

# STATE OF NEW YORK

9508

## IN SENATE

July 22, 2022

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the social services law, in relation to the basic health program (Part A); to amend the financial services law, in relation to cost containment and consumer protection; to amend the civil practice law and rules, in relation to income execution; and to repeal certain provisions of the financial services law relating thereto (Part B); to amend the public health law and the insurance law, in relation to the chronic disease demonstration program (Part C); to amend the public health law, in relation to addressing health equity through safety net hospital support (Part D); and to amend the public health law, in relation to providing that the commissioner of health may require any health care provider or third-party payer to report additional claim or price information not already reported pursuant to section 2816 of such law to analyze all health care expenditures in the state from public and private sources (Part E)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "health equity, affordability, and reform act".

3 § 2. This act enacts into law components of legislation relating to  
4 the health equity, affordability, and reform act. Each component is  
5 wholly contained within a Part identified as Parts A through E. The  
6 effective date for each particular provision contained within such part  
7 is set forth in the last section of such Part. Any provision in any  
8 section contained within a Part, including the effective date of the  
9 Part, which makes reference to a section "of this act", when used in  
10 connection with that particular component, shall be deemed to mean and  
11 refer to the corresponding section of the Part in which it is found.  
12 Section three of this act sets forth the general effective date of this  
13 act.

### PART A

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD15220-03-2

Section 1. Section 369-gg of the social services law, as added by section 51 of part C of chapter 60 of the laws of 2014, paragraph (c) of subdivision 1 as separately amended by sections 4 of part BBB of chapter 56 and part P of chapter 57 of the laws of 2022, paragraph (e) of subdivision 1, and subdivisions 5 and 7 as amended by section 2 of part H of chapter 57 of the laws of 2021, subdivision 2 as amended and subdivision 9 as added by section 28-a, subdivision 6 as added by section 28 and subdivision 8 as amended by section 46 of part B of chapter 57 of the laws of 2015, paragraph (d) of subdivision 3 as amended by section 2 and paragraph (b) of subdivision 5 as amended by section 7-a of part BBB of chapter 56 of the laws of 2022, is amended to read as follows:

§ 369-gg. Basic health program. 1. Definitions. For purposes of this section:

(a) "Eligible organization" means an insurer licensed pursuant to article thirty-two or forty-two of the insurance law, a corporation or an organization under article forty-three of the insurance law, or an organization certified under article forty-four of the public health law, including providers certified under section forty-four hundred three-e of the public health law;

(b) "Approved organization" means an eligible organization approved by the commissioner to underwrite a basic health insurance plan pursuant to this title;

(c) "Health care services" means (i) the services and supplies as defined by the commissioner in consultation with the superintendent of financial services, and shall be consistent with and subject to the essential health benefits as defined by the commissioner in accordance with the provisions of the patient protection and affordable care act (P.L. 111-148) and consistent with the benefits provided by the reference plan selected by the commissioner for the purposes of defining such benefits, and shall include coverage of and access to the services of any national cancer institute-designated cancer center licensed by the department of health within the service area of the approved organization that is willing to agree to provide cancer-related inpatient, outpatient and medical services to all enrollees in approved organizations' plans in such cancer center's service area under the prevailing terms and conditions that the approved organization requires of other similar providers to be included in the approved organization's network, provided that such terms shall include reimbursement of such center at no less than the fee-for-service medicaid payment rate and methodology applicable to the center's inpatient and outpatient services; (ii) dental and vision services as defined by the commissioner, and (iii) as defined by the commissioner and subject to federal approval, certain services and supports provided to enrollees eligible pursuant to subparagraph one of paragraph (g) of subdivision one of section three hundred sixty-six of this article who have functional limitations and/or chronic illnesses that have the primary purpose of supporting the ability of the enrollee to live or work in the setting of their choice, which may include the individual's home, a worksite, or a provider-owned or controlled residential setting;

(d) "Qualified health plan" means a health plan that meets the criteria for certification described in § 1311(c) of the Patient Protection and Affordable Care Act (P.L. 111-148), and is offered to individuals through the health insurance exchange marketplace; ~~and~~

(e) "Basic health insurance plan" means a standard health plan providing health care services, separate and apart from qualified health

plans, that is issued by an approved organization and certified in accordance with this section[+];

(f) "Eligible small group" means any employer, or trustee or trustees of a fund established by an employer, members of a trade association, labor union, fund established or participated in by two or more employers or by one or more labor unions, association, or a trustee or trustees of a fund established, created or maintained for the benefit of members of one or more associations, church, or any entity that may be eligible to purchase group coverage under the insurance law, provided that any of the foregoing groups identified employ, represent, or cover one hundred or less individuals;

(g) "Qualified dependents" mean the spouse, and any dependent children of an individual seeking coverage through the basic health program buy-in; and

(h) "Family coverage" means the cost to buy-in to the basic health program for an individual and any eligible partner or qualified dependents based on the per member, per month cost applicable.

2. Authorization. If it is in the financial interest of the state to do so, the commissioner of health is authorized, with the approval of the director of the budget, to establish a basic health program. The commissioner's authority pursuant to this section is contingent upon obtaining and maintaining all necessary approvals from the secretary of health and human services to offer a basic health program in accordance with 42 U.S.C. 18051. The commissioner may take any and all actions necessary to obtain such approvals. Notwithstanding the foregoing, within ninety days of the effective date of ~~[the]~~ part B of chapter fifty-seven of the laws of two thousand fifteen ~~[which amended this subdivision]~~ the commissioner shall submit a report to the temporary president of the senate and the speaker of the assembly detailing a contingency plan in the event eligibility rules or regulations are modified or repealed; or in the event federal payment is reduced from ninety five percent of the premium tax credits and cost-sharing reductions pursuant to the patient protection and affordable care act (P.L. 111-148). The contingency plan shall be implemented within ninety days of the above stated events or the time period specified in federal law.

3. Eligibility. A person is eligible to receive coverage for health care services pursuant to this title if he or she:

(a) resides in New York state and is under sixty-five years of age;

(b) is not eligible for medical assistance under title eleven of this article or for the child health insurance plan described in title one-A of article twenty-five of the public health law;

(c) is not eligible for minimum essential coverage, as defined in section 5000A(f) of the Internal Revenue Service Code of 1986, or is eligible for an employer-sponsored plan that is not affordable, in accordance with section 5000A of such code; provided, however, that the commissioner of health may seek authority from the secretary of health and human services to permit individuals who are eligible for an employer-sponsored plan to purchase coverage through the basic health program buy-in; and

(d) (i) except as provided by subparagraph (ii) of this paragraph, has household income at or below two hundred fifty percent of the federal poverty line defined and annually revised by the United States department of health and human services for a household of the same size, unless the individual or eligible small group purchases coverage through a basic health plan under the basic health program buy-in set forth under subdivision eleven or twelve of this section; and has

1 household income that exceeds one hundred thirty-three percent of the  
2 federal poverty line defined and annually revised by the United States  
3 department of health and human services for a household of the same  
4 size; however, MAGI eligible aliens lawfully present in the United  
5 States with household incomes at or below one hundred thirty-three  
6 percent of the federal poverty line shall be eligible to receive cover-  
7 age for health care services pursuant to the provisions of this title if  
8 such alien would be ineligible for medical assistance under title eleven  
9 of this article due to their immigration status; provided however, that  
10 subject to approval from the secretary of health and human  
11 services, a person shall also be eligible to receive coverage for health  
12 care services under this title, without regard to federal financial  
13 participation, if he or she is a resident of New York state, has house-  
14 hold income below two hundred fifty percent of the federal poverty line  
15 as defined and annually revised by the United States department of  
16 health and human services for a household of the same size, and is inel-  
17 igible for federal financial participation in the basic health program  
18 under 42 U.S.C. section 18051 on the basis of immigration status, but  
19 otherwise meets the eligibility requirements in paragraphs (a), (b), and  
20 (c) of this subdivision;

