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Testimony on the Health/Medicaid 2019-2020 Budget

February 5, 2019

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 statewide coalition of over 170 organizations dedicated to achieving quality, affordable health coverage for all New Yorkers.

HCFANY supports proposals in the executive budget that would increase access to mental health and substance abuse treatment, codify the Affordable Care Act's consumer protections into state law, license pharmacy benefit managers, and create a review board to investigate New York's intolerably high maternal mortality rate. However, the proposed budget invests next to nothing in expanding or improving health coverage for the average New Yorker.

The budget's silence on this problem is hugely disappointing. New York has made great strides at reducing the number of uninsured people through its laudable implementation of the Affordable Care Act. However, one million New Yorkers still remain without coverage and millions of others find coverage to be unaffordable or inadequate.[1]

Instead of concrete action, the budget offers a "coverage commission" to explore ideas for universal health care in New York. HCFANY cannot support another health care commission in place of actual funding for health coverage. New York has a coverage and cost crisis that needs to be addressed now. Other states are already moving forward with measures to expand coverage to immigrants and make coverage more affordable for everybody. Uninsured and under-insured New Yorkers cannot wait another year or longer just because these issues are challenging — we expect and call on our elected leaders to take them on, and we stand ready to work with them in doing so. The time is now for our state leaders to lead on coverage.

[1] Amy Neff Roth, "New York's uninsured rate drops," Times-Telegram, October 5, 2018, https://www.timestelegram.com/news/20181005/new-yorks-uninsured-rate-drops.

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HCFANY does not accept that there are no resources available to invest in the health of New Yorkers. Health coverage reduces mortality and morbidity and greatly reduces poverty.[2] Because of those benefits, other states are choosing to prioritize health coverage and raise the revenue needed to do so. For example, several states are implementing their own individual mandate to raise funding for coverage expansions. A budget that spends nothing to improve health coverage is a budget that was written without input from consumers, who have made it clear over the past two years that health care costs are one of their biggest challenges.

Even when the state receives windfalls, such as the $2 billion it extracted from the sale of Fidelis, consumers are the last to benefit. HCFANY's proposals seek to empower consumers so that their needs are better reflected in the State's budget decisions. The only way that New Yorkers will get a budget that balances their needs with the need of industry stakeholders is by increasing transparency within the health care system and ensuring the consumers are truly represented when the State makes budget decisions.

1. **New York should allocate $532 million to expand the Essential Plan to all income-eligible New Yorkers regardless of immigration status.**

HCFANY estimates that over 400,000 New Yorkers are uninsured because of their immigration status. New York could use state money to cover many people in this position through the Essential Plan, which is available for other New Yorkers earning up to 200 percent of the federal poverty level. Essential Plan funding comes from redirecting the federal premium subsidies enrollees would have used if they bought a qualified health plan in the private market. This federal funding can be used to cover lawfully present, but not undocumented, immigrants. HCFANY urges the Legislature to use state-only funding to expand the program to the undocumented New Yorkers who are unfairly excluded. Based on typical take-up rates, an estimated 110,000 people could get health insurance this way.

The Essential Plan is a good option for covering undocumented New Yorkers because it is cost-effective for the state and is a good deal for enrollees. The program has saved the State hundreds of millions of dollars by providing a federal funding source for immigrants who were previously covered using state-only Medicaid funding.[3] Additionally, for the past three years the Essential Plan has accumulated hundreds of millions of dollars in surplus because the federal

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[2] Benjamin D. Sommers, Atul A. Gawande, and Katherine Baicker, "Health Insurance Coverage and Health – What Recent Evidence Tells Us," *New England Journal of Medicine*, August 10, 2017, 377: 585-593, DOI: 10.1056/NEJMsb1706645; Laura R. Wherry, Genevieve M. Kenney, and Benkamin D. Sommers, "The Role of Public Health Insurance in Reducing Child Poverty," Academic Pediatrics, April 2016, 16 (3): S98-S104, https://doi.org/10.1016/j.acap.2015.12.011 and Sanders Korenman, Dahlia K. Remler, and Rosemary T. Hyson, "The Impact of Health Insurance and Other Social Benefits on Poverty in New York State: Final Report to the Howard J. Samuels State and City Policy Center," July 18, 2018, http://www2.cuny.edu/wp-content/uploads/sites/4/page-assets/about/centers-and-institutes/demographic-research/New-York-HIPM_2018-08-06.pdf

[3] Elisabeth R. Benjamin, "How Can New York Provide Health Insurance Coverage to its Uninsured Immigrant Residents?," January 2016, http://lghttp.58547.nexcesscdn.net/803F44A/images/nycss/images/uploads/pubs/Immigrant%20Health%20Report%20Web%202.pdf.

funding it receives has outpaced the cost of running the program.[4] Meanwhile, leaving such a large group of New Yorkers uninsured strains the health care system and drives up costs for everyone.

