



**Focus of Community Pharmacy:**

**Access. Trust. Wellness.**

**Testimony for the  
Joint Legislative Budget Hearing on Health/Medicaid**

**February 8, 2022**

**9:30AM**

**Virtual Hearing**

**Community Pharmacy Association of NYS**

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The Community Pharmacy Association of New York State (CPANYS) would like to thank you for your strong past support of local pharmacies in New York and for the opportunity to testify today related to the State Fiscal Year (SFY) 2022-23 State Budget.

CPANYS represents pharmacies of all types and sizes, and in every county across the State. Together, we are focused on protecting patient access to pharmacy care and strengthening the role that pharmacists can play as part of the health care team to improve patient health outcomes while reducing costs.

The State's pharmacists and pharmacies have played essential and expanded roles in the state's response to the COVID-19 pandemic. Pharmacies and their workforce have remained open and have served as a trusted access point for COVID-19 testing and COVID-19 vaccination, while ensuring patient access to their medications and other pharmacy care. We look forward to continuing to serve our communities as we get through this devastating pandemic together and work to improve public health and access to care overall.

Today, we would like to discuss three budget priorities related to the SFY 2022-23 State budget, as outlined below.

**(1) REQUEST: Please Support Patient Access to Pharmacy Care in Medicaid by including Protections in the SFY 2022-23 State Budget**

New York State's pharmacists and community pharmacies strongly support the shift of the Medicaid pharmacy benefit from Medicaid Managed Care (MMC) to Fee for Service (FFS) so the State and not health plans and pharmacy benefit managers (PBMs) administer this benefit for patients enrolled in Medicaid. Unfortunately, due to challenges for 340B clinics and other entities, the Final State Budget last year (SFY 2021-22) delayed this important shift for two years to April 1, 2023.

The collateral damage caused by this delay was the loss of critical protections and expanded access to pharmacy care that would have resulted by moving the benefit back to Medicaid FFS. Recognizing this impact, both the Senate and Assembly unanimously passed legislation (S6603, Skoufis/A7598, Gottfried) at the end of the 2021 session to provide guardrails in the Medicaid managed care pharmacy program to stop insurance plans and large national PBMs from undercutting our local pharmacies and limiting Medicaid patient access to essential pharmacy care, in order to grow their profit margins. Thank you. This important legislation required plans/PBMs to allow individuals enrolled in Medicaid to use the pharmacy that is in their neighborhood or closest to them by prohibiting PBM narrow networks. It also allowed local pharmacies to deliver medications to patients, and created a pass through reimbursement model to provide transparency and sustainability in what the PBMs pay pharmacies, using the current Medicaid fee for service rate.

In late December, this legislation was vetoed and the Governor cited a \$193 million gross fiscal to Medicaid saying it “*should therefore be considered in the context of the State Budget negotiations.*” While we questioned this fiscal since any costs were to be taken from the plan/PBM rates, no further back up information has been provided by the Executive. Additionally, while no data has been presented to validate any fiscal impact to the state, its noteworthy to point out that the current federal share would cover approximately 65% of any Medicaid costs. Given this veto, we are now seeking your assistance again to assure these protections and eliminate any barriers that those with Medicaid have to accessing needed pharmacy care in the budget this year.

Throughout the COVID-19 pandemic, local pharmacies were repeatedly called on and relied upon to care for the health needs of our residents, especially those in underserved communities. Pharmacies have been the primary access point for COVID-19 and other vaccinations, COVID-19 and other testing, medication access, counseling and helping to meet other health needs, and they have done so consistently and professionally without interruption.

Despite the invaluable role pharmacies play in our communities, health plans and large national PBMs are paying them just at or below their medication costs in Medicaid managed care, while limiting where those with Medicaid can receive their pharmacy care. Local pharmacies are being forced to determine if it is possible to remain in the communities of greatest need as a result. This is an acute situation, which requires immediate action to protect pharmacy care, or we will likely continue to see an erosion of pharmacy care with a growing number of pharmacy deserts in our most urban and rural areas harming the very communities that need it the most.

We are pleased to see that the vetoed legislation has been reintroduced (S7909, Skoufis/ A9165, Gottfried) and **we respectfully ask that these protections be included in the Senate and Assembly house budgets and in the final budget this year before irreparable harm is done.** We ask that you expressly add these protections to the current MMC program in law, as S7909/A9165 does, through the State Budget this year.

**(2) SUPPORT Expanding Access to CLIA-Waived Testing (Part C, Section 1 &2 of S8007/A9007)**

Under the current law, pharmacies can administer CLIA-waived tests under a Medical Director and have done so successfully in New York, and across the country. During the pandemic, licensed pharmacists were given the authority by Executive Order to serve as Limited Service Lab (LSL) Directors and to order and administer COVID-19 and Influenza tests. In current law, LSL Directors can be physicians, dentists, podiatrists, physician assistants, special assistants, nurse practitioners, midwives, and optometrists with some limitations. CLIA-waived tests are defined as simple laboratory examinations and procedures that have an insignificant risk of an erroneous result.

Pharmacists were well prepared to order and administer COVID-19 and influenza testing, given their extensive training and expertise. Further, the very convenient locations and accessible hours of pharmacies has enabled them to quickly and very effectively provide such tests throughout our communities. New Yorkers continue to respond very positively to accessing these screening tests, like vaccines, through their local pharmacies.

The Executive Budget proposes to make this authority permanent for CLIA-waived tests. Like with COVID-19 and influenza testing, the Executive Budget proposal would enable pharmacists to make certain screening tests more accessible based on community need. However, clear communication of results with a patient's attending physicians and other healthcare provider(s) and established processes to ensure continuity of care would also be essential elements for this program.

**(3) SUPPORT with Modification: Restore Across the Board Medicaid Cuts & Include a 1% Medicaid Provider Trend Increase (Part I of S8007/A9007)**

In recent years, pharmacies like many other Medicaid providers were hit with across-the-board Medicaid cuts which were increased from 1% in 2019 to 1.5% in 2020, and which took critical resources away from pharmacies and others caring for those enrolled in Medicaid. We are very pleased to see the Executive Budget announcement that these across-the-board reductions will be restored and support the inclusion of this restoration in the final State Budget.

At the same time, the SFY 2022-23 Executive Budget includes a proposal to provide a 1% rate increase for Medicaid payments by the State Department of Health (DOH) for two years. When we inquired, DOH told us that community pharmacy payments would not be included like other providers. This is highly concerning and makes no sense, especially in light of the fact that we were included in the across the board cuts of prior years. Why wouldn't pharmacies be included in this much-needed trend increase to support patient care, workforce and operations like other providers?

Community pharmacies continue to struggle with just at or below cost reimbursement both with Medicaid and commercial plans. The care and access provided by pharmacists and pharmacies improve outcomes and reduce costs by better managing medication and health needs of patients. There is nothing in the "exemptions" list in Part I of S8007/A9007 which pertains to pharmacies and we respectfully urge your support for ensuring that pharmacies like other providers under Medicaid are eligible for this 1% rate increase in the final State Budget.

Thank you for your consideration of our comments regarding the SFY 2022-23 budget. The shared goal of our members is to ensure patient access to high quality pharmacy care throughout the State. Please continue to see our Association and members as a resource on any medication or health-related topic where we can be of assistance.