21 (ii) subject to federal approval and the use of state funds, unless  
22 the commissioner may use funds under subdivision seven of this section,  
23 has household income at or below two hundred fifty percent of the feder-  
24 al poverty line defined and annually revised by the United States  
25 department of health and human services for a household of the same  
26 size; and has household income that exceeds one hundred thirty-three  
27 percent of the federal poverty line defined and annually revised by the  
28 United States department of health and human services for a household of  
29 the same size; however, MAGI eligible aliens lawfully present in the  
30 United States with household incomes at or below one hundred thirty-  
31 three percent of the federal poverty line shall be eligible to receive  
32 coverage for health care services pursuant to the provisions of this  
33 title if such alien would be ineligible for medical assistance under  
34 title eleven of this article due to their immigration status;

35 (iii) subject to federal approval if required and the use of state  
36 funds, unless the commissioner may use funds under subdivision seven of  
37 this section, a pregnant individual who is eligible for and receiving  
38 coverage for health care services pursuant to this title is eligible to  
39 continue to receive health care services pursuant to this title during  
40 the pregnancy and for a period of one year following the end of the  
41 pregnancy without regard to any change in the income of the household  
42 that includes the pregnant individual, even if such change would render  
43 the pregnant individual ineligible to receive health care services  
44 pursuant to this title;

45 (iv) subject to federal approval, a child born to an individual eligi-  
46 ble for and receiving coverage for health care services pursuant to this  
47 title who would be eligible for coverage pursuant to subparagraphs [~~+2~~]  
48 two or [~~+4~~] four of paragraph (b) of subdivision [~~1~~] one of section  
49 three hundred [~~and~~] sixty-six of [~~the social services law~~] this article  
50 shall be deemed to have applied for medical assistance and to have been  
51 found eligible for such assistance on the date of such birth and to  
52 remain eligible for such assistance for a period of one year.

53 An applicant who fails to make an applicable premium payment, if any,  
54 shall lose eligibility to receive coverage for health care services in  
55 accordance with time frames and procedures determined by the commission-  
56 er.

1 3-a. Basic health program buy-in eligibility. A person or eligible  
2 small group shall be permitted to purchase coverage from a basic health  
3 plan on behalf of an individual, spouse, and any qualified dependents  
4 through the basic health program buy-in described under paragraph eleven  
5 or twelve of this section, as long as the individual, spouse, and any  
6 qualified dependents otherwise meet the eligibility requirements in  
7 paragraphs (a), (b), and (c) of subdivision three of this section. An  
8 applicant who fails to make an applicable premium payment shall lose  
9 eligibility to receive coverage for health care services in accordance  
10 with time frames and procedures determined by the commissioner.

11 4. Enrollment. (a) Subject to federal approval, the commissioner is  
12 authorized to establish an application and enrollment procedure for  
13 prospective enrollees. Such procedure shall include a verification  
14 system for applicants, which shall be consistent with 42 USC § 1320b-7.

15 (b) Such procedure shall allow for continuous enrollment for enrollees  
16 to the basic health program where an individual may apply and enroll for  
17 coverage at any point.

18 (c) Upon an applicant's enrollment in a basic health insurance plan,  
19 coverage for health care services pursuant to the provisions of this  
20 title shall be prospective. Coverage shall begin in a manner consistent  
21 with the requirements for qualified health plans offered through the  
22 health insurance exchange marketplace, as delineated in federal regu-  
23 lation at 42 CFR 155.420(b)(1) or any successor regulation thereof.

24 (d) A person who has enrolled for coverage pursuant to this title, and  
25 who loses eligibility to enroll in the basic health program for a reason  
26 other than citizenship status, lack of state residence, failure to  
27 provide a valid social security number, providing inaccurate information  
28 that would affect eligibility when requesting or renewing health cover-  
29 age pursuant to this title, or failure to make an applicable premium  
30 payment, before the end of a twelve month period beginning on the effec-  
31 tive date of the person's initial eligibility for coverage, or before  
32 the end of a twelve month period beginning on the date of any subsequent  
33 determination of eligibility, shall have his or her eligibility for  
34 coverage continued until the end of such twelve month period, provided  
35 that the state receives federal approval for using funds from the basic  
36 health program trust fund, established under section 97-0000 of the  
37 state finance law, for the costs associated with such assistance.

38 5. Premiums and cost sharing. (a) Subject to federal approval, the  
39 commissioner shall establish premium payments enrollees shall pay to  
40 approved organizations for coverage of health care services pursuant to  
41 this title. No payment is required for individuals with a household  
42 income at or below two hundred percent of the federal poverty line  
43 defined and annually revised by the United States department of health  
44 and human services for a household of the same size.

45 (a-1) For an individual with a household income above two hundred  
46 fifty percent of the federal poverty line defined and annually revised  
47 by the United States department of health and human services for a  
48 household of the same size, an individual who purchases individual,  
49 couple, or family coverage through the basic health program buy-in under  
50 subdivision eleven of this section, or an eligible small group who  
51 purchases or contributes to the cost of such coverage under subdivision  
52 twelve of this section for such individual and any qualified dependents,  
53 shall make an applicable premium payment equaling the per member-per  
54 month payment received by a basic health plan for providing basic health  
55 program services in the region where the individual resides, provided  
56 that the commissioner shall pursue any federal waivers and be permitted

1 to take any other actions necessary to offset the premium payment to the  
2 maximum extent possible for individuals with household incomes less than  
3 five hundred percent of the federal poverty line, as defined and annual-  
4 ly revised by the United States department of health and human services  
5 for a household of the same size, including seeking authority to use  
6 federal premium tax credits and cost sharing reductions, in an effort to  
7 keep the applicable premium payment as low as possible for individuals  
8 at these household income levels. The commissioner shall be authorized  
9 to assign variable premium amounts based on income such that individuals  
10 with lower household incomes are required to pay less premium.

11 (a-2) Eligible small groups that purchase coverage for an individual  
12 under subdivision eleven of this section for which the individual or the  
13 state receives federal premium tax credits and cost sharing reductions  
14 for individuals to subsidize that coverage, shall be required to pay to  
15 the basic health plan, or pay directly to the state, the amount of  
16 premium tax credits and cost sharing reductions received by the basic  
17 health program trust fund for the individual, in addition to any premium  
18 supplement that may apply based on the household income of the individ-  
19 ual, as set forth under paragraph (ii) of subdivision (a-3) of this  
20 section. Basic health plans shall remit these amounts to the basic  
21 health program trust fund or a separate state fund, as may be determined  
22 by the commissioner. Such fund shall be used to help ensure deficit  
23 neutrality and program viability, and for other purposes that may be  
24 allowed by the secretary of health and human services, including but not  
25 limited to, rate adequacy for approved organizations and network provid-  
26 ers, as may be determined by the commissioner.

27 (a-3) (i) The commissioner shall contract with an independent actuary  
28 to study and make recommendations around premiums and cost sharing for  
29 approved organizations operating a basic health plan, and for all indi-  
30 viduals participating in the basic health program buy-in. The analysis  
31 for developing premiums for approved organizations shall include an  
32 analysis of rates of payment in relation to the expected population to  
33 be served adjusted for case mix, the scope of health care services  
34 approved organizations must provide, the projected utilization of such  
35 services, the network of providers required to meet state standards, and  
36 subject to approval from the secretary of health and human services and  
37 the division of the budget, existing rates of payment in effect under  
38 the basic health program, and subject to approval by the secretary of  
39 health and human services and the division of the budget, and once  
40 enrollment in the basic health program buy-in has reached more than one  
41 hundred thousand enrollees, rates of payment in effect under Medicare  
42 Part A, B, and C.

