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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  
Small Business Majority

## Testimony on the Health/Medicaid 2017-2018 Budget

February 16, 2017

Submitted by:  
Health Care For All New York

Health Care For All New York (HCFANY) would like to thank the chairs and members of the Assembly Ways and Means Committee and the Senate Finance Committee for the opportunity to submit our testimony on the 2016-2017 New York State Executive Budget. 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. We also provide expert policy analysis, advocacy, and education on important health policy and coverage issues that affect New Yorkers around the state. For more information on HCFANY, visit us on the web at [www.hcfany.org](http://www.hcfany.org).

This testimony outlines HCFANY's position on several provisions within the Executive Budget. HCFANY supports proposals in the Executive Budget that help more New Yorkers enroll and successfully use their health insurance. We applaud the Governor's proposal to fund consumer assistance services through the Community Health Advocates program, which helps New Yorkers understand, keep, and use their insurance, and urge the Legislature to provide additional funding for CHA. We urge the Legislature to decrease our uninsured rate by extending the age of eligibility for the Child Health Plus program. We also urge the Legislature to take action on prescription drug prices that make medication unaffordable for many consumers.

HCFANY is concerned about several proposals that would make health care less accessible for low-income New Yorkers. HCFANY opposes the proposals to eliminate prescriber prevails and spousal refusal, as we have in previous years, and proposals to increase cost-sharing for people who have insurance through the Essential Plan or Medicaid. HCFANY is also concerned about the budget's proposed Regulation Modernization Team's ability to make decisions about major spending areas outside of the legislative process.

### **1. HCFANY supports the proposed budget allocation of \$2.5 million in funding for the Community Health Advocates (CHA), the state's health care consumer assistance**

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**program, and urges the Legislature to increase it for a total appropriation of \$4.75 million.**

CHA is a statewide network of community-based organizations (CBOs) that helps New York's health consumers and small businesses obtain, use, and keep health insurance coverage. The CHA program is administered by the Community Service Society of New York in partnership with three specialist agencies, the Empire Justice Center, The Legal Aid Society, and the Medicare Rights Center. Together, these agencies have developed a strong, statewide learning community of service providers at community and business-serving groups by providing training and technical assistance and handling complex cases and appeals. Since 2010, CHA has handled over 280,000 cases and saved consumers over \$21 million, addressing the pernicious issue of consumer medical debt. CHA's services are available for free to consumers regardless of how they get insurance. They are available in-person in every county in New York and through a toll-free helpline (888-614-5400). More information on CHA can be found online at: [www.communityhealthadvocates.org](http://www.communityhealthadvocates.org).

CHA services are needed now more than ever because federal policy proposals threaten to disrupt both the private and public insurance markets, for individuals and employers. CHA has already experienced an increased demand for services from people who are confused and anxious about their ability to get health insurance, or fearful of using their insurance to get care because of uncertainty about changes to their health insurance. Additionally, more people than ever have enrolled in coverage through the NY State of Health Marketplace. For the first time, over 95 percent of New Yorkers have insurance coverage. CHA is there to make sure that those people not only have coverage, but know how to use it to get the health care they need.

While we applaud the Governor for including \$2.5 million for CHA, additional funds are needed to fend off a reduction in services and to respond to increased need. CHA was initially a federally-funded program that at its height received \$6.1 million. After federal funding ended, the Legislature and the Governor provided CHA with an annualized budget of \$4 million. This year, CHA needs a total of \$4.75 million to respond to increased need and avoid a funding cut to the statewide network of local CBOs. An appropriation of \$4.75 million would allow CHA to expand its network, allowing it to serve thousands of New Yorkers and small business owners and employees who are newly insured through the NY State of Health or have other forms of insurance (e.g., Essential Plan, Child Health Plus, Medicaid, Veterans, Medicare, union or employer sponsored plans, and commercial).

- 2. HCFANY urges the state to increase the age limit for Child Health Plus to 29, from its current 18. This would create a Young Adult option for people who are not eligible for subsidized health insurance because of their immigration status.**

Child Health Plus (CHIP) provides affordable health coverage for anyone below the age of 19 who resides in New York State. This coverage is available regardless of immigration status. Families pay premiums on a sliding scale. Expanding the age limit for CHIP will allow New York State to continue the coverage gains of the past few years.



