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**Testimony Before the New York State Joint Legislative Hearing on Health  
of the Community Service Society of New York on the 2021 Proposed Executive Budget**  
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The Community Service Society of New York (CSS) would like to thank the Chairs and members of the Senate and Assembly Health Committees for the opportunity to comment on the proposed 2021 Executive Budget. CSS is a 175-year-old non-profit dedicated to fighting poverty and improving the lives of working New Yorkers. Our health programs help New Yorkers enroll into health insurance coverage, find health care if they are ineligible or cannot afford coverage, and help them use their coverage or otherwise access the healthcare system. We do this through a live-answer helpline and through our partnerships with over 50 community-based organizations working in every county of New York State. Annually, CSS and its partners serve approximately 130,000 New Yorkers.

CSS is deeply gratified that the Executive Budget includes provisions to fund New York's consumer assistance programs, Community Health Advocates, and the first in the nation independent ombudsman for people with mental health and substance use issues, Community Health Access to Addiction and Mental Healthcare Project (CHAMP). Together, these programs have served nearly 300,000 New Yorkers, saving them millions of dollars per annum. CSS is also pleased that the Executive Budget includes a provision that would eliminate medical insurance premiums for Essential Plan enrollees and a provision that would reform the currently onerous 9 percent interest rate on court judgments.

However, in this once-in-a-century moment, CSS believes that the Legislature and the Governor should come together and do much more to improve the lives of New Yorkers who are suffering from the health and economic devastation of the COVID-19 pandemic, including:

- Eliminate all premiums for the Essential Plan, including vision and dental premiums;
- Enact the Patient Medical Debt Protection Act;
- Expand coverage to all New Yorkers regardless of immigration status who have had COVID-19;
- Fairly fund safety-net hospitals by targeting Indigent Care Pool funds to them, protecting them from cuts, and ending the Medicaid global cap; and
- Provide additional funding for consumer assistance programs and reinstate the matching rate for Article VI public health programs in New York City.

1. Measures to address New York’s health care affordability crisis

New York’s healthcare affordability crisis began well before the pandemic. In a statewide survey from 2019, over 50 percent of New Yorkers indicated that they had experienced a medical affordability burden in the prior year, including forgoing visits to the doctor, cutting their pills, or paying for care through a credit card.<sup>1</sup> The economic dislocation caused by the pandemic have made these issues worse. Daily hospitalizations for COVID-19 have been over 5,000 since the first week of December and are likely to produce a tsunami of bills for patients.<sup>2</sup> The economic and health effects of the pandemic have been much worse for people of color: for example, the mortality rate is 2.5 times higher for Black New Yorkers than for White New Yorkers outside of New York City, and 2 times higher in New York City.<sup>3</sup>

Adoption of the New York Health Act (S3577A/A5248A) would address the affordability crisis, and CSS urges the Legislature to do so as soon as possible. The remainder of this testimony will address the Executive Budget proposals.

**a. Eliminate vision and dental premiums in the Essential Plan.**

The Essential Plan provides health coverage to nearly 900,000 New Yorkers with no deductible and minimal cost-sharing if they earn less than 200 percent of the federal poverty level (FPL), around \$25,500 a year for an individual. Currently, enrollees earning between 150 percent and 200 percent of the FPL must pay a premium of \$20 a month and an additional \$30 a month for vision and dental coverage. CSS strongly supports the Executive Budget proposal to eliminate the \$20 per month Essential Plan premium and recommends that the Legislature also eliminate vision and dental premiums.

The Essential Plan is essentially fully funded by the federal government, and the trust fund currently has a substantial—\$4.6 billion—surplus in it. The Executive Budget proposes to use a tiny amount of the trust fund to eliminate medical premiums (an estimated \$90 million)—a proposal we support and a lawful use of the federal trust funds. But this proposal leaves 400,000 low-income enrollees with the unaffordable option of paying \$31 per month or forgo vision and dental coverage entirely.