43 (ii) Premium supplement payments. The analysis conducted by the inde-  
44 pendent actuary shall include recommended premium supplement amounts  
45 that shall be required for certain individuals and may be required for  
46 eligible small groups to increase available funds for the basic health  
47 program. Premium supplement payments shall be paid by individuals that  
48 enroll in the basic health program buy-in, who have household income  
49 above eight hundred percent of the federal poverty line, as defined and  
50 annually revised by the United States department of health and human  
51 services for a household of the same size, and in the discretion of the  
52 commissioner, may be required to be paid by eligible small groups that  
53 contribute to coverage for any individuals qualified under subdivision  
54 twelve of this section.

55 (a-4) For coverage purchased through subdivision eleven of this  
56 section, for individuals and qualified dependents with household incomes

1 above eight hundred percent of the federal poverty line, as defined and  
2 annually revised by the United States department of health and human  
3 services for a household of the same size, a premium supplement payment  
4 shall be paid to increase state share funds for the program. The premium  
5 supplement shall be determined by the commissioner in accordance with  
6 principles of equity and fairness, increasing commensurate with house-  
7 hold income, and may consider assumed savings for the individual  
8 compared to traditional insurance coverage, provided the premium supple-  
9 ment amount shall be structured in a way to maximize affordability at  
10 lower applicable household income levels, and shall not result in cover-  
11 age being more expensive under the basic health program buy-in than  
12 under a silver level metallic plan offered by a qualified health plan  
13 under the New York health benefits exchanges for comparable coverage  
14 until household income of an individual meets or exceeds fifteen hundred  
15 percent of the federal poverty line, defined and annually revised by the  
16 United States department of health and human services for a household of  
17 the same size.

18 (a-5) Once enrollment in the basic health program buy-in has reached  
19 one hundred thousand individuals, the commissioner shall have discretion  
20 to determine whether eligible small groups shall be required to pay  
21 premium supplement payments for any individual and qualified dependents  
22 who they contribute coverage costs for under subdivision twelve of this  
23 section, if it becomes necessary to increase state share funds for the  
24 program a premium subsidy amount can be applied without undermining  
25 viability and affordability of the program. The premium supplement that  
26 would be owed by an eligible small group shall be determined by the  
27 commissioner, but shall comprise a per person amount that is developed  
28 to ensure maximum fairness for eligible small groups, and take into  
29 consideration the size, age, and revenue of the eligible small group,  
30 the household income of the covered individual, and the cost savings for  
31 the eligible small group under the basic health program buy-in compared  
32 to traditional small group insurance coverage, as applicable.

33 (b) The commissioner shall establish cost sharing obligations for  
34 enrollees, subject to federal approval. There shall be no cost-sharing  
35 obligations for enrollees for dental and vision services as defined in  
36 subparagraph (ii) of paragraph (c) of subdivision one of this section;  
37 services and supports as defined in subparagraph (iii) of paragraph (c)  
38 of subdivision one of this section; and health care services authorized  
39 under subparagraphs (iii) and (iv) of paragraph (d) of subdivision three  
40 of this section. Such cost sharing shall: (i) not include deductibles  
41 for individuals at any household income level; (ii) subject to avail-  
42 able funds, not require any cost sharing for household incomes not  
43 exceeding five hundred percent of the federal poverty line defined and  
44 annually revised by the United States department of health and human  
45 services for a household of the same size, but if this is not possible,  
46 then such cost sharing shall be set as low as possible for the lowest  
47 household incomes; and (iii) not be established as a percentage  
48 of the cost of the service and comprise a fixed cost intended to be as  
49 affordable as possible and not act as a barrier to care, that  
50 in no event shall be more than two hundred dollars for any covered  
51 health care service. Cost sharing owed for services above five  
52 hundred percent of the federal poverty line shall vary based on income  
53 to promote equity and fairness.

54 6. Rates of payment. (a) The commissioner shall select the contract  
55 with an independent actuary to study and recommend appropriate  
56 reimbursement methodologies for the cost of health care service coverage

1 pursuant to this title. Such independent actuary shall review and make  
2 recommendations concerning appropriate actuarial assumptions relevant to  
3 the establishment of reimbursement methodologies, including but not  
4 limited to; the adequacy of rates of payment in relation to the popu-  
5 lation to be served adjusted for case mix, the scope of health care  
6 services approved organizations must provide, the utilization of such  
7 services and the network of providers required to meet state standards,  
8 existing rates of payment in effect under the basic health program, and  
9 subject to approval by the secretary of health and human services and  
10 the division of the budget, and once enrollment in the basic health  
11 program buy-in has reached more than one hundred thousand enrollees,  
12 rates of payment in effect under Medicare Part A, B, and C.

13 (b) Upon consultation with the independent actuary and entities  
14 representing approved organizations, the commissioner shall develop  
15 reimbursement methodologies and fee schedules for determining rates of  
16 payment, which rate shall be approved by the director of the division of  
17 the budget, to be made by the department to approved organizations for  
18 the cost of health care services coverage pursuant to this title. Such  
19 reimbursement methodologies and fee schedules may include provisions for  
20 capitation arrangements. Providers and approved organizations shall be  
21 permitted to negotiate rates of payment, provided, however, that the  
22 commissioner shall be authorized to establish mandatory rates of payment  
23 to ensure affordability and viability of the program.

24 (c) The commissioner shall have the authority to promulgate regu-  
25 lations, including emergency regulations, necessary to effectuate the  
26 provisions of this subdivision.

27 (d) The department shall require the independent actuary selected  
28 pursuant to paragraph (a) of this subdivision to provide a complete  
29 actuarial report, along with all actuarial assumptions made and all  
30 other data, materials and methodologies used in the development of rates  
31 for the basic health plan authorized under this section. Such report  
32 shall be provided annually to the temporary president of the senate and  
33 the speaker of the assembly.

34 7. Any funds transferred by the secretary of health and human services  
35 to the state pursuant to 42 U.S.C. 18051(d) shall be deposited in trust.  
36 Funds from the trust shall be used for providing health benefits through  
37 ~~[an approved organization]~~ a basic health plan, which, at a minimum,  
38 shall include essential health benefits as defined in 42 U.S.C.  
39 18022(b); to reduce the premiums, if any, and cost sharing of partic-  
40 ipants in the basic health program; or for such other purposes as may be  
41 allowed by the secretary of health and human services. Health benefits  
42 available through the basic health program shall be provided by one or  
43 more approved organizations pursuant to an agreement with the department  
44 of health and shall meet the requirements of applicable federal and  
45 state laws and regulations.

46 8. An individual who is lawfully admitted for permanent residence,  
47 permanently residing in the United States under color of law, or who is  
48 a non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C.  
49 1101(a)(15), and who would be ineligible for medical assistance under  
50 title eleven of this article due to his or her immigration status if the  
51 provisions of section one hundred twenty-two of this chapter were  
52 applied, shall be considered to be ineligible for medical assistance for  
53 purposes of paragraphs (b) and (c) of subdivision three of this section.

54 9. Reporting. The commissioner shall submit a report to the temporary  
55 president of the senate and the speaker of the assembly annually by  
56 December thirty-first. The report shall include, at a minimum, an analy-

sis of the basic health program and its impact on the financial interest of the state; its impact on the health benefit exchange including enrollment and premiums; its impact on the number of uninsured individuals in the state; its impact on the Medicaid global cap; its impact on health care affordability for middle class New Yorkers; its impact on small business and economic activity; its impact on population trends in the state; the impact of basic health program payment rates on hospital finances and financial sustainability, and recommendations to address any potential concerns based on migration from the commercial insurance market to the basic health program; and the demographics of basic health program enrollees including age and immigration status.

10. Network participation. Any provider licensed or certified under article thirty-one or thirty-two of the mental hygiene law, and any hospital licensed under article twenty-eight of the public health law, including any clinic, physician or specialist group, outpatient facility or practice, ambulatory care setting or other office-based setting, or other health care setting owned in whole or in part by a hospital licensed under article twenty-eight of the public health law, as well as any single or multi-specialty free-standing ambulatory surgery centers licensed under article twenty-eight of the public health law, shall make health care services available to any individual in the basic health program. Approved organizations operating basic health plans and providers shall use good faith efforts to negotiate network participation arrangements for individuals enrolled in the basic health program.

