children's defense fund new york

Testimony for the

Joint Legislative Hearing on the 2022-2023 New York State Health/Medicaid Executive Budget

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About the Children's Defense Fund – New York

Children's Defense Fund – New York (CDF-NY) thanks the chairs of the Assembly Ways and Means Committee and the Senate Finance Committee for the opportunity to submit testimony on the 2022 – 2023 New York State Health/Medicaid Executive Budget Proposal.

CDF-NY is a non-profit child advocacy organization that works statewide to ensure *every* child in New York State has a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and a successful passage to adulthood with the help of caring families and communities. As the New York office of the Children's Defense Fund (CDF), a national organization with roots in the Civil Rights Movement, we are committed to advancing racial equity and to leveling the playing field for vulnerable New York children, youth and families. We envision a state – and a nation – where children flourish, leaders prioritize their well-being and communities wield the power to ensure they thrive. CDF-NY provides a strong, effective and independent voice for children who cannot vote, lobby, or speak for themselves. We pay particular attention to the needs of children living in poverty, children of color and those with disabilities. CDF-NY strives to improve conditions for children through research, public education, policy development, direct service, organizing and advocacy. Our policy priorities are racial justice, health justice, education justice, child welfare, youth justice and economic mobility. To learn more about CDF-NY, please visit www.cdfny.org.

New York must prioritize the health and wellbeing of its most marginalized children, youth and communities.

As New Yorkers endure the third year of a pandemic which continues to compromise the health, safety and stability of our children, youth and families – and has highlighted and exacerbated longstanding inequities disparately affecting our communities of color – prioritizing the health and wellbeing of our communities is more urgent than ever before. This directive is especially critical given that, pre-pandemic, one in five children in New York lived in poverty, with Black and Latinx children more than twice as likely as white children to live in poverty statewide.[1] We must seize upon the 'reset and rebuild' opportunity the pandemic has afforded us to center the needs of the youngest New Yorkers and to create a State where marginalized children, youth and families can not only grow but thrive.

CDF-NY has long believed that budgets are moral documents that convey a society's priorities. While the focus of this testimony is the Health/Medicaid Executive Budget Proposal's impacts on children, we know that our children do not exist in a vacuum. Their health, livelihoods and well-being are inextricably linked to the health, livelihoods and well-

[1] U.S. Census Bureau, 2019 American Community Survey 5-Year Detailed Estimates.
To view CDF-NY's county data profiles, please visit https://cdfny.org/county-profiles/.

being of their families and communities. Healthy adults and caregivers are better able to provide for their children and families – which, for so many New York families, is more critical than ever. We thereby stand alongside our partners in calling for a State Budget that improves the health and wellbeing of New York's most marginalized populations.

I. Childhood lead exposure and poisoning threaten the health and wellbeing of the youngest New Yorkers.

The Executive Budget does not make adequate investments towards combatting child lead poisoning in New York. Childhood lead poisoning is an urgent – albeit entirely preventable – crisis in our State, undoubtedly one of the greatest public health threats to New York's children and youth. New York has more known cases of children with elevated blood lead levels than any other state in our nation, [2] with childhood lead exposure rates for many communities across our State and in New York City five to six times higher than those in Flint, Michigan at the peak of its water crisis. [3] New York's older housing stock – our State carries the oldest housing inventory among the 50 states – places our residents at a particularly high risk of exposure to lead hazards. [4] The COVID-19 pandemic has only worsened the burdens of childhood lead exposure and poisoning, with children spending increased amounts of time in homes where they may be exposed to lead and amidst declines in well-child visits, where lead tests are typically administered to young children. [5] Furthermore, many of our State's county health departments have been forced to redirect already-scare childhood lead poisoning prevention resources to pandemic response efforts.

The health effects of childhood lead exposure are irreversible and there is no known safe level of lead in children, a fact affirmed by the Centers for Disease Control and Prevention's recent reduction of the blood lead reference value from 5 µg / dL to 3.5 µg / dL. [6] An estimated 28,820 New York children born in 2019 (approximately 12 percent of our State's birth cohort for that year) will have blood lead levels above 2 µg / dL, the lowest level at which the effects of childhood lead exposure are well documented. [7] Even low levels of lead in the blood have been shown to affect children's intelligence quotient (IQ), academic achievement, ability to concentrate, hearing and speech.

Each year, over 18,000 New York children are identified as having blood lead levels at or above 5 µg / dL. Such lead exposure can result in serious neurological and physical damage to children, impacting lifelong health and educational attainment and causing

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[2] "Blood Lead Levels (µg / DL) among U.S. Children < 72 Months of Age, by State, Year, and Blood Lead Level (BLL) Group", Centers for Disease Control and Prevention, accessed November 10, 2021, https://www.cdc.gov/nceh/lead/docs/cbls-national-data-table-508.pdf.

