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HCFANY Testimony for Public Hearing on Health/Medicaid Budget 2016-2017 NYS Executive Budget

January 25, 2016

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 Committee and the Senate Finance Committee for the opportunity to submit our testimony on the 2016-2017 New York State Executive Budget. HCFANY is a statewide coalition of over 170 organizations dedicated to securing quality, affordable health coverage for all New Yorkers. We 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. New York has successfully implemented the Affordable Care Act. Since its launch in October 2013, over 2.8 million New Yorkers have enrolled in private and public coverage through the NY State of Health Marketplace. These numbers will continue to grow with the launch of the State's new Essential Plan, formerly known as the Basic Health Program.

In general, HCFANY supports proposals in the Executive Budget that help more New Yorkers enroll and successfully use their health insurance. We applaud the Governor's proposal to fund consumer assistance services through the Community Health Advocates Program, which helps New Yorkers understand, keep, and use their insurance. We urge the Legislature to support

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State-only funding to provide Essential Plan coverage to a small number of legal immigrants. We urge the Legislature to include in the enacted budget $2 million to fund community-based organizations (CB0s) and small business serving groups to reach the remaining uninsured through outreach activities. We support the Executive Budget's proposal to add six new mental health services for children in the State's Medicaid package.

However, HCFANY is concerned about several provisions that would potentially harm low-income New Yorkers. HCFANY opposes the proposals to eliminate prescriber prevails and spousal refusal, as we have in prior years.

1. ***HCFANY supports the proposed budget allocation of $2.5 million in funding for Community Health Advocates, the state's health care consumer assistance program, and urges the Legislature to increase it for a total appropriation of $4 million.***

HCFANY applauds the Cuomo Administration for including $2.5 million for the Community Health Advocates (CHA) program. HCFANY urges the Legislature to increase the Administration's $2.5 million by $1.5 million—for a total appropriation of $4 million. CHA is a statewide network of community-based organizations (CBOs), Chambers of Commerce and other small business-serving groups that have already helped nearly 240,000 of New York's health consumers and small businesses to use and keep their health insurance coverage. Since 2010, the CHA program has saved over $15 million for consumers across the State, addressing the pernicious issue of consumer medical debt. CHA services are needed now more than ever, with more than 2.8 million New Yorkers enrolled in the NY State of Health Marketplace since its launch in 2013.

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. CHA operates a central, toll-free helpline and provides local services through 27 community-based organizations and small business-serving groups throughout New York. More information on CHA can be found online at www.communityhealthadvocates.org. At its height, CHA was funded at an amount of $6.1 million, providing services through 27 community-based groups and 34 small business serving groups.

While we applaud the Governor for including $2.5 million, additional funds are needed to fend off a 25 percent reduction in services. CHA was initially funded with federal Consumer Assistance Program and Exchange grants. At its height, it was funded at $6.1 million and

provided services through 27 community-based organizations and 34 small business servings groups. As of 2015, federal funding for consumer assistance programs was exhausted nationally, with no hope of renewal. Fortunately, with the support of the Assembly and the Executive, the 2015-2016 enacted budget provided CHA with State-only funding in the amount of $3 million. Due to a need to shift CHA from a federal to a state fiscal year, this funding had to be used within 9 months, and as a result, CHA now has an annualized budget of $4 million. CHA needs a total of $4 million to maintain services at their current level and to avoid a 25 percent funding cut to the statewide network of local CBOs and Chambers of Commerce.

An appropriation of $4 million will maintain the CHA program at its current capacity, allowing it to serve thousands of New Yorkers and small business owners and employees who are newly insured through the NY State of Health or have other forms of insurance (e.g. Essential Plan, Child Health Plus, Medicaid, Veterans, Medicare, union - or employer-sponsored, commercial).

2. ***HCFANY Urges the Legislature to support State-only funding to provide Essential Plan coverage to a small number of legal immigrants.***

HCFANY congratulates New York State for its January 2016 successful launch of the Essential Plan—a comprehensive coverage option for many low- and moderate-income New Yorkers.

HCFANY urges the Legislature to build on this early success by providing State funding to provide Essential Plan coverage to a small group of legal immigrants who are unable to enroll in it. These individuals have an immigration status that makes them *eligible* for New York State Medicaid, but *ineligible* for federally funded Essential Plan and/or Qualified Health Plans through the Marketplace. Helped by this measure would be five categories of legal immigrants, called the "residual PRUCOLs." These immigrants were excluded from coverage under the ACA, despite their lawful status. They consist predominately of younger adult immigrants who have Deferred Action for Childhood Arrivals (DACA) status, with incomes between 138 percent and 200 percent of FPL (those below 138 percent of FPL are already eligible for Medicaid under the *Aliessa* decision described above).

