



American Cancer Society ∞ Children's Defense Fund/New York ∞ Center for Working Families
Community Service Society of New York ∞ Metro New York Health Care for All Campaign
New Yorkers for Accessible Health Coverage ∞ New York Immigration Coalition
Public Policy and Education Fund of New York/Citizen Action of New York

Testimony of the
Health Care for All New York Campaign
on the
2010-2011 Executive Budget

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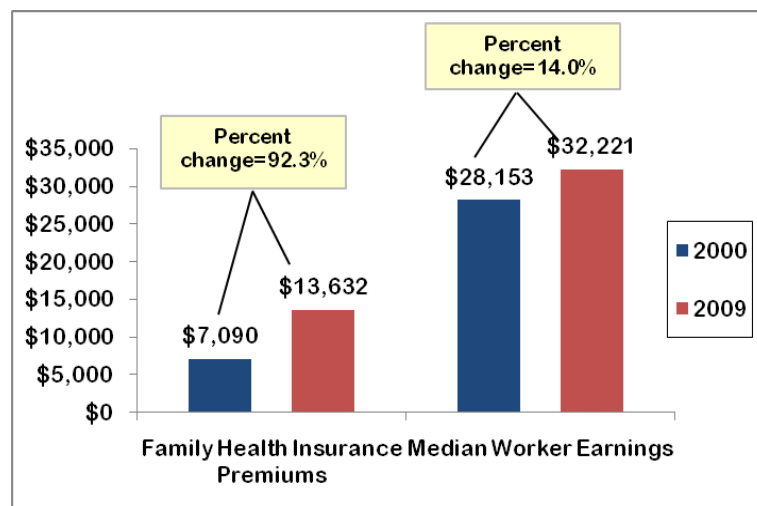


Health Care For All New York (HCFANY) would like to thank the Senate and Assembly committee members for this opportunity to submit comments on the 2010-2011 Executive Budget.

HCFANY is a statewide coalition dedicated to winning affordable, comprehensive, and high-quality health care for all New York residents through State and federal health reform. HCFANY seeks to bring New Yorkers' voices to the health reform conversation. The coalition was founded by eight leadership organizations: The American Cancer Society, The Center for Working Families, The Children's Defense Fund, Citizen Action, The Community Service Society of New York ("CSS"), Metro New York Health Care for All Campaign, New Yorkers for Accessible Health Coverage, and the New York Immigration Coalition. Membership has now grown to nearly 100 organizations statewide. For more information about HCFANY, please visit our website and health reform blog at: www.hcfany.org.

HCFANY understands and represents the real health worries and concerns of New Yorkers who, between 2000 and 2009, have seen their health insurance premiums increase by 92 percent with seeing only a 14 percent increase in median earnings. (See chart below.)

Figure 1: Growth of Premiums in New York Compared to Median New York Worker Earnings, 2000-2009



Source: Families USA, *Costly Coverage: Premiums Outpace Paychecks in New York*, September 2009.

For low- and moderate-income New Yorkers, health insurance premiums now consume an extraordinary portion of the family budget. As described in the chart below, a low-income family of four earning \$44,000 a year can expect to pay eight percent of its family income on employer-sponsored insurance, an impossible 65 percent of its family income if they seek insurance in the



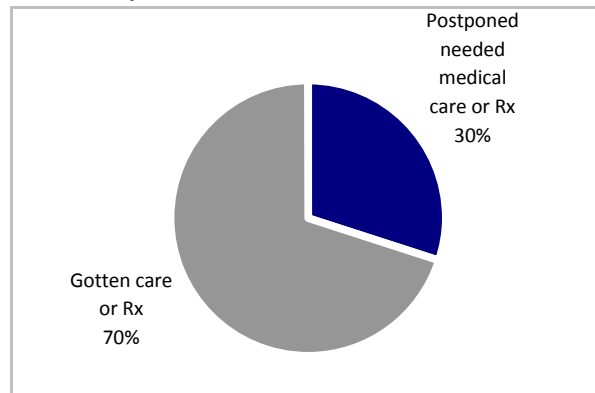
individual direct pay market, and 22 percent of its family income if they try the only public insurance option currently available at that income level—Healthy New York.¹

Table 1: Percent of Pre-Tax Income Consumed by Health Insurance Options for New York Families

