New York
HPA
Health Plan Association

Testimony of the New York Health Plan Association

to the

New York City Council Committee on Health
on the subject of

Rising Health Care Costs

December 12, 2019

Chairman Levine and members of the committee, thank you for the opportunity to appear at this week's hearing on Rising Health Care Costs.

The New York Health Plan Association is a non-profit organization that represents 29 health plans that provide coverage to nearly eight million fully-insured New Yorkers. The people served by HPA's member plans include individuals who receive coverage through an employer or who purchase it on their own directly through a health plan or through the NY State of Health, the state's Exchange, and residents covered by state programs including Medicaid, Child Health Plus, the Essential Plan and Managed Long-Term Care.

Our member health plans are committed to the goal of universal coverage, and have a long history of working collaboratively with New York government in implementing the Affordable Care Act and the state's ambitious Medicaid redesign program. This common effort is a major reason for New York's success in insuring coverage for more than 95 percent of state residents and reducing the number of uninsured from 10 percent in 2013 to less than five percent today.

Keeping health care affordable is ***the*** number one challenge facing all of us in the health care system, and rising costs remains the most pressing health care issue facing employers and consumers. According to the recent annual report by the CMS Office of the Actuary, nationally per capita spending on health care increased by four (4) percent in 2018, up from 3.5 percent in 2017, as faster growth in medical prices more than offset slower growth in the use and intensity of health care goods and services.

New York has some of the highest health care costs in the country, and markedly higher than the national average. In their July 2019 report, *Health Care Spending, Prices and Utilization for Employer-Sponsored Insurance in New York*, the NY State Health Foundation and the Health Care Cost Institute (HCCI) noted that "spending is increasing at a rapid rate and rising price, not greater utilization of services, is the main culprit." As the report noted, "These data point to prices of services that experienced particularly high growth, including for certain inpatient admissions and prescription drugs, as areas of focus for New York employers, health plans, and State policymakers to target in efforts to control health care costs for their employees."

Health insurance premiums reflect the cost of care. While every New Yorker deserves access to high-quality care, making that a reality requires addressing the underlying factors driving health care costs. Among them:

- Provider Price Growth Driven in Part by Continued Consolidation;
- Increases in Prescription Drug Prices; and
- Government Taxes, Fees and Assessments.

Provider Price Growth and Provider Consolidation

The wave of mergers, acquisitions and clinical affiliations among hospitals, physicians and other providers will reshape the health care system for years to come. Some have suggested the changes in the delivery system are necessary and will result in better integration and improved quality for patients. However, there is a growing body of research among policy experts that greater provider consolidation does not, in fact, lead to better care and lower prices, but rather merely leads to enhanced bargaining power for providers with no notable improvement in quality of care for patients.

Government can take steps to promote greater accountability of these provider transactions, provide increased transparency of provider costs, and restrict contracting practices that harm consumers and employers. Additionally, government can take measures to protect consumers from excessive charges by prohibiting providers from imposing unnecessary "add-on" costs. Approaches should include:

- **Enhanced oversight of provider mergers, acquisitions and affiliations:** Update the state's Certificate of Need process to require annual reporting of entities that merge and that they hold their prices flat for a 3-5 year period, to ensure that benefits described for the transaction are actually realized and that employers and consumers benefit from lower costs and better quality.
- **Eliminate Certain Contracting Practices:** Prohibit restrictive contracting language that serves as a barrier to promoting greater competition in the marketplace, increasing transparency of health care costs, and providing more affordable options for employers and consumers. Measures should include:
    - prohibiting "all-or-nothing" clauses in which an insurer is required to contract with all provider locations for a multi-location provider instead of contracting only with individual provider locations;
    - allowing for contracting with individual institutions based on quality measures;
    - barring confidentiality clauses that limit the ability of consumers to know prices charged by providers;
    - forbidding anti-steering provisions that prohibit insurers from using benefit design to encourage consumers to obtain care at more affordable provider sites; and
    - disallowing provisions that limit the ability of health plans or employers to offer tiered network products if they do not include certain hospitals in the most favorable tier.
- **Ban hospital facility fees:** Prohibit hospitals from imposing facility fees for services provided in a hospital or at a facility not on a hospital's campus.