2. **New York should allocate $132 million to create an Essential Plan buy-in for people earning 200- 250 percent of the federal poverty level.**

New Yorkers face a stiff affordability cliff once they earn over 200 percent of the federal poverty level and must purchase a private plan. For an individual, 200 percent of the federal poverty level is only about $25,000 a year. Before reaching that income, the Essential Plan provides coverage for at most $20 a month with no deductible. Once reaching that income, New Yorkers have to buy private plans through the Marketplace which can cost $150 a month and have deductibles of over $1,350, even with federal financial assistance.

New York could ease this affordability cliff by allowing people just over the income cutoff to buy into the Essential Plan. This option could be limited to New Yorkers earning between 200 and 250 percent of the federal poverty level to avoid disrupting the individual market. New York could subsidize this purchase so that enrollees contribute $50 a month, without adding a deductible. HCFANY estimates that this would provide affordable coverage for around 116,000 people, about half of whom are currently uninsured. The other half would leave the individual market, which could create price increases. However, HCFANY urges the Legislature to create this option for the lowest–income people in the Marketplace. Those who prefer to keep private plans could do so, but those who find themselves struggling to afford their health insurance would have a comprehensive, affordable alternative.

3. **New York should provide relief to people struggling to afford private plans by providing state-funded premium assistance.**

Federal premium subsidies limit the percentage of income spent on health care premiums for those who earn up to 400 percent of the federal poverty level (for an individual, about $49,000 a year). However, high deductibles often mean that people cannot use their plans even with lowered premiums. New York could add additional premium subsidies on top of the federal subsidies to help further reduce monthly spending on health insurance. New York could also add premiums for people earning above 400 percent of the federal poverty level.

A benefit of this approach is that if New York subsidizes plans enough, it could lower prices in the individual market even for people who are not receiving the subsidies. Targeting the subsidies so that they bring the most people into the market would improve the risk pool, which would drive down premiums for everyone.

[4] Bill Hammond, "An Essential windfall," July 13, 2018, https://www.empirecenter.org/publications/an-essential-windfall/.

4. **HCFANY supports the proposed budget allocation of $2.5 million for the Community Health Advocates program, and urges the Legislature to provide additional funds to reach $6.5 million.**

The Community Health Advocates program (CHA) provides free, independent assistance to consumers trying to make the most of their health insurance coverage. CHA helps New Yorkers resolve billing issues and coverage denials, get prior authorizations, respond to out-of-network and surprise bills, and locate health services no matter what type of insurance they have. Since 2010, CHA has assisted over 330,000 New Yorkers and saved them approximately $35 million. Services are provided through a central helpline and community-based organizations that can provide in-person assistance throughout the state.

CHA's information is already on all commercial Explanation of Benefits and claims denials. However, it is missing from denials sent to the four million New Yorkers enrolled in Medicaid Managed Care plans. HCFANY urges the State to add CHA's information to those denials so that managed care enrollees know where to turn for help.

HCFANY also urges the Legislature to increase overall funding for CHA this year. Last year, the executive budget provided $2.5 million while the Assembly provided an additional $1.4 million, for a total of $3.9 million. At its height, CHA was funded at $7 million and funded many more community-based organizations than it does now. HCFANY urges the Assembly and the Senate to contribute $2 million each for a total of $6.5 million in FY2020.

5. **New York should increase enrollment in existing health coverage programs by fully funding the Navigator program at $32 million and allocating $2 million so that community-based organizations can conduct outreach in hard-to-reach communities.**

Too many New Yorkers are uninsured because they are unaware that they are eligible for help affording health insurance or they are not sure how to enroll. The Navigator program provides independent, in-person assistance to consumers who want help shopping for and enrolling in health coverage. Navigators have helped enroll more than 300,000 people since the program started in 2013. The Navigator program has received flat funding of $27.2 million since 2013, with no cost of living increases. The agencies that participate have reduced staff and taken other steps to manage this de-facto decrease in funding over time. HCFANY urges the Legislature to fund the Navigator program at $32 million to make up for increased costs over time.

Additionally, New York should allocate $2 million to community-based organizations to conduct outreach in communities that have low coverage rates. An example is immigrants, who have heard many confusing and frightening things about enrolling in public programs. These communities are more likely to trust the organizations that are already working in their communities.

6. **New York should ensure that funding distributed through the Indigent Care Pool goes to the safety net hospitals that provide the most care to low-income New Yorkers.**

Disproportionate Share Hospital (DSH) funds are intended to support hospitals that serve the most uninsured and Medicaid patients. However, in New York, this funding often subsidizes profitable hospital systems that serve less than their fair share of low-income patients.