The Community Service Society examined this proposal in 2016, in the context of providing coverage for people who are not eligible for Medicaid, the Essential Plan, or subsidized Qualified Health Plans because of their immigration status, including many young adult immigrant “DREAMers.”<sup>1</sup> That analysis found that raising the upper age limit of CHIP would make an additional 90,000 people eligible for subsidized health coverage. Based on previous enrollment rates, it would likely result in extending health coverage to 27,900 young adult immigrants at a cost of \$78 million, an increase of less than one percent of New York’s health budget. CSS believes the updated costs of this proposal for 2017 would be \$81 million.

The benefits of increased coverage for both the individuals gaining coverage and society at large are well-documented. People without insurance coverage are more likely than their insured counterparts to delay seeking care, incur medical debt or file for bankruptcy, and experience high rates of morbidity and mortality because of their inability to access preventive care or services needed to manage serious and chronic health conditions.<sup>2</sup> It is inevitable that some people without coverage will fall ill or need health services. When this happens, the losses experienced by the health care system are offset through higher prices for everyone.

**3. HCFANY opposes proposals that cut spending by increasing the financial burdens experienced by low-income New Yorkers. This includes higher premiums for Essential Plan enrollees and increased prescription drug co-pays for Medicaid enrollees.**

The Essential Plan provides low-cost or free health coverage to people who have incomes that are too high to be eligible for Medicaid or Child Health Plus but too low to reasonably afford private coverage. People at the highest eligibility level currently pay only \$20 a month in premiums. Over 600,000 people have signed up in the first two years the program has been available. The Governor’s budget requires more people to pay premiums (starting at 138 percent of the federal poverty level instead of 150 percent), and would increase the premiums every year based on the medical consumer price index.

While this would still be a highly affordable program for many people, HCFANY opposes asking households with such limited funds to pay more for their care. Even small increases in premiums can lead to people forgoing insurance.<sup>3</sup> Additionally, the medical consumer price index rises faster than wages. If this continues, as it is likely to do for the

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<sup>1</sup> Elisabeth R. Benjamin, “How Can New York Provide Health Insurance Coverage to its Uninsured Immigrant Residents? An Analysis of Three Coverage Options,” January 2016, <http://lghthttp.58547.nexcesscdn.net/803F44A/images/nycss/images/uploads/pubs/Immigrant%20Health%20Report%20Web%202.pdf>.

<sup>2</sup> Ibid.

<sup>3</sup> Brendan Saloner, Stephanie Hochhalter, and Lindsay Sabik, “Medicaid and CHIP Premiums and Access to Care: A Systematic Review,” *Pediatrics* (February 2016), <http://pediatrics.aappublications.org/content/early/2016/02/18/peds.2015-2440>.



foreseeable future, enrollees will quickly find themselves unable to absorb the additional premium costs.

Similarly, HCFANY opposes asking Medicaid enrollees to pay higher co-pays for prescription drugs. Medication adherence is a costly issue for our health care system, and one of the biggest reasons people go without their prescriptions is cost. A literature review conducted in 2012 found 136 different peer-reviewed articles confirming this fact.<sup>4</sup> Co-pays that may seem insignificant within the context of New York's budget can mean hard choices for people with limited means.

Prescription drug costs are a serious and rising expense for the state – but efforts to manage that problem should not adversely affect consumers. The Governor included two other proposals related to prescription drugs in his budget that HCFANY finds more promising. One requires pharmaceutical companies to provide information to the state about high cost drugs, and allows the drug utilization review board to set a benchmark price using that data. Pharmaceutical companies would then pay rebates for prices charged to Medicaid above this price, and would pay a surcharge on prices above the benchmark regardless of payer. The other would require pharmacy benefit managers (PBMs) to become licensed with the state. This would give the state a better understanding of the role of PBMs in our pharmaceutical market. While HCFANY would recommend incorporating more public disclosure in both proposals, they are a good start towards adding transparency and rationality to pharmaceutical pricing, without placing a greater burden on consumers.

