African Services Committee ☙ Actors Fund ☙ Center for Independence of the Disabled, New York
Children's Defense Fund-New York ☙ Community Service Society of New York ☙ Consumers Union
Empire Justice Center ☙ Hispanic Federation
Make the Road New York ☙ Medicare Rights Center ☙ Metro New York Health Care for All Campaign
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 on the Executive's Proposed Health/Medicaid 2023-2024 Budget

February 28, 2023

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 and the Senate Finance Committees for providing the public an opportunity to weigh in on the state budget. HCFANY is a statewide coalition of over 170 organizations dedicated to achieving quality, affordable health coverage for all New Yorkers.

The 2023-2024 Executive Budget includes full funding for most consumer assistance programs and other consumer protections such as a uniform hospital financial assistance application and a health insurance guarantor fund. These are important proposals for New York's consumers that should be built upon by the Legislature.

The Legislature should build upon these proposals to do more to ensure that New Yorkers can afford quality health care when they need it. Most importantly, the final budget deal should expand health coverage to uninsured New Yorkers, many of whom are unfairly excluded from coverage because of their immigration status (see Table 1 below). **Including immigrants in the State's 1332 Waiver budget language alone will generate at least $500 million in state savings that can be spent on other Legislative priorities.** Further, the budget should include more funding for the Navigator program, which helps people learn about and enroll in health insurance. It provides a much-needed one year cost-of-living increase for the Navigator program, which helps New Yorkers enroll in health insurance. However, this is the only cost-of-living increase the program has received since it began in 2013.

The Executive Budget could also do more to protect New Yorkers from medical debt. This requires making other needed reforms to the hospital financial assistance law on top of the uniform application, preventing medical debt from being reported on credit reports, and preventing State-operated hospitals from suing patients. Hospital financial assistance is especially important as a safety-net for the uninsured and should be available to eligible patients regardless of which hospital they use. New York should also ensure that the safety-net hospitals

that serve the most uninsured patients (and provide the most financial assistance) are supported by the indigent care pool.

Our detailed comments are offered below.

I. Access to Health Insurance Coverage

Everyone in New York should have access to affordable health insurance. However, over one million New Yorkers are uninsured. New York should ensure that immigration status is not a barrier to health insurance. It should also ensure fairness in the Medicaid program by equalizing eligibility for all populations and removing enrollment barriers.

Coverage4All

Last year, Governor Hochul promised to seek federal funding for expanding Essential Plan coverage to excluded immigrants.[1] An estimated 245,000 New Yorkers between the ages of 19 and 64 are uninsured because of their immigration status—their peers with the same income can enroll in public health insurance. (See chart below.) The Essential Plan is one of New York's public health insurance programs and currently covers other New Yorkers who earn up to 200 percent of the federal poverty level. It is fully funded by the federal government and, in fact, the funding formula produces a surplus each year. The trust fund holding this surplus grows by $2 billion every year; it already contains $9 billion.[2] **Under federal law, this funding can only be spent on health coverage.[3]**

Table 1: The Uninsured in New York State	
	2023 (Projected)
Eligible to purchase Marketplace coverage, income at or above 200 percent of FPL	421,000
- Subsidy Eligible (200 to 400 percent of FPL)	259,000
- Not Subsidy Eligible (above 400 percent of FPL)	162,000
Immigrants currently ineligible for public or Marketplace coverage because of immigration status	245,000
Eligible but unenrolled in public coverage, income below 200 percent of FPL	345,000
TOTAL	**1,012,000**

Note: Sub-groups may not sum to total because of rounding.

Source: CSSNY and Citizens Budget Commission, "Narrowing the Coverage Gap: Five Strategies to Increase Insurance Coverage in New York," January 2022, https://www.cssny.org/publications/entry/narrowing-new-yorks-health-insurance-coverage-gap.

[1] https://www.youtube.com/watch?v=Ysb38zrpx6Q&t=2066s.
[2] Bill Hammond, "The Essential Plan's accumulated surplus balloons to $8 billion, with no fix in sight," September 8, 2022, The Empire Center, https://www.empirecenter.org/publications/the-essential-plan-surplus-balloons-to-8-billion/.
[3] NY State of Health, 'Essential Plan Expansion 1332 Waiver Submission and Review of Public Comments," https://info.nystateofhealth.ny.gov/1332.