Instead of addressing enrollees’ needs, the Executive Budget proposes to use \$620 million for provider rate increases and bonuses to insurers. CSS does not believe this is a

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<sup>1</sup> Altarum Healthcare Value Hub and Community Service Society of New York, “New Yorkers Struggle to Afford High Healthcare Costs; Support a Range of Government Solutions Across Party Lines,” March 2019, <https://www.cssny.org/news/entry/new-statewide-healthcare-affordability-survey>.

<sup>2</sup> New York State Daily Hospitalization Summary by Region, accessed February 21, 2021, <https://forward.ny.gov/daily-hospitalization-summary-region>

<sup>3</sup> Data for New York State excluding New York City is available at <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-FatalityDetail?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n>; data for New York City is available at: <https://www1.nyc.gov/site/doh/covid/covid-19-data-totals.page#rates>

permissible use of Essential Plan trust fund dollars. The Affordable Care Act is crystal clear about the permissible uses of the Essential Plan’s trust fund, stating that:

amounts in the trust fund shall *only* be used to reduce the premiums and cost-sharing of, or to provide additional benefits for, eligible individuals enrolled in a standard health plan within the State.<sup>4</sup>

Accordingly, CSS asks that the Legislature use any surplus to eliminate the remaining cost-sharing for Essential Plan enrollees. Eliminating vision and dental premiums for all Essential Plan enrollees would cost approximately \$150 million. Adoption of this proposal is a more appropriate use of the funds and consistent with the plain wording of the Affordable Care Act.

**b. Enact the Patient Medical Debt Protection Act (S2521A/A3470A)**

The first tenet of medicine is to “do no harm.” But many of New York’s charitable hospitals are doing just that when they sue thousands of New Yorkers annually and otherwise aggressively pursue medical debt. It is time to level the playing field between patients and these aggressive medical debt collectors by enacting the Patient Medical Debt Protection Act (PMDPA) as part of the state budget process.

CSS has issued a series of reports, called *Discharged Into Debt*, that have documented that New York’s charitable hospitals have sued over 50,000 New Yorkers since 2015.<sup>5</sup> In the *Pandemic Update*,<sup>6</sup> which was profiled in a front-page *New York Times* article on January 5, 2021, CSS identified 55 charitable hospitals that had sued 4,000 New Yorkers during the height of the pandemic, when courts were essentially closed and patients had no ability to defend themselves.<sup>7</sup>

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<sup>4</sup> 42 U.S.C.A. §18051(d)(2) (emphasis added).

<sup>5</sup> Amanda Dunker and Elisabeth Benjamin, “Discharged Into Debt: New York’s Nonprofit Hospitals Are Suing Patients,” Community Service Society of New York, March 2020, <https://www.cssny.org/publications/entry/discharged-into-debt>.

<sup>6</sup> Amanda Dunker and Elisabeth Benjamin, “Discharged Into Debt: A Pandemic Update,” Community Service Society of New York, January 2021, <https://www.cssny.org/publications/entry/discharged-into-debt-a-pandemic-update>.

<sup>7</sup> Brian M. Rosenthal, “One Hospital System Sued 2,500 Patients After Pandemic Hit,” *New York Times*, January 5, 2021, <https://www.nytimes.com/2021/01/05/nyregion/coronavirus-medical-debt-hospitals.html>.

As described in the chart below, medical debt is an issue that is particularly serious for people of color, especially outside of New York City:

<b>Share of Residents with Delinquent Medical Debt on Their Credit Reports<sup>8</sup></b>				
County	Overall	White Communities	Communities of Color	Difference
Onondaga	20%	14%	41%	292%
Monroe	11%	7%	26%	371%
Albany	12%	10%	26%	260%
Erie	10%	8%	22%	275%

CSS is grateful that the Executive Budget would cap interest rates on court judgments at the U.S. Treasury rate. The Patient Medical Debt Protection Act includes an identical provision that targets medical debt judgments. Thousands of the hospital court cases CSS reviewed revealed that hospitals often seek a *commercial* 9 percent interest rate when suing patients—despite the fact that every New York hospital is a 501(c)(3) *charity*. For example, one uninsured woman in the Bronx was sued for \$1,800 after visiting the emergency department while experiencing a heart arrhythmia. The final judgment against her included over \$500 in interest—30% of her original bill. All of New York’s hospitals are non-profits. It is unfair for them to use commercial interest rates when suing patients.

