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October 3, 2016

The Honorable Andrew M. Cuomo
Governor of New York
NYS State Capitol
Albany, NY 12224

Dear Governor Cuomo:

The New York Association on Independent Living (NYAIL) is a statewide, not-for-profit membership association created by and composed of Independent Living Centers across New York State. Independent Living Centers are unique disability-led, cross-disability, locally administered not-for-profit organizations, providing advocacy and supports to assist people with disabilities of all ages to live independently and fully integrated in their communities. We thank you for making New York an Employment First State by issuing Executive Order # 136 to create an Employment First policy. NYAIL fully supports the recommendations included in the Employment First Commission's report, which your administration committed to enacting. However, we have been extremely frustrated by the lack of progress the State has made to date in implementing the vast majority of the recommendations in that report. Several of the recommendations included in the report had existing legislation in place at the time of the report's issuance, and thus could have been advanced immediately following. Implementation must not be delayed any longer. We are writing to urge you to include Employment First priorities in the 2017-18 Executive Budget.

The overall goal of the State's Employment First policy is to decrease poverty among New Yorkers with disabilities by 5% and to increase employment of people with disabilities by a commensurate 5%. This goal, if met, would demonstrate real progress for the status of people with disabilities in New York. Currently, working-age people with disabilities in the State have a 31.6% employment rate, resulting in an employment gap between people with and without disabilities of 41.1% (Disability Status ADA 25, Center for Independence of the Disabled, New York, 2015). The poverty rate for people with disabilities in New York State is 17% higher than for nondisabled New Yorkers. Such high levels of unemployment and poverty within our community impacts all areas of life, including our overall health, as recognized by your administration in the creation of the Medicaid Redesign Team's Social Determinants of Health workgroup.

While we support all of the recommendations laid out in the Employment First Commission's report, we believe the below priorities will achieve some of the most substantial results. We strongly urge you to include the following priorities in the 2017-18 Executive Budget:

- **Establish a small business tax credit for New Yorkers with disabilities.** The Employment First Report included a recommendation to expand the Developmental Disability Tax Credit to include all disabilities. This is a solid proposal which we believe would help incentivize the hiring of people with a wide range of disabilities. However, we believe that a similar proposal would be preferable as an incentive to the hiring of people

with disabilities by the business community. We propose that the State create a cross-disability tax credit, geared toward small businesses, as laid out in A5513/S4093 of 2016.

There are a few key differences between the current developmental disability tax credit and the proposed small business tax credit. First, the small business tax credit is more generous toward employers, providing a tax credit of \$5,000 to small businesses that hire a full time person with a disability. Additionally, this proposed legislation uses the definition for disability that is used by the NYS Division of Human Rights. The developmental disabilities tax credit offers a smaller tax credit and is contingent upon individuals working with OPWDD.

Targeting small businesses for a more generous tax credit makes sense. The Small Business Administration in its Fact Sheet states that small business has accounted for 66% of all new net jobs in this country since 1970. With this in mind, a small business cross-disability tax credit to promote private sector hiring of people with disabilities is desirable. In this proposal, the tax credit would apply to businesses with 100 employees or less. The tax credit is provided when a small business hires a full-time employee with a disability (35 hours per week) for twelve months. Small businesses that qualify will receive a \$5,000 tax credit per person with a disability hired - not to exceed a maximum credit of \$25,000. This proposal would simplify the process for employers, because it would have a set tax credit, require a shorter length of time for the worker to be on the job for the employer to be eligible for the credit, and, by using the Human Rights Law definition of disability, bypasses lengthy certification processes so the employer is able to realize the tax credits in a timelier manner.

- **Include disability as a minority in the MWBE program.** The State needs to encourage self-employment business opportunities by including New Yorkers with disabilities in the State procurement program. Peers could have businesses certified in the Minority and Women Business Enterprise process under a “disability” minority classification. This is not intended to increase the current state procurement participation requirements, but would allow disability-owned businesses to participate in the existing program under a new classification, as laid out in A.2910/S.2342 of 2016.

The MWBE program was intended to level the playing field for marginalized populations. Since people with disabilities have such high unemployment, it makes sense for the State to include them in this program. We understand there is pushback from within the legislature to expand eligibility for this program. We look to your leadership to make this a reality in New York by including this proposal in the Budget.

- **Hire a 55 b/c Statewide Coordinator to oversee more aggressive utilization of the program.** Part of the cultural modeling recommendations made in the Employment First Commission’s report, is the proposal to strengthen the 55-b program by including individuals in 55-b positions on canvassing lists and reinstating the position of 55-b Coordinator.

The NYS Department of Civil Service’s Section 55-b/c program, under which people with disabilities can qualify for State positions without taking the civil service test, has been underutilized and misunderstood for too long. This program should be heavily promoted, including through an established network of entities which help people with disabilities find employment. Lists of currently open 55-b/c designated positions and positions which could

be 55-b/c designated should be circulated regularly throughout the network and included on canvassing lists within State government. In addition, all State agencies should be strongly encouraged to utilize Section 55-b/c to fill vacancies.

Although the Department of Civil Service's website has recently made the 55-b/c section clearer, there still needs to be an easier to understand step-by-step guide on how to move through the process, from the application to how to find job openings or vacancies that could be designated as 55-b/c eligible. To promote cultural modelling within the State, we urge you to include the position of 55-B Coordinator in this year's Budget proposal. The coordinator of the program should be a qualified person with a disability. The reinstatement of the 55B Coordinator will help to ensure that State agencies are implementing this appropriately and hiring people who qualify for 55B.

- **Increase utilization of the Medicaid Buy-In for Working People with Disabilities (MBI-WPD).** New York should move forward with integrating the MBI-WPD program into the online New York State of Health application portal, automating and standardizing eligibility determinations and referring applicants who require additional assistance, as recommended in the Employment First Commission's report. This program allows working people with disabilities to qualify for Medicaid with higher income and asset limits. We support this proposal because implementation through local departments of social services has been a disaster, resulting in underutilization of the program. We believe that by standardizing eligibility and incorporating it into the New York State of Health online application portal, this will promote awareness and utilization of the program by qualified individuals with disabilities.

Thank you in advance for your work on behalf of people with disabilities.

Sincerely,



Lindsay Miller
Executive Director

CC: Paul Francis, Deputy Secretary for Health
Rose Duhan, Assistant Secretary for Health
Roger Bearden, General Counsel, OPWDD
John Allen, Special Assistant to the Commissioner, OMH