In February, New York issued a draft federal 1332 waiver which could have been the Governor's vehicle for obtaining federally-funded coverage for excluded immigrants. Instead, it ignores them. Ensuring that all New Yorkers have health insurance would benefit everyone, not just the newly covered. The NYC Comptroller's office estimates that covering excluded immigrants through the Essential Plan would produce $710 million annually by preventing premature death, increasing labor productivity, reducing out-of-pocket health care expenses, and reducing uncompensated care.[4] Health insurance is especially important during a time of global pandemics. Families USA estimates that over 400,000 cases of Covid-19 were linked to a lack of health insurance in New York between February 2020 and February 2021, and over 10,000 deaths.[5] Including immigrants in the 1332 waiver would also replace over $500 million currently used to fund Emergency Medicaid, because that program would no longer be needed. Currently, Emergency Medicaid covers undocumented people when they have health emergencies. The Essential Plan would give them comprehensive health coverage, with no cost to the State. More New Yorkers would have access to preventive and routine health care instead of only being able to access care after developing a serious health problem, and the State would have more resources for other budget items.

Without the federal waiver, New York's only other option is using state funding to enroll excluded immigrants into a Medicaid-like program. This is how California, which does not have the Essential Plan, provides health insurance to the same population. In New York, this would cost the state an estimated $541 million. New York should enact A3020/S2237 to ensure that this program is created in the absence of federal support for covering immigrants through the Essential Plan.

Eliminate the Medicaid Asset Test.

People who are over 65 years old or who have a disability are the only people whose assets are scrutinized when enrolling in Medicaid. The asset test should be eliminated so that no one in the State faces more onerous eligibility rules for the same coverage. At the very least, it should match the asset test to the new levels proposed for the Medicaid Buy-In Program for People with Disabilities.

Expansion of Medicaid Buy-In For People with Disabilities.

The Executive Budget eliminates an age cap and expands allowable resources for this program, which provides a health coverage option for people who earn too much for Medicaid eligibility but choose to pay premiums to enroll in Medicaid. This expansion includes an overall cap of 30,000 people. The State should not prevent people from enrolling in this program if they

[4] New York City Comptroller Brad Lander, "Economic Benefits of Coverage for All, March 2022, https://comptroller.nyc.gov/reports/economic-benefits-of-coverage-for-all/

[5] Stan Dorn and Rebecca Gordon, "The Catastrophic Cost of Uninsurance: Covid-19 Cases and Deaths Closely Tied to America's Health Coverage Gaps," Families USA, March 4, 2021, https://familiesusa.org/resources/the-catastrophic-cost-of-uninsurance-covid-19-cases-and-deaths-closely-tied-to-americas-health-coverage-gaps.

meet eligibility requirements by capping enrollment. The State should also protect people enrolled in the program from paying large proportions of their income in health insurance premiums. People who buy private health insurance through the New York State of Health or through their employers are protected by the Affordable Care Act from spending more than a certain threshold of their income in premiums.

Finally, the asset test calculation should not be limited to a household of two. People with disabilities have families too, and the asset test should reflect the actual number of people who live in the home. It is unfair that people with disabilities who must purchase their own insurance do not receive those protections.

Continuous Medicaid coverage for children from birth to age 6.

Children eligible for Medicaid at birth should stay eligible until age six if their families earn under 200 percent of the federal poverty level. A federal requirement to keep children enrolled in public coverage during the pandemic is set to expire soon. Other states, including Oregon, have applied for a federal waiver to retain the ability to keep children enrolled in Medicaid and the Child Health Program until they reach age 6. New York should do the same.

II. Medical Debt

Health care is unaffordable in New York, and patients are suffering serious financial harm as a result of needing medical care. Over 53,000 were sued by hospitals between 2019 and 2020, and thousands had liens placed on their homes or had their wages garnished.[6] HCFANY is very grateful to the Legislature for outlawing the practice of medical liens and wage garnishments, but this does not help the 38 percent of New Yorkers who say they avoid necessary medical care because of costs or the 34 percent who say they have experienced serious financial harm due to medical bills (such as being unable to afford basic necessities or using up all of their savings).[7]

New York should ensure that eligible New Yorkers have access to hospital financial assistance through a single application form, as proposed by the Administration's Article VII bill, but expand it to be consistent with the Ounce of Prevention Act (S1366/A8441 (2022 version) and protect New Yorkers with medical debt from adverse credit reporting of medical debts—which the Consumer Financial Protection Bureau has found to be both inaccurate and not predictive of a consumer's creditworthiness.[8]

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[6] Amanda Dunker and Elisabeth Benjamin, "Discharged Into Debt: New York's Nonprofit Hospitals Garnish Patients' Wages," July 2022, https://www.cssny.org/publications/entry/discharged-into-debt-new-yorks-nonprofit-hospitals-garnish-patients-wages.