The Legislature should enact the other provisions of the Patient Medical Debt Protection Act to protect New Yorkers as part of the Executive Budget:

- Patients should be held harmless from out-of-network bills incurred when a health plan or provider incorrectly tells a patient they are in-network, when they in fact are not. The patient is “surprised” by the resultant bill, but nonetheless is not protected under the New York Surprise Bill law. One patient that turned to CSS for help received an out-of-network bill for over \$100,000 after choosing a surgeon from her plan’s provider directory. Part I of the Patient Medical Debt Protection Act would hold consumers harmless from out-of-network bills if they relied upon information provided in their plan provider directory, their plan’s website, or an oral or written statement by their health plan.
- Patients should not be responsible for paying facility fees, which are overhead fees charged by hospitals and hospital-acquired outpatient that are unrelated to the medical care received. CSS helped one patient that was charged a \$149 facility fee for a mammogram that should have been a free preventive service under the Affordable Care Act. Part D would protect women like her by prohibiting facility fees for preventive services recommended by the United States Preventive Services Task Force or when the insurance company does not cover them.

<sup>8</sup> Urban Institute, “Debt in America: An Interactive Map,” December 2019, [https://apps.urban.org/features/debt-interactive-map/?type=overall&variable=pct\\_w\\_medical\\_debt\\_in\\_collections&state=36&county=36075](https://apps.urban.org/features/debt-interactive-map/?type=overall&variable=pct_w_medical_debt_in_collections&state=36&county=36075).

- Hospitals should use one uniform state-designed financial assistance application to ensure that eligible patients receive financial assistance. Some hospitals are not making the financial assistance application process accessible to all eligible patients despite being required to do so by law. A significant number of hospitals' policies fail State Department of Health auditors compliance reviews.<sup>9</sup> Many hospitals receive more Indigent Care Pool funding than they provide in financial aid.<sup>10</sup> Part G of the Patient Medical Debt Protection Act would simplify and streamline eligibility for financial assistance so patients are actually able to access it.
- Patients should receive one itemized, comprehensive bill regardless of how many independent providers participated in their hospital care as Parts B-C would achieve. One patient CSS assisted received 27 different bills after one hospital visit for kidney stones.

### **c. Ensure all New Yorkers affected by COVID-19 have health coverage**

The most recent data from the U.S. Census shows that non-citizens in New York have an uninsured rate of 21 percent, even though overall only 5 percent of New Yorkers are uninsured.<sup>11</sup> Even though immigrant communities have been some of the hardest hit by COVID-19, they have continued to be excluded from health coverage and many other types of aid during the pandemic.<sup>12</sup> The State provided some relief by using the Emergency Medicaid program to cover COVID-19 testing and treatment for those without other coverage options, but as discussed above, New Yorkers are facing a backlog of health care needs that could be better addressed by providing comprehensive health coverage.

The Legislature should include the provisions of S2549/A1585 to allow all income-eligible New Yorkers to enroll in the Essential Plan if they have had COVID-19 regardless of their immigration status. The eligibility expansion created by the bill would last until the end of the state health emergency. This would be done with an estimated \$13 million in state-only funding.

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<sup>9</sup> Carrie Tracy, Elisabeth Benjamin, and Amanda Dunker, "Unintended Consequences: How New York State Patients and Safety-Net Hospitals Are Short-Changed," Community Service Society of New York, January 2018, [https://www.cssny.org/publications/entry/unintended\\_consequences](https://www.cssny.org/publications/entry/unintended_consequences).