11. Basic health program buy-in for individuals. Any individual who meets the eligibility requirements of paragraphs (a) and (b) of subdivision three of this section shall be permitted to purchase basic health program coverage for themselves and any qualified dependents who otherwise meet the eligibility requirements of paragraphs (a) and (b) of subdivision three of this section, through the basic health program buy-in. Subject to approval from the United States secretary of health and human services, the basic health program buy-in shall allow eligible individuals to pay the regional per member, per month premium that is paid to a basic health plan for eligible individuals in the region, or any subsidized premium based on the availability of federal or state subsidies as basic health program funds permit, for themselves and any qualified dependents, and gain coverage through the basic health program.

12. Basic health program buy-in for eligible small groups. Any eligible small group may pay to a basic health plan the full or partial amount of the premium costs for an individual and their qualified dependents to buy-in to the basic health program as a benefit to members of the eligible small group. The commissioner shall establish procedures through which eligible small groups can pay voluntary premium contributions, and if contributions are made, any applicable required subsidy equivalency payments and premium supplements for covered individuals and their qualified dependents, directly to a basic health plan on an aggregate, monthly basis.

13. The commissioner shall seek any federal waivers, approvals, and take any and all actions necessary to implement this section, including but not limited to federal waivers and approvals, and pursue any state statutory or regulatory changes necessary to implement this act, including establishing penalties, fines, and oversight authority, in conjunction with the department of taxation and finance, to capture accurate information from individuals and eligible small groups, and ensure

1 eligible small groups are complying with the requirements of this  
2 section.

3 § 2. This act shall take effect on the one hundred eightieth day after  
4 it shall have become a law. Effective immediately, the addition, amend-  
5 ment and/or repeal of any rule or regulation necessary for the implemen-  
6 tation of this act on its effective date are authorized to be made and  
7 completed on or before such effective date; provided, further, that the  
8 amendments to paragraphs (c) and (e) of subdivision 1, paragraph (d) of  
9 subdivision 3, and subdivisions 5 and 7 of section 369-gg of the social  
10 services law made by section one of this act shall not affect the expi-  
11 ration of such paragraphs and subdivisions and shall be deemed to expire  
12 therewith.

13 PART B

14 Section 1. Legislative intent. The legislature finds and declares all  
15 of the following:

16 Medical care should never result in financial hardship or bankruptcy;  
17 that out-of-network service reimbursement should be fair to providers  
18 but put consumers first; and that hospitals should not be able to place  
19 liens on their patients' homes to secure payment of out-of-pocket costs.

20 For too many New Yorkers, an unexpected medical emergency or diagnosis  
21 carries both life-altering health and financial consequences. An indi-  
22 vidual should not need to substantially modify theirs and their family's  
23 future by liquidating college or retirement savings or need to start an  
24 online fundraiser to afford the bills from a medical emergency. For  
25 those who have experienced a medical travesty and cannot work, ongoing  
26 costs they cannot afford compound the trauma.

27 As a result of the Affordable Care Act, health insurance plans today  
28 are required to establish out-of-pocket payment maximums that attempt to  
29 limit one's out-of-pocket cost liability for health care. While these  
30 are certainly preferred over no coverage, they offer little protection  
31 against debt and bankruptcy because they exclude out-of-network care as  
32 well as premium contributions paid by an individual. This means that the  
33 sum of premium payments a person makes for their health care does not  
34 count towards the out-of-pocket cap, meaning the cap is not account for  
35 what could be a substantial amount of available resources that have  
36 already been devoted to pay for one's health care. In addition, the  
37 out-of-pocket maximum does not account for an individual's household  
38 income, exacerbating equity issues by failing to consider one's ability  
39 to actually afford their out-of-pocket maximum, or if it is an amount  
40 that would inevitably lead to debt and bankruptcy.

41 While there are many contributing factors to health care cost  
42 increases, one of the drivers continues to be out-of-network charges.  
43 While New York has led the way in protecting consumers from surprise  
44 bills, studies have shown New York's Independent Dispute Resolution  
45 process and its reliance on health care charges to resolve disputes  
46 incentivizes out-of-network providers to continually increase their  
47 "charges", as charges are part of the criteria used to determine payment  
48 of a disputed out-of-network charge. Higher charges result in higher  
49 awards and more costs being built into premiums in subsequent years. As  
50 long as the state maintains a health care system that permits and incen-  
51 tivizes this behavior, the system will continue to incentivize such cost  
52 increases while encouraging those who do not participate in networks to  
53 continue to do so, with consumers caught in between. It is essential to  
54 address out-of-network charges in a way that is fair to providers but

1 takes patients completely out of the middle of health plan and provider  
2 disputes.

3 § 2. Article 6 of the financial services law is REPEALED and a new  
4 article 6 is added to read as follows:

5 ARTICLE 6

6 COST CONTAINMENT AND CONSUMER PROTECTIONS

7 Section 601. Applicability.

8 602. Definitions.

9 603. Rates of payment for non-participating services.

10 604. Annual limit on consumer health care expenditures.

11 605. Service level caps on high health care costs.

12 606. Cost growth caps.

13 § 601. Applicability. This article shall not apply to health care  
14 services, including emergency services, where physician fees are subject  
15 to schedules or other monetary limitations under any other law, includ-  
16 ing the workers' compensation law and article fifty-one of the insurance  
17 law, and shall not preempt any such law.

18 § 602. Definitions. For purposes of this article:

19 (a) "Emergency health care services" means health care services  
20 rendered to an insured experiencing an "emergency condition".

21 (b) "Emergency condition" means medical or behavioral condition that  
22 manifests itself by acute symptoms of sufficient severity, including  
23 severe pain, such that a prudent layperson, possessing an average know-  
24 ledge of medicine and health, could reasonably expect the absence of  
25 immediate medical attention to result in: (1) placing the health of the  
26 person afflicted with such condition in serious jeopardy, or in the case  
27 of a behavioral condition placing the health of such person or others in  
28 serious jeopardy; (2) serious impairment to such person's bodily func-  
29 tions; (3) serious dysfunction of any bodily organ or part of such  
30 person; (4) serious disfigurement of such person; or (5) a condition  
31 described in clause (i), (ii) or (iii) of section 1867(e)(1)(A) of the  
32 social security act 42 U.S.C. 1395dd.

33 (c) "Health care plan" means an insurer licensed to write accident and  
34 health insurance pursuant to article thirty-two of the insurance law; a  
35 corporation organized pursuant to article forty-three of the insurance  
36 law; a municipal cooperative health benefit plan certified pursuant to  
37 article forty-seven of the insurance law; a health maintenance organiza-  
38 tion certified pursuant to article forty-four of the public health law;  
39 or a student health plan established or maintained pursuant to section  
40 one thousand one hundred twenty-four of the insurance law.

41 (d) "Insured" means a patient covered under a health care plan's poli-  
42 cy or contract.

43 (e) "Nonemergency health care services" means health care services  
44 rendered to an insured experiencing a medical condition other than an  
45 emergency condition.

46 (f) "In-network contracted rate" means the rate contracted between an  
47 insured's health care plan and a participating health care provider for  
48 the reimbursement of health care services delivered by that health care  
49 provider to the insured.

50 (g) "Median, in-network contracted rate" means the median allowed  
51 amount paid to in-network providers for a specific service by a specific  
52 health plan.

53 (h) "Non-participating commercial rate for emergency services" means  
54 the amount set pursuant to this section, and used to determine the rate  
55 of payment to a health care provider for the provision of emergency

1 health care services to an insured when the health care provider is not  
2 in the insurer's network.