According to a study that will be released later this week by the Community Service Society of New York, approximately 5,500 immigrant New Yorkers would be eligible for this measure, of which approximately 2,200 would enroll. The cost per member per month would be $393, or $4,721 annually. The total cost of "cleaning up" the Essential Plan, or eliminating this coverage cliff for the residual PRUCOL immigrants, would be $10.3 million.

Providing coverage to these immigrants is important both for immigrant families and for society at large. At the individual level, numerous studies indicate that people without coverage are more likely than their insured counterparts to delay seeking preventive care and services for serious and chronic health conditions.[1] Surveys indicate that people without coverage report that they avoid accessing medical care for fear of costs associated with receiving treatment.[2] When they do seek treatment, it is of lower quality[3] and they are at higher risk of incurring medical debt and/or bankruptcy.[4] Recent research now shows that access to coverage is associated with significant reductions in mortality[5] and improvements in mental health,[6] at least in part due to higher continuity of care.[7]

Lack of coverage for a significant portion of New York's population also causes problems for our broader health care system because it causes payers and providers to charge more to the insured population in order to offset the losses in providing care to the uninsured.[8] Unauthorized immigrants use health care less than U.S. citizens. However, when they do utilize care, unauthorized immigrants rely on the publically-financed uncompensated care system, using it two times more than their legal immigrant and citizen counterparts.[9] Exacerbating this situation is the ACA's gradual reduction in federal Disproportionate Share Hospital (DSH) funding, which traditionally has offset the cost of hospital care for the uninsured and is slated to begin ratcheting down in 2017.[10] New York State receives more of this funding than any other state[11] and is likely to be the state hardest hit by these cuts.[12]

Accordingly, HCFANY urges the Legislature to appropriate $10.2 million to cover the small group of "residual PRUCOLs" in a State-only funded Essential Plan.

3. **HCFANY urges the Legislature to include in the enacted budget $2 million to fund community-based organizations (CBOs) and small business serving groups to reach the remaining uninsured through outreach activities.**

Despite the success of New York's enrollment efforts, 8% of New Yorkers still remain uninsured. And it appears that those who remain without insurance tend to be concentrated in certain communities, including rural New York and among Limited English Proficient (LEP) populations.

State funded Navigators do their best to do limited outreach in addition to their primary tasks of educating consumers and small businesses about their health insurance alternatives and assisting in enrolling in health plans through NY State of Health. However, both legal restrictions and time constraints prevent Navigators from engaging in comprehensive outreach to "hard-to-reach" groups.

We therefore highly recommend that $2 million be provided as a legislative addition to the Executive Budget to enable the Department of Health to establish a grant program to fund a small network of CBOs and small business serving groups to conduct outreach about the availability of health coverage, and to connect interested consumers to local Navigators. Priority funding should be given to CBOs and small business serving groups that can demonstrate they will strategically target consumers and small businesses in communities (both geographic and demographic) with higher than average rates of uninsurance and the capacity to reach these communities. This program would build on the success of programs like the Ambassadors for Coverage Program, funded by the New York State Health Foundation, which connected with over 54,000 consumers in primarily hard-to-reach communities throughout New York State during the NYSOH's first Open Enrollment period, greatly enhancing the outreach efforts of NY State of Health.[13]

4. **HCFANY supports the Executive Budget's proposal to add six new mental health services for children in the State's Medicaid package.**

The Executive Budget adds six new mental health services for children in the Medicaid program. This proposal would significantly improve services for children with mental health needs including: family peer supports, psychosocial rehabilitation services, and crisis intervention.

HCFANY strongly supports this measure to improve the quality of coverage for our youngest New Yorkers.

5. **HCFANY opposes provisions that would weaken public coverage options or otherwise harm low-income New Yorkers, including proposals related to spousal refusal and prescriber prevails.**

Spousal refusal

The budget 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.

Prescriber prevails

HCFANY opposes the Governor's proposal to repeal "prescriber prevails" in fee-for-service Medicaid. A prescriber, with clinical expertise and knowledge of his or her individual patient, should be able to override a formulary or preferred drug for atypical anti-psychotics, as well as other classes of drugs.[14] 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. Without this provision, consumers are left with no other option but to appeal drug denials, which unnecessarily burdens both consumers and State administrative systems.

Thank you for your consideration of our recommendations and concerns. Should you have any questions, please do not hesitate to contact Bob Cohen at (518) 465-4600 x105 or at bcohen@citizenactionny.org.