[7] Amanda Dunker and Elisabeth Benjamin, "Financial Hardship, Avoiding Care: Results from Statewide Survey, Community Service Society of New York, March 10, 2022, https://www.cssny.org/news/entry/financial-hardship-avoiding-care-healthcare-affordability-survey

[8] Bureau of Consumer Financial Protection, "Medical Debt Burden in the United States," February 2022, https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf

Hospital Financial Assistance.

The Executive Budget makes a big step forward for patients by calling for hospitals to use a uniform financial assistance application at the end of Subpart C of its Article VII bill. Under State law, hospitals that receive funding from the Indigent Care Pool (almost all of them) are required to have a financial assistance policy and charge discounted prices to eligible patients. The Indigent Care Pool distributes over $1 billion a year. Non-profit hospitals (the only type of hospital New York has) are also required by the IRS to screen patients for financial assistance before engaging in extraordinary collections activities, such as selling a patients' debt, reporting adverse information to credit agencies, or suing them.[9]

Advocates have gathered copious evidence that New York's hospitals are not adequately screening patients for financial assistance—or even informing them that they have financial assistance policies.[10] Research on hospital lawsuits in New York suggests that they target low-income patients who should be eligible for discounted prices.[11] These lawsuits also disproportionately target people of color. Hospitals improved their compliance after the State began auditing them in 2012; however, the most recent audit data shows they are backsliding.[12] Some of the most common problems are clear violations of State law, such as applications that ask for Social Security numbers or past tax returns.

The barriers hospitals create result in large disparities between the financial assistance hospitals provide. This is unfair to the safety net hospitals that follow the law, and to patients who receive very different treatment depending on their income and where they attempt to receive care. These failures disproportionately hurt people of color, who are disproportionately uninsured due to New York's failure to ensure health coverage for all residents. Only 3 percent of White New Yorkers are uninsured, compared to 10 percent of Hispanic or Latino New Yorkers, 7 percent of Asian New Yorkers, and 6 percent of Black New Yorkers.[13] In 2020, hospitals provided a range of financial assistance to patients from just $2,017 (NY Presbyterian Queens) to $85.3 million (Elmhurst).

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and "CFPB Estimates $88 Billion In Medical Bills on Credit Reports," March 1, 2022, https://www.consumerfinance.gov/about-us/newsroom/cfpb-estimates-88-billion-in-medical-bills-on-credit-reports/.

[9] IRS, Billing and Collections – Section 501®(6), https://www.irs.gov/charities-non-profits/billing-and-collections-section-501r6

[10] Carrie Tracy, Elisabeth Benjamin, and Amanda Dunker, "Unintended Consequences: How New York State Patients and Safety-Net Hospitals are Shortchanged," Community Service Society of New York, January 2018, https://www.cssny.org/publications/entry/unintended_consequences.

[11] Amanda Dunker and Elisabeth Benjamin, "Discharged Into Debt: Medical Debt and Racial Disparities in Albany County," March 2021, https://www.cssny.org/publications/entry/discharged-into-debt-medical-debt-and-racial-disparities-in-albany-county.

[12] Health Care For All New York, "Still Waiting After All These Years: Many Nonprofit Hospitals' Financial Aid Policies Fail Health Department Audits," Blog post, November 1, 2021, https://hcfany.org/still-waiting/.

[13] Census Table S2701, 2021 five-year estimates.

The State should also make other reforms to modernize the financial assistance law, as would occur if it enacted S1366/(A8441 in 2022)):

- There should be a simple discount schedule. The law currently provides a complicated method for determining whether hospitals can charge eligible patients based on private payer, Medicaid, or Medicare rates. Patients are asked to pay far too much in relation to their incomes. Instead, people earning 400-600 percent of the federal poverty level should pay the Medicare rate. At 200-400 percent, they should pay 20 percent of Medicare. Below that, they should only pay the nominal fee set by the Department of Health. These changes would still mean New Yorkers pay more than similar patients in other states. For example, in New Jersey, people earning under 500 percent of the federal poverty level may only be charged 15 percent of the Medicare rate.
- Eligibility should increase to 600 percent of the federal poverty level to match Affordable Care Act subsidy levels and many hospitals' current policies. The current threshold, 300 percent of the federal poverty level, is too low.
- No one should be subjected to an asset test to qualify for financial assistance.

Fair Credit Reporting.

The Executive Budget should go further to ensure patients who cannot afford hospital care and whose care is not being covered by insurance are charged reasonable rates. The Executive Budget includes some changes to the CPLR that could help some New Yorkers who are sued over medical debt. The budget should also contain a prohibition on adverse reports to credit agencies related to medical debt. Medical debt is the most common type of debt reported by the national credit reporting agencies.[14] This occurs even though medical debt is not voluntary and patients have little control over what medical care they must pay for.

