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Joint Legislative Hearing on the 2023 – 2024 New York State Mental Hygiene Executive Budget Proposal

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About the Children's Defense Fund – New York

Children's Defense fund builds community so young people grow up with dignity, hope and joy. To learn more about CDF-NY, please visit www.cdfny.org.

The Mental Health of New York's Marginalized Children, Youth and Families Continues to Suffer and to Exacerbate

In the three years since New York City became our nation's first epicenter of the COVID-19 pandemic, the behavioral health needs of marginalized children, youth, families, and communities across our State not only remain significant but continue to exacerbate. In the time since the American Association of Pediatrics (AAP), American Academy of Child and Adolescent Psychiatry (AACAP) and Children's Hospital Association (CHA) jointly declared a national emergency in child and adolescent mental health in the fall of 2021 [1] and the United States Surgeon General issued his own advisory on the youth mental health crisis, [2] our State has not taken sufficient action to prioritize mental health resources for our youth at the level and in the ways that our children desperately need.

The COVID-19 pandemic upended the lives of New York's most marginalized children, youth and families, bringing with it devastating loss of life, destabilizing unemployment, harrowing food and housing insecurity, onset of poverty and loss of health insurance throughout our State – traumas disparately shouldered by our communities of color. Between March and July of 2020, approximately 4,200 of our State's children, or 1 out of every 1,000 of the youngest New Yorkers, experienced a parental or caregiver death due to COVID-19, with Black and Latinx children experiencing these losses at twice the rate of Asian and white children. Nearly 1,000 of these children may have lost their sole parent or guardian. [3] According to modeling data, as many as 9,000 New York children are estimated to have lost either their parents or their primary or secondary caregiving grandparents between April of 2020 and June of 2021. [4]

Unsurprisingly, children experiencing the loss of a parent or guardian as a result of the pandemic will very likely suffer serious short and long-term mental health consequences, potentially leading to depression, anxiety and other mental health concerns. Adverse Childhood Experiences (ACEs) such as the death of a parent or caregiver are an underlying factor in not only mental health concerns but also in chronic disease, drug misuse and overdose, and suicide. Effects of ACEs are far-reaching and can negatively affect a person's life as an adult and could even have intergenerational effects. [5] Our State must invest in

supportive services, including behavioral health supports, to help our children cope with these horrific traumas.

It is not just young people who have experienced the death of a loved one whose mental health is suffering. Poverty contributes substantially to our state and nation's mental health crisis and has long impacted the mental health of children, youth, families and communities in ways that has gone untreated for far too long. Furthermore, the ongoing public reckoning with systemic racism and deep-rooted inequities that is occurring amidst the ongoing struggle for racial justice compounded the pandemic's traumas for our youth. Nearly all children and youth have seen their daily routines drastically change over these past three years amidst repeated transitions to remote schooling, missed doctor's visits, the shuttering of child care facilities, and the subsequent sudden disconnection from in-person supportive services, physical activities and daily opportunities for socialization and enrichment. Young people who live in difficult home environments have been forced to spend more time in these environments and have found themselves increasingly in isolation.

COVID-19 profoundly impacted the mental health of the youngest New Yorkers, and its effects on our youth will likely be far-reaching. Due to the pandemic-induced spike in children in mental distress we are seeing an influx of children and youth in psychiatric crises across New York, with increases in suicide attempts, psychiatric emergencies and demand for inpatient mental health services. [6] Our State must act swiftly to ensure children and families have access to the mental health resources they need to heal, maintain and sustain their mental wellness, and to thrive.

