BEFORE THE NEW YORK STATE SENATE FINANCE
AND ASSEMBLY WAYS AND MEANS COMMITTEES

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JOINT LEGISLATIVE HEARING

In the Matter of the
2022-2023 EXECUTIVE BUDGET
ON HEALTH

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Virtual Hearing
Conducted via Zoom

February 8, 2022
9:36 a.m.

PRESIDING:

Senator Liz Krueger
Chair, Senate Finance Committee

Assemblywoman Helene E. Weinstein
Chair, Assembly Ways & Means Committee

PRESENT:

Senator Thomas F. O'Mara
Senate Finance Committee (RM)

Assemblyman Edward P. Ra
Assembly Ways & Means Committee (RM)

Senator Gustavo Rivera
Chair, Senate Committee on Health

Assemblyman Richard N. Gottfried
Chair, Assembly Health Committee

Senator Neil Breslin
Chair, Senate Insurance Committee

Assemblyman Kevin A. Cahill
Chair, Assembly Committee on Insurance

2022-2023 Executive Budget
Health
2-8-22

PRESENT: (Continued)

Senator Patrick M. Gallivan

Assemblyman Kevin M. Byrne

Senator John C. Liu

Assemblyman Khaleel M. Anderson

Assemblywoman Rodneyse Bichotte Hermelyn

Assemblyman Harry B. Bronson

Senator Brad Hoylman

Assemblyman Edward C. Braunstein

Senator Todd Kaminsky

Senator Rachel May

Assemblyman Phil Steck

Assemblywoman Marjorie Byrnes

Senator Diane J. Savino

Assemblyman John T. McDonald III

Assemblywoman Linda B. Rosenthal

Senator Cordell Cleare

Assemblywoman Alicia Hyndman

Assemblywoman Amy Paulin

Assemblywoman Yuh-Line Niou

Senator Sean M. Ryan

Assemblywoman Jessica González-Rojas

2022-2023 Executive Budget
Health
2-8-22

PRESENT: (Continued)

Senator Andrew Gounardes

Assemblyman Steven Cymbrowitz

Assemblywoman Pamela J. Hunter

Senator Pete Harckham

Assemblyman Jake Ashby

Assemblywoman Michaelle C. Solages

Assemblyman John Salka

Senator Susan Serino

Assemblyman Thomas J. Abinanti

Assemblywoman Aileen M. Gunther

Senator John E. Brooks

Assemblywoman Melissa Miller

Senator Leroy Comrie

Assemblywoman Rebecca A. Seawright

Senator Edward A. Rath III

Assemblyman Jarett Gandolfo

Senator James Tedisco

Assemblyman Josh Jensen

Senator Peter Oberacker

Senator Julia Salazar

Assemblywoman Karines Reyes

2022-2023 Executive Budget
Health
2-8-22

PRESENT: (Continued)

Assemblyman Colin Schmitt

Senator George M. Borrello

LIST OF SPEAKERS


| | STATEMENT | QUESTIONS |
|---|---|---|
| Mary T. Bassett<br>Commissioner<br>NYS Department of Health<br>-and-<br>Brett Friedman<br>NYS Medicaid Director | 14 | 23 |
| Adrienne Harris<br>Superintendent<br>NYS Department of Financial Services | 222 | 229 |
| Frank T. Walsh, Jr.<br>Acting Medicaid Inspector General<br>NYS Office of the Medicaid Inspector General | 307 | 312 |

2022-2023 Executive Budget
Health
2-8-22

LIST OF SPEAKERS, Continued


| | STATEMENT | QUESTIONS |
|---|---|---|
| Kenneth E. Raske<br>President<br>Greater New York Hospital Association<br>-and-<br>Bea Grause<br>President<br>Healthcare Association of NYS (HANYS)<br>-and-<br>Michael Balboni<br>Executive Director<br>Greater New York Health Care Facilities Association<br>-and-<br>Carl Pucci<br>CFO<br>NYSHFA\|NYSCAL<br>-and-<br>Jeffrey Call<br>Chairman<br>United New York Ambulance Network (UNYAN) | 325 | 342 |
| Eric Linzer<br>President & CEO<br>NY Health Plan Association<br>-and-<br>Rose Duhan<br>President & CEO<br>Community Health Care Association of NYS<br>-and-<br>Louise Cohen<br>CEO<br>Primary Care Development Corporation | 366 | 378 |

