New York
HPA
Health Plan Association

March 21, 2020

The Honorable Andrew Cuomo Governor of New York State NYS State Capitol Building Albany, NY 12224	The Honorable Andrea Stewart-Cousins Majority Leader New York State Senate 907 Legislative Office Building Albany, NY 12247	The Honorable Carl Heastie Speaker New York State Assembly 932 Legislative Office Building Albany, NY 12248

Dear Governor Cuomo, Majority Leader Stewart-Cousins and Speaker Heastie:

As we continue our collective efforts to navigate the public health crisis confronting our state, we write to thank you for your tireless service at this difficult time. As you work to enact a new State budget, we want to emphasize serious concerns of the New York Health Plan Association (HPA) regarding certain recommendations of the Medicaid Redesign Team (MRT).

We appreciate the time and effort the MRT devoted to developing the recommendations. However, given the significant impact that the coronavirus is having on all New Yorkers, we think it is the wrong time to adopt proposals that will increase health care costs for employers, consumers, union benefit funds and the State without improving the quality of care. The following outlines the most problematic provisions.

- **Statutory Changes Related to Payment Denials:** We are opposed to the MRT recommendation to "enact statutory reforms intended to reduce inappropriate payment denials." As you are aware, many of these provisions were included as part of the Executive's budget (Part J) submitted in January and then removed as part of the 30-day amendments. We understand that draft language currently being circulated includes all of the original provisions, along with an additional "Pay and Pursue" provision. While framed as measures intended to reduce payment denials for inpatient hospital care and streamline some of the administrative processes between managed care plans and hospitals, these proposals would actually drive up costs substantially in the commercial market for individuals, employers and union benefit funds and will increase Medicaid and State employee costs to the State.

  These proposals would prohibit health plans from denying payment for inpatient, observation and emergency department services due to the failure of hospitals to follow what are purportedly "technical" administrative requirements. However, there are many significant and legitimate reasons for such denials, including providing incorrect codes that do not match the services provided, submission of incomplete claims, and submission of old claims that may be more difficult to determine for medically necessity. The "Pay and Pursue" provisions would require payment without adequate documentation, which in some cases might violate federal and state requirements.
  In addition, the Pay and Pursue proposal will impose a new, lengthy, cumbersome and costly process for health plans to pursue refunds. This process will add delay and administrative expense—an expense that will ultimately be borne by the State and commercial ratepayers.

Moreover, the proposal is unjustified. The advocates for this proposal cite no data to support the necessity of these provisions. Indeed, our evidence shows that hospitals lose the vast majority of external appeals. Further, the proposals are one-sided and do not reflect the role of other sectors of the health care system in contributing to administrative complexity. For example, the most often cited reasons for an administrative denial include lack of sufficient clinical information to support a claim, submission of duplicate claims, and billing for non-covered benefits. These provisions will make it more difficult to ensure that care is appropriate and that providers follow best practices, ultimately leading to higher costs for the Medicaid program, NYSHIP and for consumers, employers and union benefit funds. While the Executive Summary Scorecard estimated that these provisions would increase Medicaid costs by $9 million in FY 21 and $37 million in FY 22, we believe the cost is understated by tens if not hundreds of millions of dollars. And this estimate does not even take into account the cost to the NYSHIP program or local government health care costs. Nor is there any estimate on the cost to the commercial market, which is sure to be in the hundreds of millions of dollars. Given the impact that the coronavirus disease has had on New Yorkers—including the economic impact on individuals and small businesses—this would be the worst possible time to add to the cost of coverage.

- **Carving-Out the Pharmacy Benefit from Medicaid:** Another proposal recommended by the MRT is to “carve-out” the pharmacy benefit from the Medicaid managed care program. Experience from other states clearly suggests that a carve-out would lead to considerable increases in pharmacy spending. For example, analysis of pharmacy expenditures between 2011 and 2018 shows that states with the pharmacy benefit carved out saw an 18.2% increase in net cost-per-prescription, compared to a 0.4% cost increase in states where plans manage the pharmacy benefit.

  HPA has analyzed the impact of carving out the pharmacy benefit in New York, considering both the financial and non-financial implications of making such a significant delivery system change. While a pharmacy carve-out may allow for increased rebate revenue and decreased ingredient costs for the State, the additional costs from dispensing fees, a shift to more brand drugs, and the loss of State revenue in taxes due to lower capitation amounts, as well as bifurcating the care beneficiaries receive, would increase the program’s costs annually by more than $400 million ($218 million State share).

  Providing the benefit through managed care has allowed for controls in pharmacy trend, predictability in pharmacy costs for the State, and, importantly, integration of medical, behavioral and pharmacy services that provides for both a better member experience and whole-person care management. Given the significant impact this would have on the Medicaid program and its beneficiaries and that the MRT estimated *an increase* in costs for the program in the upcoming year, we would urge you to reject any proposal to carve out the benefit from managed care.

Our member plans have shouldered hundreds of millions of dollars in rate cuts the last several years. Despite these financial difficulties, plans have continued to be consistent, reliable partners in the State’s coverage expansion and delivery system reform efforts. This includes the success due to the significant transformation of New York’s Medicaid program under the reforms implemented under the first MRT.

Additionally, plans have been working closely with the Administration to protect New Yorkers from the public health crisis resulting from the coronavirus disease. Among the steps that have been taken:

- Waiving cost-sharing for COVID-19 testing;
- Eliminating cost-sharing for telehealth services;
- Establishment of a coronavirus Special Enrollment Period and possible extension on grace periods on premium non-payment; and
- Suspending preauthorization and notification requirements for inpatient hospital services.

The charge to the MRT was to restore financial sustainability to the Medicaid program while protecting a programmatic structure that ensures the delivery of health care services to the Medicaid population. While we support that goal and most of the MRT recommendations, the impact of the provisions outlined above go *far* beyond Medicaid program and will increase health care costs for employers and consumers—and will also make it more difficult to protect the long-term viability of the Medicaid program and the millions of New Yorkers who rely on it for their coverage.

We urge that you consider these concerns in your deliberations on a new State spending plan.

Sincerely

Eric Linzer
President & CEO
New York Health Plan Association