Federal Poverty Level	Annual Income	Family of Four (2 Adults 2 Children)		
		Employer Sponsored Insurance	Individual Direct Pay	Healthy New York
100%	\$22,050	17%	131%	45%
200%	\$44,100	8%	65%	22%
300%	\$66,150	6%	44%	NA
400%	\$88,200	4%	33%	NA
500%	\$110,250	3%	26%	NA
600%	\$132,300	3%	22%	NA

Ever-escalating health care costs have real economic consequences for New Yorkers. Polling conducted by Lake Research Partners for the Community Service Society, released in September 2009, found that one in three New Yorkers say that someone in their family has not gotten or postponed getting medical care or a prescription in the past year because of lack of money or insurance.

Figure 2: Delayed Care Due to Lack of Insurance or Cost



Q. In the past 12 months, have you or any member of your household: Not gotten or postponed getting medical care or surgery because of a lack of money or insurance? Needed to fill a prescription but couldn't because of a lack of money or insurance?

¹ Source: CSS analysis of ESI data from MEPS/IC (2006); Direct Pay data based on NYSDOI Premium Rates Index (April 2008); HNY data from NYSDOI 2007 Annual Report on Healthy NY. All costs adjusted to 2009 dollars based on observed premium cost growth in each program.



The same poll found that 81% of New Yorkers say making health care more affordable should be a top priority for their elected officials, including 90% of Democrats, 77% of independents, and 64% of Republicans.²

Given this backdrop, HCFANY would like to submit the following comments about the 2010-2011 proposed Executive Budget. Specific proposals HCFANY supports are: (1) the Governor's original proposal to enhance accountability funding for charity care (subsequently withdrawn in his 21-day amendments); (2) the restoration of prior approval to the State Department of Insurance of health insurance premiums increases; and (3) simplification of public insurance enrollment to support families in lean times.

HCFANY opposes: (1) any increase in co-payments to the Family Health Plus Employer Buy-In program as a stand-alone measure to reduce the programs premiums; (2) efforts to continue state funding for limited coverage under Healthy New York at the expense of the State's more comprehensive individual direct pay market; and (3) the elimination of important task forces such as the Medicaid Managed Care Advisory Panel. Aside from these reservations, HCFANY believes that this Executive Budget lays an important initial foundation towards meeting our goal of achieve affordable health coverage for all New Yorkers.

1. Expanding Accountable Funding for the Uninsured

The Executive Budget originally sought to ensure that all \$847 million in State Indigent Care Pool funds would be allocated using the transparent reimbursement methodology currently in use for only 10% of these funds. However, to HCFANY's deep consternation, the Governor withdrew this proposal in his 21-day amendments.³

Since 1983, New York hospitals have been provided with "bad debt and charity care" funds. Advocates, government officials, and the media have long criticized this system for lacking accountability and transparency and for failing to verify that hospitals actually provide financial assistance to uninsured and underinsured patients in exchange for this funding. While the 2005 Financial Assistance Law required hospitals to adopt improved collection practices and establish charity care policies and applications, it nonetheless left the "back-door" funding allocation unregulated. This is because New York's charity care pools are based on notoriously inaccurate reports from hospitals—resulting in wild swings of funding and unfair allocations. For example,

² See Community Service Society and Lake Research Partners, "A New Poll Reveals New Yorkers' Views on Affordability of Health Insurance and State Health Reform," September 2009, available at: <http://www.cssny.org/userimages/downloads/Statewide%20Health%20Survey%20Report%209.14.09%20-%20Written%20Statement.pdf>.

³ The Governor's 21-day amendments maintained the Executive Budget's original proposal to reduce indigent care funding \$140 million. In the absence of a credible methodology for allocating these funds based on actual services provided to uninsured patients, HCFANY is unable to oppose this budget cut.



New York Presbyterian's allocations fell from \$59.8 million to \$35.5 million (nearly 44%) in a single year. In addition, high-volume indigent care hospitals such as North General Hospital, located in East Harlem, receive paltry allocations (\$5.3 million) compared to their well-heeled neighbors to the South, such as Beth Israel (\$30 million).