[3] "Special Report: Despite Progress, Lead Hazards Vex New York," *Reuters,* November 14, 2017, https://www.reuters.com/investigates/special-report/usa-lead-newyork/.

[4] Katrina Smith Korfmacher, Emily A. Benfer and Matthew Chachère, "Lead Laws and Environmental Justice in New York," *The New York Environmental Lawyer,* Vol. 39, No. 1 (November 22, 2019), https://ssrn.com/abstract=3492119.

[5] "More Childhood Lead Poisoning Is a Side Effect of Covid Lockdowns," *The New York Times*, March 11, 2021, https://www.nytimes.com/2021/03/11/health/virus-lead-poisoning-children.html.

[6] Ruckart PZ, Jones RL, Courtney JG, et al. Update of the Blood Lead Reference Value — United States, 2021. MMWR Morb Mortal Wkly Rep 2021; 70:1509–1512. DOI: http://dx.doi.org/10.15585/mmwr.mm7043a4.

[7] "Value of Lead Prevention," Altarum, accessed November 10, 2021, http://valueofleadprevention.org/calculations.php?state=New+York.

anemia, hypertension, immunotoxicity, renal impairment and toxicity to reproductive organs. [8] Further acute and chronic effects of an elevated blood lead level include appetite loss, constipation, abdominal colic, behavioral issues, hearing and balance issues, encephalopathy, growth retardation, delayed sexual maturation, increased dental caries and cardiovascular and renal diseases. [9] Lead exposure is particularly dangerous for pregnant women, and can cause gestational hypertension, low birth weight and impaired fetal development.

a. Childhood lead exposure and poisoning are racial and environmental injustices.

Pervasive racial and socioeconomic disparities exist in New York's burden of childhood lead poisoning, with our State's children of color and low-income children disparately affected. New York's children of color and low-income children are most likely to live in high lead-risk housing (pre-1978 housing in poor condition) and to live in households that may lack capacity to reduce lead hazards. In 2005, more than half of New York children identified with blood lead levels over 10 µg / dL lived in just 68 of the over 1600 zip codes in our State, most of which encompassed communities of color in older urban areas. [10] The majority of New York zip codes with the highest proportion of lead poisoning cases are located within Buffalo, a city whose population is mostly comprised of communities of color [11] and a city in which children from neighborhoods of color are twelve times as likely as children from predominantly white neighborhoods to have elevated blood lead levels. [12]

A study of Rochester children found that even after adjusting for environmental exposures, behaviors, socioeconomic status, and dietary intake, Black children were at higher risk of elevated blood lead than their peers of other races. By 24 months of age, Black children's blood lead concentration was approximately 62.6 percent (3.1 µg / dL) higher than white children's blood lead concentration after controlling for these other risk factors. [13] New York's clear distribution of childhood lead poisoning along racial and socioeconomic lines affirms lead poisoning as grave racial and environmental injustices – and makes the need to act swiftly to prevent it even more of a moral imperative.

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[8] Cindy Mann, Kinda Serafi, Arielle Taub, "Leveraging CHIP to Protect Low-Income Children from Lead," Manatt Health, January 2017, https://www.shvs.org/wp-content/uploads/2017/01/SHVS-Manatt-Leveraging-CHIP-to-Protect-Low-Income-Children-from-Lead-January-2017.pdf.

[9] Kent Bennett, Jennifer Lowry, Nicholas Newman, "Lead Poisoning: What's New About an Old Problem?," *Contemporary Pediatrics*, 32 (April 1, 2015), https://www.contemporarypediatrics.com/view/lead-poisoning-whats-new-about-old-problem-0.

[10] Katrina Smith Korfmacher, Emily A. Benfer and Matthew Chachère, "Lead Laws and Environmental Justice in New York," *The New York Environmental Lawyer,* Vol. 39, No. 1 (November 22, 2019), https://ssrn.com/abstract=3492119.

[11] "Eliminating Lead Poisoning in New York: A National Survey of Strategies to Protect Children," Columbia Law School Health Justice Advocacy Clinic, October 2019, https://web.law.columbia.edu/sites/default/files/microsites/clinics/health-advocacy/final_lead_poisoning_prevention_best_practices_report_october_2019_final.pdf.

[12] "The Racial Equity Dividend: Buffalo's Great Opportunity," University at Buffalo Regional Institute and Make Communities, 2018, http://racialequitybuffalo.org/files/documents/report/theequitydividendfinaljune2018.pdf.

[13] Bruce P. Lanphear, Richard Hornung, Mona Ho, Cynthia R. Howard, Shirley Eberly, Karen Knauf, "Environmental Lead Exposure During Early Childhood," 140, no. 1 (2002): 40 – 47, https://dx.doi.org/10.1067/mpd.2002.120513.

b. Childhood lead exposure and poisoning are hindering New York's economic viability.

