



February 8, 2022

Testimony of Health Justice Director Amber Khan, Esq., on behalf of New York Lawyers for the Public Interest before the Joint Legislative Budget Hearing on Health and Medicaid

Thank you for the opportunity to present testimony regarding the Executive Budget's proposed changes to the Essential Plan, telehealth and expansion of LBGTQIA+ Health Services and the Gender Recognition Act. New York Lawyers for the Public Interest (NYLPI) is a community-driven civil rights organization with a Health Justice Program that brings a racial equity and immigrant justice focus to healthcare advocacy. We work to connect undocumented and uninsured immigrants with serious health conditions to state-funded healthcare, provide direct legal services to transgender, gender-nonconforming, intersex (TGNCI) and undocumented individuals living with HIV by filing for viable immigration relief, advocate for healthcare coverage for all New Yorkers, and work to address the social determinants of health. We believe health justice affects all parts of New Yorkers' lives.

The Essential Plan

While NYLPI strongly supports the plan to expand the Essential Plan by raising the threshold from 200 to 250 percent of the federal poverty level, we and our partners in the Coverage For All coalition are incredibly disappointed that yet again, vital health coverage for immigrant New Yorkers was not included. The Governor's proposed expansion of Essential Plan is a positive step towards making healthcare more affordable for New Yorkers. However, it is not nearly enough. For the 400,000 immigrant New Yorkers who are undocumented, access to healthcare itself is deeply limited; they rely primarily on expensive visits to the emergency room — or simply go without medical care entirely. Due to the spread of Covid19, this situation has become most dire, especially for people suffering from serious and chronic illnesses. NYLPI has long supported accessible healthcare for all New Yorkers, including immigrants.

We urge the Senate and Assembly to include #Coverage4All in the One House State budgets (A.880A/S.1572). This would create a state-funded Essential Plan, providing access to health insurance for income eligible New Yorkers who are currently excluded simply because of their immigration status. Immigrant New Yorkers have been at the forefront of the state's fight against COVID-19, making up 54 percent of essential workers in New York and playing a key role in all sectors of our battle against the pandemic, from food production and delivery, to construction, to providing frontline health care. Additionally, seventy percent of New York's undocumented

labor force work in essential businesses. This ongoing exposure has contributed to higher levels of COVID-19 infection and death, which have disproportionately afflicted immigrant communities of color. The single greatest predictor of mortality among people who contract COVID-19 is the existence of an underlying health condition. Having health insurance is an important predictor of having regular access to care and controlled chronic health conditions. The connection is clear – by failing to provide meaningful ongoing access to affordable health services through coverage, the state is exacerbating the COVID-19 crisis. The pandemic presents a grim opportunity to see the life-and-death consequences of this inaction, Assembly bill 880A and Senate bill 1572 offer an opportunity for New York State to seize the moment and take a step toward equity in health care access for the communities suffering most acutely from this crisis, by ensuring access to affordable health insurance coverage.

We appreciate the Governor's interest in supporting affordable healthcare. To truly deliver that care for all New Yorkers, accessibility - particularly during a public-health crisis – must be prioritized.

Expanded Access to Telehealth and Need for Reform

NYLPI supports expanding access to telehealth, equal reimbursement for telehealth care by private insurers, and applauds the Governor's call to eliminate the access barriers to telehealth faced by some New Yorkers. NYLPI has found that people with disabilities face particular challenges in accessing telehealth, and we hope to ensure that the state will undertake reforms to create a universally accessible telehealth system.

The proposal to expand and make permanent certain COVID-19 related expansions to telehealth services is again a positive step towards ensuring access to healthcare for more New Yorkers. However, the telehealth services themselves must be assessed and improved to ensure they are in fact accessible for all New Yorkers, including people with disabilities. Nearly one million New Yorkers self-identify as people with disabilities.¹ Many already faced physical barriers to basic health services at their doctors' offices, clinics, or hospitals, including inaccessible entrances and unusable basic medical equipment such as examination tables. New York's inaccessible transit systems and dysfunctional paratransit system (Access-A-Ride) create additional barriers for patients with disabilities travelling to medical offices. NYLPI has a long history of working to ensure medical access for people with disabilities, has published reports on the topic and represented individuals facing barriers to accessible medical care. We pursue systemic improvements and work with a coalition of advocates and City and State civil rights enforcement agencies, connecting with community members to educate them about their rights to accessible medical equipment, accessible facilities, reasonable accommodations, and how to file complaints.

Fortunately, telehealth has proven to be a useful and beneficial health resource for people with disabilities; specifically, telehealth features greater access to specialists, reduction in emergency

¹ See Testimony of Matilda Roman, The Delivery of Culturally Competent & Equitable Health Care Services in New York City Hospitals, <https://www.nychealthandhospitals.org/new-york-city-council-oversight-hearing-the-delivery-of-culturally-competent-equitable-health-care-services-in-new-york-city-hospitals/>.

room utilization, and cost savings.² Given these advantages, concurrent actions must be taken to reduce telehealth access barriers and their associated effects on medical services utilization. During 2021, NYLPI surveyed New York City residents with disabilities, aged 18 and older, to gather information about access to telehealth during COVID-19.³ The conclusions to be drawn from the Telehealth Survey Report are twofold: (1) People with disabilities support continued coverage for telehealth, as an alternative and addition to in-person care, and (2) enhancements to telehealth are necessary to increase its accessibility and to ensure it meets the standard of care characteristic of in-person visits. Evidenced by survey responses, the following should be considered: increased Wi-Fi capabilities for providers; availability of American Sign Language and spoken language interpreters for appointments as needed; providers to utilize accessible applications and standard platforms for managing appointments; and increased patient access to telehealth-compatible devices.