In Order to Address New York's Child and Adolescent Behavioral Health Crisis, the State *Must*:

I. Ensure adequate access to in-person behavioral health services for children, youth and families

It is imperative that our State ensure they can adequately access behavioral health services. First, the State must work to increase access to in-person mental health services for children and youth who are not able to utilize telehealth services due to technological limitations, or whose home environments do not afford them the privacy to do so comfortably, or at all. Even before COVID-19, our State suffered a longstanding scarcity of youth mental health services, with just five psychiatrists for every 10,000 children under the age of 18 and a particular shortage of intensive outpatient programs for children and youth. [7] In New York City, there are only 4,525 guidance counselors and social workers serving 1.1 million students across the City, representing a ratio of 1:371 supportive staff to students and falling short of recommended standards for appropriate therapeutic support staff-to-student ratios of 1:250 and 1:50 for students with intensive needs. [8] It is critical that, as a part of the Governor's proposal to expand outpatient mental health services, our State work to increase access to in-person behavioral health services for these young people, as well as to designate

community 'safe spaces' where they can privately and confidentially utilize telehealth services.

II. Ensure equity, access and quality of telehealth service provision statewide

Telehealth holds great potential to improve access to critical behavioral health services throughout the duration of the pandemic and beyond, particularly for New Yorkers facing barriers to in-person visits and those living in areas with provider shortages. As New Yorkers increasingly turn to telehealth to meet their health needs, it is incumbent upon our State to ensure equity, access and quality of telehealth service provision.

While telehealth can increase access to health services for many New Yorkers, CDF-NY urges the Legislature to remember that the digital divide is a matter of concern for communities across our State and disproportionately impacts New Yorkers of color. In New York City, nearly 60 percent of Black and Latinx households (compared to over 80 percent of white households) have a computer in the home, with broadband usage lower in Black and Latinx homes than in white homes. Around a quarter of Black and Latinx New York City households can only access the Internet via their smartphones. [9] These families may find themselves at the mercy of homes and neighborhoods with limited connectivity. The inequity of New York's technological divide is even more stark for Black and Latinx families living in poverty and deep poverty. Only 54 percent of all New York City households with incomes under $20,000 have internet in the home [10] and such disparities are echoed throughout our State, making telehealth services likely unattainable for the most marginalized New Yorkers. For families struggling to pay rent or put food on the table, the internet may simply be out of reach – meaning marginalized New York families will still need access to high quality in-person health services. Telehealth also poses language barriers to individuals with limited language proficiency, and is not always fully accessible for individuals with disabilities.

Furthermore, it is important that the State recognize the patient privacy concerns that can be posed by telehealth visits. A lack of secure housing, or a lack of privacy in a difficult home environment, can serve as strong barriers to adolescents seeking out behavioral or reproductive health care services via telehealth, particularly for those who share rooms with siblings or lack access to their own electronic devices, or for those whose home environments are the reason they are seeking out such services in the first place. It is critical that our State increase access to in-person behavioral health services for these young people, or designate and fund community safe spaces where they can privately and confidentially utilize telehealth services, particularly given the troubling recent increases in suicide attempts and psychiatric emergencies among young New Yorkers generally [11] and among Black youth in particular, [12] and the alarm that the Surgeon General, American Academy of Pediatrics (AAP) and American Academy of Child and Adolescent Psychiatry (AACAP) have sounded on child and adolescent mental health. [13]

III. Create a Black Youth Suicide Prevention Task Force to prioritize suicide prevention efforts for marginalized youth

Even prior to COVID-19 and the traumas it has inflicted upon our children and youth, our State has seen recent increases in mental health emergencies among young people. Pre-pandemic, suicide was the second leading cause of death among New York youth ages 15 to 19, and the third leading cause of death among children ages 5 to 14. [14] Suicide is the second leading cause of death among Latina adolescents in New York, accounting for approximately 23.5 percent of all deaths of Latinas ages 15 to 19 between 2006 and 2015, with the risk of completed suicides among Latina adolescents nearly doubling since 1999. [15]