**4. HCFANY opposes provisions that would make it more difficult for low-income New Yorkers to enroll in Medicaid and use their coverage to get the health care they need, including proposals to eliminate the right of spousal refusal and prescriber prevails protections.**

Spouses and parents of vulnerable people, including children with severe illnesses and low-income seniors, have long been allowed to inform the Department of Health that their income is necessary for their own care and living costs and thus stop that income from being used to deny their loved ones Medicaid coverage. Without this right, many families who on their own cannot reasonably be expected to pay for the care needed by a member would have to split up or forgo that care. For example, a healthy spouse would have to divorce a sick spouse. New Yorkers should not be expected to make such drastic choices in the face of health problems. Therefore, HCFANY urges the legislature to preserve the right of spousal and parental refusal in our Medicaid program.

The Governor's budget limits the "prescriber prevails" rule within the Medicaid program to anti-psychotics and anti-depressants. "Prescriber prevails" is a rule that gives clinicians final say above insurance companies as to what medications a patient should take. There are many reasons why one particular drug might work differently from patient to

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<sup>4</sup> Michael T. Eaddy et al., "How Patient Cost-Sharing Trends Affect Adherence and Outcomes: A Literature Review," *Pharmacy & Therapeutics*, 37(1): 45-55 (January 2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3278192/>.



patient. Prescribers should be able to override formularies or preferred drugs in those situations without forcing consumers to go through lengthy appeals with their insurance companies.

**5. HCFANY recommends changes to the composition and powers of the Governor’s proposed Health Care Regulation Modernization Team to ensure meaningful consumer engagement, improve transparency and require Legislative approval for any demonstration programs that would waive existing statutes or regulations.**

The Governor’s proposed budget includes a Health Care Regulation Modernization Team that would provide guidance to the Governor on “a fundamental restructuring of the statutes, policies and regulation that govern the licensure and oversight of health care facilities and home care to better align with recent and ongoing changes in the health care delivery system that are designed to increase quality, reduce costs and improve health outcomes. HCFANY agrees that there is a true need for reviewing health care regulations in New York State, especially those that make it harder for consumers to access care. Further, HCFANY notes that various existing health care oversight and planning functions in New York State are insufficiently integrated. Decisions such whether to approve hospital Certificate of Need applications are being made without the benefit of community health needs assessments or any metrics to determine the potential impact of a transaction on patients’ access to timely, affordable health care.

However, the proposal for a Modernization Team falls short in ensuring meaningful engagement of the very health care consumers whose access to care would be directly affected by any changes to statutes or regulations governing our health care system in New York. Of the proposed 25 voting members of the Team, not a single seat is expressly earmarked for a health care consumer or advocate. HCFANY recommends that at least 20 percent of the voting seats on this team should be designated for representatives of consumer health advocacy organizations, and no team subgroups should be constituted without consumer representatives. Consumer representatives should include people from all parts of the state and with diverse experiences, including people with disabilities, low-income populations, immigrants, women, members of the LGBTQ community, and others. All meetings should be public and live-streamed to maximize transparency and encourage consumer involvement.

HCFANY is also concerned that the Governor’s proposal (section 5m) appears to give the Modernization Team the power to authorize state agency commissioners to conduct time-limited demonstration programs that would test innovative processes and procedures “that are not permissible under current statute or regulation.” Even with the promised “prior public notice and a thirty day period of comment,” this provision is very troubling.

Many existing regulations and statutes are in place to protect consumers. Some of the rules and regulations that feel burdensome to other stakeholders may in fact be important to health care consumers. It is important that the communities which have the greatest barriers



to accessing care or who experience the worst quality health care have a significant influence on any policy change that affects their care. When there are trade-offs between protecting people through rules and regulations and making it easier for them to get quality health care, those communities should have the biggest influence on where the state falls.

HCFANY recommends altering the Governor's proposal by limiting the team's role to making recommendations that would then be taken up by the legislature. The team's task should be to develop recommendations for areas where waiver opportunities have the greatest benefit, and then work through the legislative process to add those waiver opportunities to existing statutes. HCFANY is making this recommendation because the legislative process provides a high level of accountability to the public.

Thank you for your consideration of our recommendations and concerns. Please do not hesitate to contact Bailey Acevedo (212-614-5345, [bacevedo@cssny.org](mailto:bacevedo@cssny.org)) or Amanda Dunker (212-614-5312, [adunker@cssny.org](mailto:adunker@cssny.org)) with any questions.