



**Testimony Provided to the New York State Senate and Assembly Health Committee
on the Proposed New York Health Act**

October 10, 2019

Testimony delivered & submitted by Michael Kracker, Executive Director, Unshackle Upstate

Chairman Rivera, Chairman Gottfried and the members of the panel, I would like to thank you for providing the opportunity for myself and others to testify today on this important issue.

My name is Michael Kracker and I am the executive director of Unshackle Upstate, a non-partisan, pro-taxpayer, pro-economic growth, education and advocacy coalition made up of business and trade organizations from all parts of Upstate New York.

As an organization, our focus is to advocate for Upstate businesses and taxpayers, pushing for reforms in Albany that will make Upstate New York a better place to live and a stronger place to do business.

I am here today to raise concerns about the proposed New York Health Act and its impact on an already struggling Upstate economy.

New York already faces serious economic challenges. The non-partisan Tax Foundation ranked New York the second worst business tax climate in the nation. This has contributed significantly to our outmigration and jobs crises in many Upstate communities.

The independent analysis conducted by the RAND Corporation showed that New York will impose \$210 Billion in new taxes when single payer is fully implemented. When you add in the cost of long-term care that jumps to \$250 Billion. The seven-county Rochester region will face \$13.8 billion in new taxes. This unprecedented tax hike will be devastating for Upstate employers, including small business owners who are already struggling to survive in New York's hostile business climate.

While this staggering new tax burden is portrayed as simply moving costs from one bucket to another, for many employers – especially small employers – this is simply not true. Right now, 94% of Upstate firms have less than 50 employees. These small businesses account for 26% of all Upstate employees. Small businesses are not required to provide health insurance – and since most are struggling to survive under New York's already heavy tax burden – they can't afford to. In fact, only 34.5% of small employers provide health insurance. For the remaining 65.5%, this will be a brand-new expense totaling about \$1 billion for the Rochester Region – not an offset of current costs.

This legislation will also result in unprecedented job losses. According to a report from Gerald Friedman, the New York Health Act will displace more than 150,000 workers. In this area, 4000 insurance jobs would be eliminated immediately and 76,936 jobs would be at risk. Here in Upstate, which still has not recovered the jobs lost during the Great Recession, this would have a truly devastating impact.

Put simply, Upstate New York businesses and taxpayers cannot afford this proposal.

According to New York's Budget Director, we are facing a \$4 billion State Budget deficit – about half in Medicaid. Any time the State faces budget shortfalls, there are cuts to healthcare providers. What will happen when we inevitably face shortfalls in the New York Health Plan? Will they impose cuts or just raise taxes? In Canada and other countries with Single Payer systems, they impose cost containment measures. As a result, they experience long wait times for services – like 32 week delays in getting a hip or knee replacement.

Approximately 96.5% of Upstate New Yorkers already have health coverage. Of the few remaining uninsured, 45% are already eligible for Medicaid or the Essential Health Plan. Here in Monroe County fully half of the uninsured are currently eligible. Why would we force everyone to give up their current coverage and compel them to use government healthcare that is subject to the uncertainty of a State Budget process? Instead we should find ways to get everyone who is eligible enrolled and ways to cover the small percentage of people who aren't.

We've started to hear about "under-insurance." Since New York mandates that all plans include the Affordable Care Act Essential Health Benefits – a robust set of benefits including preventative care, chronic care management, emergency services, hospitalization, prescription drugs and more – this issue seems to be based on inaccurate anecdotes instead of reality.

Lastly is the issue of cost. We take steps to address the affordability issue across the State. But the problem isn't universal. Rochester actually enjoys the third lowest health insurance costs in the Nation.

Unshackle Upstate opposes this single-payer approach and instead encourages our leaders to engage with stakeholders to find responsible ways to reduce healthcare costs, and affordably expand coverage to all New Yorkers.

Again, thank you to the Chairs and members of this panel for this opportunity.

