Testimony of the New York Health Plan Association

to the

Senate Finance Committee
and the Assembly Ways & Means Committee

on the subject of
2021 Executive Budget Proposals on Health Care

January 29, 2020

INTRODUCTION

The New York Health Plan Association (HPA), comprised of 28 health plans that provide comprehensive health care services to more than eight million fully-insured New Yorkers, appreciates the opportunity to present its members' views on the Governor's budget proposals.

HPA members include plans that offer a full range of health insurance and managed care products (HMO, PPO, POS, etc.), public health plans (PHPs) and managed long term care (MLTC) plans. The New Yorkers who rely on these plans are enrolled through employers, as individuals, or through government sponsored programs — Medicaid Managed Care, Child Health Plus — and through New York's exchange, the NY State of Health (NYSOH).

Our member health plans have long partnered with the state in achieving its health care goals. These partnerships include collaborating on efforts to develop affordable coverage options for individuals, families and small businesses, providing access to care that exceeds national quality benchmarks for both commercial and government program enrollees, and improving access to quality care in its government programs.

We appreciate the opportunity to offer our view on the proposed 2021 Executive Budget in relation to its application for health care spending in New York.

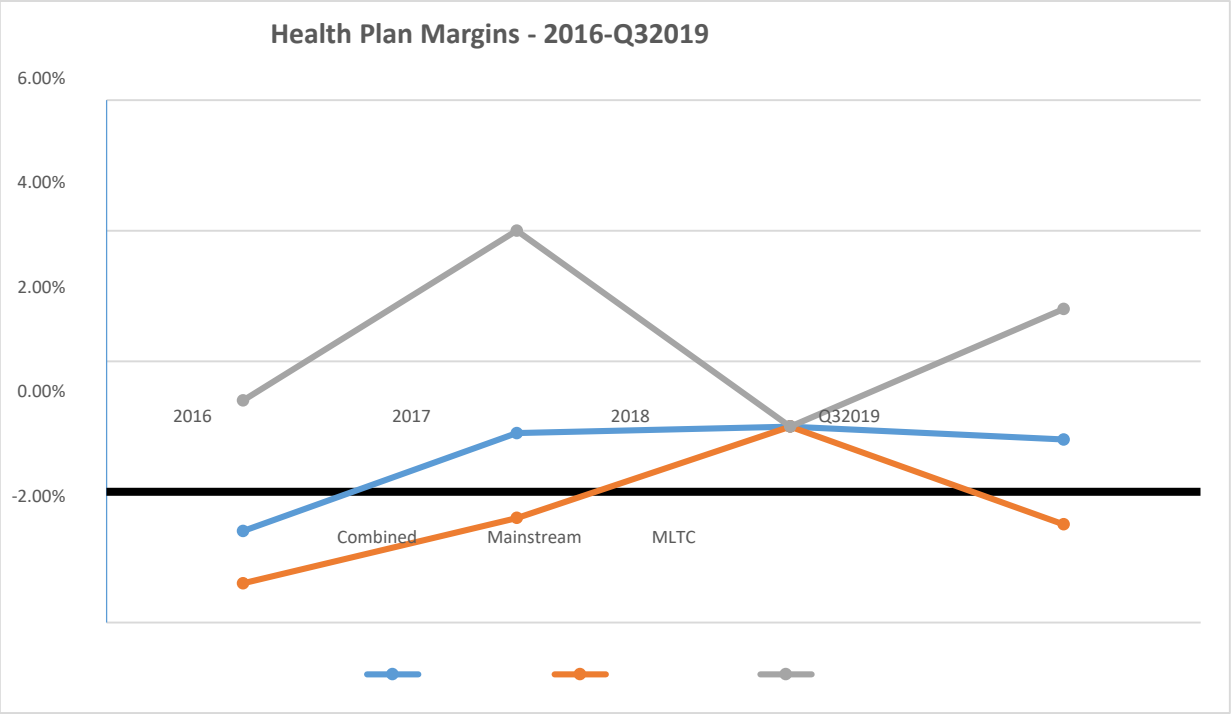
ADDRESSING THE MEDICAID DEFICIT

HPA recognizes the significant budget difficulties New York faces this year. The bulk of the state's current and anticipated deficit can be attributed to a major deficit in the Medicaid program. The gap we are facing in Medicaid should not be a surprise to any of us. While it is easy to blame surging health care costs—and to be clear, the underlying costs of health care such as provider and pharmaceutical prices are indeed continuing to rise — a number of other factors have contributed to the spiraling Medicaid spending. These include the minimum

wage hike that has added $1.5 billion to New York's Medicaid tab for FY20 and an across-the-board rate increase for hospitals and nursing homes in the fall of 2018, when Medicaid was already over budget.