In addition to the dangerous health effects and stark racial and socioeconomic injustices of childhood lead exposure, lead exposure poses a significant financial burden on our families and our State. Childhood lead exposure among New York children born in 2019 is projected to cost our State $6.4 billion through reduced lifetime productivity, premature mortality and increased spending on health care utilization, education and social assistance, [14] and also contributes to costs associated with juvenile and adult incarceration.

Aside from these societal costs of childhood lead poisoning, families of lead-exposed children face substantial immediate and long-term costs. Potential costs to families include costs associated with immediate medical intervention, costs associated with treatment of lead-related attention deficit hyperactivity disorder (ADHD) and special education services for lead-poisoned children, and parental work loss due to time taken off to care for a lead-poisoned child. Families are sometimes forced to spend enormous sums on chelation therapy which ultimately may not result in total rehabilitation. Furthermore, families whose children are poisoned by lead do not always have the ability to move out of an unsafe home and into one that is free from lead hazards. Currently, lead-impacted New York families are unable to even file claims to recoup their financial losses because their landlords' insurance policies do not cover lead paint risk exposure.

Improving New York State's lead poisoning prevention policies will help prevent the harmful lifelong impacts of lead poisoning as well as help our taxpayers realize economic gains. The financial burden of childhood lead poisoning to our State and its families must be carefully weighed against any money saved in the short term by underfunding our capacity to address such a tragically long-standing and entirely preventable health crisis.

New York must make bold investments to combat childhood lead poisoning.

In order to once and for all make childhood lead poisoning a disease of the past, New York must make bold investments in children and families. Accordingly, the Lead Free Kids New York coalition, which CDF-NY cofounded and co-leads, recommends that our State allocate $1 billion in the State Budget for a 'Lead Poisoning Elimination Project,' and recommends that those funds be appropriated as follows:

i. $100 Million for LeadWeb Expansion and Program Oversight | Department of Health

These funds will allow the Department of Health to execute key reporting, oversight, and compliance functions that were found to be performed inadequately in State Comptroller Thomas DiNapoli's August 2019 Audit and Report on the Department of Health's

[14] "Value of Lead Prevention," Altarum, accessed November 10, 2021, http://valueofleadprevention.org/calculations.php?state=New+York..

oversight on the Lead Poisoning Prevention Program. [15] The funds will be used to provide support to local health departments by:

- Performing investigations of source contamination and sharing information between regional office staff and local health departments;
- Scheduling and conducting on-site review of local health departments' program implementation;
- Developing and enforcing mandates requiring local health departments to perform follow-up; and
- Increasing the number of full-time employees needed to meet all federal and State follow-up care mandates for children with elevated blood lead levels.

These funds can also improve performance from department regional offices by:

- Revising procedures for reviewing processes and tools used to ensure timely reviews are completed by department regional offices and investigating when data is missing in LeadWeb;
- Performing quarterly follow-up of performance monitoring reports;
- Purchasing necessary resources, field equipment and laboratory capacity;
- Developing tools to support the implementation of expanded Lead Poisoning Prevention Programs across New York State; and
- Providing services to address lead sources and reduce risk.

ii. $200 Million for Local County Lead Prevention Program | Department of Health

These funds will enable local health departments to create, expand and implement programs to address lead poisoning prevention requirements, provide timely case management, and use all means available to provide follow-up services to children identified as having elevated blood lead levels, such as:

- Pre-screening all local health department LeadWeb records as required, discouraging their use of the New York State Immunization Information System (NYSIIS) for lead reporting and improving and implementing proper internal controls and quality assurance measures to ensure local health department LeadWeb reporting is both accurate and timely;
- Enhancing their case management tracking capability;
- Hiring the number of full-time employees necessary to enforce and comply with mandates requiring local health departments to perform follow-up services to all children identified with elevated blood lead levels; and

[15] "Report 2018-S-12| Department of Health: Lead Poisoning Prevention Program," Office of the New York State Comptroller, August 2019, https://www.osc.state.ny.us/files/state-agencies/audits/pdf/sga-2019-18s12.pdf.