3 (i) "Noncontracted commercial rate for nonemergency services" means  
4 the amount set pursuant to this section, and used to determine the rate  
5 of payment to a health care provider for the provision of nonemergency  
6 health care services to an insured when the health care provider is not  
7 in the insurer's network.

8 (j) "Relative price" means the negotiated allowed amount paid for a  
9 medical service by a health care plan, including amounts paid from both  
10 the health care plan and the insured, compared against the Medicare  
11 reimbursement rate for the same procedure and facility.

12 (k) "Core CPI" means the Consumer Price Index for All Urban Consumers,  
13 All Items Less Food & Energy, developed by the United States Bureau of  
14 Labor Statistics.

15 § 603. Rates of payment for non-participating services. All health  
16 care plans shall pay non-participating providers of emergency and non-  
17 emergency health care services provided to an insured at the insurers  
18 median, in-network rate for the service provided. Providers shall be  
19 prohibited from balance billing an insured for any amount above the  
20 median, in-network rate paid for the health care service. The super-  
21 intendent may promulgate regulations necessary to implement this  
22 section.

23 § 604. Annual limit on consumer health care expenditures. (a) Notwith-  
24 standing any out-of-pocket maximums that may exist today, the super-  
25 intendent shall establish annual limits on the overall financial amount  
26 an insured shall be responsible for in the state regulated commercial  
27 health insurance market, for payment of health care costs under a  
28 contract with a New York state regulated health plan, which shall be  
29 inclusive of all premium contributions made directly by the individual  
30 for individual or family coverage, as well as any amounts paid towards  
31 copays, coinsurance, and deductibles, for all medically necessary health  
32 care services, irrespective of whether the service is provided by an  
33 in-network or out-of-network provider, such that when the total amount  
34 of health care costs paid by an individual reaches the applicable limit,  
35 the consumer is no longer financially responsible to the insurer for  
36 payment of out-of-pocket costs. For purposes of this section, any finan-  
37 cial contributions toward the premium made by an employer for health  
38 insurance coverage shall not count towards the annual out-of-pocket  
39 maximum.

40 (b) In implementing subsection (a) of this section, the superintendent  
41 may use the IRS Employer Health Plan Affordability Threshold as a base-  
42 line, but shall establish cap amounts at various household income  
43 levels, such that individuals with less household income shall be  
44 subject to a lower annual payment cap, and individuals with higher  
45 household income shall be subject to a higher annual cap, but in no  
46 event shall the annual out-of-pocket maximum cap more than double the  
47 IRS Employer Health Plan Affordability Threshold for individuals at any  
48 income level. The superintendent shall be permitted to apply for any  
49 federal waivers and pursue any reinsurance options for insurers or the  
50 state and take other actions consistent with this section to implement  
51 its intent.

52 (c) Insurers shall be prohibited from increasing health insurance  
53 premiums to account for the out-of-pocket limits, and the actuarial  
54 value of the insurance product shall be regarded as if the underlying  
55 insurance product did not include any revised out-of-pocket limit.

1 (d) The commissioner of health shall work with the commissioner of  
2 taxation and finance to establish appropriate penalties and safeguards  
3 to ensure proper implementation of this article.

4 § 605. Service level caps on high health care costs. (a) No health  
5 care plan shall be permitted to reimburse any inpatient or outpatient  
6 hospital licensed under article twenty-eight of the public health law,  
7 and any single or multi-specialty free-standing ambulatory surgery  
8 centers licensed under article twenty-eight of the public health law,  
9 more than two hundred forty percent of the Medicare benchmark rate for  
10 the service.

11 (b) Any provider subject to this paragraph shall be prohibited from  
12 balance billing an insured for costs above the benchmark rate or cost up  
13 to the benchmark rate if the provider has negotiated a lower charge for  
14 the service from the health care plan.

15 (c) Any rate filings that may be required shall be subject to presump-  
16 tive disapproval if it includes any payment to providers that is more  
17 than two hundred forty percent of the Medicare benchmark rate.

18 (d) The superintendent shall assess the impact of this provision on  
19 health care costs in consultation with the commissioner of health, and  
20 may recommend modifications to the service level caps, including, but  
21 not limited to, revising the methodology to establish new caps, estab-  
22 lishing regional caps, or lowering or raising caps as may be necessary  
23 based on health care utilization, price, and trend analysis conducted by  
24 the commissioner of health.

25 § 606. Cost growth caps. Any rate filings submitted to the superinten-  
26 dent may not include aggregate unit price growth for nonprofessional  
27 services that exceed the following:

28 (a) One year after the analysis on health care cost growth and trends  
29 is completed by the commissioner of health under section twenty hundred  
30 sixteen of the public health law, the commissioner of health shall  
31 establish three tiers of hospitals based on health care prices paid by  
32 health care plans to inpatient and outpatient hospitals and hospital  
33 systems, and all ambulatory surgery centers licensed or certified under  
34 article twenty-eight of the public health law, such that:

35 (1) The first tier shall consist of those facilities in the state that  
36 fall below the median of all facilities in terms of relative reimburse-  
37 ment received by health care plans for services; hospitals in this tier  
38 shall be permitted to negotiate increases to their reimbursement and  
39 health care plans are permitted to pay increases without limitation;

40 (2) The second tier shall consist of those facilities between the  
41 median and ninety-fifth percentile of all facilities in terms of rela-  
42 tive reimbursement received by health care plans for services; beginning  
43 for policies that take effect January first, two thousand twenty-four,  
44 the superintendent shall permit health care plans to submit rate filings  
45 that allow unit price growth for these facilities that does not exceed  
46 the greater of 2.5 percent or Core CPI plus 1 percent; and,

47 (3) The third tier shall consist of those facilities above the nine-  
48 ty-fifth percentile of all facilities in terms of relative reimbursement  
49 received by health care plans for services; beginning for policies that  
50 take effect January first, two thousand twenty-four, the superintendent  
51 shall not permit any rate filings that allow unit price growth for these  
52 facilities.

53 (b) Any rate filings submitted by a health care plan that violates  
54 these requirements shall be subject to presumptive disapproval by the  
55 superintendent.

1 (c) The superintendent is permitted to take other actions to enforce  
2 the requirements of this section, and shall implement regulations neces-  
3 sary to carry out its intent.

4 § 3. Subdivision (b) of section 5201 of the civil practice law and  
5 rules is amended to read as follows:

6 (b) Property against which a money judgment may be enforced. A money  
7 judgment may be enforced against any property which could be assigned or  
8 transferred, whether it consists of a present or future right or inter-  
9 est and whether or not it is vested, unless it is exempt from applica-  
10 tion to the satisfaction of the judgment. A money judgment entered upon  
11 a joint liability of two or more persons may be enforced against indi-  
12 vidual property of those persons summoned and joint property of such  
13 persons with any other persons against whom the judgment is entered. No  
14 property lien shall be entered against a debtor's primary residence in  
15 actions brought by a hospital licensed under article twenty-eight of the  
16 public health law or a health care professional authorized under title  
17 eight of the education law.