Another contributor to the increase in Medicaid spending is the tremendous expansion in enrollment, particularly in the MLTC program. HPA and its member plans support the goals of the MLTC program and have been diligent partners in working to ensure that a quarter million frail elderly and chronically disabled New Yorkers can remain in their homes rather than in institutional settings. It is important to note that the state makes eligibility determinations for MLTC, not the plans. The growth in MLTC enrollment has been coupled with even greater growth in the consumer-directed personal assistance program (CDPAP). While we believe that CDPAP is an essential part of the long term care continuum, spending on this program has increased exponentially from $129.5 million in 2014 to a projected $1.8 billion in FY21. This is an area where the state can look to enact reforms that will provide savings without jeopardizing care and services to this population the program was intended to serve.

The Department of Health recently imposed a one percent across-the-board reduction in Medicaid reimbursements — a cut that falls disproportionately on plans. This cut is on top of hundreds of millions in cuts that have been imposed on health plans in the last several years. Even facing these repeated cuts, health plans have acted as responsible stewards of state resources and constrained growth, provided predictability to budgeting and added long-needed accountability to the Medicaid program.

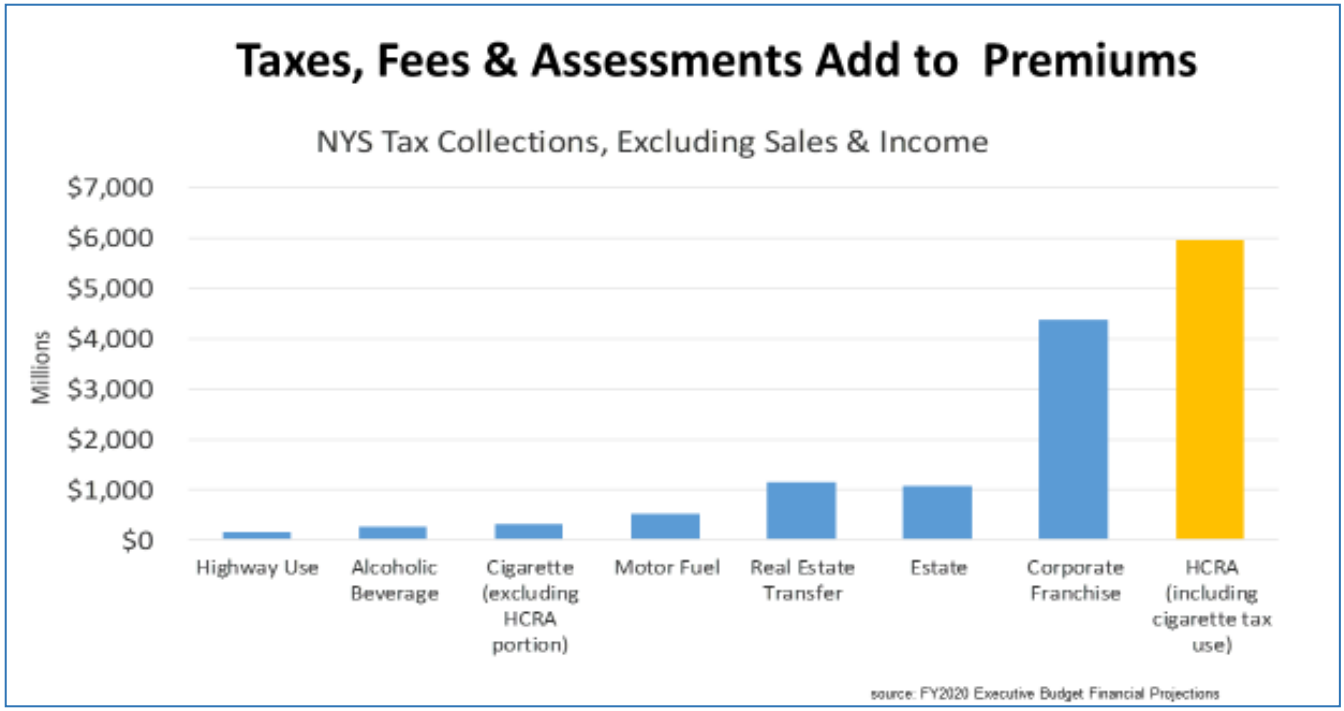


Medicaid Redesign Team II

Unlike the past several years, instead of a list of specific Medicaid savings proposals for the upcoming fiscal year (FY21), the Governor has said he will reconvene the Medicaid Redesign Team (MRT) and task them with finding $2.5 billion in state share Medicaid savings prior to March 31, 2020. When the MRT was first convened in 2011, its focus was on reforming the Medicaid program to provide New York's most vulnerable populations with greater access to high quality health care in more cost-effective ways. Many of the proposals called for moving more of these populations into managed care programs, and HPA's member plans were instrumental in carrying out implementation of the reform and continue to work diligently to ensure their success. Given the important role that plans have played in these health reform efforts, it is vital that our industry be part of any discussion of reforming the Medicaid program and we look forward to HPA being a part of the new Medicaid Redesign Team.

One area where we believe the MRT should not become involved is the area of taxes. We were especially concerned by recent news reports that the MRT will consider raising taxes on health insurance as a way to close the gap. A panel charged with examining Medicaid spending should not be allowed to wade into policy discussions that will impact the commercial health insurance marketplace.

More importantly, increasing taxes only exacerbates the challenge for employers and individuals to have access to affordable coverage. New York currently collects more than $5 billion annually through various surcharges and fees imposed on health insurance. Taxes assessed through New York's Health Care Reform Act — HCRA — include a covered lives assessment that varies by region ($1.1B) and a surcharge (sales tax) on health care services ($3.8B). Additional taxes on health insurance include the "Section 206" assessment on insurers ($143M) and a premium tax ($479M). These are taxes that are included in the premiums New York consumers and businesses pay — taxes that increase premiums by between 6%-9%, or about $1,000 per family policy. Combined, these taxes represent the third largest source of state revenue behind the sales and income taxes.