Furthermore, a large percentage of people with disabilities live below the poverty line; without baseline technology devices and broadband internet, the telehealth platform is not useful. Certain people with disabilities may also not possess the level of technology literacy necessary to utilize telemedicine. The lack of in-person connection between the medical providers and people with disabilities risks the delivery of a lower level of care. To address these access barriers, appropriate funding must be allocated to ensure that users possess adequate technology devices and internet services, trainings must be provided to raise technology literacy levels when appropriate, and procedures must be instituted to address the risks of diminished quality of care when treating people with disabilities through telemedicine.

Expansion of LGBTQIA+ Health Services and the Gender Recognition Act

NYLPI applauds the proposed policies to advance the rights of LGBTQIA+ New Yorkers, including expansion of LGBTQIA+ Health Services and the Gender Recognition Act.

For many of the clients and communities NYLPI works with, legal gender affirmation is critical to their health and well-being. Tragically, the legal name change process can be lengthy, arduous, and dangerous.⁴ More and more states are changing their laws to allow residents to change their gender marker and name more easily on government identification.⁵ A recent study found that legal “gender affirmation was significantly associated with lower reports of

² Elizabeth Edwards, Daniel Young, *Telehealth and Disability: Challenges and Opportunities for Care*, National Health Law Program (May 6, 2020), <https://healthlaw.org/telehealth-and-disability-challenges-and-opportunities-for-care/>. Non-emergency medical transportation for Medicaid enrollees – which is a Federally mandated service – costs New York hundreds of millions annually, according to the state’s Medicaid Redesign Team. See New York State Department of Health, *Medicaid Redesign Team Waiver* (March 5, 2021), https://www.health.ny.gov/health_care/medicaid/redesign/mrt2/ext_request/2020-12-14_draft_extension_app.htm.

³ See NYLPI, *NYLPI Launches Telehealth Accessibility Survey* (March 25, 2021), <https://www.nylpi.org/nylpi-launches-telehealth-accessibility-survey/>. We would like to thank Christina Sparrock and [Jose Hernandez](#) for their feedback and comments on the design and content of this survey, and our allies and community members for sharing their input and experiences throughout the course of this project.

⁴ National Center for Transgender Equality, *Name changes and forced outing: a small victory* (Nov. 19, 2019), <https://transequality.org/blog/name-changes-and-forced-outing-a-small-victory>.

⁵ Arjee Restar et al., *Legal gender marker and name change is associated with lower negative emotional response to gender-based mistreatment and improve mental health outcomes among trans populations*, 11 *Population Health* 1-9 (2020).

depression, anxiety, stigmatization, global psychiatric distress, and upsetting responses to gender-based mistreatment.” Further, the “[f]indings bolster calls to increase structural support for trans individuals, including enactment of state policies easing legal gender affirmation.”⁶ NYLPI was therefore supportive of the passage of the Gender Recognition Act and similarly supports the proposal to expand it.

In 2020, NYLPI launched a new project, UndocuCare TGNCI+, aimed to break down two major barriers to accessing health care: lack of immigration status and risk of detention. Undocumented TGNCI individuals, doubly marginalized due to citizenship status and gender identity, face particular challenges, including discrimination in health care, verbal harassment and refusal of treatment. Disparities in care are multiply compounded when a person is undocumented and, as a result, uninsured. Through UndocuCare TGNCI+, NYLPI has committed to confronting these barriers to healthcare access by providing immigration representation and connecting individuals to life-affirming and life-saving healthcare as well as comprehensive services, including assistance with legal name petitions.

NYLPI therefore applauds the proposed investment of \$7 million “to support the LGBTQIA+ community with direct health services, cultural competency education and training, and organizational capacity building.” We are hopeful these proposed changes will further support our clients access necessary healthcare, and to have legal names and identity documents that match their gender identities.

Thank you for your consideration. I can be reached at akhan@nylpi.org.

About New York Lawyers for the Public Interest

For over 40 years, New York Lawyers for the Public Interest (NYLPI) has been a leading civil rights advocate for New Yorkers marginalized by race, poverty, disability, and immigration status. Through our community lawyering model, we bridge the gap between traditional civil legal services and civil rights, building strength and capacity for both individual solutions and long-term impact. Our work integrates the power of individual representation, impact litigation, and comprehensive organizing and policy campaigns. Guided by the priorities of our communities, we strive to achieve equality of opportunity and self-determination for people with disabilities, create equal access to health care, ensure immigrant opportunity, strengthen local nonprofits, and secure environmental justice for low-income communities of color. www.nylpi.org.

⁶ *Id.*