



New York Lawyers for the Public Interest
151 West 30th Street, 11th Floor
New York, NY 10001-4017

**Testimony of McGregor Smyth, Executive Director of New York Lawyers for the Public Interest to the New York City Council Committee on General Welfare
March 11, 2024, regarding the New York City FY25 Budget**

My name is McGregor Smyth, and I am the Executive Director of New York Lawyers for the Public Interest (NYLPI). We appreciate the City Council's leadership in expanding access to critical legal services. NYLPI is privileged to be a part of the City Council's Immigrant Health Initiative, and we thank you for that support.

In this budget process, we call on the Council to continue defending vital city services and investments from budget cuts and flatlining. The New York City Independent Budget Office (IBO) has projected a budget surplus that is \$2.8 billion higher than the Mayor's Office of Budget and Management (OMB). IBO also estimates \$2.4 billion less in spending on asylum seekers than what is reflected in the Administration's estimates across 2024 and 2025. Similarly, the Council's own forecast shows substantially more revenue than estimated by OMB. Now is not the time to retreat from our city's public health, equity, and sustainability goals.

Today, I am here to ask the Council to continue their support by restoring and enhancing funding for the Immigrant Health Initiative, which has saved lives and improved health across the city. The volume of recently-arrived migrants has only increased the need for initiatives that champion immigrant rights and facilitate access to services, including healthcare and legal assistance. The funding provided by the Immigrant Health Initiative (IHI) has supported NYLPI's programs aimed at improving the health and well-being of immigrant New Yorkers and their families through direct immigration representation, litigation, community education, strategic partnerships with public hospitals, and non-legal advocacy. Through holistic immigration and wraparound services, NYLPI improves health outcomes, increases access to healthcare, and educates the community, healthcare providers, and legal service advocates.

We also stand in partnership with the legal services community in full support of funding fairness and reasonable funding increases each year to cover salary adjustments, inflation, and new technology costs. We call on the City to establish new contract protocols that allow automatic payments without arduous vouchering procedures and faster contract registration once the City budget is approved.

Improving Access to Healthcare for NYC Residents Through the Immigrant Health Initiative

Over 400,000 New Yorkers are undocumented and uninsured. As of December 2023, over 150,000 migrants have resettled here since last spring, and over 65,000 are residing in city shelters.¹ Many of our new neighbors arrive with significant physical and mental health needs, and all need connection to health insurance and care. We are encountering increased numbers of recently arrived noncitizens. We are grateful that the City Council's continued support has allowed us to continue our efforts without pause and respond to ever increasing need. Access to healthcare across the system is scarce, and the most marginalized and very sick often go without medical care. Your support has led to increased enrollment by eligible immigrants in state-funded comprehensive health insurance via Medicaid and the Essential Plan.

The improved access to health insurance has had life-changing and often life-saving effects on the lives of our clients, and often results in cost savings for the City, the State, and our safety net health care system when people are able to resume work and productive lives. In fiscal year 2023, we were able to provide immigration and health screenings to 143 seriously ill people in the community and in detention. We provided direct legal representation for over 60 cases. We obtained state-funded healthcare for more than 30 previously uninsured immigrants. IHI funding also allowed NYLPI to advocate on behalf of over 20 clients who, even with our support in becoming eligible for state-funded healthcare, needed further advocacy with healthcare administration entities to ensure their enrollment. In addition, NYLPI conducted trainings on immigrant access to healthcare to frontline caseworkers, community-based organizations and legal service providers who serve immigrant communities throughout the city.

Despite New York City's historic welcome to immigrants, entrenched discriminatory barriers leave tens of thousands of noncitizens without access to life-sustaining medical care. Clients and providers report that health insurance enrollment is inconsistent across the city shelter system. Moreover, the shelter eviction rules have the potential to significantly undermine access to healthcare for this vulnerable population. As a threshold matter, Medicaid enrollment typically takes 45 days. After initial enrollment, enrollees are prompted to provide documentation establishing their eligibility for continued coverage. Coverage may be terminated if they do not respond on time. Individuals forced to leave their shelters risk not receiving these critical notices and losing access to their health insurance as a result.

