Actors Fund ☙ African Service Committee ☙ Children's Defense Fund-New York
Community Service Society of New York ☙ Consumers Union ☙ Empire Justice Center ☙ Make the Road New York
Medicare Rights Center ☙ Metro New York Health Care for All Campaign
New Yorkers for Accessible Health Coverage ☙ New York Immigration Coalition ☙ Project CHARGE
Public Policy and Education Fund of New York/Citizen Action of New York
Raising Women's Voices-New York ☙ Schuyler Center for Analysis and Advocacy ☙ Young Invincibles

Testimony of Elisabeth R. Benjamin, MSPH, JD on Behalf of Health Care For All New York Before the Joint New York State Senate and Assembly Public Hearing on the New York Health Act (A.5248/S.3577) Albany | May 28, 2019

I am Elisabeth R. Benjamin, Vice President of Health Initiatives at the Community Service Society of New York and a co-founder of Health Care for All New York. Health Care for All New York ("HCFANY") is a statewide coalition of over 170 organizations dedicated to achieving quality, affordable health coverage for all New Yorkers. We strive to bring consumer voices to the policy conversation, ensuring that the concerns of real New Yorkers are heard and reflected.

HCFANY thanks the Health Committee Chairs, Senator Rivera and Assemblymember Gottfried, and the Health Committee Members for their leadership on behalf of New York's health consumers, their tireless efforts to improve coverage and contain costs for New York residents, and for holding this hearing today on this landmark bill.

HCFANY Supports the Passage of the New York Health Act

HCFANY enthusiastically supports the New York Health Act.

New York government leaders have a long list of health care achievements:

- Our innovative universal children's health insurance program was a model for adopting the federal CHIP program and now covers over 400,000 children;
- Our coverage programs for low-income people, first Family Health Plus, and now the Essential Plan (Basic Health Plan), which covers nearly 800,000 adults;
- Our New York State of Health Marketplace has the most elegant real-time eligibility rules engine in the country and is responsible for enrolling 4.7 million New Yorkers in coverage;
- Our consumer insurance protections are likewise strong: a robust Managed Care Bill of Rights; strong insurance rate review; the first-in-the-nation surprise billing law; and resilient consumer assistance programs.

Yet, despite all these extraordinary achievements, New York's consumers face two inexorable problems that the NYHA would definitively resolve.

First, it would cover the remaining 1 million or more New Yorkers who remain uninsured.[1] No more complicated eligibility rules. No more begging for "charity care" for immigrants or other people without insurance.

Second, it would eliminate the profound affordability problems that plague nearly everyone else. CSS recently worked with Altarum's Healthcare Value Hub to do a survey on health care affordability in New York.[2] And the results—even after New York's remarkable implementation of the Affordable Care Act—are sobering. Half (52%) of the New Yorkers surveyed (nearly all of whom were insured) said they had faced a health care affordability problem, such as cutting pills, not filling prescriptions, skipping care, or not doing what their doctor told them to do because of costs. And 35% said they were struggling to pay medical bills by: using up their savings; skipping meals or paying rent; being in collections; or having credit card debt.

These health care affordability problems are getting worse. In 2008, New Yorkers were spending 5.5% of their median household income on health care. In 2016, that percentage increased to 7.7%.[3] Finally, New Yorkers blame the health care industry for this worsening situation: 69% said that insurance companies charge too much; 69% said hospitals charge too much; and 68% said that drug companies charge too much.[4]

The NYHA addresses both the problem of the uninsured and out-of-control industry costs. It is extremely popular and is supported by 656 organizations (including HCFANY). The NYHA would cover all New Yorkers—so no one would be left uninsured because of their immigration or economic status. Unlike our confusing patchwork insurance system, it would be administered by a single publicly accountable health plan that would negotiate fair prices with providers and drug companies. It covers vision, dental, medical devices and long-term care. The NYHA would cost $309 billion and would be financed through a progressive and fair tax system, where the wealthiest pay more than those least able to pay. It would also curb our state's extraordinary health care inflation rate: a Rand Study estimates that it would save more than $11 billion in health spending by 2022.[5]

Finally, from the consumers' perspective, the NYHA makes getting health care easy: you get a card, you go to the doctor, hospital, or pharmacy, the NYHA plan pays for the care, and you are done. No "skinny" networks or ultra-restrictive drug formularies. No co-pays. No co-insurance. No bombardment of bewildering, duplicative, and often erroneous medical bills. No collection agents. No ruined credit scores. No ruined lives. Now, *that's* "patient-centered" care.