Black youth are at a particularly heightened risk of suicide in our State and are classified as a high-risk suicide population in New York, [16] a characterization supported by data from the Centers for Disease Control and Prevention's biennial Youth Risk Behavior Survey (YRBS). [17] A higher percentage of New York's Black high school YRBS respondents reported feeling sad or hopeless almost every day for two or more consecutive weeks than white respondents for all but two survey years between 1999 and 2019, with approximately 34.1 percent of Black high school respondents to the 2019 YRBS reporting feeling sad or hopeless. [18] From 1997 to 2019, the percentage of New York's Black high school YRBS respondents reporting attempting suicide at least once within the prior year increased by 8.8 percent, while the percentage of white respondents reporting a suicide attempt decreased by 16.4 percent. This disparity reflects a trend demonstrated by every YRBS since 2003, in which Black youth's rate of self-reported suicide attempt is between 0.2 and 5.6 percentage points higher than that of white youth. New York's Black high school YRBS respondents are also the only racial or ethnic group whose rate of self-reported injurious suicide attempt requiring medical attention increased from 2017 to 2019, with the 2019 percentage of Black high school respondents reporting an injurious suicide attempt equivalent to the combined percentage of white and Asian youth reporting the same. [19]

New York's data reflects stark national trends. Nationwide, the suicide death rate among Black youth is increasing faster than that of any other racial or ethnic group, with self-reported Black adolescent suicide attempts rising by 73 percent between 1991 and 2017 and injury by suicide attempt growing by 122 percent for Black adolescent boys during this time. [20]

New York must bolster mental health supports and increase investments in suicide prevention resources for its young people and in particular, for Black youth. CDF–NY urges the passage of *S. 1861* (Brouk) / *A. 1510* (Jean-Pierre), which would establish a Black Youth Suicide Prevention Task Force in New York to examine mental health practices and improve suicide prevention resources for Black youth ages 5 through 18. Establishing this Task Force would also enable New York to make additional progress towards meeting its Prevention Agenda Objectives of decreasing the percentage of adolescents in Grades 9 to 12 who felt sad or hopeless for two or more weeks in a row in the past year by 25 percent to 21.5 percent and

decreasing the suicide mortality rate for youth ages 15 to 19 years by 6 percent to 4.7 per 100,000. [21]

IV. Expand the population of students that can receive Medicaid-covered school health services

Our State must seize every opportunity to reach our children where they are and to provide them with access to critical, lifesaving and sustaining health and mental health services. Amidst the national decline in children receiving primary and preventive care services during the pandemic, bolstering the capacity of New York schools to meet the health needs of our students is imperative. New York can expand access to critical health services for thousands of additional students by submitting a Medicaid State Plan Amendment (SPA) to the Centers for Medicare and Medicaid Services (CMS) to permit public schools to bill Medicaid for health services delivered to all Medicaid- covered students, not just those with Individualized Education Programs (IEPs). Doing so would enable New York to not only expand its population of students accessing Medicaid-reimbursable school health services, but also to join California, Massachusetts, Connecticut and the growing rank of states currently leveraging federal Medicaid dollars to provide needed health services to students. [22] By enabling more students – particularly poor students of color in crisis – to receive high quality health services at school, this policy change would also enable New York to address the persistent health disparities that have been magnified by the COVID-19 pandemic.

V. Expand mental health supports in schools

Guidance counselors and social workers are a crucial part of an education system that is safe, restorative, and healing, so that all students have an opportunity to learn and grow. As students continue to grapple with the impacts of the COVID-19 pandemic and their own social-emotional development, it is imperative that we fully fund our mental health support infrastructure in our schools – including, but not limited to, Guidance Counselors, Social Workers and Psychologists – to move New York towards a student support staff ratio of 1:100, which youth advocates and activists have repeatedly called for and continue to demand.

New York must also pass Mental Health Supports in Schools, *S. 356 (Jackson)*, to ensure all elementary, middle, and high schools in New York State have a full-time licensed social worker and a full-time licensed psychologist on staff to meet the needs of their students and expand the type of school mental health services provided by a licensed clinical social worker or certified school social worker to include diagnosing or addressing mental, social, emotional, behavioral, and developmental conditions and disabilities.

VI. Permanently restore funding for our State's school-based health centers (SBHCs)

There must be sufficient investment to New York's school-based health centers (SBHCs), in order to ensure their long-term financial stability and to ensure that every child and young person that needs to access SBHCs for their mental wellness are able to do so. The State must also maintain general fund (non-Medicaid) revenues for SBHCs including a Legislative Add, and increase wraparound funding to School-Based Mental Health Clinics so services can be more comprehensive, inclusive, and effective.