The shelter policies also limit continued access to care: NYLPI encountered one individual living with kidney failure who is successfully enrolled in health insurance. But because of the shelter eviction rules, he lacks a stable address to provide to his medical team, an important factor in the determination of whether or not he will be listed for a kidney transplant. Repeatedly uprooting individuals connected to vital health services will interfere with their abilities to seek care and have their health needs addressed. Finally, many of these individuals arrive to New York after suffering unimaginable harms or enduring traumatic journeys to find safety. They are in need of counseling and other mental health resources and not the continued destabilization that results

¹ Jennifer Bisram, Ali Bauman, *CBS News*, "More than 7,000 asylum seekers have arrived in New York City in last 2 weeks, mayor's office says," Dec. 27, 2023, available at: <https://www.cbsnews.com/newyork/news/more-than-7000-asylum-seekers-have-arrived-in-new-york-city-in-last-2-weeks-mayors-office-says/>.

from lack of stable housing. The Immigrant Health Initiative helps to close these gaps through advocacy and services.

Informed by our client experiences, NYLPI has been working to advance Transplant Equity since 2015 for immigrant New Yorkers. Based on misinformation, healthcare inaccessibility, and mistreatment of immigrant patients, many people in need of kidney transplants are denied necessary, lifesaving healthcare furthering racial/ethnic disparities in healthcare. With the support of IHI funding, NYLPI has been advancing this work through direct representation, advocacy, legislative efforts, trainings, and research. In 2021, we launched our pilot Transplant Justice Pipeline with the kidney transplant program at SUNY Downstate Medical Center. This program has trained hundreds of health care and legal services providers, including health providers at Montefiore Medical Center, the Bronx Health Collective, Bellevue, and Kings County Dialysis Centers.

As a result, seven NYLPI clients received kidney transplants in 2023. This is a significant increase in the annual number of kidney transplants for noncitizens in New York. One of these clients is “Ms. G,” who was initially referred to NYLPI by her dialysis center. Prior to her diagnosis of End Stage Renal Disease (“ESRD”), Ms. G worked as nanny and took great pride in raising many children as her own. But with her diagnosis, she lost her ability to work and earn a livelihood. Undocumented and uninsured, Ms. G was ineligible for the healthcare she needed to improve and prolong her life. Instead, she lived in fear of contact with immigration authorities and continued to survive on a depleting dialysis regimen. When NYLPI met with Ms. G, we determined that she had a pathway to become eligible for comprehensive health insurance and we took on her direct immigration representation. As a result, Ms. G became the beneficiary of a family-based immigration petition filed by her U.S. citizen daughter and eligible to enroll in Medicaid. NYLPI referred Ms. G for Medicaid enrollment and to consultations at NYC transplant centers. Ms. G was accepted as a transplant patient at a voluntary hospital in the city but faced continued discriminatory hurdles to receiving care, despite being fully insured. NYLPI intervened again and advocated directly with hospital staff and leadership. In December 2023, after nearly a full year of advocacy, Ms. G received her transplant. She is recovering well and looking forward to a long and healthy life alongside her family.

Also in 2023, this work reached another major milestone with the release of our report, [“They Can Donate But They Can’t Receive,”](#) which documents the many barriers immigrants face receiving life-saving organ transplants. The report explains how New York City and State can save lives and money by helping patients on dialysis receive equitable access to transplant care. Released in English and Spanish, the report represents both a culmination of NYLPI’s years of work to enhance health access for immigrant communities and a launch pad for new partnerships and initiatives in the fight for transplant equity. Several news outlets covered the report launch including [The New York Times](#), which featured a quote from NYLPI’s Senior Advocate, [Telemundo](#) and [Crain’s NY](#).

We are grateful to Council Members Narcisse, Hanif, Schulman, and Louis for sponsoring [Int 1250-2023](#), a bill that would establish an Office of Organ Transplant Equity within the Department of Health and Mental Hygiene (DOHMH) to provide information and coordinate

services for people seeking transplants. We encourage the Council to adopt this legislation to enhance equitable access to vital medical care for all New Yorkers.

