HCFANY Written Testimony Submission re: Health/Medicaid Budget Hearing
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to:
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From: "Amanda Peden" <apeden@CSSNY.ORG>
To: <luther@nysenate.gov>

1 Attachment

HCFANY testimony on 2014-2015 NYS Exec Budget_FINAL.pdf

Dear Ms. Luther,

Please find attached written testimony from the Health Care For All New York Coalition. We would like to submit this testimony regarding today's Health/Medicaid Budget Hearing.

Please confirm your receipt of the testimony, and let me know if you need anything else from me in order to submit this testimony on our behalf.

Thank you,
Amanda

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HCFANY Testimony for Public Hearing on Health/Medicaid Budget 2014-2015 NYS Executive Budget

February 3, 2014

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 Senate and Assembly Health committees for the opportunity to submit our testimony on the 2014-2015 New York State Executive Budget. HCFANY is a statewide coalition of over 160 organizations dedicated to winning quality, affordable health coverage for all New Yorkers. We strive to bring consumer voices to the policy conversation, ensuring that the concerns of real New Yorkers are heard and reflected. We also provide expert policy analysis, advocacy, and education on important health policy and coverage issues that affect New Yorkers around the state. For more information on HCFANY, visit us on the web at **www.hcfany.org**.

This testimony outlines HCFANY's position on several provisions within the Executive Budget. The Affordable Care Act has already benefited thousands of New Yorkers by creating new options for quality, affordable health insurance. As of January 20, over 330,000 New Yorkers had enrolled in health insurance plans through our state's Marketplace, NY State of Health. Nearly 600,000 have completed applications so far. New York is on track to meet its goal of enrolling one million people by the end of 201in three years. The Governor's Executive Budget includes provisions that we believe will further improve coverage and enable New York to continue to lead the charge for quality, affordable health care.

Health Care For All New York
c/o Elisabeth Ryden Benjamin, Community Service Society of New York
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In general, we support proposals that will enhance consumer protections and help more New Yorkers afford and use their health insurance. We commend the Governor's efforts to make coverage more affordable for low- to moderate-income working adults by proposing the creation of a Basic Health Program. The Governor's budget also includes important provisions that would strengthen provider networks and protect consumers from surprise medical bills for out-of-network services. Finally, we are pleased that the Governor continues to recognize the critical importance of consumer assistance services that help New Yorkers understand, keep, and use their insurance, by proposing support for the Community Health Advocates (CHA) program.

In addition, HCFANY would like to briefly comment on several provisions in the Executive Budget related to Medicaid, including:

- Proposed funding for transitioning foster children into managed care;
- Elimination of spousal/parental refusal; and
- Elimination of prescriber prevail.

HCFANY Supports the Inclusion of a Basic Health Program as a More Affordable Health Insurance Option for Low- to Moderate-Income New Yorkers

We applaud Governor Cuomo for including a Basic Health Program (BHP) in his proposed budget. This ACA authorized program will benefit working adults and families, while generating fiscal savings for our State. As proposed, the BHP will cover adults with incomes between 133 and 200 percent of the Federal Poverty Level (FPL), as well as lawfully present immigrants up to 200 percent FPL. We are pleased that the Governor chose to include two provisions that would streamline enrollment for those who qualify: (1) providing for continuous enrollment, so that qualifying individuals can enroll at any point in the year; and (2) providing enrollees with continuous eligibility for a 12-month period, even if their income changes. These provisions align the BHP with our state's policies of continuous enrollment and continuous eligibility in the Medicaid program. The second provision will ensure that more New Yorkers have continuous coverage by helping to prevent "churn," when a change in income causes an individual to lose his or her public coverage and either bounce to a private plan or become uninsured. To fund the BHP, the State will receive 95% of the funds the federal government would have spent subsidizing these adults in the Marketplace.

Adults making just above the level to qualify for Medicaid have little or no disposable income with which to pay for health insurance. Forty percent of low- and moderate-income New Yorkers have credit card debt, 26 percent have medical debt, and 32 percent report having no savings at all.[1] The BHP would provide these New Yorkers with a more affordable health insurance

[1] 1. Community Service Society of New York, The Unheard Third Survey, "Hardships and Personal Worries for Low-Income New Yorkers," December 2010, available at http://www.cssny.org/userimages/downloads/UnheardThird2010HardshipsandPersonalWorries.pdf.

option, with little or no premium and very low cost sharing. For many, a Basic Health Program would mean the critical difference between obtaining coverage and going without insurance. As proposed, the program would include a premium of up to $20 monthly for individuals making between 150 and 200 percent of FPL. Instead, HCFANY recommends a BHP program with no premium at any income level, which would be more affordable for consumers and is likely to result in higher enrollment in the Program.