<sup>10</sup> Amanda Dunker and Elisabeth Benjamin, "Discharged Into Debt: New York's Nonprofit Hospitals Are Suing Patients," Community Service Society of New York, March 2020, <https://www.cssny.org/publications/entry/discharged-into-debt>.

<sup>11</sup> United States Census Bureau, "Table S2701: Selected Characteristics of Health Insurance Coverage in the United States," 2019, <https://data.census.gov/cedsci/table?q=selected%20characteristics%20of%20health&g=0500000US36087&tid=ACSST1Y2019.S2701&hidePreview=true>.

<sup>12</sup> Make the Road New York, "Excluded in the Epicenter: Impacts on the COVID Crisis on Working-Class Immigrant, Black, and Brown New Yorkers," May 2020, [https://maketheroadny.org/wp-content/uploads/2020/05/MRNY\\_SurveyReport\\_small.pdf](https://maketheroadny.org/wp-content/uploads/2020/05/MRNY_SurveyReport_small.pdf).

## 2. Fair Hospital Funding

CSS urges the Legislature to reject the provisions of the Executive Budget that would undermine funding for safety-net providers. For over twenty years, New York has adopted policies that result in fewer resources for providers that serve low-income New Yorkers and communities of color, thus exacerbating the disparate mortality rates in those same communities.<sup>13</sup> CSS urges the legislature to ensure that the safety net is adequately financed.

### a. Restore indigent care pool funding for public hospitals and target indigent care pool funds to safety-net hospitals only.

New York State's Indigent Care Pool (ICP) is meant to support hospitals that care for uninsured patients and patients enrolled in Medicaid. State data on hospital discharges shows that 55 percent of patients discharged from public hospitals in 2017 (the most recent available data) were uninsured or enrolled in Medicaid, compared to 29 percent at all other hospitals.<sup>14</sup> However, the Executive Budget proposes to cut state financial support for public hospitals participating in the ICP program. The Legislature should reject this proposal.

Further, the Legislature should improve how New York distributes ICP funds so they are not given to wealthier hospitals with strong finances. In New York, all hospitals receive ICP funds regardless of their payer mix or their adherence to New York State's hospital financial assistance law.<sup>15</sup> In all other states, only hospitals that fall into the top twenty-five percentile for serving uninsured or Medicaid-enrolled patients receive this funding. This practice exacerbates the under-resourcing of safety-net providers in low-income communities of color. CSS estimates that if New York had distributed ICP funds in this way, safety-net hospitals would have received an additional \$13.4 billion over the past 20 years.<sup>16</sup> Over time this could have kept some safety-net hospitals open and saved lives during the pandemic.<sup>17</sup>

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<sup>13</sup> Harold A. Pollack and Caroline Kelly, "COVID-19 and Health Disparities: Insights From Key Informant Interviews," Health Affairs Blog, October 27, 2020, <https://www.healthaffairs.org/doi/10.1377/hblog20201023.55778/full/>.

<sup>14</sup> New York State Department of Health Office of Quality and Patient Safety, "Hospital Inpatient Discharges (SPARCS De-Identified): 2017, <https://health.data.ny.gov/dataset/Hospital-Inpatient-Discharges-SPARCS-De-Identified/22g3-z7e7>.

<sup>15</sup> Amanda Dunker and Elisabeth Benjamin, *supra* note 5 and Carrie Tracy et al. *supra* note 9.

<sup>16</sup> Amanda Dunker and Elisabeth Benjamin, "How Structural Inequalities in New York's Health Care System Exacerbate Health Disparities During the COVID-19 Pandemic: A Call for Equitable Reform," June 2020, <https://www.cssny.org/publications/entry/how-structural-inequalities-in-new-yorks-health-care-system-exacerbate-health>.

<sup>17</sup> Alexander T. Janke et al., "Analysis of Hospital Resource Availability and COVID-19 Mortality Across the United States," *Journal of Hospital Medicine*, Published Online First January 20, 2021. DOI: [10.12788/jhm.3539](https://doi.org/10.12788/jhm.3539) | [10.12788/jhm.3539](https://doi.org/10.12788/jhm.3539).

