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**AARP New York State Office**

**Testimony before the**

**New York State Legislature**

**Joint Hearing**

**Senate Finance and Assembly Ways and Means**

**Health/Medicaid**

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**Hearing Room B**

**Legislative Office Building**

**Albany, New York**

## **Introduction**

Good afternoon Senator DeFrancisco, Assemblyman Farrell, and members of the Committee. My name is Neal Lane. I am an AARP member, and I serve on the AARP New York State Executive Council as well as AARP's National Policy Council. With me today is Bill Ferris, our State Legislative Representative for New York. AARP is a membership organization with over 2.5 million members in New York State. I would like to thank you for allowing us to speak today about AARP's views on the Executive's Health Care and Medicaid Budget.

I would like to focus my remarks today in three basic areas that are very important to our membership: the Elderly Pharmaceutical Insurance Coverage Program (EPIC), New York's Health Benefit Exchange, and Medicaid Managed Long-Term Care.

## **MAJOR CUT TO EPIC Took Effect on January 1, 2012**

Creating and maintaining access to affordable prescription drugs is a fundamental goal of AARP. AARP is very concerned to see the EPIC program essentially eliminated as of January 1, 2012, with the exception of coverage in the Medicare Part D doughnut hole and Medicare Part D premium assistance for enrollees with income levels of \$23,000 for single individuals and \$29,000 for married couples.

AARP appreciates the Legislature's restoration of \$22 million to the EPIC program last year to support premium payments. Unfortunately, the remaining cuts and program changes that took effect on January 1, 2012 are having a tremendous impact on EPIC enrollees who cannot afford the copayments for their prescription drugs.

As of January 1, the majority of EPIC enrollees have to pay 25% of the cost of their prescription drugs as required by Medicare Part D (until they reach the Part D coverage gap) – but with no copayment assistance from EPIC. Prior to this cut, EPIC enrollees paid a copayment of no more than \$20 per prescription and often less.

In addition, the cuts that took effect on January 1 eliminated all copayment assistance for people who become eligible for catastrophic coverage under their Part D plans. Now EPIC enrollees with total drug costs exceeding \$6,658 will have to pay 5% of the cost of their medications at the counter. This is very problematic because people who are eligible for catastrophic coverage are often taking prescriptions for cancer-related conditions or multiple sclerosis. Many of these drugs can cost thousands of dollars for each prescription.

The average EPIC enrollee is 78 years old and takes four prescription drugs. We understand the magnitude of the state budget crisis and the need to get New York's finances in order. However, reducing or eliminating this essential copayment support is having a devastating impact on our most vulnerable citizens.

We are beginning to hear about this issue all across the state from our members and organizations that help older people with health insurance-related matters.

We commend the Senate and the Assembly for its longstanding support of the EPIC program in the past and for providing this safety net prescription drug coverage for our senior population. However, last year's budget cut to EPIC, which took effect this year, is taking a hard toll on a population that is least able to afford it.

AARP strongly recommends that the Legislature restore copayment assistance to EPIC enrollees in the final state budget. AARP stands ready to work with you to find the best possible solution so that the EPIC program will continue to assist elderly New Yorkers with affording the medications they need to remain healthy.

#### **Health Benefit Exchange**

AARP was very pleased to see that the Governor has called for the creation of the New York Health Benefit Exchange. The Governor stated that 1 million uninsured New Yorkers will gain coverage. He also noted that the Exchange will reduce costs to individuals who purchase coverage directly by 66% and small businesses by 22%, all financed initially by the federal government at no cost to New York.

AARP is particularly supportive of the creation of the Health Benefit Exchange because of its potential to help the 50-64 year-old population in New York. There are approximately 337,300 individuals in this age group who are currently uninsured.

Unfortunately, the 50-64 year-olds, who comprise over 30% of our membership, are at greater risk for being uninsured or underinsured than their younger and older cohorts for several reasons.

First, they are not yet eligible for Medicare and typically do not qualify for retiree health benefits. They are also at an increased risk for changes in their personal health status, such as the onset of chronic health conditions or disabilities. In addition, many people in this age group find themselves the victims of organizational downsizing which often results in the loss of employer-based health care coverage.

With that in mind, last fall AARP surveyed the 50-64 population in New York State about their health care needs, their ability to pay for health care, and their level of support for New York's Health Benefit Exchange.

The survey found overwhelming support for New York to develop and run its own exchange. The poll also found that New Yorkers age 50-64 are taking dangerous measures to afford health care for themselves and their families.

Specifically, our survey found the following:

- In the past two years, they or a family member have taken the following measures to afford health care expenses:
  - ✓ 33% have scheduled fewer routine check-ups with a doctor
  - ✓ 30% delayed seeing a doctor or nurse when not feeling well
  - ✓ 26% say they cut back on items like food, fuel or utilities
  - ✓ 20% say they took less medication than prescribed
  - ✓ 22% delayed getting a prescription filled
  - ✓ 17% delayed physical or mental health treatments

- 22% indicated that during the past two years there was a time when they or their spouse or partner or dependent children did not have any health insurance coverage.
- 79% are concerned they won't be able to maintain their current health care coverage over the next five years.

AARP recommends that the Legislature accept the Governor's Health Benefit Exchange language and put New York on the road to creating our own exchange rather than cede this action to the federal government.

### **Medicaid Long -Term Care**

A recent AARP-commissioned poll revealed that the majority of New York State residents age 50 and over would prefer to receive long-term care services at home instead of going into a long-term care facility. AARP believes the poll shows strong support for New York to reform its long-term care system and invest more in strong home- and community-based services that help our aging population to age in place. We strongly believe in the effective delivery of quality long-term care services, particularly as they enhance the ability of seniors to stay at home and in their communities while receiving those services and supports.