For these reasons, and more, HCFANY endorses the adoption of the NYHA.

HCFANY Urges the Legislature to Act Now to Adopt Interim Measures to Address the Uninsurance and Affordability Crises

Assuming the NYHA was passed and signed by Governor Cuomo this session, HCFANY is mindful that it may take a few years to establish. While we wait for the NYHA's adoption and implementation, HCFANY respectfully urges the Legislature to adopt interim measures to help address the two problems the act solves: the remaining uninsured and the state's affordability crisis. These measures are described below in the remainder of our testimony.

Measures to Address the Remaining Uninsured

The vast majority of the remaining uninsured fall into three groups of people: (1) low-income adult immigrants who are ineligible for coverage (320,000 people); (2) moderate-income individuals who find coverage unaffordable despite the available subsidies (320,000 people); and (3) very low-income people who are eligible for Medicaid and/or Child Health Plus, but remain unenrolled (390,000 people).

To address these three groups of uninsured, HCFANY urges the enactment of the following measures:

1. Adopt S.3900/A.5974, which creates a state-funded Essential Plan for immigrants who are ineligible for coverage. This program would be offered to the 246,000 unauthorized immigrants below 200% of the federal poverty level and would cost $532 million in the first year.[6]

2. Make coverage more affordable for people. There are two methods to achieve this goal. The first would be to offer a state-funded Essential Plan to approximately 120,000 people between 200% and 250% of the federal poverty level. This would cost around $132 million in the first year. The second option would be to establish—as California proposes to do—additional state subsidies for people between 200% and 400% of the federal poverty level. This option would make coverage more affordable for approximately 155,000 New Yorkers and cost anywhere between $250 million and $530 million, depending on the generosity of the subsidies.

3. Support more community-based enrollment assistance for the hard-to-reach eligible but uninsured. New York's current Navigator program is funded at $27.2 million. But these community-based Navigators haven't had a cost-of-living increase in over six years. The Legislature should consider supplementing these funds, with an extra emphasis on communities that have a disproportionate percentage of the remaining uninsured.

HCFANY believes that the adoption of these three measures could go a long way to addressing the issue of the remaining uninsured.

Measures to Address the Affordability Crisis

Similarly, there are important measures that can help people address the affordability and medical debt crisis. HCFANY has launched a new medical debt agenda that includes the following

proposals. These measures require all the stakeholders to come together and adopt a patient-centered approach to health care costs and medical billing that address *patients'* needs.

1. Make patient billing simple. Consumers are bombarded by bewildering bills from myriad providers operating out of a hospital. One hospital visit should result in one NYS-created uniform, standardized, itemized hospital bill that explains each charge and is sent within seven days of discharge.[7]

2. Medical debt should have a two-year statute of limitations. While medical providers only have two years under state law to submit insurance claims, they can sue patients for up to six years after the service was provided.[8] That's not fair. Fifteen other states have a shorter statute of limitations than New York.[9] For example, Arkansas imposes a statute of limitations of only two years for medical debt.[10]

3. New York's 2015 surprise bill law[11] was a landmark consumer protection, but it is missing some key pieces, such as:
    - Consumers should be held harmless from hospital emergency room charges. These bills should be subject to the New York's Surprise Bill law and resolved by an independent dispute resolution (IDR) process as proposed by A.264/S.3171.
    - Consumers should be held harmless through the IDR process if given incorrect information about their provider network. A survey of more than 200 Community Health Advocates surprise bill cases found that 35% resulted from misinformation provided by either the plan or the provider and were not protected under the law.[12] Plans are already required to update their provider directories within 15 days of a change but rarely do.[13]
    - Ambulance services should be subject to the 2015 surprise bill law like other emergency bills. Patients have no control over which ambulance service they use in an emergency, but they still receive out-of-network bills as a result.

4. Consumers should not be responsible for so-called "facility fees" that are not actual medical services. Connecticut has already banned some facility fees for outpatient services provided off-campus and required robust disclosures to patients about the use of facility fees.[14]

5. New York's hospital financial assistance law[15] should:
    - Apply to all providers working in a hospital even if not employed by the hospital as well as charges for ambulance and other pre-emergency services.
    - Require one standard application to be used at each hospital.
    - Require one standard appeal process.