A BHP would also reduce the coverage gap for many low-income families, so that both children *and* their parents have insurance. Low-income adults are more likely than their children to be uninsured, particularly in New York where Child Health Plus (CHP) offers subsidized coverage for children up to 400 percent of FPL. One in three of the 16,750 children enrolled in CHP between October and December are from families making between 150 and 200 percent FPL, according to recent numbers from NY State of Health.[2] New York's BHP would offer more affordable coverage for parents of these children. Research has demonstrated that children whose parents have insurance are more likely to get the health care they need.

Finally, the BHP makes economic sense for our State. New York already spends $1 billion of State funds annually to cover lawfully present immigrants up to 138 percent of FPL under Medicaid. The costs of covering these adults, along with parents making between 139 to 150 percent of FPL who receive subsidized coverage under the Family Health Plus Premium Assistance Program, could be transferred into the BHP, which would operate with primarily federal funds. Initial reports indicate that the savings for BHP could be in the hundreds of millions.[3] These State savings would occur without raising costs for consumers or cutting benefits. HCFANY eagerly awaits the updated Urban Institute funding estimate in light of new federal payment guidance.

HCFANY Supports Improved Health Care Provider Network Standards and Protections for Consumers who Use Out-of-Network Services

The Budget includes important provisions that would require insurance plans to meet network adequacy standards and protect New Yorkers from surprise medical bills for out-of-network services they did not choose. HCFANY's support for these provisions is summarized

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[2] NY State of Health: The Official Health Plan Marketplace. December 2013 Enrollment Report. January 2014, available at: http://www.healthbenefitexchange.ny.gov/news/press-release-ny-state-health-details-information-tens-thousands-who-enrolled-january-coverage

[3] For a full analysis of the benefits of creating a BHP in New York, see: Community Service Society of New York. Bridging the Gap: Exploring the Basic Health Insurance Option for New York. January 2012, available at http://www.cssny.org/publications/entry/bridging-the-gapJune2011RevisedJanuary2012. See also, Blavin, F., Blumberg, LJ, Buettgens, M, et al. The Coverage and Cost Effects of Implementation of the Affordable Care Act in New York State. Urban Institute, March 2012, available at http://www.healthcarereform.ny.gov/health_insurance_exchange/docs/2012-03_urban_institute_report.pdf.

below and in greater detail in our recent Memo of Support for Out-of-Network Legislation, which is available in the Resources section at www.hcfany.org.

Key provisions of the proposed out-of-network legislation contained within the Transportation, Economic Development, and Environmental Conservation Article VII bill (TED Article VII, §U), would benefit thousands of New Yorkers by:

- **Holding consumers harmless** for surprise bills from emergency room or out-of-network charges that were outside of their control, while **setting a fair process** for providers and insurers to negotiate directly over coverage disputes;
- **Allowing consumers to go out-of-network** when their plan's provider network doesn't have a specialist who meets their medical needs;
- Requiring all products to meet a set of **provider network adequacy standards**, so fewer New Yorkers end up seeing out-of-network providers, whether planned or unplanned;
- **Expanding the external review program** to include disputes over out-of-network specialist access; and
- **Improving transparency and streamlining out-of-network claims**, to prevent surprise bills.

Too often, consumers who make every attempt to see in-network providers end up receiving out-of-network services. In an emergency situation, a consumer may end up in an out-of-network hospital or treated by an out-of-network provider, with no time to choose otherwise. Another consumer may have a non-emergency, scheduled procedure in an in-network hospital or clinic, only to find that an out-of-network provider, such as an anesthesiologist or radiologist, played some part in their care. These individuals are then faced with "surprise" bills, many of which are higher than they can afford to pay.

HCFANY strongly supports aspects of the legislation that would protect more consumers from surprise bills and remove them from the middle of the negotiation process in the event of coverage disputes. If the legislation is passed, the insurer and provider, who have the best bargaining positions, would negotiate fee arrangements themselves or through independent arbitration.

HCFANY also supports provisions that would allow consumers to go out-of-network at the in-network cost when a plan does not have a qualified provider in-network. People with serious or chronic health conditions often need to see doctors with very specialized expertise and experience. When their plan does not include someone with the requisite experience, they may be forced to go out-of-network to get necessary and often life-saving care, thus incurring out-of-network charges. New York State law already offers protections for HMO enrollees, and the new legislation would protect more New Yorkers by instituting the same requirement for all "comprehensive policies that

use a network of insurance plans" (TED Article VII, p.126). The legislation would further protect New Yorkers by requiring these policies to adhere to the network adequacy standards already required of HMOs, so that fewer New Yorkers would need to go out-of-network to meet their health care needs.

The out-of-network legislation would also expand the States' highly successful external review system to resolve disputes over the consumer's right to go out of network when there is inadequate network expertise. This is currently one of the most difficult disputes for consumers to resolve with insurers, because the insurers have a strong economic incentive, shared with their network physicians, to discourage out-of-network services. Out-of-network exceptions are rarely granted voluntarily. Although the ACA requires that "setting of care" be subject to external review, New York has so far allowed external review only for procedures that are not offered in-network, not for issues of relative expertise of specialists. External review of these issues is necessary in order for the new rules regarding access to uniquely qualified specialists, described above, to work in a meaningful way.