Respectfully,



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Good morning Chair Rivera, Chair Gottfried and distinguished Members of the Senate and Assembly Health Committees.

My name is Michael King. I am President of Century Benefits Group an employee benefit firm based here in Rochester. Our industry of licensed employee benefit professionals work tirelessly to provide health care coverage to 65% of the residents of New York State. We (I) support universal coverage by the integration of public plans with market-based solutions to provide affordable and accessible health care for all. I respectfully submit this testimony on behalf of Century Benefits Group.

According to the American Community Survey, 98.75% of New Yorkers are either enrolled in health insurance or are eligible to enroll at substantially reduced cost. In 2017, 5.69% of New Yorkers were without health insurance – some 1,100,000 people. Of those, nearly 858,000 of them were eligible for either partially or fully subsidized health coverage – but did not enroll.

According to the World Health Organization, Universal Health Care means that everyone receives health care without suffering financial hardship; it does not mean free coverage for all possible health interventions regardless of the cost, as no country can provide all services free of charge on a sustainable basis - even though they may operate at a deficit. Even citizens of our Neighbor Canada have to buy prescription drug coverage.

While a nation may operate at a deficit, New York State may not; it is constitutionally required to maintain a balanced budget. Making the expense of a state-based single payer health plan part of a state's balanced budget would make our health care system – and our state's operation - unstable; it would make our residents and their access to affordable health care vulnerable to massive tax increases and rationing of care when state tax revenues plunge or costs increase. An example is when revenues fell during the Wall street crisis in NYS a number of years ago. It's worth noting that the only state in the United States that doesn't require a balanced budget – Vermont – They chose not to enact a single-payer health plan when then Governor Shumlin, who had supported the plan realized that it would pose what he described as a risk of economic shock to his state.

State tax revenues generated by the top 1% of earners in New York are considerably more volatile than that of the majority of New York taxpayers. According to the NYS Department of

Taxation and Finance, during the last recession (from 2007-2009) the incomes of the top 1% of earners in NYS was reduced by almost half, while incomes for everyone else declined by only 3%. If only ½ of 1 % (45,000) of the top earning residents of NYS were to either leave the state or experience a considerable reduction in taxable income, the non-payroll tax rates needed to fund the New York Health Act projected in the Rand Report would need to rise almost 380% - and payroll tax rates would need to increase considerably as well.

There are a number of significant steps that New York State may take to improve access to and affordability of health care for all its residents instead of enacting the New York Health Act, including:

- Working to repeal the 40% excise tax ("Cadillac tax") on health plans under the federal Affordable Care Act (ACA);
- Create a statewide comprehensive system of data-driven, pricing transparency tools to identify and publish what healthcare services really cost and use the data to encourage consumers and insurers to shop for the best market value in the provision of healthcare services;
- Reduce healthcare provider administrative claims expenses by establishing a universal claims submission system via the New York Health Connector as the claims clearinghouse;
- Identify and reduce systemic waste and payments for fraudulent claims;
- Develop better community outreach programs to the 858,000 uninsured New Yorkers who are currently eligible for Medicaid or subsidized health plans who haven't yet enrolled; including encouraging insurers to compensate licensed health insurance producers for enrolling uninsured New Yorkers in subsidized health plans.

Our industry is currently working with the Chairs of the Senate and Assembly Insurance Committees on a Health Care Consumer Transparency Act that would incorporate these alternatives to reduce the costs of health care and health insurance premiums accordingly.

Thank you for this opportunity to present the views of Century Benefits Group and our industry. For all of the reasons stated herein, Century Benefits Group is **STRONGLY OPPOSED** to Senate 3577-A / Assembly 5248-A.

I stand ready to answer any questions that you or the Committee members may have at this time and welcome the opportunity to provide additional input in the future on behalf of Century Benefits Group and our industry in NYS.

(END OF ORAL TESTIMONY)

Are Single Payer and Universal Health Care the same thing?