Reforms Before Revenues

Given the fiscal challenges the Medicaid program faces, it is critical to make the most efficient use of limited state dollars to ensure that they are achieving the goals of expanding coverage, improving quality, or reforming the delivery system. HPA has proposed a comprehensive series of measures that will decrease the structural deficit while also protecting the state's most vulnerable citizens. This can be accomplished by eliminating programs that are outdated or do not add value to improving the health of New Yorkers.

When taken together, these common-sense reforms – many of them long overdue – have the potential to close the Medicaid gap by nearly $900 million without adversely affecting services to recipients, helping to ensure New York can maintain its high rate of coverage and, ultimately, protect the citizens the program serves. Among the measures that HPA has recommended:

- **Eliminate or Substantially Reduce Supplemental Payment Pools (Potential Savings: $581.5M) —** Nearly $1 billion is provided to hospitals, Performing Provider Systems and other providers each year through a variety of supplemental payment programs, including the state's Equity Pools, the Workforce Recruitment & Retention Pool, and the Quality Incentive Vital Access Provider Program. In many instances, these supplemental pools merely boost payments to providers without delivering additional benefits to patients. Given the current fiscal challenges, the state should assess the ongoing necessity of each program to determine whether the investments are actually helping to address the goals of increasing coverage, enhancing access to care, or improving quality, and eliminate those pools that either have achieved their goals or are no longer necessary.

- **Realign the Indigent Care Pool (ICP) Funding (Potential Savings: $138M) —** As the uninsured rate in New York has dropped from 10% in 2014 to roughly 5% today, funding from the ICP should support hospitals that provide the majority of care to vulnerable low-income and uninsured individuals, and whose financial stability is challenged. A number of institutions that have positive operating margins and are not dependent on ICP payments currently receive funding regardless of their need. The state should implement a proposal from the Governor's FY20 30-day amendments to limit payments of ICP funds to $10,000 for any downstate hospital with an operating margin of more than 2.98% or a net operating income of more than $68 million.

- **Reform the Health Home Program (Potential Savings: $150M) —** The health home program now accounts for over $600 million in annual Medicaid spending, but after seven years there is little detail on outcome and performance measures or cost analysis regarding the effectiveness of the program. A May 2018 report on the program by the Citizens Budget Commission noted that enrollment has been well below initial projections and most other states' health home programs concentrate on a much narrower population than New York. Given the structural deficit in Medicaid, the state should reduce the size of the health home program by $150 million, eliminating low-performing health homes and adopting meaningful outcome measures to focus on a more targeted population than it does today.