- Providing local health departments with the funding necessary to hire the necessary full-time lead inspectors, lead risk assessors and mitigators to eliminate primary source contamination.

iii. $500 Million for the Lead Repair / Renovation Program | Division of Housing and Community Renewal

The budget should allocate $500 Million to the New York State Homes and Community Renewal's (HCR) Division of Housing and Community Renewal to support:

- The renovation, repair and painting of qualifying homes identified with lead;
- Mitigation of primary contamination in residences of children and adults with elevated blood lead levels; and
- Increased funding for local workforce development initiatives for lead inspectors, lead risk assessors and certified mitigators to eliminate the major avenues for lead contamination.

iv. $60 Million for the Lead / Environmental Threat Elimination Training Program | Department of Labor

This program, administered by the Department of Labor, would create a workforce development fund to train certified New York State lead inspectors, mold inspectors and home inspectors. Additionally, this program will provide for the training of related abatement and mitigation certification. These inspectors and mitigators will work with local health departments to identify source contamination in homes and buildings and provide mitigation services.

v. $100 Million Lead / Environmental Hazard Program | Department of Labor

This program would charge the Department of Labor with providing and developing renovation training, certification, accreditation and work practice standards programs. The Department of Labor would also be responsible for developing clean enforcement mechanisms, including procedures for unannounced compliance inspections and a method for responding to complaints.

vi. $40 Million Lead / Environmental Threat Elimination Training Program | State University of New York Community Colleges

This program, administered by the State University of New York Community Colleges, would develop courses to educate and train certified New York State lead inspectors, mold inspectors and home inspectors. These courses will coincide with existing community college building envelope programs, especially in counties with an identified need and lack of professionals. Additionally, this program would provide for the training of related abatement and mitigation certification. These inspectors and mitigators will work

with local health departments to identify source contamination in homes and buildings and provide mitigation services.

New York must fully leverage CHIP funding as a path forward.

In order to successfully combat the childhood lead poisoning crisis, New York must fully leverage every potential funding stream. A Children's Health Insurance Program (CHIP) Health Services Initiative (HSI) is a policy tool that would enable New York to triple its current state spending on childhood lead poisoning prevention by drawing down additional federal funding through CHIP for our State and its localities to use on lead poisoning prevention efforts. [16] Lead exposure testing, prevention and abatement initiatives to protect low-income children are authorized uses of HSIs under CHIP authority. [17] In recent years, a number of states have successfully implemented HSIs for precisely this purpose, paving the way for New York to also take action. A New York HSI totaling $75 million per year could fund a comprehensive lead hazard reduction strategy with components including lead testing and abatement, case management, lead rental certification, workforce development and legal assistance for tenant families whose child has an elevated blood lead level.

II. New York must assess equity, access and quality of telehealth service provision statewide.

Telehealth holds great potential to improve access to critical health services throughout the duration of the pandemic and beyond, particularly for New Yorkers facing barriers to in-person visits and those living in areas with provider shortages. As New Yorkers increasingly turn to telehealth to meet their health needs, it is incumbent upon our State to ensure equity, access and quality of telehealth service provision.

While telehealth can increase access to health services for many New Yorkers, CDF-NY urges the Legislature to remember that the digital divide continues to plague communities across our State and disproportionately impacts New Yorkers of color. In New York City, nearly 60 percent of Black and Latinx households (compared to over 80 percent of white households) have a computer in the home, with broadband usage lower in Black and Latinx homes than in white homes. Around a quarter of Black and Latinx New York City households can only access the Internet via their smartphones. [18] These families may find themselves at the mercy of homes and neighborhoods with limited connectivity. The inequity of New York's technological divide is even more stark for Black and Latinx families living in poverty and deep poverty. Only 54 percent of all New York City households with

[16] "Leveraging CHIP to Protect Low-Income Children from Lead," State Health Value Strategies, January 2017, https://www.shvs.org/wp-content/uploads/2017/01/SHVS-Manatt-Leveraging-CHIP-to-Protect-Low-Income-Children-from-Lead-January-2017.pdf.
[17] "Frequently Asked Questions (FAQs): Health Services Initiative," Centers for Medicare & Medicaid Services, January 12, 2017, https://www.medicaid.gov/federal-policy-guidance/downloads/faq11217.pdf.
[18] "The State of Black New York," New York Urban League, November 2020, https://ad1a3eae-9408-4799-abeb-aa6ebc798f5b.usrfiles.com/ugd/ccf12e_06a44ca4995a40d7944b361219f9a6d8.pdf.

incomes under $20,000 have internet in the home [19] and such disparities are echoed throughout our State, making telehealth services likely unattainable for the most marginalized New Yorkers. For families struggling to pay rent or put food on the table, the internet may simply be out of reach – meaning marginalized New York families will still need access to high quality in-person health services. Telehealth also poses language barriers to individuals with limited language proficiency, and is not always fully accessible for individuals with disabilities.

The Executive Budget proposes to require telehealth reimbursement parity in Medicaid, commercial insurance and for health maintenance organizations (HMOs). While this provision seemingly has equity in mind, reimbursement parity is potentially problematic in that it may incentivize plans and providers to offer more or all of their services via telehealth, thereby worsening access issues for low-income New Yorkers and communities of color. Telehealth may also lead to increased cost-shifting to patients, as patients may end up paying 'duplicate' copays for health episodes where a telehealth visit results directly in an in-person follow-up visit. And while the Executive Budget requires commercial insurers and HMOs maintain adequate telehealth networks, the State must also ensure that a sufficient number of providers participating with Medicaid offer adequate telehealth services.