18 § 4. Subdivision (b) of section 5231 of the civil practice law and  
19 rules, as amended by chapter 575 of the laws of 2008, is amended to read  
20 as follows:

21 (b) Issuance. Where a judgment debtor is receiving or will receive  
22 money from any source, an income execution for installments therefrom of  
23 not more than ten percent thereof may be issued and delivered to the  
24 sheriff of the county in which the judgment debtor resides or, where the  
25 judgment debtor is a non-resident, the county in which he is employed;  
26 provided, however, that (i) no amount shall be withheld from the judg-  
27 ment debtor's earnings pursuant to an income execution for any week  
28 unless the disposable earnings of the judgment debtor for that week  
29 exceed the greater of thirty times the federal minimum hourly wage  
30 prescribed in the Fair Labor Standards Act of 1938 or thirty times the  
31 state minimum hourly wage prescribed in section six hundred fifty-two of  
32 the labor law as in effect at the time the earnings are payable; (ii)  
33 the amount withheld from the judgment debtor's earnings pursuant to an  
34 income execution for any week shall not exceed twenty-five percent of  
35 the disposable earnings of the judgment debtor for that week, or, the  
36 amount by which the disposable earnings of the judgment debtor for that  
37 week exceed the greater of thirty times the federal minimum hourly wage  
38 prescribed by the Fair Labor Standards Act of 1938 or thirty times the  
39 state minimum hourly wage prescribed in section six hundred fifty-two of  
40 the labor law as in effect at the time the earnings are payable, which-  
41 ever is less; (iii) if the earnings of the judgment debtor are also  
42 subject to deductions for alimony, support or maintenance for family  
43 members or former spouses pursuant to section five thousand two hundred  
44 forty-one or section five thousand two hundred forty-two of this arti-  
45 cle, the amount withheld from the judgment debtor's earnings pursuant to  
46 this section shall not exceed the amount by which twenty-five percent of  
47 the disposable earnings of the judgment debtor for that week exceeds the  
48 amount deducted from the judgment debtor's earnings in accordance with  
49 section five thousand two hundred forty-one or section five thousand two  
50 hundred forty-two of this article; and (iv) no amount shall be imposed  
51 in judgments arising from a medical debt action brought by a hospital  
52 licensed under article twenty-eight of the public health law or a health  
53 care professional authorized under title eight of the education law.  
54 Nothing in this section shall be construed to modify, abrogate, impair,  
55 or affect any exemption from the satisfaction of a money judgment other-  
56 wise granted by law.

§ 5. This act shall take effect immediately, provided however, that it shall apply to all health care plan policies beginning on January 1, 2024. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

## PART C

Section 1. Legislative intent. The legislature finds and declares all of the following:

The widening gap in health and life expectancy of New Yorkers based on income is a disturbing phenomenon. One of the many reasons why this is occurring is because those with lower incomes tend to be disproportionately impacted by multiple disparities, including higher rates of chronic illness and disease, and the ongoing costs of treatment create barriers to access and proper self-care. Countless studies have shown individuals are more likely to go without needed care when a deductible is involved, while lower income individuals are more likely to avoid care because of out-of-pocket costs. Thus, individuals with lower incomes do not manage chronic conditions as well as those with higher incomes, and tend to live shorter lives as a result. In addition to disproportionately impacting individuals from lower economic backgrounds, chronic diseases have also been found to disproportionately effect people of color, who face higher rates of diabetes, obesity, stroke, heart disease, and cancer, than caucasians. The impacts of poor health effect more than the individual, as studies have shown poor health can impact the well-being and future of the entire family when one member has a chronic condition. Economic advancement is typically more challenging for those with chronic illnesses, as not only does the disease impact work and productivity, but treatments and medications can account for a significant portion of available resources for those with lower incomes, making it difficult to survive on fixed incomes and forcing many to forgo needed care. Families with less income do not have the ability to outsource help and end up taking on more responsibility for family members impacted by disease, which impacts their own education and work opportunities. Thus, in many respects, chronic diseases exacerbate existing health and socioeconomic disparities, making it difficult for individuals and families from low-income backgrounds to overcome the burden.

It is imperative that life-saving services, treatments, and medications be made available to all New Yorkers without cost sharing, so cost is not a barrier for accessing preventive services and care. This is essential as a matter of public policy to address disparities in equity and access; however, there is also evidence that improved adherence and chronic disease management will reduce health care costs in the aggregate and could lead to improved health outcomes and other benefits for the individual and their family.

§ 2. The public health law is amended by adding a new section 2703 to read as follows:

§ 2703. Chronic disease demonstration program. 1. There shall be established a chronic disease demonstration program within the department. Such program shall recommend cost sharing eliminations for targeted high-value services, treatments and prescription drugs used to treat certain chronic conditions. In order to implement such program, the commissioner, in consultation with the superintendent of financial

1 services, shall identify one to three services, treatments, and  
2 prescription drugs in total used to treat each of the following chronic  
3 conditions: diabetes, asthma, chronic obstructive pulmonary disease,  
4 hypertension, coronary artery disease, congestive heart failure, opioid  
5 use disorder, bipolar disorder, and schizophrenia. The commissioner  
6 may, by regulation, include any other chronic conditions deemed neces-  
7 sary. In determining the targeted high-value services, treatments, and  
8 prescription drugs, the commissioner shall consider appropriate  
9 services, treatments and prescription drugs that are:

10 (a) out-patient or ambulatory services, including medications, lab  
11 tests, procedures, and office visits, generally offered in the primary  
12 care or medical home setting;

13 (b) of clear benefit, strongly supported by clinical evidence to be  
14 cost-effective;

15 (c) likely to reduce hospitalizations or emergency department visits,  
16 or reduce future exacerbations of illness progression, or improve quali-  
17 ty of life;

18 (d) relatively low cost when compared to the cost of an acute illness  
19 or incident prevented or delayed by the use of the service, treatment or  
20 drug; and

21 (e) at low risk for overutilization, abuse, addiction, diversion or  
22 fraud.

23 The commissioner and the superintendent of financial services may  
24 further take into consideration other independent resources or models  
25 proven effective in reducing financial barriers to high-value care.

26 2. Every five years, the commissioner and the superintendent of finan-  
27 cial services shall evaluate the effect of this section. Such evaluation  
28 shall include the impact on treatment adherence, incidence of related  
29 acute events, premiums and cost sharing, overall health, long-term  
30 health costs, and other issues that the superintendent and commissioner  
31 deem necessary. The superintendent of financial services may collaborate  
32 with an independent research organization to conduct such evaluation.  
33 The superintendent of financial services shall publish a public report  
34 on its findings, and shall make such report available on its website.

35 3. Such program shall be implemented no later than January first, two  
36 thousand twenty-three.

37 § 3. Subsection (i) of section 3216 of the insurance law is amended by  
38 adding a new paragraph 37 to read as follows:

39 (37) Any policy, contract or certificate of insurance issued pursuant  
40 to this section shall provide coverage for the identified services,  
41 treatments and prescription drugs of the chronic disease demonstration  
42 program established under article twenty-seven of the public health law,  
43 at no cost sharing to the member, including co-payments, co-insurance,  
44 and such coverage shall not be subject to any deductible. The super-  
45 intendent and the commissioner of health may adopt any written policies,  
46 procedures or regulations necessary to implement such program.

47 § 4. Section 3221 of the insurance law is amended by adding a new  
48 subsection (u) to read as follows:

49 (u) Any policy, contract or certificate of insurance issued pursuant  
50 to this section shall provide coverage for the identified services,  
51 treatments and prescription drugs of the chronic disease demonstration  
52 program established under article twenty-seven of the public health law,  
53 at no cost sharing to the member, including co-payments, co-insurance,  
54 and such coverage shall not be subject to any deductible. The super-  
55 intendent and the commissioner of health may adopt any written policies,  
56 procedures or regulations necessary to implement such program.

§ 5. Section 4303 of the insurance law is amended by adding a new subsection (tt) to read as follows:

(tt) Every contract which provides prescription drugs, or physician services, medical, major medical or similar comprehensive-type coverage, shall provide coverage for the identified services, treatments and prescription drugs of the chronic disease demonstration program established under article twenty-seven of the public health law, at no cost sharing to the member, including co-payments, co-insurance, and such coverage shall not be subject to any deductible. The superintendent and commissioner of health may adopt any written policies, procedures or regulations necessary to implement such program.

§ 6. This act shall take effect immediately, provided however, that it shall apply to all health care plan policies beginning on January 1, 2024. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

#### PART D

Section 1. Legislative intent. The legislature finds and declares all of the following:

The COVID-19 pandemic magnified many longstanding health inequities and disparities that disproportionately impact many black and latinx communities. Examples of such racial and ethnic barriers include access to safe and secure housing, quality education, economic opportunity, and access to quality health care. Access to high quality health care has a positive effect not only on one's own health outcomes but significantly impacts how they approach decision-making about their own healthcare.

