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MEMORANDUM

TO: Mr. Robert Graber
Clerk of the Legislature

FROM: Joseph C. Lorigo
Erie County Legislator, 10th District

DATE: September 13, 2012

RE: Letter received from Donna Andrzejewski, Regional Manager of SKIP of New York.

Please find the attached letter, I am asking that this matter be referred to the Health and Human Services Committee for further consideration.

July 24, 2012

Mary Reagan, Administrative Director
Erie County Department of Health, Medicaid Long Term Care
Rath Building – Room 230
95 Franklin Street
Buffalo, NY 14202

Dear Ms. Reagan:

SKIP of New York has provided case management services to children in Erie County for over twenty two years through the New York State Care At Home Programs. It has been our pleasure to work with some truly amazing families and their kids who are the most extraordinary youngsters. Throughout the years, we have worked very closely with workers from Erie County to assess the children's continued needs. We have accomplished a lot and the beneficiaries are the remarkable children who live at home in their communities, rather than in institutional setting.

Our longevity has witnessed many changes in the home care world and we are bracing for the soon to come changes that will forever change the delivery of home care services for the families we work with. With that in mind, I must call on you to examine some of the arcane practices that Erie County is using to provide nursing services to the people of Erie County. These practices jeopardize the health and safety of individuals that require the nursing level of care, resultant in needlessly lengthened hospital stays. The services ensure a safe discharge in adherence to New York State Regulations.

I would like to point out some facts that I believe we all agree on. First, New York State Medicaid has not increased their basic nursing rate since the 1990's. About five years ago the State Legislature saw that it was becoming very difficult to find qualified pediatric nurses in the home care setting so they increased reimbursement for pediatric trained nurses providing care to children under 21 by 30%. This helped a little. In Erie County, for many years if county residents wanted Medicaid funded nursing services in their home, they were forced to use services from a select group of licensed agencies that were under contract to the county. During these years the county claimed that "Local Law #2" required this and was implemented as a protection for county residents who required home services. All the while home care in New York State was being provided under the NYCRR Title 18 Section 505.8. I believe we are both familiar with this part of the regulation that I do not need to quote them here. In fact just recently we had a glimpse of a light at the end of the tunnel when the County Legislature rescinded the local law, now listed as #6;

SECTION 1. LEGISLATIVE INTENT. Local Law No. 14-2004 creates certain local requirements that govern home healthcare services in Erie County. These requirements are redundant to requirements of New York State Law. This redundancy increases costs to home healthcare providers as well as unnecessarily strains county resources. Repeal of the law will decrease costs to taxpayers and home healthcare providers with no effect on the provision of home healthcare services.

SECTION 2. Local Law No. 14-2004, which undertook and exercised its regulatory authority with regard to activities subject to regulation of home healthcare services, be and the same hereby is rescinded in its entirety.

SECTION 3. Hereafter the regulations set forth by the State of New York in regulation of home healthcare services shall provide the regulatory framework for and govern home healthcare services in the County of Erie.

SECTION 4. This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State, and in accordance with Section 27 of the Municipal Home Rule Law shall be filed within twenty (20) days after this Local Law shall have been adopted.

In the adoption of this resolution the legislature has stated that "the regulations set forth by the State of New York in regulation of home healthcare services shall provide the regulatory framework for and govern home healthcare services in the county of Erie."

At this time, Erie County has established a "policy" for the private hiring of licensed and registered nurses that is both arbitrary and capricious given the State's regulations that every other county in this state implement without the added burden that Erie County imposes. Families are reporting that nurses are withdrawing from their applications, upon learning of the rigorous contract process that Erie County insists on. We are sad to report that families have to endure long waits for discharge of their children from the hospital - one family delayed three months after their nursing agency "dropped" them and the only way to get their child home was private hire! We have had children going home to their families delayed - while the process that Erie County requires played out. One family had two nurses withdraw their applications when they were informed by the Erie County legal department the additional requirements beyond the State's licensure and requirements. Another was forced to admit their child to a skilled nursing facility to await the process completion. This is not acceptable. This further supports the rationalization to do away with this unnecessary, unregulated "policy" that so negatively impacts these youngsters who just want to live in the least restrictive environment.

It is important to note that since April 1, 2007 all nursing services provided to children enrolled in the Care At Home Programs required prior approval and as of January 1, 2008 all the prior approvals for Erie County residents began going to Computer Science Corporation. We work very closely with the office that does the prior authorizations and on more than one occasion they have asked why we "bother" to follow the complex and time-sapping policy that Erie County insists on. The time has come for us to ask that Erie County work with families and stop enforcing a "policy" that provides no benefit to the individual needing the services and in fact is hindering discharges and costing more health dollars. It is difficult enough for families to find qualified nurses, Erie County's "policy" is making it impossible to effect a safe and timely discharge and makes staffing home care cases that much more costly due to the time the legal department spends administering this unregulated "policy".

I look forward to your response and would volunteer my assistance if needed in ending this unnecessary "policy".

Sincerely,

Donna Andrzejewski
Regional Manager

Cc: Margaret Mikol, Executive Director, SKIP of New York, Inc.
Nirav R. Shah, M.D., M.P.H, Commissioner of Health, New York State Department of Health

Via email:
Louis Menza, Administrative Director III, Medicaid Long Term Care, Erie County Department of Social Services

Timothy Hogues, Erie County Legislator, District 1
BillyJean Grant, Erie County Legislator, District 2
Lynn Marinelli, Erie County Legislator, District 3
Kevin Hardwick, Erie County Legislator, District 4
Thomas Loughran, Erie County Legislator, District 5
Edward Rath, III, Erie County Legislator, District 6
Thomas Mazur, Erie County Legislator, District 7
Terrence McCrackern, Erie County Legislator, District 8
Lynne Dixon, Erie County Legislator, District 9
Joseph Lorigo, Erie County Legislator, District 10
John Mills, Erie County Legislator, District 11