Furthermore, it is important that the State recognize the patient privacy concerns that can be posed by telehealth visits. A lack of secure housing, or a lack of privacy in a difficult home environment, can serve as strong barriers to adolescents seeking out behavioral or reproductive health care services via telehealth, particularly for those who share rooms with siblings or lack access to their own electronic devices, or for those whose home environments are the reason they are seeking out such services in the first place. For youth experiencing abuse at the hands of individuals living in their home, telehealth is simply an unthinkable option, leaving them without any emotional support and amplifying the mental trauma of the abuse. It is critical that our State increase access to in-person behavioral health services for these young people, or designate community safe spaces where they can privately and confidentially utilize telehealth services, particularly given the troubling recent increases in suicide attempts and psychiatric emergencies among young New Yorkers generally [20] and among Black youth in particular, [21] and the alarm that the Surgeon General, American Academy of Pediatrics (AAP) and American Academy of Child and Adolescent Psychiatry (AACAP) have sounded on child and adolescent mental health. [22]

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[19] "The State of Black New York," New York Urban League, November 2020, https://ad1a3eae-9408-4799-abeb-aa6ebc798f5b.usrfiles.com/ugd/ccf12e_06a44ca4995a40d7944b361219f9a6d8.pdf.
[20] "In COVID-Era New York, Suicidal Kids Spend Days Waiting for Hospital Beds," Center for New York City Affairs, January 2021, https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/601775c3f0007e386c5924e0/1612150213177/1_In+Covid-Era+New+York%2C+Suicidal+Kids+Spend+Days+Waiting+for+Hospital+Beds.pdf.
[21] "Black Youth Suicide in New York: An Urgent Crisis," Children's Defense Fund – New York, March 2021, https://www.cdfny.org/wp-content/uploads/sites/3/2021/05/Black-Youth-Suicide-in-New-York-An-Urgent-Crisis.pdf.
[22] "AAP-AACAP-CHA Declaration of a National Emergency in Child and Adolescent Mental Health," American Academy of Pediatrics, October 19, 2021, https://www.aap.org/en/advocacy/child-and-adolescent-healthy-mental-development/aap-aacap-cha-declaration-of-a-national-emergency-in-child-and-adolescent-mental-health/.

CDF-NY urges the State to fund an independent evaluation of telehealth equity, access and quality.

As our State's children and families increasingly turn to telehealth to meet their healthcare needs, CDF-NY urges the Legislature to provide funding for an independent analysis of equity, access and quality of telehealth services being delivered across our State, particularly with regards to behavioral health services for young people. We must also remain vigilant to potential issues with the quality of telehealth service provision that replaces in-person care, particularly for Early Intervention (EI) services, and how telehealth could affect integrated practices.

Additionally, the State should eliminate copays for telehealth visits which directly result in in-person office visits, so that patients are not required to pay two copays for the same visits reason.

III. New York must repeal its Medicaid Global Cap.

The Governor's Executive Budget proposes to extend New York's Medicaid Global Cap for an additional two years, and to change the methodology by which it is calculated by basing it on the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by the Centers for Medicare and Medicaid Service's (CMS) actuary. While this change is intended to allow for growth and account for age and acuity of enrollees, it would ultimately keep the Cap in place, which is in and of itself problematic.

CDF-NY has long warned that our State's Medicaid Global Cap creates an arbitrary and artificial shortfall for vital services that enable New Yorkers to remain healthy and independent members of society and to provide for themselves and their families. The Cap fails to properly account for the true growth in health care costs, predictable demographic shifts due to an aging population and increased health needs during natural disasters or pandemics, such as the one we are currently in. The nine months following the COVID-19 pandemic's arrival in New York saw a 12 percent growth in Medicaid enrollment with over 700,000 new enrollees – a strong affirmation of Medicaid's important role in responding to population health demands during times of economic downturn.

If the Medicaid Global Cap remains in place, future Medicaid budget 'gaps' will become a regular occurrence and could result in additional drastic cuts to our State's Medicaid program, such as those enacted in the Fiscal Year 2021 Budget. Furthermore, it is important to note that the Medicaid Global Cap effectively limits the amount of federal funding New York can receive for its Medicaid program.

CDF-NY thereby calls on the Legislature to protect our State's Medicaid beneficiaries – including more than two million children, one out of every three New Yorkers and one out of every two births in New York – by:

1. Eliminating the Medicaid Global Cap and replacing it with a global budgeting system that is based on demand for services;

2. Raising revenue to balance our state budget;
3. Making smart, long-term investments that are more likely to substantially bend the Medicaid cost curve; and
4. Ensuring that Medicaid consumers and independent consumer advocates comprise a substantial portion (more than one-third) of any body making recommendations regarding Medicaid policy and budget goals.