6. Providers should stop using standard patient financial liability forms that ask patients to waive state protections against liability for medical bills, without even knowing what those may be. Any agreements that patients sign waiving those rights should be unenforceable.

7. Licensed providers in New York should be required to provide complete information—regardless of payor or "proprietary pricing contracts" —to the All Payer Database as a condition of operating and in a way that makes the information accessible to consumers.

Conclusion

HCFANY believes that only the adoption of the NYHA can assure that the all New Yorkers have affordable, quality health insurance. But while we wait for the implementation of the NYHA, our state needs to aggressively address the two remaining burdens facing New Yorkers: providing coverage to more; and easing the affordability burdens for all. That's what real patient-centered care looks like.

Thank you for providing us the opportunity to testify before you today.

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[1] United States Census Bureau Small Area Health Insurance Estimates, 2017, https://www.census.gov/data-tools/demo/sahie/#/?s_statefips=36.

[2] Altarum Healthcare Value Hub, "New Yorkers Struggle to Afford High Healthcare Costs; Support a Range of Government Solutions Across Party Lines," Data Brief No. 37, March 2019, https://www.healthcarevaluehub.org/advocate-resources/publications/new-yorkers-struggle-afford-high-healthcare-costs-support-range-government-solutions-across-party-lines/.

[3] NYSHealth Foundation, "The Rising Cost Burden of Employer-Sponsored Insurance," March 2018, https://nyshealthfoundation.org/wp-content/uploads/2018/03/rising-cost-burden-employer-sponsored-insurance-NY.pdf.

[4] Altarum Healthcare Value Hub, "New Yorkers Struggle to Afford High Healthcare Costs; Support a Range of Government Solutions Across Party Lines," Data Brief No. 37, March 2019.

[5] Rand, "An Assessment of the New York Health Act," 2018, https://www.rand.org/pubs/research_reports/RR2424.html.

[6] E. Benjamin, "How Can New York Provide Health Insurance Coverage to its Uninsured Immigrant Residents? An Analysis of Three Coverage Options," January 2016, https://www.cssny.org/publications/entry/covering-new-yorks-uninsured-immigrant-residents. A less costly option, detailed in the same report, would be to adopt S8618/A.8054 which provides coverage to young adult immigrants. This option would cover nearly 30,000 people at a cost of $83 million. (Cost estimates updated by the author.)

[7] New York's current Patient Bill of Rights requires that hospitals provide patients with an itemized bill and explanation of charges on request, but this is rarely offered. 10 N.Y.C.R.R. §405.7(a)(16).

[8] N.Y. C.P.L.R. §213 (McKinney 2018).

[9] Those states include: Alaska (A.S. 09.10.053), Arkansas (Ark. Code Ann. §16-56-106), California (C.C.P. §337), Colorado (C.R.S. 13-80-101), Delaware (Title 10, § 8106 (a)), Florida (F.S. 95.11 (2)(a)), Idaho (Title 5, Ch. 2, 5-26), Kansas (Ch. 60, Article 5, Section 11 (1)), Maryland (Commercial Law §2-725), Mississippi (MCA § 15-1-29 and 15-1-49), Nebraska (Neb. Rev. Stat. §25-205), North Carolina (§ 1-52), Oklahoma (O.S. § 95(1)), South Carolina (SCCLA 15-3-530), and Texas (C.P.R. §16.004(a)(3)).

[10] Ark. Code Ann. §16-56-106.

[11] NY Financial Services Law Article 6.

[12] E. Benjamin and E. Webb, New York Surprise Bill Law: The consumer perspective and ongoing challenges, presented to the New York State Health Foundation October 29, 2018.

[13] NY INS L §3217-a(a)(17) and §4324(a)(17).

[14] Connecticut General Assembly, Sec. 19a-508c. Connecticut defines facility fees as "any fee charged or billed by a hospital or health system for outpatient services provided in a hospital-based facility that is (A) intended to compensate the hospital or health system for the operational expenses of the hospital or health system, and (B) separate and distinct from a professional fee" (Sec . 19a-508c(3)), and defines hospital-based facility as "a facility that is owned or operated, in whole or in part, by a hospital or health system where hospital or professional medical services are provided."

[15] NYS PBH § 2807-k 9-a.