Increases in Prescription Drug Prices

While advances in the development of life-saving medications offer tremendous clinical benefits for patients, rising prescription drug prices is a major threat to keeping health care affordable for employers and consumers. At the same time, it is unclear these price increases are justified.

An October report by the Institute for Clinical and Economic Review (ICER) examined whether certain price increases are justified by new clinical evidence or other factors. An independent, non-partisan research organization that objectively evaluates the clinical and economic value of prescription drugs, medical tests, and other health care and health care delivery innovations, ICER analyzed pharmaceutical manufacturer price increases on seven widely used drugs in 2017 and 2018. The examination found the price hikes resulted in an additional $5.1 billion in spending for insurers and consumers. **Its analysis asked the question, "Was there any new clinical evidence to support those price increases?" Their conclusion: No.**

Breakthrough medications should not be a blank check. Out-of-pocket costs are dictated by the list price of a drug, which is solely determined by the drug manufacturer. As consumers, employers, providers, health plans, and the state grapple with rising prescription drug costs, greater understanding is needed into how prescription drug prices are set and the rationale for price increases. Approaches should include:

- **Price Transparency:** Consumers, employers, state government programs, providers and health plans must price and budget many months in advance, leaving the health care delivery system vulnerable to uncertainty regarding price changes for existing drugs and the prices of new drugs. Considering the role that pharmaceutical costs have on health care spending, sensible measures should be taken requiring pharmaceutical manufacturers to explain the prices they charge for the product. This should include state reporting on how often the price of the drug has increased and the rationale for the increases, the direct costs associated with manufacturing the drug, such as R&D and materials costs, marketing and distribution spending, net profits, spending on patient assistance programs and coupons, and other important clinical details that may affect the price of the drug.
- **Early Warning of Price Increases:** Unfortunately, as prices on new medications go up, it has also resulted in the rising price of existing prescription drugs and treatments that are already in the marketplace. There is little to no information provided by manufacturers to justify these substantial increases in the price of the prescription drug. Prior to any prescription drug price increase of more than 10 percent of the wholesale acquisition cost (WAC), including cumulative increases that occurred within the previous two calendar years, the manufacturer should provide 60 days' notice of the increase. The notice should require the manufacturer to disclose simple and easy producible information such as the date of the increase, current WAC of the prescription drug, the dollar amount of the future increase in the WAC of the prescription drug, and an explanation on the need for the

increase so that consumers, employers, providers, health plans, and the state have notice before the increase takes effect.

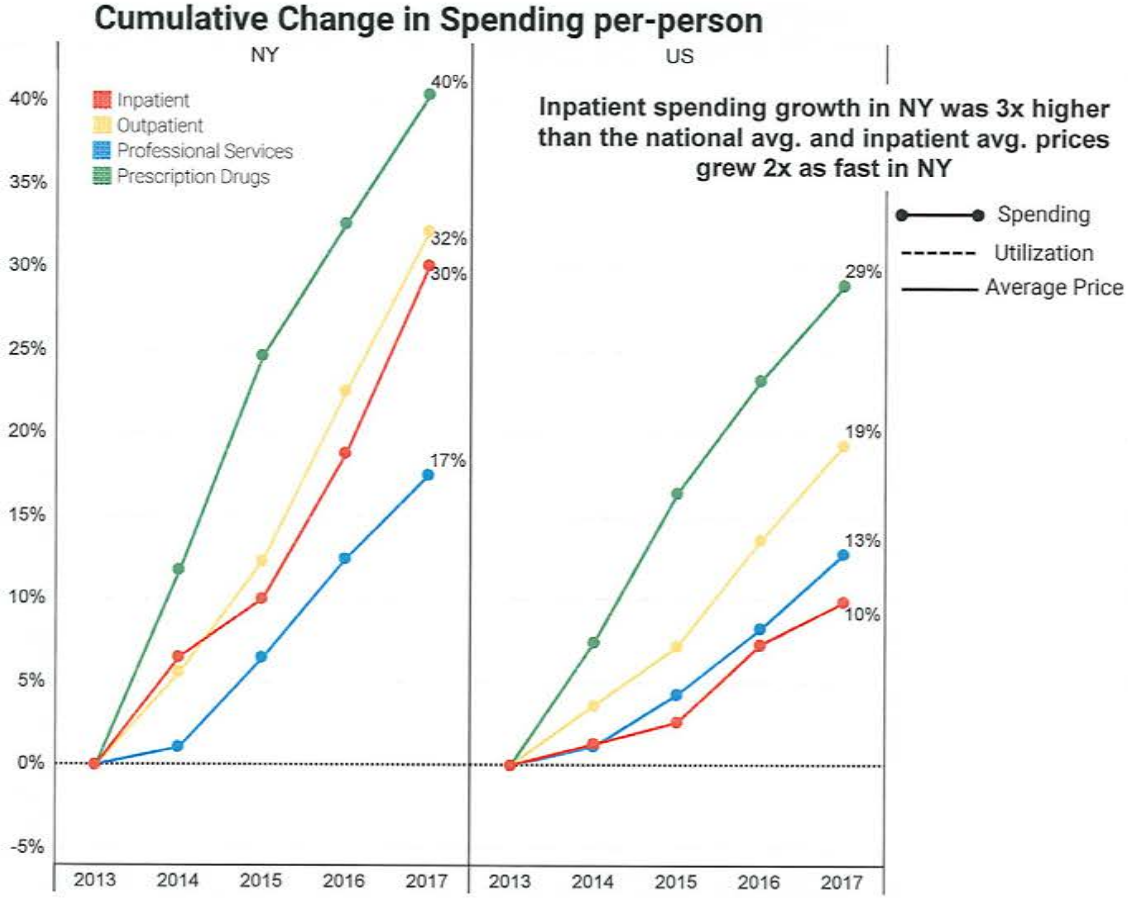
Government Taxes, Fees and Assessments.