Unfortunately, many insured noncitizen and immigrant New Yorkers are still denied medical care based on misinformation and misunderstanding between immigration status and insurance eligibility. NYLPI's clients have faced unnecessary barriers to care based on their immigration status alone. NYLPI has supported clients in navigating these complicated systems and advocated for them to receive the life-saving care to which they are entitled. With continued funding, NYLPI can further our commitment to advancing immigrant justice and access to health coverage for all New Yorkers.

Services for TGNCI New Yorkers

With the support of IHI funding, NYLPI's UndocuCare TGNCI+ program strives to ensure that immigrant New Yorkers who are transgender, gender-nonconforming, intersex (TGNCI), or living with HIV can obtain and sustain access to gender-affirming healthcare, HIV care, and housing through immigration legal advocacy. In the last fiscal year, the TGNCI+ project served 24 trans, gender non-conforming, intersex, or HIV-positive immigrant New Yorkers in their defensive asylum proceedings to prevent their deportation. We have strong track record securing asylum for these clients, including three clients who won asylum in 2023 and one already in 2024. Furthermore, NYLPI staff represented several more people in their affirmative immigration cases with the goal of sustaining access to vital healthcare.

For example, in June 2023, we successfully obtained a T-visa for our client S.L. S.L. is a gender-nonconforming person from Mexico who fled seeking safety and the opportunity to be himself in the U.S. Unfortunately, his vulnerabilities as an unhoused and undocumented LGBTQIA youth upon his arrival to NYC led him into a trafficking situation. He survived and ultimately escaped this situation after nearly 10 years. S.L. initially came to NYLPI experiencing COVID long haul symptoms and was referred by our community partner Colectivo Intercultural TRANSgrediendo. NYLPI staff recognized S.L.'s eligibility for a visa as a trafficking survivor, to achieve long-term stability in the U.S. and access to healthcare. With the receipt of his T visa, S.L. is now eligible for federal benefits including SNAP, federally funded health insurance and other assistance programs, and is receiving counseling services for survivors. NYLPI also supported S.L. with enrollment in health insurance. He now has his work permit, is employed, and receives gender-affirming healthcare.

In addition, TGNCI+ continues to work in partnership with community-based orgs such as the Queer Detainee Empowerment Project (QDEP), and transitional housing programs such as the AIDS Center Queens County (ACQC) to conduct immigration screenings and PRUCOL advocacy with city benefits agencies. We have also been a critical training partner for city programs serving recently arrived noncitizens. To this end, we provided a training to over 120 caseworkers on access to benefits for recent immigrant arrivals, hosted by the ACQC. We look forward to continuing to be a resource and spread awareness to many partner organizations on behalf of the TGNCI+ population.

NYLPI's Medical-Legal-Community Partnership

The IHI funding also supports NYLPI's work seeking to improve access to healthcare in immigration detention facilities. For NYC residents held in detention, NYLPI provides crucial and urgent advocacy to improve health care and advocate for release. Every day, people in the U.S. immigration detention system experience health and human rights violations, including inadequate medical care. The facilities currently used to detain immigrants in New York state include Orange County Correctional Facility, Clinton Correctional Facility, Rensselaer County Correctional Facility, and Chautauqua County Jail, in addition to the Buffalo Federal Detention Center. NYLPI has published two reports documenting the serious, often life-threatening deficiencies in the medical care provided to New Yorkers in immigration detention facilities. NYLPI has prepared complaints against the Department for Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL), further documenting persistent human rights abuses at Orange County Correctional Facility (OCCF) in Goshen, New York. OCCF is now the primary New York-based facility for individuals in immigration proceedings at the Varick Street detained immigration court in New York City.

Through the funding provided by the Immigrant Health Initiative, we have built and continue to support our volunteer Medical Providers Network (MPN), now with over 250 medical professionals, available to perform reviews and consultations for people in detention in support of advocacy efforts. In 2023, NYLPI connected more than 50 people in detention to volunteer doctors. Many of these requests come from attorneys with the City Council-funded New York Immigrant Family Unity Project (NYIFUP) and help secure the release of their clients from immigration detention.