2022-2023 Executive Budget
Health
2-8-22

LIST OF SPEAKERS, Continued

| | STATEMENT | QUESTIONS |
|---|---|---|
| Helen Schaub<br>Vice President<br>SEIU1199 United Healthcare Workers East<br>-and-<br>Manny Pastreich<br>Secretary Treasurer<br>SEIU 32BJ<br>-and-<br>Pat Kane<br>Executive Director<br>NYS Nurses Association | 384 | 395 |
| Joseph Sellers, M.D.<br>President<br>Medical Society of the State of New York<br>-and-<br>Christopher R. Arnold<br>Northeast Region Liaison<br>U.S. Department of Defense<br>-and-<br>Stephen Ferrara<br>Executive Director<br>Nurse Practitioner Assoc. NYS<br>-and-<br>Jonathan Baker<br>President<br>New York State Society of Physician Assistants<br>-and-<br>Jo Wiederhorn<br>President & CEO<br>Associated Medical Schools of New York<br>-and-<br>Jeanne Chirico<br>President/CEO<br>Hospice and Palliative Care Association of New York State | 400 | 422 |

2022-2023 Executive Budget
Health
2-8-22

LIST OF SPEAKERS, Continued


| | STATEMENT | QUESTIONS |
|---|---|---|
| Lauri Cole<br>Executive Director<br>NYS Council for Community<br>Behavioral Healthcare<br>-and-<br>Lara Kassel<br>Coalition Coordinator<br>Medicaid Matters New York<br>-and-<br>James W. Clyne Jr.<br>President/CEO<br>LeadingAge New York<br>-and-<br>Lindsay Heckler<br>Supervising Attorney<br>Center for Elder Law<br>& Justice<br>-and-<br>Chuck Bell<br>Programs Director, Advocacy<br>Consumer Reports<br>-and-<br>Bobbie Sackman<br>Campaign Leader<br>New York Caring Majority | 435 | 458 |

2022-2023 Executive Budget
Health
2-8-22

LIST OF SPEAKERS, Continued


| | STATEMENT | QUESTIONS |
|---|---|---|
| Seongeun Chun<br>Director of Health Policy<br>New York Immigration Center<br>-and-<br>Dan Egan<br>Executive Director<br>Feeding New York State<br>-and-<br>Dr. Indu Gupta<br>President<br>New York State Association<br>of County Health Officials<br>-and-<br>Denise C. Tahara<br>President<br>New York State Public Health<br>Association<br>-and-<br>Kathy Febraio<br>President & CEO<br>New York State Association<br>of Health Care Providers | 481 | 499 |

LIST OF SPEAKERS, Continued


| | STATEMENT | QUESTIONS |
|---|---|---|
| Karl Williams<br>President<br>Pharmacists Society of the State of New York<br>-and-<br>Mike Duteau<br>President<br>Community Pharmacy Association of New York State<br>-and-<br>Al Cardillo<br>President & CEO<br>Home Care Association of New York State<br>-and-<br>Lisa Newcomb<br>Executive Director<br>Empire State Association of Assisted Living (ESAAL)<br>-and-<br>Hannah Diamond<br>State Policy Advocacy Specialist<br>PHI<br>-and-<br>Bryan O'Malley<br>Executive Director<br>Consumer Directed Personal Assistance Association of NYS<br>-and-<br>Steven Sanders<br>Executive Director<br>Agencies for Children's Therapy Services (ACTS) | 505 | 530 |

CHAIRWOMAN KRUEGER: Good morning. Hi, I'm State Senator Liz Krueger, chair of the Finance Committee in the Senate, joined by my colleague Helene Weinstein, chair of the Ways and Means Committee in the Assembly. We jointly run these hearings.