IV. Our State must expand health coverage for New Yorkers.

Despite the coverage gains our State has made in recent years, too many New York families – and disproportionately families of color – still lack affordable and comprehensive health coverage, harming both their physical and mental well-being. CDF-NY applauds the Governor's proposal to expand Essential Plan income eligibility from 200 percent to 250 percent of the Federal Poverty Level, reducing our uninsured population by at least 14,000 and making healthcare more affordable for at least 92,000 New Yorkers. However, there is still more work to be done to expand health coverage for our State's most vulnerable. While passing the New York Health Act (*S. 5474 / A. 6058*) would provide universal coverage for all New Yorkers, health coverage for children and families can and must be improved – and racial disparities reduced – by:

- **Expanding Immigrant Health Coverage |** Immigrant New Yorkers have been at the forefront of New York's fight against COVID-19, comprising one-third of our State's essential workers and playing a key role in all sectors of our battle against the pandemic. This ongoing exposure has contributed to disparate outcomes in COVID-19 infection and death, which have disproportionately afflicted immigrant communities of color. Another important driver of this inequity is the ongoing disparity in access to health care caused by the exclusion of undocumented New Yorkers from health insurance coverage due to their immigration status.

  By allocating $345 million to create a state-funded Essential Plan for all New Yorkers up to 200 percent of the Federal Poverty Level who are currently excluded from coverage due to their immigration status (*S. 1572A / A. 880A)*, our State can offer coverage to the estimated 154,000 uninsured, low-income New Yorkers who are currently uninsured because of their immigration status. It is estimated that 46,000 New Yorkers would enroll in the program annually once fully implemented.

- **Extending Post-Pregnancy Medicaid Coverage for All |** Granting our State's new mothers extended access to adequate health care is essential for promoting their physical and emotional wellbeing, decreasing their risk of maternal mortality and improving their ability to care for their children. New York is especially vulnerable with regards to maternal mortality – New York's maternal mortality rate is approximately 20 deaths per 100,000 live births, with black women in our State more than three times more likely to die of pregnancy-related causes than white women. [23]

[23] New York State Taskforce on Maternal Mortality and Disparate Racial Outcomes, *Recommendations to the Governor to Reduce Maternal Mortality and Racial Disparities,* https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/maternal_mortality_Mar12.pdf (March 2019).

New York's Medicaid program currently provides health insurance during pregnancy and for 60 days post-pregnancy for those who meet income requirements. For most beneficiaries, New York receives federal funding to do so. However, some immigrants are not eligible for federally-funded Medicaid due to their immigration status. New York State uses state-only funding to provide the same coverage to that population instead of leaving them uninsured during such a vulnerable time. The Executive Budget excludes many immigrants from its proposal to extend the Medicaid for Pregnant Women program for 12-months post-pregnancy. Disparities in maternal mortality and morbidity cannot be addressed if key groups are excluded. New York could provide health insurance to everyone for one-year post-pregnancy with $24 million annually in state-only funds. To do this, the Legislature should first strike lines 14-19 and 23-28 on page 187 of the Article VII bill and lines 1-2 on page 188. It should then incorporate the language used in *S. 1411A / A. 307A* in the one-house budget bills and in the final Enacted Budget.

- **Eliminating the $9 premium for low-income Child Health Plus enrollees whose families earn below 223 percent of the federal poverty level (FPL) |** Insurance premiums of any amount cause coverage disruptions and delays in obtaining and maintaining Children's Health Insurance Program (CHIP) coverage among low-income individuals. [24] Premiums can discourage enrollment in health insurance and cause churning when payments are missed. CDF-NY applauds the Executive Budget's elimination of the Child Health Plus premium for families whose incomes fall between 160 and 222 percent of the FPL. In 2019, failure to pay this $9 premium caused 69,000 children (almost half of the children required to pay the $9 premium) to have their coverage terminated for at least a month. Removing the Child Health Plus premium requirement can help New York eliminate these disruptions. Nobody – and especially, no child – should lose health coverage because of a premium.