Credit reporting agencies have recently agreed to stop reporting medical debt under $500. This is not enough. According to the Urban Institute, which conducts random samples of credit reports, six percent of New Yorkers have past due medical debt on their credit reports.[15] This varies widely: from three percent in Nassau County to 26 percent in Chemung County. The counties with the highest proportions of past due medical debt are shown in Table 2. Three are in the Southern Tier (Chemung, Schuyler, and Steuben). Two each are in Central New York (Oswego and Onondaga), Mid-Hudson (Sullivan and Montgomery), and the North Country (Jefferson and St. Lawrence). One, Seneca County, is in the Finger Lakes region.

Table 2. New York Counties with Highest Proportion of Residents with Past Due Medical Debt on Their Credit Reports (2021)

[14] Lucas Nathe and Ryan Sandler, "Paid and Low-Balance Medical Collections on Consumer Credit Reports," Consumer Financial Protection Bureau, July 27, 2022, https://www.consumerfinance.gov/data-research/research-reports/paid-and-low-balance-medical-collections-on-consumer-credit-reports/.
[15] Urban Institute, "Debt In America," https://apps.urban.org/features/debt-interactive-map/?type=medical&variable=medcoll&state=36.

County	Credit Reports with Medical Debt	Median Medical Debt
Chemung	27%	$989
Oswego	19%	$528
Seneca	15%	$494
Schuyler	15%	$395
Onondaga	14%	$449
Jefferson	14%	$668
Steuben	14%	$797
St. Lawrence	14%	$775
Sullivan	14%	$894
Montgomery	13%	$815
New York State	6%	$456

Overall numbers mask large racial disparities in some communities. There are 14 counties where fewer residents in majority-White zip codes have past due medical debt on their credit reports than residents in communities of color. For example, in Westchester County, where there is the biggest racial disparity, 4.5 percent of residents overall have medical debt on their credit reports. This drops to 2.5 percent of people in majority-White zip codes but in communities of color it increases to 7.9 percent, a 319 percent difference.

Racial disparities in credit damage caused by medical debt are prevalent in deindustrialized Upstate cities (including Albany, Buffalo, Rochester, Schenectady, and Syracuse), Long Island, all New York City boroughs other than the Bronx, Franklin County (in the North Country), and Rockland County (in the mid-Hudson region)

Table 3. Racial Disparities in Share of Residents with Medical Debt on Their Credit Reports

County	**Overall**	**Majority White Zip Codes**	**Communities of Color**	**Difference**
Westchester	4.5%	2.5%	7.9%	320%
Schenectady	8.6%	7.3%	19.0%	260%
Onondaga	14.2%	10.7%	26.4%	247%
Albany	7.5%	6.1%	14.8%	244%
Erie	7.8%	6.3%	15.4%	243%
Monroe	3.7%	2.9%	6.9%	240%
Rockland	4.4%	3.5%	7.5%	217%
New York	2.9%	2.0%	4.0%	200%
Kings	3.4%	2.5%	4.4%	178%
Nassau	2.7%	2.3%	3.9%	171%
Franklin	8.8%	8.1%	13.5%	166%
Richmond	3.0%	2.6%	3.7%	142%
Queens	3.8%	3.0%	4.1%	133%

Suffolk	3.2%	3.0%	3.7%	125%

There are also racial disparities in the amount of medical debt in some communities. Table 4 shows the nine counties where the median amount of past due medical debt is higher in communities of color than for majority-white communities.

Table 4 . Racial Disparities in Medical Debt Amounts

County	Overall	Majority White Zip Codes	Communities of Color	Difference
Westchester	$615	$424	$737	$313
Albany	$525	$456	$889	$433
Monroe	$414	$366	$449	$83
Rockland	$530	$482	$627	$145
New York	$352	$339	$362	$23
Kings	$380	$304	$400	$96
Nassau	$325	$320	$344	$24
Richmond	$343	$300	$447	$147
Queens	$351	$281	$358	$77

This difference means that a recent change in which the credit agencies will remove medical debt under $500 from credit reports disproportionately benefits White communities. For example, in Albany County, the median medical debt in majority-White communities is $456, under $500. Most people there will have medical debt removed from their credit reports. But in communities of color, the median debt is $889. Most residents of those communities will retain medical debt on their credit reports. The change will also leave most medical debt in place for most people in seven of the counties with the biggest proportions of people with medical debt (see Table 1).