Our State's 255 SBHCs provide vital physical and mental health care services to over 250,000 New York children and youth statewide, the majority of whom are Medicaid recipients. These Centers fill care gaps in our State's most medically underserved communities, where children may have limited access to comprehensive health services due to financial, geographical, and other barriers to care. SBHCs are staffed with a team of health care professionals and provide a wide range of preventive, primary care, emergency, dental, mental health, and reproductive health services to students. Services are provided on-site in schools to all students at no cost and regardless of insurance coverage or immigration status. For some youth, SBHCs are their only source for counseling, health screenings, reproductive care, and immunizations. SBHCs are a powerful tool for reducing racial and ethnic disparities. According to the New York State Department of Health, 12 percent of youth served by SBHCs are uninsured, 44 percent are Latinx, and 27 percent are Black or African American. Sufficiently funding SBHCs is a racial justice issue.

SBHCs prevent unnecessary hospitalizations, reduce emergency room visits, improve school attendance, and avoid lost workdays for parents. SBHCs thereby improve both health and educational outcomes by helping to identify health barriers to learning (HBLs) – medical issues that when missed or undermanaged, can hinder children's ability to learn and succeed in school. SBHCs also save our State money. It is critical that the State increase its investment in SBHCs and consequently, in the health of New York children.

VII. Expand health coverage for New Yorkers

Despite the coverage gains our State has made in recent years, too many New York families – and disproportionately families of color – still lack affordable and comprehensive health coverage, harming both their mental well-being in addition to their physical health. While passing the New York Health Act would provide universal coverage for all New Yorkers, health coverage for children and families can and must be improved – and racial disparities reduced – by:

- **Expanding Immigrant Health Coverage** Immigrant New Yorkers have been at the forefront of New York's fight against COVID-19, comprising one-third of our State's

essential workers and playing a key role in all sectors of our battle against the pandemic. This ongoing exposure has contributed to disparate outcomes in COVID-19 infection and death, which have disproportionately afflicted immigrant communities of color. Another important driver of this inequity is the ongoing disparity in access to health care caused by the exclusion of undocumented New Yorkers from health insurance coverage due to their immigration status.

By allocating $345 million to create a state-funded Essential Plan for all New Yorkers who are up to 250 percent of the Federal Poverty Level and who are currently excluded from coverage due to their immigration status *S. 2237 (Rivera) / A. 3020 (Gonzalez-Rojas)*, our State can offer coverage to the estimated 154,000 uninsured, low-income New Yorkers who are currently uninsured because of their immigration status. It is estimated that 46,000 New Yorkers would enroll in the program annually once fully implemented. This would not only ensure that all children and families have access to health care but it would also save the state millions of dollars. New York spends $544 million on Emergency Medicaid (NYS DOB data) for immigrants every year—this $544 million could be repurposed for other priorities. Additionally, NYC would save $100 million by retiring its NYC Cares program, since that population would be eligible for health insurance.

- **Implementing Continuous Medicaid and Child Health Plus Eligibility Through Age 6** Nearly half of all children and over three-quarters of children living in poverty in New York receive health coverage under Medicaid and Child Health Plus. Our State can safeguard the health of the youngest New Yorkers (and particularly, of our young New Yorkers of color), protect children against insurance churn and coverage losses, and offer continuity of care during a period of critical growth and development by implementing continuous Medicaid and Child Health Plus eligibility for children through the age of 6. Doing so would increase access to care for the youngest New Yorkers, including behavioral health services and timely preventive care services such as vaccinations. Furthermore, the burden of enrolling a child in care during those years would be lifted from parents and renewal processing for managed care organizations and state systems would be reduced.

New York should increase funding for enrollment assistance and outreach.