- **Expanding Child Health Plus benefits |** CDF-NY applauds the Executive Budget's expansion of Child Health Plus benefits, including
  - Coverage of air ambulance services and additional emergency ambulance transportation, including emergency transportation between hospitals
  - Medical supplies other than the currently covered supplies needed for ostomy or diabetes care
  - Medically necessary orthodontia services to match Medicaid guidelines.
  - Additional mental health services including Children and Family Treatment and Support Services (includes Crisis Intervention, Community Psychiatric Support and Treatment, Psychosocial Rehabilitation, Youth Peer Support and Training and Family Peer Support), Children's Home and Community Based Services, Assertive Community Treatment (ACT) and Residential Rehabilitation for Youth (RRSY)
  - Expanded services for undocumented children in foster care, including nursing services, skill building service, treatment and discharge planning, clinical consultation/supervision services and liaison/administrative services

[24] Kaiser Family Foundation, "The Effects of Premiums and Cost Sharing on Low-Income Populations: Updated Review of Research Findings," June 1, 2017, https://www.kff.org/medicaid/issue-brief/the-effects-of-premiums-andcost-sharing-on-low-income-populations-updated-review-of-research-findings/.

- **Implementing continuous Medicaid eligibility in the early years of life |** Our State can further safeguard the health of the youngest New Yorkers (and particularly, of our young New Yorkers of color), protect children against insurance churn and coverage losses, and offer continuity of care during a period of critical growth and development by implementing continuous Medicaid eligibility for infants in their first three years of life.

New York should increase funding for enrollment assistance and outreach.

Over 100,000 New York children are currently uninsured. While most of these children are eligible for health coverage, their families are often unaware of the free or affordable coverage options available to them. Furthermore, even when New Yorkers are aware of coverage options, fragmented and confusing plan options often create barriers for consumers. Navigators, who can provide in-person assistance to families seeking health coverage and clarify often-complicated enrollment procedures, have helped over 300,000 New Yorkers enroll in coverage since 2013. However, New York's navigators have never received a cost-of-living increase. The State should increase the health insurance navigator budget from $27.2 million to $32 million to guarantee high-quality enrollment services for New Yorkers. The State should also allocate $2 million to fund community-based organizations so that they are able to conduct outreach in communities with high uninsured rates and educate consumers about coverage options. This is particularly important in immigrant communities where policies like public charge have left a chilling effect, and amidst the current pandemic-fueled rise in insurance churn as New Yorkers who become unemployed seek out health coverage.

V. New York should establish an independent office to produce racial and ethnic impact statements for *all* legislation and rules.

New York's pervasive racial and ethnic disparities must be addressed through systemic change. The pandemic has provided irrefutable evidence of the long-standing, deeply-rooted racial inequities that have caused increasingly disparate outcomes in New York and throughout the nation for far too long. These wide-ranging and long-standing inequities, encompassing such areas as healthcare access, involvement in the child welfare and youth justice systems, economic security, educational opportunity and workforce disparities, continue to harm New York's most marginalized children and families.

Our State can lead the nation in achieving equity in all policies by establishing an independent office to ensure that we no longer pass legislation or adopt rules without first examining whether these policies will create, eliminate, or perpetuate racial and ethnic disparities. Enacting new legislation and rules without first evaluating their potential to disproportionately impact communities of color only perpetuates these disparities. In the absence of racial impact assessment, legislation that "appears" race-neutral at face value can, in practice, adversely – and disparately – affect New York's children and families of color. This is evidenced by the pervasive, wide-ranging and long-standing disparities and inequities that

assault people and communities of color in our state and around the nation due to the impact of our policies and regulations. Just as our State legislators consider the fiscal and environmental impacts of new laws, so too must they examine the potential racial disparities of all legislation and rule-making activity – prior to enactment.

To implement this approach, the State will need to invest more resources in both the legislative and rule-making process. Furthermore, the evaluation of racial and ethnic impact needs to be insulated from politics – meaning the office producing the impact statements should be independent from both the Legislature and the Governor. Maintaining this independence will ensure that meaningful, unbiased impact statements are faithfully and consistently produced at an optimal level.

Undoing generations of racial and ethnic disparities and institutionalized harm demands an anti-racist approach that actively examines the role of legislative and regulatory action in perpetuating inequality in New York. In order to ensure that our laws truly advance racial and ethnic equity and begin to dismantle systemic racism, New York should adopt:

(1) The establishment of an independent office or entity tasked with producing racial impact statements.

(2) A requirement that all bills and amendments to bills in the legislature must be accompanied by a racial impact statement.

(3) A requirement that all proposed rules must be accompanied by a racial impact statement when introduced.

(4) A requirement that racial impact statements must include an estimate of the impact of the bill, amendment or proposed rule on racial and ethnic minorities, and the basis for the estimate, including any specific data relied upon.

(5) A prohibition against passing bills that increase racial or ethnic disparities.

VI. New York must make investments to increase rates for Early Intervention (EI) service providers and to eradicate racial disparities in EI service provision.

Our State's livelihood depends on the health and well-being of *all* of our children, including infants and toddlers with developmental delays and disabilities. These children continue to experience difficulties accessing federally mandated, state-administered Early Intervention (EI) services that could enable them to catch up to their peers or prevent their delays from worsening during a time when such services are most impactful and cost-effective.