- The terms “Single-Payer” and “Universal Health Care” are often thought to mean the same things; they do not. According to the World Health Organization (WHO), universal health care means that everyone receives health care without suffering financial hardship. Interestingly, the WHO website also explains what universal health care is not:
 - ***UHC does not mean free coverage for all possible health interventions, regardless of the cost, as no country can provide all services free of charge on a sustainable basis.***

If the World Health Organization doesn't think that free coverage for all possible health interventions is sustainable by any country, including the USA, shouldn't that be a consideration for NYS? And how does that correspond to receiving health care without suffering financial hardship? [*World Health Organization, Key Facts, January 24, 2019*]

While a nation may operate at a deficit, New York State may not; it must maintain a balanced budget. Making the expense of a state-based single payer health plan part of a state's balanced budget would make our health care system unstable; it would make our residents and their access to affordable health care vulnerable to massive tax increases as well as rationing of care when revenues plunge or costs increase.

Most New Yorkers Have or are Eligible for Coverage

- **At present, 98.75% of New Yorkers are either enrolled in health insurance or are eligible to enroll at substantially reduced cost.** Thanks to the Affordable Care Act, Gov. Cuomo's decision to take advantage of the Basic Health Plan and the success of the public and private health insurance network that exists in New York State today we're already close to achieving universal coverage. We need to do more here – but it should be evident that state-based single-payer health care isn't an economically efficient means to cover the 4.4% of the population who are already eligible for reduced or no-cost health care but haven't yet enrolled. [*2017 American Community Survey 1-Year Estimates -In 2017, 5.69% of New Yorkers were without health*

insurance – some 1,100,000 people. Of those, nearly 858,000 of them were eligible for either partially or fully subsidized health coverage – but chose not to enroll].

How Much Will the New York Health Act Cost the Residents of New York State?

- **The Rand Corporation estimates that NYS would need at least \$161 billion in additional tax revenues (including long term care) to enact a state-based single payer health plan – the New York Health Act (NYHA) - and that the amount of additional tax revenue needed would grow to \$210 billion by 2031. We think that their estimate is low, by a considerable amount – and in fairness to the estimators, they admit that their \$161 billion estimate only works if :**
 - The new payroll and investment income taxes enacted by the NYHA would be the same rates used in the RAND estimate;
 - No taxpayers leave the state
 - All employed NYS residents are insured by NYHA

What Happens to the Cost of the New York Health Act if Some New Yorkers Leave NYS?

If only ½ of 1 % (45,000) of the top earning residents (earning more than \$141,000 per annum) of NYS move out of state, the nonpayroll tax rates needed to fund the New York Health Act (NYHA) projected in the Rand Report would need to rise almost 380% by 2022. [Rand Report, fig 5.6, Effect of Migration Scenarios on the New York Health Nonpayroll Tax Base and Tax Rates]

It's worth noting that approximately **70% of NYS income tax revenue is generated by NYC Metro area businesses and residents** – many of whom could easily relocate to New Jersey or Connecticut. [*"The reality is that 70 percent of the income tax that the state collects happens to come from Westchester, Nassau, Suffolk and New York City," state Budget Director Robert Mujica].*

An analysis of the NYHA projects that nearly 90,000 financial sector jobs would leave the state due to the NYHA, a number of which will be in the proposed plan's top tax bracket, with a lost wage value of \$10 billion. That's an average wage of \$111,000 per job, and would represent over \$2 billion in direct lost tax revenue to NYS before considering the multiplier effect of the loss of those jobs on our economy. [The Price of Single Payer Health Care in New York, The Foundation for Research on Equal Opportunity]

Will All Employed Residents Be Insured Under the New York Health Act?

As to all employed (and their dependents) residents of NYS being covered by the NYHA, 25% of all residents of NYS are insured by self-funded employer-sponsored health plans – and cannot be forced to participate in the NYHA. The result? Even higher taxes to make up for the 5 million income-earning taxpayers that the NYHA advocates were counting on to help fund their plan. *[ERISA supersedes “any and all state laws as they may now or hereafter relate to” an ERISA plan - ERISA section 514(a), 29 U.S.C. section 1114(a)]*

Are These Estimates Realistic? What Are They Predicated Upon?

