 13-hour rule that providers have relied on in good faith for these services, opens up major potential exposure for wage costs, and this exposure results from discrepancies in state regulations and guidelines,” said Roger Noyes, a spokesman for the Home Care Association of New York State.

In July, the Department of Health said it would “evaluate whether action may be needed to prevent unnecessary disruption to home care services in New York State.”

A spokesperson from the health department said Thursday the department is reviewing the decision and remains committed to ensuring home care workers receive due compensation.

The ruling comes as the state is in the midst of implementing a higher minimum wage, which already has increased what the state government, through the Medicaid program, is paying for direct care workers.

The ruling follows an [April decision from the First Department \(http://www.politico.com/states/new-york/albany/story/2017/04/appellate-court-ruling-has-home-care-agencies-on-edge-111335\)](http://www.politico.com/states/new-york/albany/story/2017/04/appellate-court-ruling-has-home-care-agencies-on-edge-111335), which allowed a similar case to move forward in Supreme Court.

DIA meeting dates for 2017

General Membership Meetings are held monthly.

We meet at **Selis Manor**, 1st Floor Auditorium
135 West 23rd Street (between 6th and 7th Avenues)

New York City

1:30 PM to 4:00 PM

Sunday, October 29, 2017

Sunday, November 19, 2017

All DIA meetings are open to the public and are wheelchair accessible. We require that all attendees refrain from smoking, wearing any fragrance or carrying devices that beeps (turn off electronic devices or put them on vibrate), as these are all

harmful to some of our members and guests. Please support our scent-free environment by abstaining from perfume and cologne! In the event of bad weather, visit www.disabledinaction.org or by calling the DIA answering machine at 718-261-3737, 30 minutes after sundown on Saturday

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Local Independent Living Centers

- Bronx Independent Living Services, Inc. (BILS)
4419 Third Ave, #2C, Bronx, NY 10457
TEL [718 515-2800 x 116](tel:7185152800) / TTY [718 515-2803](tel:7185152803) / FAX [718 515-2844](tel:7185152844)
- Brooklyn Center for Independence of the Disabled (BCID)
27 Smith St, #200, Brooklyn, NY 11201
TEL [718 998-3000](tel:7189983000) / TTY [718 998-7406](tel:7189987406) / FAX [718 998-3743](tel:7189983743)
- Center for Independence of the Disabled in NY (CID-NY) (Manhattan)
841 Broadway, #301, New York, NY 10003
TEL [212 674-2300](tel:2126742300) V / TTY [212-674-5619](tel:2126745619) / FAX [212-254-5953](tel:2122545953)
- CID-NY/Queens
137-02A Northern Blvd, Flushing, NY 11354
Phone: [646-442-1520](tel:6464421520) / Sorenson VP [866-948-1064](tel:8669481064) / TTY [718-886-0427](tel:7188860427) / Fax 718-886-0428
- Harlem Independent Living Center (HILC) (Manhattan)
289 St. Nicholas Ave, #21 Lower Level, New York, NY 10027
TEL: 212-222-7122 / Sorenson VP 646-755-3092 / Relay 866-326-5876 / FAX 212-222-7199
info@hilc.org
- Staten Island Center for Independent Living (SIILC)
470 Castleton Ave, Staten Island, NY 10301
TEL 718-720-9016 / TTY 718-720-9870 / FAX 718-720-9664
- Long Island Center for Independent Living (LICIL) (Nassau Co)
3601 Hempstead Turnpike, #208, Levittown, NY 11756
TEL 516-796-0144 / TEL (Espanol) 516-796-6176 / TTY 516-796-0135 / FAX 516-796-0529 licil@aol.com
- Self Initiated Living Options, Inc. (SILO) (Suffolk Co)
2111 Lakeland Ave, Ronkonkoma, NY 11779
TEL 631-880-7929 / TTY 631-654-8076 / FAX 631-946-6377
contact@siloinc.org
- Westchester Independent Living Center (WILC) (Westchester/White Plains)
200 Hamilton Ave, White Plains, NY 10601
TEL 914-682-3926 / TTY 914-682-0926 / Sorenson Video Phone 866-933 5390 / FAX 914-682-8518
- Westchester Disabled on the Move, Inc. (WDOM) Westchester/Yonkers)
984 No. Broadway, #L-10, Yonkers, NY 10701
TEL 914-968-4717 V & TTY / FAX 914-968-6137

Alternative Resources

The following resources MAY help Consumers find new Personal Care Assistant (PCA) Candidates and manage the CDPAP. (Suggestions Welcome)

Employment

Kingsborough Comm. College, Marisa Joseph
2001 Oriental Blvd, Brooklyn, NY 11235
marisa.joseph@kbcc.cuny.edu
718-368-5563

NYC Technical College Placement Office
pdc@citytech.cuny.edu
(718) 260-5050

Advertising

Able Newspaper
Cost \$5 for each 5 word line (or part) – 30days
Phone: 516-939-2253 www.ablenews.com

Backpage - Basic Cost - Free (7 days)
Available Updates - Auto Repost + Sponsor Ad
(cost determined by number of weeks)
<http://newyork.backpage.com/MedicalHealthJobs/>

Classified Ads, Cost Free
<http://www.classifiedads.com/post.php>

Craigslist, Cost \$45.00 (30 days)
<http://newyork.craigslist.org/>

System Navigation

Homecare Planning Solutions
<http://www.hpsny.org/learning-center/home-care/enroll-in-cdpap/>
718-215-0926

Assistance with enrolling in a CDPAP, or questions about CDPAP,
Call to speak with a specialist. Never any charge for their help,

Independent Consumer Advocacy Network (ICAN)
ICAN helps people in New York's Managed Care Plans
Call (844) 614-8800 TTY Relay Service: 711
<http://icannys.org/>

Evelyn Frank Legal Resources Program
Focus - Medicaid, Medicare, home care services, and public benefits issues affecting older adults & people with disabilities
212.613.7310 Monday through Friday 9:00 am – 5:00 pm
EFLRP@nylag.org

Plan: a data entry form and page for CDPAP agencies, suggestions welcome.