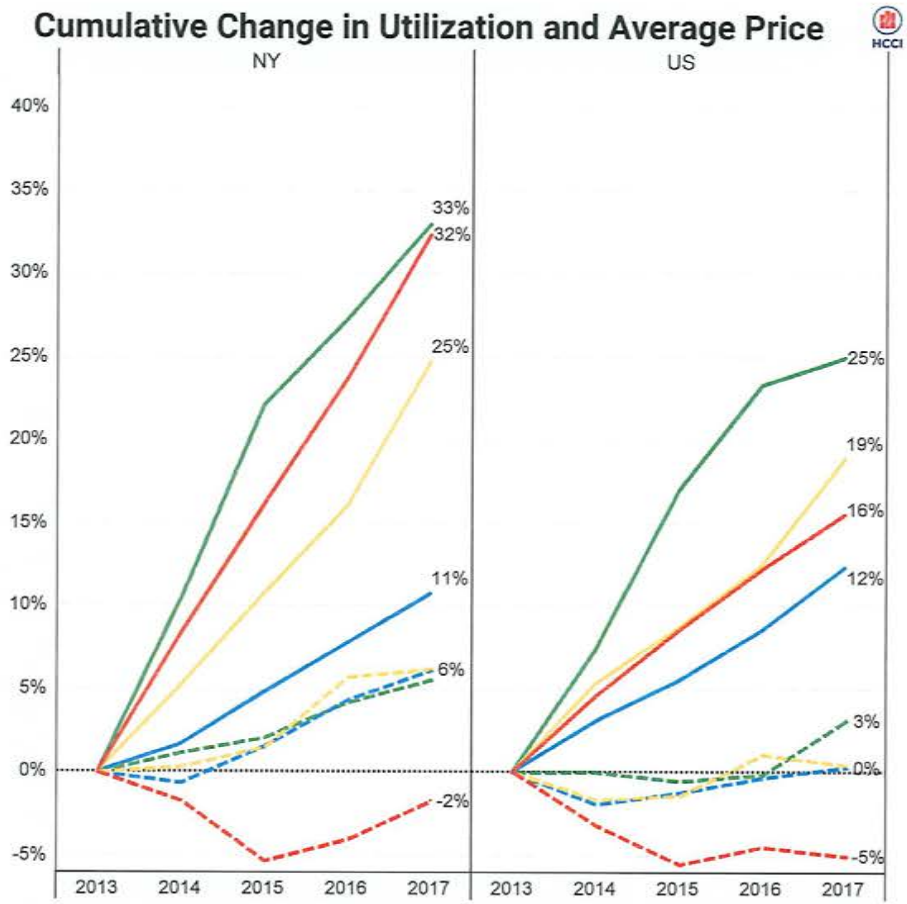
The cost of government taxes adds to the cost of coverage for New Yorkers. The state collects nearly $5 billion annually through Health Care Reform Act (HCRA) patient services assessment, which a tax on inpatient and outpatient hospital charges as well as numerous other health care services ($3.8B), and covered lives assessment, a sales tax placed on every policy sold in New York State ($1.1B). The HCRA taxes representing the third largest source of state revenue behind the sales and income taxes. Other state taxes and fees on health insurance include a 1.75 percent premium tax on commercial health insurance policies that is directed to the general fund and Section 206 "assessments" totaling $271 million in this year's budget that fund the Department of Financial Services' operations.