AARP is disappointed by the current direction of Medicaid Redesign, particularly as it pertains to Medicaid Managed Long-Term Care (MLTC). AARP remains concerned about the speed by which mandatory enrollment in MLTC is scheduled to be implemented, the capacity of the MLTC plans to absorb the anticipated number of new and transitioned enrollees, and whether or not the recommendations and principles within the proposed care coordination model truly supports care that is consumer driven.

We are, in particular, very concerned about the lack of attention given to three issues that are fundamental to ensuring that Medicaid MLTC in New York is truly person-centered and designed to maximize consumers' choice and independence. Ideally, Medicaid

Managed Long-Term Care will:

1. Ensure that all consumers who are mandated into MLTC be given the option to self direct their care. Consumer direction should be required to be proactively explained and offered to consumers, not simply "made available."
2. Ensure that all consumers in MLTC are provided with conflict-free, independent counseling about their full range of options.
3. Ensure that managed care coordination models other than an insurance model are available to all consumers. We believe this was the intent of the legislative language passed last year. The concern is that as currently constructed, the MRT's Coordinated Care Model will hamper or even preclude all models other than a traditional managed care insurance model in which consumers can receive services.

We believe that the Legislature should address these three issues in the budget decisions with the Executive to ensure that Medicaid MLTC maximizes consumer choice and independence.

### **Spousal Refusal - Medicaid Home Care**

The repeal of "Spousal Refusal" protections as it pertains to applying for Medicaid-funded home care should be rejected. AARP agrees with many advocates that this protection is needed because home care does not have enough income protections for the community spouse that exist when individuals apply for Medicaid -funded nursing home care.

AARP believes New York's spousal refusal provision eliminates the huge inequity that allows the "community spouse" of an institutionalized spouse to keep enough of the couple's combined income and resources to realistically meet his living expenses -- up to \$2841 in monthly income, and at least \$74,820 and up to \$109,560 in assets.

However, the same spouse who seeks to obtain Medicaid home care to care for his/her wife at home must impoverish himself so that the couple's combined assets are \$20,850, and combined income is \$1179/month. These levels in many parts of the state are not enough to live on. This creates a pressure on the "well spouse" to institutionalize the disabled spouse as a purely financial decision. The only alternative is divorce.

Again, we believe this proposal in the budget should be rejected. We would recommend that a statewide standard be developed that is consistent with nursing home income protections that are in place for nursing home community spouses.

### **Opportunities In The Federal Affordable Care Act of 2010**

#### ***State Balancing Incentive Payments Program (BIPP)***

AARP strongly believes New York State should seize the opportunity to utilize the significant grant opportunities under the new federal health care law, the Affordable Care Act of 2010 (ACA), to improve our long-term care system and infrastructure and provide needed services to individuals and families in their homes.



New York could likely receive an additional 2% federal match on its Medicaid non-institutionally-based services and supports spending if it applies and is selected for this grant program. The BIPP program, beginning October 2011 and continuing through September 2015, is an incentive for states to offer home- and community-based services (HCBS) as a long-term care alternative to nursing homes. It requires state applications to detail a plan for expanding and diversifying HCBS and estimate costs of the new and expanded services.

The increased Federal Medical Assistance Percentages (FMAP) is provided to states in return for their implementation of three main structural changes to their long-term service and supports (LTSS) systems: single point of entry/no wrong door, conflict free case management services, and a core standardized assessment instrument. States must submit a preliminary work plan at the time of application describing how they will achieve the BIPP requirements within the program period. They must also commit to produce a final work plan within 6 months from date of the application submission and meet data reporting requirements.

A reasonable interpretation of the legislative language could mean that New York could obtain over \$190 million of federal funds to per year for each year of the four-year grant program.

Because one of the required components for BIPP is a statewide single point of entry/no wrong door system, New York would likely have to invest more resources in a program

such as NY Connects. A strong single point of entry/no wrong door system will ensure that individuals can obtain easy access to eligibility determinations for public programs. In addition, it will strengthen existing public information and connect various governmental information systems to ensure consumer access to public programs. New York would also need to prioritize its work toward adopting standardized assessment instruments statewide and across its long-term care programs.

### **Community First Choice Option**

New York could potentially receive an additional six percent federal Medicaid match rate for implementing a Medicaid State Plan option providing person-centered, consumer-controlled home- and community-based attendant care services. This Community First Choice (CFC) option has been available since October 2011. It is AARP's understanding that the Cuomo administration has not yet moved forward in seeking these funds and is awaiting a final rule from CMS. We believe the state should (and is permitted by CMS) move forward with the creation of the Development and Implementation Council and move New York closer to bringing in much needed dollars to keep more individuals in their communities.

This option is a permanent part of the federal Affordable Care Act and has no end date. Services must include assistance in accomplishing activities of daily living (ADLs) as well as support for the acquisition, maintenance, and enhancement of skills for ADLs, instrumental activities for daily living (IADLs), and health-related tasks. States choosing this option must maintain or exceed their prior fiscal year HCBS expenditures for older

adults and individuals with disabilities. States must also establish and maintain a comprehensive, continuous quality assurance system for attendant services and develop this option in collaboration with a Development and Implementation Council, a majority of whose members are individuals with disabilities, older adults and their representatives.

If New York implemented this Medicaid State Plan option, the state could potentially draw down as much as \$90 million a year in new Medicaid funds according to a detailed analysis conducted by the NYS Association on Independent Living.

### **Conclusion**

Thank you again for allowing AARP to testify today on these important issues.

Reforming New York's long-term care system, establishing a health benefit exchange, and continuing to make prescription drugs accessible and affordable will undoubtedly help thousands of older New Yorkers and their families. We would be happy to answer any questions.