Two years ago, New York's state budget partially adopted the findings of the 2006 Legislatively-created Technical Advisory Committee (TAC) which developed recommendations about how the pool allocations should be reformed. The TAC proposed eliminating the current system of complex and unregulated funding allocation formulas that ties hospital funding neither to care provided to uninsured patients nor to the 2005 Financial Assistance Law. To avoid sudden funding disruptions to hospitals, the Budget provided that the new accountable and transparent reimbursement methodology would be implemented for just 10% of the \$847 million pool.

This year, the Executive Budget originally sought to finish the job by requiring that the remaining funds be allocated in the same transparent fashion. However, the Governor has since retracted this provision. At a time of scarce resources and increasing numbers of uninsured, HCFANY urges the Legislature to adopt the Governor's original proposal and switch to an accountable system that ties payments to patients, not providers. While certain hospitals may cry foul, their concerns are untenable given the utter lack of transparency and irregularity in the current allocation.

HCFANY strongly urges the Legislature to adopt, without amendment, the Executive Budget's original proposal to finally tie the state's investment in charity care to services provided to actual uninsured patients.

2. Restoration of Prior Approval of Insurance Rate Hikes

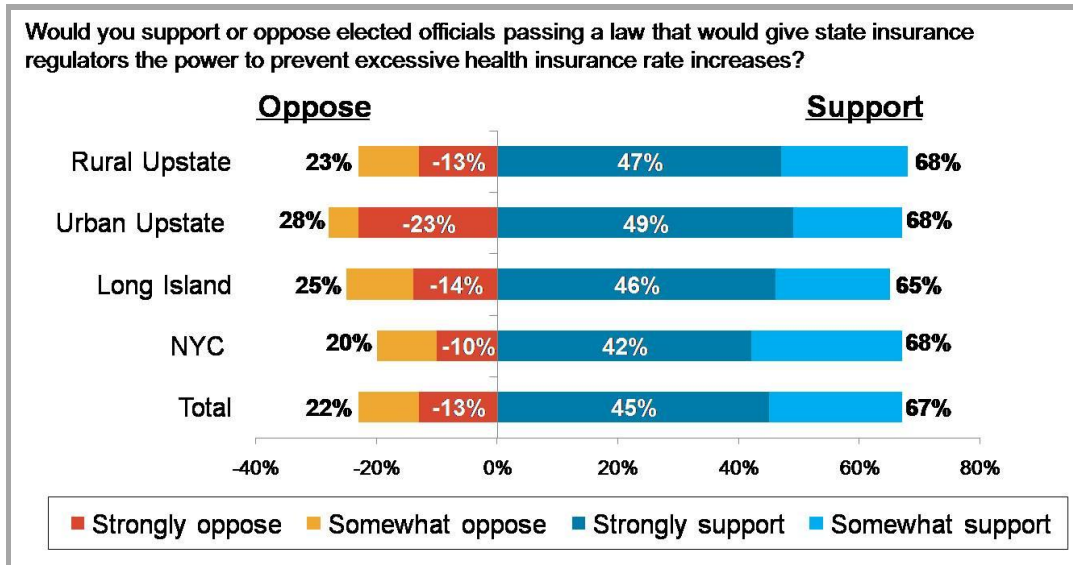
HCFANY strongly supports the Article VII provision of the Executive Budget which seeks to restore government authority to approve or disallow insurance premium hikes prior to their adoption. The Governor's Bill would achieve two fundamental benefits: (1) restoring the Superintendent's ability to approve insurance rates hikes in advance, thereby eliminating the current authorization for health plans to simply file a premium rate increase and use it ("file and use"); and (2) improved regulation of health plan profits by setting a minimum "medical loss ratio" ("MLR") for individual direct-pay and small group markets at 85 percent.

HCFANY supports the Governor's Bill for four reasons:

First, New Yorkers are tremendously supportive of this measure. A statewide poll conducted by Lake Research Partners for the Community Service Society in late 2009 found that two out of three New Yorkers support a proposal similar to the Governor's. (See chart below).

Notably, intensity of support for the restoration of prior approval was strongest in Upstate New York.