New York distributes $3.6 billion in DSH funds, $1.1 billion of which are distributed through the Indigent Care Pool. New York State developed a new funding formula several years ago so that hospitals could not label unpaid bills as charity care without actually forgiving the debt owed by the patient – the old formula included "bad debt" that hospitals pursued by putting patients into collections. The new formula more fairly links ICP funding to units of care provided to low-income patients, but the State instituted a temporary transition period to limit hospitals' immediate losses. That temporary transition period has since been renewed every year. HCFANY urges the Legislature to end this transition and fully transfer the State to the agreed upon formula.

Additionally, the Legislature should improve the system of distributing DSH funds to target true safety net hospitals. During 2018, a workgroup convened by the Governor met to develop recommendations for achieving this. The workgroup never released its findings. However, it did result in a proposal (developed by Health + Hospitals) that would more fairly distribute the funds. HCFANY supports the Health + Hospitals proposal and urges the Legislature to investigate it, even without the workgroup's final report.

7. **HCFANY opposes strategies to cut spending by making it harder for people to enroll in Medicaid (by eliminating the right of spousal refusal) or harder for Medicaid enrollees to access health care (such as eliminating the "prescriber prevails" principle).**

Medicaid is by definition a program for economically vulnerable people. Barriers to enrolling in Medicaid or seeking care after enrollment may save money in the state budget, but those savings come at the expense of people who are already financially insecure.

New York's Medicaid program allows spouses and parents to protect their own income by separating it from the income counted towards their loved ones' Medicaid eligibility. Families that are supporting a vulnerable person, such as an elderly person or a child with a serious illness or disability, cannot typically afford the medical care needed to grant that person the best quality of life on their own. If New York stops them from enrolling in the Medicaid program they will either go without care or be forced to split up their households to become eligible for Medicaid. HCFANY urges the Legislature to protect this right instead of asking families in difficult situations to take such drastic steps to qualify.

The budget also proposes removing another important consumer protection, that of prescriber prevails. The "prescriber prevails" principle means that clinicians (prescribers) have the final say over insurance companies in what medications their patient takes. Sometimes this means clinicians have to override the Medicaid program's preferred drug list to make sure that their patient is getting the right treatment. HCFANY urges the Legislature to preserve the prescriber prevails principle in New York's Medicaid program.

8. **HCFANY supports efforts to reduce spending by bringing down health care prices, including a prescription drug affordability board, greater public engagement in the certificate of need process, and data tools that would allow consumers to compare prices before receiving medical services.**

Even though many efforts to control health care spending focus on reducing utilization, most economists argue that prices are a bigger problem than excessive utilization.[5] Efforts to control prices would mean greater State regulation and oversight of industry stakeholders like hospitals, insurance plans, and pharmaceutical manufacturers. It is often easier for state governments to focus on utilization, for example by removing consumer protections like prescriber prevails, than to take on these industry stakeholders. However New York cannot continue to limit health care spending by denying people coverage or limiting their access to care. HCFANY has several proposals for addressing unreasonably high health care prices.

- HCFANY supports the proposal to license pharmacy benefit managers. However, HCFANY urges the State to go further. Several states have developed proposals that would give them the power to set rates for prescription drugs or cap rates across their entire market. The National Academy for State Health Policy (NASHP) has even developed model legislation for creating a Drug Cost Review Commission with some rate-setting power.[6] New York should implement its own commission, perhaps modeled on the Drug Utilization Review Board (DRUB) used in the Medicaid program. The advantage of the model proposed by NASHP and the model used by the DRUB is that both include public, transparent processes in which consumers can participate.

- Hospital consolidation contributes to large price increases and often results in reduced services in disadvantaged communities.[7] The certificate of need process is one mechanism New York has to track and manage consolidation, but it is too hard for affected communities to participate. The Public Health and Planning Council, which approves certificate of need applications, has left its consumer representative spots empty for years. These spots should be filled, and more spots for consumers should be created. The Council should hold public hearings when hospitals are changing ownership or closing, and the hearings should be held in the affected community. The Council should

[5] Irene Papanicolas, Liana R. Woskie, and Ashish K. Jha, "Health Care Spending in the United States and Other High-Income Countries," *JAMA*, March 13, 2018;319(10):1024-1039. doi:10.1001/jama.2018.1150.
[6] https://nashp.org/wp-content/uploads/2017/07/Prescription-Drugs-Rate-Setting_Model-Legislation.pdf
[7] The Advisory Board, "When hospitals merge, prices can increase by more than 50%, according to a new analysis," November 15, 2018, https://www.advisory.com/daily-briefing/2018/11/15/hospital-mergers.

also incorporate market analysis into its approval process and examine the possible impact ownership changes would have on prices and the availability of services.

- Consumers and regulators should have access to the prices charged by providers and accepted by plans. Price transparency would allow consumers to identify outliers who charge far too much and encourage providers to converge towards average prices. New York has been working on an All Payer Database for years that would aggregate claims data. The State should ensure that the information collected by the All Payer Database is available to consumers in ways that allow them to make informed choices about their care.