Over 100,000 New York children are currently uninsured. While most of these children are eligible for health coverage, their families are often unaware of the free or affordable coverage options available to them. Furthermore, even when New Yorkers are aware of coverage options, fragmented and confusing plan options often create barriers for consumers. Navigators, who can provide in-person assistance to families seeking health coverage and clarify often-complicated enrollment procedures, have helped over 300,000 New Yorkers enroll in coverage since 2013. While we applaud the fact that the Navigator

program received its first 1-year cost-of-living increase in the Executive Budget, more must be done for our navigators. The State must increase the health insurance navigator budget from $27.2 million to $38 million to guarantee high-quality enrollment services for New Yorkers. The State must also allocate $5 million to fund community-based organizations so that they are able to conduct outreach in communities with high uninsured rates and educate consumers about coverage options. This is particularly important in immigrant communities where policies like public charge have left a chilling effect.

VIII. Repeal the Medicaid Global Cap

The Governor's Executive Budget reflects the continuation of the Medicaid Global Cap enacted in FY 2012 and recommends funding consistent with last year's update to the allowable growth calculation. Due to this update, the Cap is calculated by basing it on the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by the Centers for Medicare and Medicaid Services (CMS) actuary. The FY 2024 Executive Budget reflects $11 billion in additional Medicaid spending growth between FY 2023 and 2027 as compared to the prior Global Cap growth metric. While this change was intended to allow for growth and account for age and acuity of enrollees, it ultimately keeps the Cap in place, which is in and of itself problematic.

CDF-NY has long warned that our State's Medicaid Global Cap creates an arbitrary and artificial shortfall for vital services that enable New Yorkers to remain healthy and independent members of society and to provide for themselves and their families. The Cap fails to properly account for the true growth in health care costs, predictable demographic shifts due to an aging population and increased health needs during natural disasters or pandemics, such as the one we are currently in. The nine months following the COVID-19 pandemic's arrival in New York saw a 12 percent growth in Medicaid enrollment with over 700,000 new enrollees – a strong affirmation of Medicaid's important role in responding to population health demands during times of economic downturn.

If the Medicaid Global Cap remains in place, future Medicaid budget 'gaps' will become a regular occurrence and could result in additional drastic cuts to our State's Medicaid program, such as those enacted in the Fiscal Year 2021 Budget. Furthermore, it is important to note that the Medicaid Global Cap effectively limits the amount of federal funding New York can receive for its Medicaid program.

CDF-NY thereby calls on the Legislature to protect our State's Medicaid beneficiaries – including more than two million children, one out of every three New Yorkers and one out of every two births in New York – by:

(1) Eliminating the Medicaid Global Cap and replacing it with a global budgeting system that is based on demand for services;

(2) Raising revenue to balance our State budget;

(3) Making smart, long-term investments that are more likely to substantially bend the Medicaid cost curve; and

(4) Ensuring that Medicaid consumers and independent consumer advocates comprise a substantial portion (more than one-third) of any body making recommendations regarding Medicaid policy and budget goals.

IX. Make Investments to Support Youth Well-Being

Access to culturally-responsive, high-quality mental and behavioral health care is more crucial now than ever, particularly for adolescents. CDF-NY advocates for an 8.5 percent COLA for health and human service workers to help support a sustainable array of youth services as well as for significant and permanent increase rates for children's behavioral health services so they match the cost of care and ensure viability. Furthermore, we must provide at least $5.5 million in flexible state funding for Family and Youth Peer Support services outside of Medicaid and increase investments in workforce strategies including loan forgiveness, scholarship programs and tuition remission.