Figure 3: 2009 Poll Reveals that New Yorkers Strongly Support Passage of Prior Approval Legislation



Second, this proposal would squarely address New Yorkers’ concerns that insurance company premiums are rising at an egregious pace and require government regulation. It is no coincidence that the ten-year period that saw insurance premiums increase six times faster than median worker earnings (see Figure 1) was the same ten-year period during which New York fully implemented the “file and use” system, which this provision would rescind. In the years in which the Insurance Department utilized prior approval (1990-1995), 24 percent of rate increases proposed by insurance companies were found to be excessive and were consequently reduced.⁴ Under file and use (1996-2007), only three percent of rate increases were self-reported by insurance companies as excessive.

The dangers of inadequate regulatory approval mechanisms were vividly illustrated just this month as a California insurer, Anthem Blue Cross (a sister corporation to New York’s Empire Blue Cross and Blue Shield), having enjoyed an eight-fold increase in profits in the last quarter of 2009, announced a 39 percent rate hike for individual policies at the beginning of 2010. California regulators could only ask the insurer to postpone the rate hikes to allow them to study them, while

⁴ New York State Insurance Department, “The Price of Deregulation: How ‘File and Use’ Has Undermined New York State’s Ability to Protect Consumers from Excessive Health Insurance Premiums.” June 2009.



the U.S. Secretary of Health and Human Services could only ask the company to clarify its rationale for the hikes.⁵

Third, New Yorkers have paid a steep price under this deregulatory regime. Subsequent investigations by the Insurance Department found that in the period between 2000-2007 insurance companies have overcharged policyholders by at least \$105 million more than they have self-reported.⁶ For many consumers, these refunds come far too late—they have already had to give up their coverage because they could not afford the inflated premiums. While insurers under a prior approval system are able to challenge rate increases deemed inadequate in court through an accelerated special proceeding, consumers who have been charged excessive premiums under a “file and use” system have no similar remedy. When they lose coverage because they cannot pay an excessive premium, their loss is often irreparable.

Fourth, the rise in the MLR is necessary because the small group and direct pay insurance markets are eroding faster than large group coverage in New York, and we must therefore demand maximum efficiency from insurers in those segments of the market. Absent some regulatory curb on premium hikes, such as those envisioned in this bill, more New Yorkers will be unable to pay for coverage, more New Yorkers will become uninsured, and all New Yorkers will bear the burden of increasing uncompensated care costs and stress on our already fragile health care system.

That being said, HCFANY believes the bill could be improved to enhance protections for New York consumers in three ways, which we have described in our Memorandum of Support, available at: www.hcfany.org. On the whole, however, HCFANY supports the Governor’s effort to restore prior approval.

3. Improving Public Insurance Coverage

The Executive Budget also seeks to continue to improve New York’s highly regarded public insurance programs by eliminating onerous obstacles to gaining coverage and increasingly relying on the usage of public data sharing. As described in detail below, HCFANY unequivocally supports all of these proposals.

The budget seeks to: (1) permit individuals enrolled in community-based long-term care to attest to their income, residency and resources at recertification; and (2) eliminate the requirement to provide documentation of interest income; (3) adopt express lane eligibility for a child to be

⁵ “Obama official 'very disturbed' by Anthem Blue Cross rate hikes. ‘The insurer should give a ‘detailed justification’ for its plan to raise premiums on individual policies by as much as 39%, Health and Human Services Secretary Kathleen Sebelius says.” Los Angeles Times, February 9, 2010.

⁶ New York State Insurance Department, “The Price of Deregulation: How ‘File and Use’ Has Undermined New York State’s Ability to Protect Consumers from Excessive Health Insurance Premiums.” June 2009.



automatically enrolled in insurance coverage if he or she is already eligible for another public program with similar eligibility requirements (e.g. food stamps); 4) permit the Department of Health to access tax records to establish income eligibility; and (5) allow the state to use social security numbers for data matching.

HCFANY strongly supports all of the administration's proposals to simplify and streamline enrollment in public insurance coverage.

However, HCFANY has reservations about several additional proposals and opposes: (1) any increase in co-payments to the Family Health Plus Employer Buy-In program as a stand-alone measure to reduce the programs premiums; (2) efforts to increase state funding for less-than comprehensive coverage, like Healthy New York, at the expense of the State's more comprehensive individual direct pay market; and (3) the elimination of important task forces such as the Medicaid Managed Care Advisory Panel.