Very truly yours,

[1] A. Wilper et al., "Health Insurance and Mortality in US Adults," *Am. J. of Pub. Health,* 99(12) 2289-2295 (2009); S. Collins et al., "Help on the Horizon: How the Recession Has Left Millions of Workers Without Health Insurance, and How Health Reform Will Bring Relief," The Commonwealth Fund, (2011), available at: http://www.commonwealthfund.org/Surveys/2011/Mar/2010-Biennial-Health-Insurance-Survey.aspx; J. Hadley, "Insurance Coverage, Medical Care Use, and Short-term Health Changes Following an Unintentional Injury or the Onset of a Chronic Condition," *J. of the Am. Med. Ass'n.,* 297(10):1073-84 (2007); S. Rhodes et al., "Cancer Screening—United States, 2010," Centers for Disease Control, (2012), available at: http://www.cdc.gov/mmwr/pdf/wk/mm6103.pdf

[2] *See, e.g.,* R. Riffkin, "Cost Still a Barrier Between Americans and Medical Care, Gallup, (Nov. 2014) available at: http://www.gallup.com/poll/179774/cost-barrier-americans-medical-care.aspx; Community Service Society of N.Y., "Findings from a Statewide Poll on Health Reform in New York," (Feb. 2008).

[3] J. Hadley, "Sicker and Poorer—The Consequences of Being Uninsured: A Review of the Research on the Relationship between Health Insurance, Medical Care Use, Health, Work, and Income," *Med. Care Res. and Rev.* 60: 3S-75S (June 2003); D. Baker et al., "Lack Of Health Insurance And Decline In Overall Health In Late Middle Age," *New Eng. J. of Med.,* 345:1106-112 (Oct. 2001).

[4] A. Finkelstein et al., "The Oregon Health Insurance Experiment: Evidence from the First Year," *The Q. J. of Econ.*, Oxford University Press, vol. 127(3), at 1057-1106 (2012); D. Himmelstein et al., "Medical bankruptcy in the

United States, 2007: Results of a National Study." *Am. J. of Med.* 122(8):741-6 (2009), available at: http://www.pnhp.org/new_bankruptcy_study/Bankruptcy-2009.pdf.

[5] B. Sommers et al., "Changes in Mortality After Massachusetts Health Care Reform: A Quasi-experimental Study," *Annals of Internal Med.*, vol. 160(9) at 585 (2014); Institute of Medicine, *America's Uninsured Crisis: Consequences for Health and Health Care,* National Academies Press, at 60-63 (2009).

[6] K. Baicker et al., "The Oregon Experiment—Effects of Medicaid on Clinical Outcomes," *New Eng. J. of Med.,* 368: 1713-1722 (2013).

[7] J. Hadley, *supra* n. 12.

[8] Estimates of cost shifting vary from 1.7% of private health insurance costs, or $14 billion (Hadley) to 4.6%, or $3.9 billion (Kaiser Commission on Medicaid and the Uninsured). *See* J. Hadley et al., "Covering the Uninsured in 2008: Current Costs, Sources of Payment, And Incremental Costs," *Health Aff.*, vol. 27(5):406 (2008); T. Coughlin et al, "Uncompensated Care for Uninsured in 2013: A Detailed Examination," Kaiser Commission on Medicaid and the Uninsured, at 23-24 (May 2014).

[9] J. Stimpson et al., "Unauthorized Immigrants Spend Less Than Other Immigrants and US Natives on Health Care," *Health Aff.*, 32(7):1313–1318 (2013).

[10] K. Neuhausen et al., "Disproportionate-Share Hospital Payment Reductions May Threaten the Financial Stability of Safety-Net Hospitals," *Health Aff.*, 33(6):988-96 (2014).

[11] The Kaiser Commission on Medicaid and the Uninsured, "How Do Medicaid Disproportionate Share Hospital (DSH) Payments Change Under the ACA?" (2013), available at: http://kff.org/medicaid/issue-brief/how-do-medicaid-disproportionate-share-hospital-dsh-payments-change-under-the-aca/.

[12] Office of the New York City Comptroller, "Holes in the Safety Net: Obamacare and the Future of the New York City Health and Hospitals Corporation," (2015), available at: http://comptroller.nyc.gov/wp-content/uploads/documents/Holes_in_the_Safety_Net.pdf.; E. Allen et al., "Linking Medicaid Expansion and Cuts to Disproportionate-Share Hospitals." *Obstetrics & Gynecology*, 126(2):442-45 (2015); L. Ku et al., "Safety-Net Providers After Health Care Reform: Lessons From Massachusetts," *Arch. of Intern. Med.,* 171(15):1379-1384 (2011).

[13] Empire Justice Center and NYS Health Foundation Press Release, "Nationally Recognized 'Ambassadors for Coverage' program Awards Grants to Statewide Community-Based Organizations to Spread the Word About NY State of Health, the Official Health Plan Marketplace" (October 21, 2014); NY State of Health Press Release, "New York State Department of Health Announces NY State of Health Partnership with CVS Pharmacy for Grassroots Outreach Campaign Encouraging All New Yorkers to Get Health Insurance" (December 9, 2014).

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