X. New York Must Establish an Independent Office to Produce Racial and Ethnic Impact Statements for *All* Proposed Rules and *All* Legislation Leaving Committee

New York's pervasive racial and ethnic disparities harm our State and must be urgently addressed through meaningful systemic change. The COVID-19 pandemic has provided irrefutable evidence of the long-standing, deeply-rooted racial inequities that have caused increasingly disparate outcomes in New York State and throughout the nation for far too long. These wide-ranging and long-standing inequities, encompassing such areas as healthcare access, involvement in the child welfare and youth justice systems, economic security, educational opportunity, access to safe and healthy housing, and workforce disparities, continue to harm New York's children, youth, families, and communities. In fact, in a national comparison of state structural inequities, New York was recently classified as having among the highest structural racism and income inequality indexes in the United States. [23]

The clear urgency of taking decisive action to end New York's entrenched racial inequalities is particularly evident with regards to the racial and ethnic disparities in New York's alarmingly high poverty and child poverty rates. As noted in a report released by New York State Comptroller DiNapoli last December, almost 2.7 million New Yorkers, or 13.9 percent of our state's population, lived in poverty in 2021, compared to 12.8 percent of all Americans. Poverty rates are more than double for Hispanic New Yorkers compared to white, non-Hispanics, with one-fifth of New York's Hispanic population living below the poverty level in 2021. Black, Native Hawaiian and other Pacific Islander and American Indian New Yorkers experienced poverty at twice the rate of white New Yorkers in 2021. [24] Racial and ethnic disparities are particularly pervasive in New York's child poverty crisis, with Black and Latinx children more than twice as likely as white children to live in poverty statewide and 10 to 13

times more likely than white children to live in poverty in Manhattan. [25] Asian Americans have the highest poverty rates in New York City, with Asian children 5 times more likely to live in poverty than white children in Manhattan. [26] Syracuse carries the highest child poverty rate in the nation among cities with at least 100,000 people (48.4 percent), with Buffalo and Rochester also ranking within the top ten list of large U.S. cities with the highest child poverty rates. These are but a few of the pervasive, wide-ranging and long-standing disparities and inequities that assault people and communities of color in our State and around the nation due to the racist impact of our policies and regulations.

Our State can lead the nation in embarking on the path to achieving equity in all policies by establishing an independent office to ensure that we no longer pass legislation or adopt rules without first examining whether these policies have the potential to create, eliminate, or perpetuate racial and ethnic disparities. Enacting new legislation and rules without first evaluating their potential to disproportionately impact our communities of color only perpetuates these disparities. In the absence of racial and ethnic impact assessment, legislation that "appears" race-neutral at face value can, in practice, adversely – and disparately – affect New York's children and families of color. Just as our State legislators consider the fiscal and environmental impacts of new laws, so too must they examine the potential racial and ethnic impact of *all* legislation and rule-making activity through the preparation of racial impact statements. By doing so, New York would join the growing rank of states who have acted to center racial equity in legislating by passing racial impact statement legislation [27] and would build on progress made in advancing racial equity in New York City through such efforts as EquityNYC and the racial justice ballot proposals spearheaded by the New York City Racial Justice Commission.

In order to implement this approach, our State will need to invest more resources in its legislative and rule-making processes. Furthermore, the evaluation of racial and ethnic impact needs to be insulated from politics – meaning the office producing the impact statements should be independent from both the Legislature and the Governor. Maintaining this independence will ensure that meaningful, unbiased impact statements are faithfully and consistently produced at an optimal level.

Undoing generations of racial and ethnic disparities and institutionalized harm demands an anti-racist approach that actively examines the role of legislative and regulatory action in perpetuating inequality in New York. In order to ensure that our laws truly advance racial and ethnic equity and in order to begin to dismantle systemic racism, New York should adopt:

(1) The establishment of an independent office or entity tasked with producing racial and ethnic impact statements.

(2) A requirement that all bills advancing out of committee in the legislature and amendments to bills must be accompanied by a racial and ethnic impact statement.

(3) A requirement that all proposed rules must be accompanied by a racial and ethnic impact statement upon introduction.

(4) A requirement that racial and ethnic impact statements must include an estimate of the impact of the proposed bill, proposed amendment or proposed rule on racial and ethnic minorities, and the basis for the estimate, including any specific data or other information relied upon.

(5) A prohibition against enacting legislation or proposing rules that are found to increase racial or ethnic disparities.

Conclusion

Thank you for your time and consideration. The Children's Defense Fund – New York looks forward to working with you on a State budget that improves the health and well-being of children, youth and families in marginalized communities in New York.

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