1. Reject Increasing Co-Payments for the Family Health Plus Employer Buy-In Program

In an effort to reduce the exorbitant individual monthly rate of \$540 per month, the Executive Budget seeks to increase co-payments for the non-subsidized enrollees in the Family Health Plus Employer Buy-In (FHP-EBI) program.

The FHP EBI program presents an important opportunity to meet our State's coverage expansion goals, including: (1) providing a high-quality, affordable health option for the nearly 1.1 million uninsured, but employed New Yorkers who earn less than 300% of poverty; and (2) offering an inexpensive health insurance option to thousands of small businesses who are spending as much as 18% of their payroll on health care.

HCFANY supports the idea of bringing down premiums in this program, however, we do not advocate increasing co-pays as a standalone measure. Research has shown that even modest co-pays can prevent many people from seeking care. It is because of this that both federal health reform bills eliminate co-pays for preventive screenings and care. The Executive Budget's initial proposal to increase co-pays would only result in a 9% percent premium reduction, which alone would not be enough to cancel out the deterrent effect of higher co-pays on care received.

HCFANY would support this proposal only if it was tied to one or more of the following additional measures (which cumulatively would result in a 55% premium reduction): (1) adopting public insurance program reimbursement rates; (2) reducing non-essential taxes and surcharges upon this product; (3) adopting the Medicaid default reimbursement rate for out-of-network



hospitalizations; (4) adopting a modified anti-crowd out policy; or (5) accessing the Healthy New York small group stop-loss pool funding.

Because of the incredible need for affordable, high quality coverage for low-waged uninsured New Yorkers, HCFANY urges the Legislature to fix this FHP EBI program in a holistic—rather than piecemeal—fashion.

2. Halt State Investment in Mediocre Insurance Coverage (HealthyNY): Fund Meaningful Coverage by Expanding the Direct Pay Stop-Loss Pool

HCFANY opposes the Executive Budget proposal to maintain substantial funding of \$161 million for limited coverage offered through Healthy New York (HNY), while under-resourcing the State's fiscal support (a meager \$39 million) for comprehensive health insurance products in the Direct Pay/Individual insurance market.

HNY provides limited coverage to individuals below 250% of the federal poverty level. It also expends precious state funding for small businesses without any method for strategically targeting these funds to those small businesses most in need. It is one of the few insurance products designed for New Yorkers of limited means that can exclude coverage for pre-existing conditions. It also has a limited benefit package with little or no pharmacy coverage, mental health services, and rehabilitation. In short, HNY is only for *healthy* New Yorkers, who never become sick, have an accident, get cancer, or suffer from chronic conditions that require regular medication. Family Health Plus (FHP) provides better coverage at lower costs than HNY and would make better use of these funds.⁷ Statewide polling indicates that 74 percent of New Yorkers would support an option to allow New Yorkers to purchase public health insurance on a voluntary basis through the Child Health Plus and Family Health Plus programs on a sliding scale, based on income.⁸

HCFANY disagrees with this continued investment in HNY. Instead, the State should be providing good increased funding for the direct pay market stop-loss pools and establish a similar stop-loss pool for the FHP Employer Buy-in program. Continued multi-million dollar increases in Healthy New York serves only to further stratify the insurance market by offering cheaper products for healthier people, while diverting funds from programs that would help people with pre-existing conditions or disabilities.

A foundation for affordable, quality health care for all New Yorkers must begin in this budget year. Uninsured and underinsured New Yorkers should not be asked to make do with over-priced inadequate coverage like HNY for one more day.

⁷ Community Service Society, *“Cornerstone for Coverage: Towards a Universal Health Plan for New York,”* testimony presented at Glens Falls, Long Island, December 5, 2007, Slide 36, available at: www.cssny.org.

⁸ Community Service Society/Lake Research, *“Findings from a New York Statewide Poll, September 2009,”* Slide 17, available at: www.cssny.org.



3. **Oppose the Elimination of the MMCARP**

Companion legislation to the Executive Budget seeks to eliminate the Medicaid Managed Care Advisory Review Panel (MMCARP). This panel, which has strong consumer representation, has played an important role in monitoring the development of our State's vibrant public insurance programs. HCFANY strongly urges the Legislature to oppose its elimination.

Thank you for the opportunity to submit this testimony. Should you have any questions about HCFANY or our testimony, please contact Elisabeth Benjamin at: (212) 614-5461.