New York's EI payment rates are currently lower than they were in the mid-1990s, forcing experienced, high-quality providers to close their doors or to stop taking EI clients. Due to provider shortages, an alarming number of children identified as needing EI services

have less access to quality services and face waitlists and delays, despite the fact that federal law requires timely EI service delivery. The COVID-19 pandemic has only exacerbated these access issues, causing disruption of in-person EI services and inequities in accessing teletherapy services. Furthermore, our State's children of color do not have the same access to services as compared to their White peers. Non-Hispanic White children are more likely to be referred to the EI program at a younger age than children of most other races and ethnicities, more likely to have their EI services initiated within 30 days and less likely to have services delayed by a discountable reason. [25]

CDF-NY is disappointed that the Executive Budget does not direct funds made available through the Covered Lives assessment towards an increase in provider reimbursement rates. Improving provider reimbursement is crucial to ensuring that EI providers remain in the system and that new providers join the system. It is imperative that the increased resources available to the EI program through the Covered Lives assessment be used to strengthen the program by increasing reimbursement rates – not to offset spending reductions for the State and its counties. The State must increase rates for all EI providers and evaluators by 11 percent to move New York State closer to meeting the needs of all young children in New York with developmental delays or disabilities. The State must also conduct a comprehensive assessment of the methodology used to determine payment for all EI evaluations, services and service coordination and re-set rates accordingly *(S.5676 / A.6579)*. Furthermore, New York must require that the New York State Bureau of Early Intervention publish an annual report with data by county and disaggregated by race and ethnicity about referrals, assessments, enrollment, and timely receipt of services.

VII. New York must permanently restore $5 million in funding for our State's school-based health centers (SBHCs).

An additional $5 million in permanent funding is needed to restore specific Fiscal Year 2018-19 budget cuts to school-based health centers (SBHCs) and to ensure the long-term financial stability of those previously cut programs. SBHCs provide vital physical and mental health care services to over 250,000 New York youth statewide, the majority of whom are Medicaid recipients. These Centers fill care gaps in our State's most medically underserved communities, where children may have limited access to comprehensive health services due to financial, geographical and other barriers to care. SBHCs are staffed with a team of health care professionals and provide a wide range of preventive, primary care, emergency, dental, mental health and reproductive health services to students. Services are provided on-site in schools to all students at no cost and regardless of insurance coverage or immigration status. SBHCs prevent unnecessary hospitalizations, reduce emergency room visits, improve school attendance and avoid lost workdays for parents. SBHCs thereby improve both health and educational outcomes by helping to identify health barriers to learning (HBLs) – medical issues that when missed or undermanaged, can hinder children's ability to learn and succeed

[25] New York State Department of Health, Bureau of Early Intervention, "Executive Summary: Early Intervention Program Data: Race and Ethnicity For the Period July 2017-June 2020," August 2021, https://www.health.ny.gov/community/infants_children/early_intervention/docs/summary_eidata_race_ethnicity.pdf.

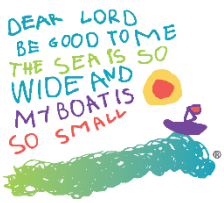
in school. SBHCs also save our State money. It is critical that the State increase its investment in SBHCs and consequently, in the health of New York children.

VIII. New York must expand the population of students that can receive Medicaid-covered school health services.

During this time of especially great need, our State must seize every opportunity to reach our children where they are and to provide them with access to critical health and mental health services. Amidst the national decline in children receiving primary and preventive care services during the pandemic, bolstering the capacity of New York schools to meet the health needs of our students is imperative. New York can expand access to critical health services for thousands of additional students by submitting a Medicaid State Plan Amendment (SPA) to the Centers for Medicare and Medicaid Services (CMS) to permit public schools to bill Medicaid for health services delivered to all Medicaid- covered students, not just those with Individualized Education Programs (IEPs). Doing so would enable New York to not only expand its population of students accessing Medicaid-reimbursable school health services, but also to join California, Massachusetts, Connecticut and the growing rank of states currently leveraging federal Medicaid dollars to provide needed health services to students. [26] By enabling more students – particularly students of color – to receive high quality health services at school, this policy change would also enable New York to address the persistent health disparities that have been magnified by the COVID-19 pandemic.

Conclusion

Thank you for your time and consideration. The Children's Defense Fund – New York looks forward to working with you on a State budget that improves the health and well-being of children, youth and families in *every* community in New York.



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[26] "Schools Are Key to Improving Children's Health: How States Can Leverage Medicaid Funds to Expand School-Based Health Services," Healthy Schools Campaign, January 2020, https://healthyschoolscampaign.org/dev/wp-content/uploads/2020/02/Policy-Brief-1-28-20.pdf.