Funding Fairness for Advocates Serving Historically Disadvantaged Communities

The civil legal services community currently faces a profound and complex crisis. The value of, and need for, civil legal services has never been more front of mind in our state. In New York State, poverty rates have surpassed the national average for over a decade with 13.9% of New Yorkers living in poverty (compared to 12.8% of all Americans).² Experts conclude that up to an additional \$1 billion in funding is needed to bridge the "Access to Justice Gap" – the space between the civil legal needs of low-income New Yorkers and the resources available to meet those needs.³ Notably, this analysis focuses only on those earning up to 250% of poverty, and does not include immigration-related legal services.

One glaring reason for the shortage of civil legal services attorneys is the wage gap. Demand and need for our community's services is vast, but the resources are not there, leaving far too many New Yorkers facing life-altering legal junctures without an attorney who understands the process. At the same time, salaries for legal services providers, in comparison to those of any other government-funded attorney service, are so low that it is becoming impossible to compete.

² Office of the NYS Comptroller, New Yorkers in Need: A Look at Poverty Trends in NYS for the Last Decade, December 2022, available at <https://www.osc.ny.gov/reports/new-yorkers-need-look-poverty-trends-new-york-state-last-decade> (last accessed March 8, 2024).

³ Permanent Commission on Access to Justice, Report to the Chief Judge (2023), https://www.nycourts.gov/LegacyPDFS/accesstojusticecommission/23_ATJ-Comission_Report.pdf.

With the well-deserved and long overdue increase in rates for assigned counsel in criminal matters, civil legal services salaries have fallen even further behind.

Our organizations have struggled to keep pace with exponentially increasing client needs despite almost exclusively flat funding. To better understand the scope of the problem, in 2023 the New York Legal Services Coalition (NYLSC), nearly 50 member organizations providing vital legal services in every Judicial District of the State of New York, conducted a survey of civil legal service providers across the state. Preliminary data indicates that civil legal services attorneys across the state earn on average 25-75% less than their counterparts working directly for the government.

For example, in New York City, the average salary for a first-year civil legal services attorney is \$69,000. By contrast, the starting salary for an attorney at the Office of the Attorney General's (OAG) office in NYC is \$90,000. The disparity in pay only increases over time. After 10 years, an attorney in the OAG earns \$134,000 per year, while a 10-year veteran at a civil legal services organization earns an average of \$92,000.

This extreme pay disparity impacts vital services for those who need them the most. Most legal services organizations cannot compete in the present market for legal talent. They lose much of their top talent to municipal and state government employers, who also offer competitive health and retirement benefits packages as well as access to public interest loan forgiveness. Legal service attorney positions remain open for months with no qualified applicants willing to accept what we are able to offer. As a result, organizations are not able to meet the needs of local litigants and community members are left to navigate the courts without the benefit of legal assistance.

We join the legal services community in calling for funding fairness and reasonable funding increases each year to cover salary adjustments, inflation, and new technology costs.

Conclusion

Thank you, Chairperson Ayala and the Committee, for giving us the opportunity to present testimony today and for this tremendous assistance, and we ask that the Immigrant Health Initiative funding is restored and enhanced in FY 2025 for both NYLPI and our partners. We look forward to continuing our work to improve immigrant New Yorkers' access to healthcare for new arrivals and long-time New Yorkers alike. **Health is a human right.**

McGregor Smyth
New York Lawyers for the Public Interest
151 West 30th Street, 11th floor
New York, NY 10001
msmyth@nylpi.org

NYLPI has fought for more than 40 years to protect civil rights and achieve lived equality for communities in need. Led by community priorities, we pursue health, immigrant, disability, and

environmental justice. NYLPI combines the power of law, organizing, and the private bar to make lasting change where it's needed most.

NYLPI's Health Justice Program brings a racial equity and immigrant justice focus to health care advocacy, including ongoing work addressing the human rights crisis in immigration detention and advocating for healthcare for all New Yorkers.