SUNY Patient Lawsuits.

The Executive Budget appropriates $72 million for uncompensated care provided by three SUNY teaching hospitals, outside of the Indigent Care Pool. Two of these hospitals more patients than any other hospitals in the state: SUNY Upstate sued an astonishing 1,562 people in 2019.[16] No state-operated hospital should sue any patients at all, much less sue more patients than private hospitals. The budget should include language which prohibits state hospitals from suing patients along with the language increasing the support they receive for caring for low-income patients.

Price Transparency.

[16] Elisabeth Benjamin and Amanda Dunker, "Discharged Into Debt Hospital Profile: Upstate University Hospital," December 2022, https://www.cssny.org/publications/entry/discharged-into-debt-hospital-profile-upstate-university-hospital.

The Executive Budget does not do enough to address health care prices. The transparency requirements related to prescription drug prices are a good step, especially because they will add disclosures from relevant entities to searchable public databases for the first time. Prescription drugs are only one part of the reason New Yorkers cannot afford medical care. The State should also undertake a serious effort to control hospital and other prices, including strategies like global hospital budgets (as are used in Maryland) and rate setting. Governor Hochul announced a Commission on the Future of Health Care in her State of the State address, but the Commission's charge did not include controlling health care prices. This should be a priority for the Commission, and patients and patient advocates should be part of all cost discussions.

III. Consumer Assistance and Protection

The end of the public health emergency means eligibility and renewal processes will change for 9 million New Yorkers. The State and Federal governments took steps during the pandemic to protect people from the churning that often occurs when people renew because of income changes or administrative issues. For example, New York has not required any of the 7 million people enrolled in Medicaid to renew since 2020. People will need help managing these changes without disruptions in coverage or care.

- The Facilitated Enrollment for the Aged, Blind, and Disabled (FEABD) program helps people with disabilities and people who are over 65 years old enroll in Medicaid. This group of people is not allowed to enroll through the New York State of Health and faces more eligibility hurdles than other people eligible for Medicaid. Last year, New York finally raised their income threshold to match everyone else eligible for Medicaid (from 84 percent to 138 percent). The Executive Budget increased funding for this program by $3 million to $8 million. This increase should be maintained in the final budget to ensure all newly eligible people successfully enroll.
- Navigators have helped over 300,000 New Yorkers enroll since 2013 without ever receiving a cost-of-living increase. The Executive Budget includes a one-year cost-of-living increase of $300,000. However, New York should increase Navigator funding from $27.2 million to $38 million to reflect ten years without appropriate increases. The Navigator program is an important tool for handling the end of the public health emergency. New York should also create a $5 million grant program to fund community-based organizations to conduct outreach in communities with high rates of uninsured people.
- The Community Health Advocates (CHA) program helps people with any type of health insurance access in-network care, manage billing problems, appeal coverage denials, and manage other problems that might prevent them from obtaining affordable medical care. CHA should maintain its funding this year (a total of $5.234 million). Services are provided by a network of community-based organizations in every part of New York. The Governor's budget already includes $3.5 million for CHA. The Legislature should allocate an additional $1.734 million.

- CHAMP provides specialized post-enrollment services for people seeking substance use disorder or mental health treatment. Its funding should be maintained at $3 million, as it is in the Executive Budget.

HCFANY also thanks the Governor for providing $2 million to create an ombudsman program for people with intellectual disabilities. The Legislature should ensure that this program is included in the final Article VII bills.

Guarantor Fund for Health Insurance.

The Executive Budget includes a guarantor fund for health insurers. New York is the only state without such a fund, which exists to pay claims if a health insurer files for bankruptcy. When this happens, providers may turn to patients to pay any outstanding claims. The guarantor fund is an important protection from unexpected bills accrued when a patient had health insurance.

IV. Access to Care

New York should support safety-net providers that care for underserved communities.

Indigent Care Pool

The Indigent Care Pool provide over a billion to hospitals to support them for caring for people without insurance or with Medicaid. Unlike other states, New York distributes fund from this pool to almost all hospitals, instead of reserving it for safety-net hospitals that care for the most uninsured people. Over the years, this has meant hundreds of millions less in support for those hospitals and has left some communities without access to hospitals. The Executive Budget includes a cut of $235 million to the indigent care pool for hospitals other than safety-net hospitals. This funding should be redirected specifically to those hospitals which qualify as Enhanced Safety Net Providers.

Thank you again for providing this opportunity to testify and your consideration of our concerns. Please contact Amanda Dunker (adunker@cssny.org) with any questions. We stand ready to work with the Legislature to move forward on our recommendations.