Decreasing the structural deficit should focus on eliminating funding that doesn't meet the goals of expanding access or reforming the delivery system to protect the coverage and services for the millions of New Yorkers who rely on our member Medicaid plans. We remain committed to working with the Executive and Legislature to address the structural deficit and protect the coverage and services for the millions of New Yorkers who rely on our member Medicaid plans.

OTHER BUDGET PROPOSALS

While dealing with the Medicaid gap is a primary focus, there are a number of other health care proposals we would also like to address.

- **Health Care Reform Act (HCRA) Reauthorization** — The FY21 Executive budget extends HCRA for three years, to March 31, 2023, but makes no significant changes to the program. When HCRA was last up for reauthorization, HPA opposed a mere extension of the program, instead recommending that reform be included. We renew that recommendation this year for this program that essentially has not changed since it was introduced more than 20 years ago. Three years ago, we advocated that the recommendations of the HCRA modernization task force should be built into the HCRA extension, starting with the recommendation to improve quarterly reporting to make revenue and expense information more transparent and understandable to stakeholders – and to ensure that pool administrator reporting ties more closely to state financial plan reporting. To date, this has not happened.

- **Curbing Prescription Drug Costs** — Breakthrough medications offer tremendous clinical benefits for patients, but the prices charged for prescription drugs is a major threat to keeping health care affordable for New York employers and consumers. High drug costs and continually rising prices are a major factor for increases in insurance premiums. Exorbitant increases in prescription drug prices have been consistent across all segments of the pharmaceutical industry – specialty, brand named, and generic. Because of this, HPA applauds the Governor's attention to the issue of rising prescription costs and his commitment to implementing policies to stem the problem. We largely support the Governor's proposal to create a new drug accountability board within the Department of Financial Services to investigate prescription drug increases.

However, we believe the "100% increase within a year" threshold to trigger an investigation is much too high. Patients should not have to wait until a drug price doubles before the increase is questioned. Moreover, setting the threshold at 100% will only encourage manufacturers to impose lower –but still exorbitant – increases that stay below 100%. HPA supports efforts to provide greater information to consumers about prescription costs including requiring manufacturers to justify price hikes and to require an "early warning" process to alert consumers when prices are proposed to increase.

- **Various "Consumer Protections"** — Part J of the Health and Mental Hygiene Article VII bill spells out numerous statutory changes aimed at "administration simplification" measures. These include prohibitions on administrative denials; changes to requirements for utilization review and increased prompt pay penalties; and shortened utilization review time frames for certain services, among others. While we recognize the value of appropriate administrative simplification, the majority of the proposals do little to improve patient care. We believe a number of the so-called issues the provisions seek to address can be achieved without statutory intervention. For example, the Governor has proposed a health care administrative work group to study and evaluate mechanisms such as standardization, simplification of claims submission and payment, preauthorization, provider credentialing and eligibility verification. Rather than adopting broad policy proposals without any data to support their necessity or impact, it would be more appropriate to have the workgroup charged with examining these issues develop non-statutory solutions that balance the goal of streamlining administrative processes without increasing costs.

- **Expanded Department of Financial Services (DFS) Authority and Penalties** — The proposed budget greatly expands authority for DFS to increase penalties. One provision would allow the Department to increase some penalties from $1,000 per offense to

$10,000. Another would increase the penalties for certain violations of the Financial Services Law from $5K per violation to the greater of $5K per offense or two times the aggregate damages or economic gain attributable to the offense. Similar to proposals in previous years — which were rejected — the provisions lack any safeguards, criteria and standards or adequate due process procedures to protect health plans that would be subject to fines. At current fine levels, plans are already incurring fines totaling hundreds of thousands and in some cases millions of dollars for technical or paper violations. (It is worth noting that New York State law permits the Department of Health a maximum fine of a few thousand dollars per violation for hospital violations that could risk patient safety and/or cause death.)

CONCLUSION

As we said at the outset, we recognize the significant budget difficulties New York is facing as it works to bridge a multi-billion dollar deficit. As you work to erase the gap and initiate reforms to prevent a future gap, we urge you to remain focused on efforts that look to expand access to services and care or work to reform the delivery system to protect the coverage and services that millions of New Yorkers currently have and rely upon.

HPA and its member plans are proud of the role they continue to play in helping New York improve access to affordable health coverage and quality of care for its residents. Plans remain committed to working with you and your colleagues on initiatives and strategies that help ensure New York individuals, families and business continue to have access to high-quality, affordable health insurance.

We thank you for the opportunity to share our views today.