We have the finest medical institutions in the country right here in this state, but access to care and the quality of care received is unevenly experienced. Numerous studies have shown that when it comes to health, where you live has a greater impact on your life expectancy than your own genetic code. A baby born in one zip code may be expected to live an entire generation longer than a baby born in a neighboring zip code. In every major city of our state, there are well-known, vibrant institutions that attract patients who would accept medical care at no lesser institution. At the same time, there are hospitals that predominantly serve the poor and uninsured, whose patients have accepted this is where they go when they need care. If given the choice, most commercially insured in this state would not choose to receive their care at one of the financially distressed institutions.

Acute care hospitals that serve a higher proportion of Medicaid and Medicare patients tend to serve higher percentages of racial and ethnic minorities, people of color, and communities that are disproportionately impacted by the social determinants of health and other disparities. It is also well known that these hospitals receive lower reimbursement for the services they provide. While this is mostly because Medicaid and Medicare pay these hospitals less than commercial insurance would for the same procedure, it is also true that these hospitals receive substantially less in commercial insurance reimbursement, even when their patients do have commercial coverage. This is due to market position and negotiating leverage with insurers. While hospital price deregulation and consolidation has allowed some hospital systems to grow and establish dominant market positions with payers, safety net hospitals that serve poorer communities have no leverage to negotiate price with

1 insurers. As a result, the reimbursement they receive tends to be  
2 significantly lower than more affluent hospitals, which means an identi-  
3 cal medical procedure can be reimbursed drastically different for hospi-  
4 tals located on the same city block. Right now in this state, we have  
5 world renown hospitals funding massive capital projects by issuing  
6 investment grade bonds on the capital markets, and at the same time,  
7 there are hospitals that are so financially destitute they rely on  
8 millions of dollars in taxpayer funds every year for capital funding and  
9 their very survival. In fiscal year 2019, 28 hospitals across the state  
10 received more than \$700 million in government support funds from the  
11 commissioner of health just to maintain operations. The divide between  
12 successful and struggling hospitals is wide and growing. Yet despite  
13 this, every hospital in the state is a 501 (c)(3) charitable organiza-  
14 tion, required by law to operate exclusively for charitable purposes.

15 A hospital's financial wherewithal has a direct effect on its quality  
16 of care, and the quality of the patient experience. Prosperous hospitals  
17 attract top physicians, invest in their physical capacity, and contin-  
18 ually raise funds to grow operations and improve services, which allows  
19 them to improve their reputational standing and continue to attract  
20 commercially insured and affluent patients, which helps them remain  
21 prosperous. Conversely, safety net hospitals cannot do any of these  
22 things. They rely on state and federal grants for operational improve-  
23 ments, and Medicaid cash assistance to prevent multimillion-dollar oper-  
24 ating losses. They struggle to exist and do the best they can with the  
25 minimum reimbursement they receive, from patients beset by multiple  
26 disparities. With large hospital systems now located not far from many  
27 of these safety net hospitals, it is naive to think safety net insti-  
28 tutions could ever compete with their more esteemed neighbors, even if  
29 improvements are made.

30 In order to meaningfully address health equity, we must do more than  
31 ensure our safety hospitals survive. We need to invest in these hospi-  
32 tals so they can provide care that is on par with other institutions  
33 throughout the state. As a first step, we need to ensure limited hospi-  
34 tal support dollars are allocated to safety net hospitals that need the  
35 funds most, and are not allocated to those institutions who do not need  
36 the funds, and take other steps to make our health care delivery system  
37 more equitable, so safety net hospitals have the resources and ongoing  
38 support they need to improve care and operations.

39 § 2. Section 2807-c of the public health law is amended by adding a  
40 new subdivision 36 to read as follows:

41 36. Addressing health equity through safety net hospital support. (a)  
42 (i) "Safety net hospital" means those hospitals that predominantly serve  
43 communities that experience significant racial, economic, and health  
44 disparities that have a Medicaid payer mix as of the most recent fiscal  
45 year at or above twenty-five percent, and twenty-five percent or less of  
46 discharged patients are commercially insured. The commissioner shall  
47 annually promulgate a list of those hospitals that qualify as safety net  
48 hospitals.

49 (ii) "Health equity pool" means a new trust to be administered by the  
50 commissioner to support safety net hospitals, promote health care  
51 access, and health equity for communities that experience significant  
52 health disparities.

53 (iii) "Commercial average relative price" means the average commercial  
54 reimbursement rate for each specific service, for each insurer, by  
55 region, for all hospital inpatient and outpatient procedures.

1 (iv) "Commercial health insurer" means entities authorized to provide  
2 health insurance pursuant to articles thirty-two and forty-three of the  
3 insurance law, a municipal cooperative health benefit plan established  
4 pursuant to article forty-seven of the insurance law, an entity certi-  
5 fied pursuant to article forty-four of this chapter, an institution of  
6 higher education certified pursuant to section one thousand one hundred  
7 twenty-four of the insurance law, the state insurance fund, and the New  
8 York state health insurance plan established under article eleven of the  
9 civil service law. However, the term commercial health insurer shall not  
10 include any of these entities acting as a managed care provider pursuant  
11 to title eleven of article five of the social services law and title  
12 one-A of article twenty-five of this chapter, or entities providing  
13 basic health plans pursuant to the basic health program under section  
14 three hundred sixty-nine-qq of the social services law.

15 (b) To promote health equity through commercial rate equity for safety  
16 net hospitals that predominantly serve communities that experience  
17 health disparities because of race, ethnicity, socioeconomic status or  
18 other status:

19 (i) all commercial health insurers shall reimburse safety net hospi-  
20 tals for every inpatient and outpatient service at no less than the  
21 eightieth percentile of the insurers commercial relative price for the  
22 service. Any rate filing that may be required to be submitted by a  
23 commercial health insurer that does not reimburse safety net hospitals  
24 in accordance with this section shall be subject to presumptive disap-  
25 proval by the superintendent of financial services.

26 (ii) any hospital licensed under this article with more than three  
27 billion dollars in net patient revenue on its year end cost report shall  
28 contribute funds minimally equaling two percent of their annual revenue  
29 to the health equity pool to be used to support those safety net hospi-  
30 tals within the same geographic region. Hospitals subject to this para-  
31 graph shall be prohibited from negotiating for increases to rates of  
32 payment from commercial insurers and other health plans to offset  
33 payments to the health equity pool.

34 (iii) The commissioner shall revise the indigent care pool distrib-  
35 ution formula established in regulations pursuant to section twenty-  
36 eight hundred seven-k of this article to prioritize annual distributions  
37 for safety net hospitals that ensures no less than seventy-five percent  
38 of available funds are distributed annually to those safety net hospi-  
39 tals with the greatest financial need. The revised methodology shall  
40 further ensure a more equitable distribution of disproportionate share  
41 hospital funds such that no funds are distributed to those hospitals  
42 that regardless of their reported payer mix or reported uncompensated  
43 care need, are in the discretion of the commissioner, financially stable  
44 hospitals that do not require disproportionate share hospital funds to  
45 maintain operations.

46 (c) The commissioner shall require that all private nonprofit hospi-  
47 tals licensed under this article provide charity care and make other  
48 investments benefitting the community equaling 5.9% of the hospital's  
49 overall expenditures. Any hospital payments to the health equity pool  
50 shall count towards the 5.9% threshold. Any hospital that does not  
51 contribute the required 5.9% shall be required to make payment up to the  
52 5.9% amount to the health equity pool.

53 (d) The commissioner shall provide an annual analysis on the impact of  
54 this subdivision on safety net hospitals and health equity no later than  
55 January first, two thousand twenty-four.