Finally, the out-of-network legislation takes important steps to strengthen disclosure and transparency requirements for plans and allow consumers to e-file any out-of-network claims. This will help more consumers understand their insurance plan's network and any out-of-network coverage and fees. With more disclosure regarding out-of-network costs, consumers will be better able to prudently manage their health care expenses.

HCFANY Supports the Dry Appropriation for Community Health Advocates

HCFANY strongly supports the Executive Budget's "dry appropriation" to the Community Health Advocates (CHA) program (State Operations Budget, p. 314). This appropriation authorizes federal funds for a statewide network of groups that assist New York's health consumers and small businesses with finding and using health insurance coverage. These services are critical, as the health care system is notoriously difficult to navigate. Indeed, research shows that the majority of Americans struggle to grasp even basic health insurance terms, such as "premium" and "deductible."[4]

The CHA program is administered by the Community Service Society of New York in partnership with three specialist agencies, the Empire Justice Center, The Legal Aid Society, and the Medicare Rights Center. Together, these agencies have developed a strong, statewide learning community of service providers at community and business-serving groups by providing training and technical assistance, and handling complex cases and appeals. From 2010 through August 2013,

[4]Long, SK, Kenney, GM, et. al. (2013). The Health Reform Monitoring Survey: Addressing data gaps to provide timely insights into the Affordable Care Act. *Health Affairs*. Retrieved from http://content.healthaffairs.org/content/early/2013/12/13/hlthaff.2013.0934.full.html

CHA received the generous support of the legislature trough dry appropriations, which supported a central, toll-free helpline, in addition to statewide services through 27 community-based organizations and 34 small business-serving groups. Since 2010, the CHA program has served over 160,000 New Yorkers and 13,000 small employers, saving approximately $13 million for consumers across the State. More information on CHA can be found online at www.communityhealthadvocates.org.

Accordingly, HCFANY urges the Legislature to approve the $2.5 million dry appropriation to support Community Health Advocates. This funding would support the central hotline, the three specialist agencies, and 15-20 community-based organizations and small-business serving groups.

HCFNY Supports Provisions that Would Strengthen the Medicaid Program, but Opposes Provisions that Would Weaken the Program or Otherwise Harm Low-income New Yorkers

New York was one of the first states to take-up Medicaid expansion, under which thousands of New Yorkers are newly eligible for free public health insurance. It is critical that the Medicaid program remain strong as it welcomes new enrollees. HCFANY supports the provision in the Budget that provides $5 million to facilitate the transition of over 20,000 children and youth in foster care from Medicaid fee-for-service to managed care. The funds provide critical support to voluntary foster care agencies for training and consulting, data collection, and investments in health information technology. The transition of this population to managed care must preserve and enhance access to medical, dental and behavioral health services for some of New York's most vulnerable and often forgotten children.

However, we strongly oppose two provisions in the budget that would harm Medicaid enrollees and other low-income consumers: (1) elimination of spousal and parental refusal for certain groups; and (2) elimination of prescriber prevail. The budget preserves "spousal refusal" for couples where one spouse is receiving Managed Long Term Care. However, it would eliminate the longstanding right of "spousal/parental refusal" for children with severe illness, low-income seniors who need Medicaid to help with Medicare out-of-pocket costs, and other vulnerable populations. The "refusal" will be honored and Medicaid granted only if a parent lives apart from his or her sick child, or a "well" spouse lives apart from or divorces his or her ill spouse. HCFANY opposes denying Medicaid to these vulnerable groups and therefore urges the legislature to preserve spousal/parental refusal.

HCFANY also opposes the Governor's proposal to repeal an important patient protection in the Medicaid program which restored "prescriber prevails" for several classes of drugs last year. A prescriber, with clinical expertise and knowledge of his or her individual patient, should be able to override a managed care formulary or preferred drug when the plan and prescriber cannot come to

an agreement for atypical anti-psychotics, as well as other classes of drugs.[5] Individuals may have varied responses to different drugs in the same class. Sometimes only a specific drug is effective or alternative drugs may have unacceptable side effects. Prescribers are in the best position to make decisions about what drug therapies are best for their patients.

Thank you for your consideration of our recommendations and concerns. Should you have any questions, please do not hesitate to contact Elisabeth Benjamin at: 212-614-5461 or at: **ebenjamin@cssny.org**.

Very truly yours,

Elisabeth Benjamin, MSPH, JD
On behalf of HCFANY

[5] These include: anti-depressants, anti-retroviral, anti-rejection, seizure, epilepsy, endocrine, hematologic and immunologic therapeutic classes