- The RAND estimate is predicated on the idea that overall health-care spending doesn't have to increase under the NYHA so long as the state is able to efficiently manage the plan, including activities related to enrollment, tracking eligibility according to any federal waiver agreements, billing and processing claims and lowering provider payment rates and drug prices through rate-setting or negotiations. These may be difficult skill sets to acquire and perfect, as demonstrated by this recent audit by the NYS Comptroller's office:

“New York State made \$1.28B in needless Medicaid premium payments, little is recoverable.” An audit by NYS Comptroller Thomas DiNapoli's office found that between January 2012 and September 2017 the state made more than 3.5 million managed care premium payments that shouldn't have been paid. This isn't a new problem, it's occurred before – and while we believe that it can and will be addressed, it underlines the complexity and unknown costs that will be incurred when moving from eligibility for approximately 4 million New Yorkers to processing claims, tracking eligibility for federal waivers (if they can be obtained at all) and negotiating significant reductions in provider payment rates for 20 million New Yorkers.

If Those Efforts are Unsuccessful, Costs Will Increase Dramatically

- The New York Health Act eliminates all cost-sharing – which, while sounding wonderfully attractive, guarantees increased health care costs. **Without a reduction in either the cost of coverage or what we pay providers for our health care this could increase the cost of**

health care by 12% - 16% overnight. The New York Health Act will pay these increased costs by shifting them to new payroll taxes that would eventually more than outstrip whatever we'd save by not paying deductibles and co-pays while subjecting already overtaxed New Yorkers to even higher health care costs and taxes. Since no one knows what the cost of the New York Health Act will really be we don't know that the proposed plan wouldn't be subject to the "Cadillac Tax"— or whether the IRS would allow the employee-paid portion of the proposed payroll tax to be taken from workers' earnings as a pre-tax expense. *[In 2017, the average actuarial value (the amount of health care costs paid by the health plan) of an employer-sponsored health plan was 83.6% - which means that the enrollee would be responsible for paying 16.4%. Final Report: Analysis of Actuarial Values and Plan Funding Using Plans from the National Compensation Survey Compiled for Office of Policy and Research (OPR), Employee Benefits Security Administration (EBSA), Department of Labor (DOL) by Actuarial Research Corporation (ARC) May 12, 2017]* *[Section 4980i, which was added to the Internal Revenue Code by the Affordable Care Act, applies to taxable years beginning after December 31, 2021. Under this provision, if the aggregate cost of "applicable employer-sponsored coverage" (referred to in this notice as applicable coverage) provided to an employee exceeds a statutory dollar limit, which is revised annually, the excess is subject to a 40% excise tax]*

Given the Lack of Residency Requirements, Costs are Impossible to Accurately Predict

- The lack of a residency requirement of any kind, in concert with the fact that no other state in country would offer a similar program, unlike Medicaid expansion, makes NYHA costs impossible to accurately predict or control. New York will experience a sudden influx of new residents seeking free coverage under the NYHA as well as other social services provided by and paid for by state and local taxpayers.

There Are Alternatives

There are a number of significant steps that New York State may take to reduce the cost of health care for all its residents:

- Working to repeal the 40% excise tax ("Cadillac tax") on health plans under the federal Affordable Care Act (ACA), which has caused employers to increase cost-sharing limits to employees;
- Create a statewide comprehensive system of data-driven, pricing transparency tools to identify and publish what healthcare services really cost and to use the data to encourage consumers and insurers to shop for the best market value in the provision of such healthcare services with good, demonstrable patient outcomes;
- Reduce healthcare provider administrative claims expenses by establishing a universal claims submission system via the New York Health Connector as the claims clearinghouse;
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