§ 3. This act shall take effect on January 1, 2024, and shall apply to all health care plan policies beginning on January 1, 2024. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

## PART E

Section 1. Legislative intent. The legislature finds and declares all of the following:

While there is a general awareness that the United States pays more for prescription drugs than any other nation, there is less awareness that we also pay substantially more for hospital and physician services. This is particularly true in New York, where we spend more on per-person health care costs than nearly any other state, with spending that exceeds the national average, year after year. Health care costs directly effect health insurance premiums, and the cost of health insurance has grown significantly faster in New York than inflation and wages--compounding at an annual rate of 6.5% per year between 1996 and 2019, turning a family premium of \$5,300 in 1996 into \$22,874 in 2019--without any end in sight.

Higher health care costs have also led to the growth in adoption of health benefit designs that not in the best interest of the health care consumer, like high deductible plans and plans with high out-of-pocket cost sharing. In 2019, the average New Yorker with employer-sponsored health coverage paid \$5,149 in premiums and \$2,899 in deductibles before their health insurance contributed at all to the cost of their care. These changes were designed to provide lower premium options and make consumers more responsible for their own costs, but too often they end up dissuading necessary health care utilization because of cost.

Yet, despite the overall cost growth this state has seen, numerous studies show that the growth in costs is not uniform across-the-board. Market power remains a key driver of price, resulting in significant variation in prices charged for the very same medical services, even in the same geographic region, as some entities are able to demand regular cost increases due to their name and status as an organization.

It is clear that health care costs, and the underlying factors that contribute to cost growth, is an issue that can no longer be ignored, must be better understood, and cannot simply be left to the private market to resolve. This has become much more than a health care issue, as critical services like education, childcare, social services, and economic growth will continue to see resources shifted as long as health care cost growth continues to outpace wages, inflation, or any measure of rational economic output.

§ 2. Section 2816 of the public health law is amended by adding a new subdivision 9-a to read as follows:

9-a. (a) The commissioner may require any health care provider or third-party payer to report additional claim or price information not already reported pursuant to this section to analyze all health care expenditures in the state from public and private sources, including: (i) all categories of medical expenses and all non-claims related payments to providers; (ii) all patient cost sharing amounts, such as, deductibles and copayments; and (iii) the net cost of private health insurance, or as otherwise defined in regulations promulgated by the center.

1 (b) The commissioner shall publish an annual report based on the  
2 information submitted pursuant to this section concerning health care  
3 providers, third-party payer costs and cost trends. The commissioner  
4 shall compare the costs and cost trends by region, and shall detail:

5 (i) baseline information about health care cost, price, quality,  
6 utilization, and market power in the state's health care system; (ii)  
7 cost growth trends by provider sector, including but not limited to,  
8 hospitals, hospital systems, non-acute providers, pharmaceuticals,  
9 medical devices and durable medical equipment; provided, however, that  
10 any detailed cost growth trend in the pharmaceutical sector shall  
11 consider the effect of drug rebates and other price concessions in the  
12 aggregate without disclosure of any product or manufacturer-specific  
13 rebate or price concession information, and without limiting or other-  
14 wise affecting the confidential or proprietary nature of any rebate or  
15 price concession agreement; (iii) factors that contribute to cost growth  
16 within the state's health care system, including provider consolidation,  
17 hospital acquisitions of physician practices, and to the relationship  
18 between provider costs and third-party payer premium rates; (iv) the  
19 impact of any assessments including, but not limited to, the HCRA  
20 surcharge on health insurance premiums; (v) trends in utilization of  
21 high-cost, unnecessary, or duplicative services, with particular empha-  
22 sis on imaging and other high-cost services; (vi) the development and  
23 status of provider organizations, including, but not limited to, acqui-  
24 sitions, mergers, consolidations and any evidence of excess consol-  
25 idation or anti-competitive behavior by provider organizations; (vii)  
26 the impact of health care payment and delivery reform on the quality of  
27 care delivered in the state; and (viii) any other information the  
28 commissioner deems necessary.

29 (c) As part of such report, the commissioner shall report on price  
30 variation of inpatient and outpatient medical services. The report  
31 shall include: (i) baseline information about price variation, identify-  
32 ing hospital inpatient and outpatient prices relative to Medicare; (ii)  
33 the annual change in price variation of hospital inpatient and outpa-  
34 tient prices; (iii) factors that contribute to price variation in the  
35 health care system; (iv) the impact of price variations on safety net  
36 hospitals and health insurance premiums; and (v) any recommendations to  
37 address cost growth to make health care as affordable and accessible as  
38 possible in this state.

39 (d) The commissioner may contract with an outside organization with  
40 expertise in reviewing data and preparing such reports to conduct the  
41 analysis and prepare the report required. The superintendent shall  
42 publish the report and provide the report to the legislature at least  
43 thirty days before the public hearing required under paragraph (e) of  
44 this section.

45 (e) Not later than October first of every year, the commissioner shall  
46 hold a public hearing which shall examine health care provider, provider  
47 organization and third-party payer costs, prices and cost trends, with  
48 particular attention to factors that contribute to cost growth within  
49 the state. Public notice of any hearing shall be provided at least sixty  
50 days prior to such hearing date. The commissioner shall identify as  
51 witnesses for the public hearing a representative sample of health care  
52 providers, third-party payers and other relevant persons. Witnesses  
53 shall provide testimony under oath and be subject to questioning by a  
54 panel that shall consist of the commissioner, the superintendent of  
55 financial services or a designee, three appointees by the governor,  
56 three appointees by the temporary president of the senate, three

1 appointees by the speaker of the assembly, two appointees of the attor-  
2 ney general, and two appointees of the state comptroller. Witnesses  
3 shall be instructed on which topics they should be prepared to discuss,  
4 which may include: (i) in the case of providers and provider organiza-  
5 tions, testimony concerning payment systems, care delivery models, payer  
6 mix, cost structures, administrative and labor costs, capital and tech-  
7 nology cost, adequacy of public payer reimbursement levels, reserve  
8 levels, utilization trends, relative price, quality improvement and  
9 care-coordination strategies, investments in health information technol-  
10 ogy, the relation of private payer reimbursement levels to public payer  
11 reimbursements for similar services, efforts to improve the efficiency  
12 of the delivery system, efforts to reduce the inappropriate or duplica-  
13 tive use of technology and the impact of price transparency on prices;  
14 and (ii) in the case of private and public payers, testimony concerning  
15 factors underlying premium cost and rate increases, the relation of  
16 reserves to premium costs, the payer's efforts to develop benefit  
17 design, network design and payment policies that enhance product afford-  
18 ability and encourage efficient use of health resources and technology  
19 including utilization of alternative payment methodologies, efforts by  
20 the payer to increase consumer access to health care information,  
21 efforts by the payer to promote the standardization of administrative  
22 practices, the impact of price transparency, the extent of price vari-  
23 ation between the payer's participating providers and efforts to reduce  
24 such price variation, and any other matters as determined by the commis-  
25 sioner.

26 § 3. This act shall take effect immediately; provided, however, that  
27 the amendments to section 2816 of the public health law made by section  
28 two of this act shall not affect the expiration of such section and  
29 shall expire therewith.

30 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-  
31 sion, section or part of this act shall be adjudged by a court of compe-  
32 tent jurisdiction to be invalid, such judgment shall not affect, impair,  
33 or invalidate the remainder thereof, but shall be confined in its opera-  
34 tion to the clause, sentence, paragraph, subdivision, section or part  
35 thereof directly involved in the controversy in which such judgment  
36 shall have been rendered. It is hereby declared to be the intent of the  
37 legislature that this act would have been enacted even if such invalid  
38 provision had not been included herein.

39 § 4. This act shall take effect immediately; provided, however, that  
40 the applicable effective date of Parts A through E of this act shall be  
41 as specifically set forth in the last section of such Parts.