**b. Protect safety-net providers from across-the-board Medicaid cuts and eliminate the Medicaid global cap to prevent future arbitrary cuts to safety-net providers.**

The Executive Budget also proposes to disproportionately cut safety-net hospitals by imposing a 1% across-the-board Medicaid cut. Again, this cut is proposed at a time when New York’s history of under-funding safety-net hospitals is causing excess mortality in communities where people depend more on Medicaid. New York’s public health law defines some hospitals as enhanced safety-nets because of the high numbers of uninsured and Medicaid-enrolled patients they serve – these hospitals should be exempt from Medicaid rate cuts given the current crisis.

The Legislature should also enact A226, which would abolish the Medicaid global cap. The Medicaid global cap is ostensibly the reason the Executive Budget includes cuts to hospitals serving Medicaid patients. It is a threshold for Medicaid spending that does not change regardless of economic conditions or public health needs – once spending reaches that threshold, the State automatically cuts the program. Medicaid experienced record enrollment increases during 2020 because it is a lifeline when people lose work and job-based health insurance.<sup>18</sup> However, the Medicaid global cap means that the program will face even bigger cuts next year as a result of performing exactly as it is intended to. The Legislature should enact the language in A226 to repeal the global cap and return to budgeting for Medicaid based on need for the program.

**3. Fund programs that support patients**

CSS is very grateful that the Executive Budget includes funding for independent consumer assistance programs. New York State is a leader in providing this type of assistance to consumers and its models for providing consumer assistance have been lauded nationally by groups such as the National Governors Association, the Kaiser Family Foundation, and the US Department of Health and Human Services. The Executive Budget includes funding for two consumer assistance programs:

- Community Health Advocates (CHA): CHA helps consumers understand their insurance, resolve billing issues and coverage denials, secure prior authorizations, and access hospital financial assistance. The program helps over 30,000 New Yorkers every year and has saved consumers around \$70 million since launching in 2010. The Executive Budget includes \$2.5 million for Community Health Advocates and CSS asks that the legislature include an additional \$1.4 million to fund CHA to maintain the program at its current appropriation.

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<sup>18</sup> Medicaid Matters New York, “Medicaid Steps Up in Response to the Economic Consequences of the COVID-19 Pandemic,” February 2021, <https://medicaidmattersny.org/wp-content/uploads/2021/02/2020-enrollment-one-pager-MMNY-2.16.21.pdf>.

- Community Health Access to Addiction and Mental Healthcare Project (CHAMP): CHAMP is a first-in-the-nation independent consumer assistance program created for people in need of substance use disorder or mental health treatment. The Executive Budget allocates \$1.5 million and we urge the Legislature to adopt this proposal.

However, CSS urges the Legislature to reject the Executive Budget's proposal to cut the matching rate again for Article VI public health funds. The state matching rate for these programs was reduced from 36 percent to 20 percent last year; this year the matching rate would be reduced to just 10 percent. The reduction in the matching rate only applies to programs in New York City, the most racially diverse part of the State and the epicenter of the pandemic in the United States. These funds are critical for programs that help address public health crises such as HIV, viral hepatitis, TB, STIs that affect predominantly low-income, immigrant New Yorkers, and communities of color.

CSS recently joined 34 other advocacy and community-based services organizations in sending a letter to the Department of Health outlining deep inequality in New York's vaccination roll-out. CSS is deeply grateful to Senator Rivera and Assemblymember Gottfried for their leadership on vaccine equity and their support of the organizations working so hard to protect their communities during the pandemic. Cuts to Article VI programs are yet another example of the State's short-sightedness in terms of health equity and an act that is likely making it even harder for New York to fairly distribute life-saving vaccines.

Thank you again for considering our comments. Should you have any questions or seek further elaboration, please do hesitate to contact me at: [ebenjamin@cssny.org](mailto:ebenjamin@cssny.org) or 212-614-5461.