Further, while the Affordable Care Act (ACA) has had a significant impact on expanding coverage for millions of New Yorkers, taxes associated with the ACA are also making the cost of health care coverage more expensive for employers and consumers. For example, the ACA established an annual fee on health plans – the so-called Health Insurance Tax – that is a direct sales tax on health insurance. While Congress has imposed a moratorium on this tax, the moratorium expires at the end of this year, which will result in an additional $1 billion in costs for New York in 2020. Currently, bipartisan legislation to extend the current moratorium through 2021 is pending in Congress and we would urge you to encourage the state's Congressional delegation to support this important bill.

Again, we appreciate the opportunity to offer our comments and are happy to engage in further discussions with the Council.

Addressing Underlying Costs





source: Health Care Cost Institute & NY State Health Foundation, *Health Care Spending, Prices, and Utilization for Employer-Sponsored Insurance in New York*, July 2019

Addressing Underlying Costs

FIGURE 5: New York Spending Per Person by Type of Service in 2017

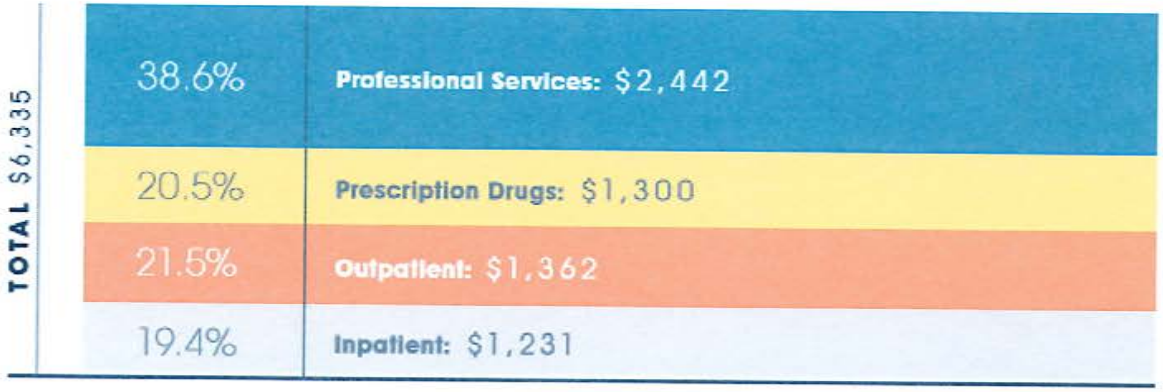


FIGURE 6: National Spending Per Person by Type of Service in 2017

source: Health Care Cost Institute & NY State Health Foundation, *Health Care Spending, Prices, and Utilization for Employer-Sponsored Insurance in New York*, July 2019

Addressing Underlying Costs

Then and Now

The Cost of Prescription Drugs

	AWP 2011	Increase	AWP 2018
Benicar  Used to treat high blood pressure	$3.10	142%	 $7.50
Doxycycline  Used to treat bacterial infections	$0.96	595%	 $6.67
Enbrel  Used to treat autoimmune diseases	$451.32	175%	 $1,242
EpiPen  Used to treat severe allergic reactions	$90.07	214%	 $282.41
Humira  Used to treat arthritis, plaque psoriasis, Crohn's disease, and ulcerative colitis	$1,006.19	142%	 $2,436