Welcome, everyone. Today's legislative hearing is on health within the State Budget. And this is going to be a long hearing, so get extra comfortable and get your popcorn ready for later tonight.

This is the eighth of 13 budget hearings that is being conducted by the joint fiscal committees of the Legislature regarding the Governor's proposed budget for state fiscal year '22-'23. These hearings are conducted pursuant to the New York State Constitution and Legislative Law.

Today the Senate Finance Committee and Assembly Ways and Means Committee will hear testimony concerning the Governor's proposed budget for the Department of Health, Department of Financial Services as it relates to the insurance industry, and

Medicaid inspector general.

Following each testimony there will be some time for questions from the chairs of the relevant committees and other legislators on those committees.

I will now introduce members of the Senate, and Assemblymember Helene Weinstein, chair of Ways and Means, will introduce members of the Assembly. Of course we will hear from my ranker on Finance, Senator Tom O'Mara, who will follow me, introducing members of his conference.

Now I have to actually see who's here already. We of course have Senator Gustavo Rivera, chair of the Health Committee; we have Senator Diane Savino, we have Senator Cordell Cleare, our newest Senator -- hi, Cordell, good morning -- Senator John Liu. Senator -- oh, we're skipping the Republicans for a moment, sorry. Senator Brad Hoylman, good morning. Senator Sean Ryan. Senator Rachel May.

Anybody else pop up since I took a look? I think that is it for Democratic

Senators. And we will of course introduce others as they join us. Did I get Sean Ryan? Yes, I did.

I'm going to now turn it over to Tom O'Mara to introduce members of his conference.

SENATOR O'MARA: Good morning. Thank you, Senator Krueger.

Joining us on the Republican side of the aisle is our ranker of the Health Committee, Senator Pat Gallivan. We have Senator Pete Oberacker, Senator Jim Tedisco, and Senator George Borrello with us at this point. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And I see that we've also been joined by Senator Todd Kaminsky.

And now over to Helene Weinstein to introduce Assemblymembers.

CHAIRWOMAN WEINSTEIN: Good morning, everyone.

We have with us Assemblyman Dick Gottfried, chair of our Health Committee; Assemblyman Cahill, chair of our Insurance

Committee. Assemblyman Anderson, Assemblyman Braunstein, Assemblywoman Gunther, Assemblywoman Solages. And we will be joined by other members as the day goes on.

And I turn it over to our Ways and Means ranker, Ed Ra, to introduce members of his conference.

ASSEMBLYMAN RA: Thank you.

Good morning. We are joined by our ranker on the Health Committee, Assemblyman Kevin Byrne, and also Assemblymembers Jensen, Byrnes and Salka.

CHAIRWOMAN WEINSTEIN: And we also were joined by Assemblywoman Seawright.

And back to you, Senator Krueger.

CHAIRWOMAN KRUEGER: Thank you very much, Assemblymember.

All right, our first testifier is Mary Bassett, our commissioner of the New York State Department of Health.

And the same rules apply to all the government representatives. We will give you 10 minutes to present the highlights of your testimony before us. We all have everyone's

written testimony, so we can follow along throughout the day with the actual written testimony.

After your 10 minutes of presentation, we will allow the chairs of the relevant committees to question you for 10 minutes, and only the chairs get a second round of three minutes. Rankers get five minutes. All other legislators get three minutes. You get the rhythm as we go along.

So good morning, Dr. Bassett.

COMMISSIONER BASSETT: Good morning. And good morning, Chairpersons Krueger, Rivera, Weinstein and Gottfried, and members of the New York State Senate and Assembly.

My name is Dr. Mary Bassett. Thank you for the opportunity to testify on Governor Hochul's Executive Budget for fiscal year 2023 as it relates to the health and well-being of New Yorkers.

Joining me is Brett Friedman, the state Medicaid director.

I began my tenure here at the department just about two months ago, the day

before we first learned of a case of the Omicron variant here in New York State. A record-setting winter surge in COVID-19 cases quickly followed, and the rising cases required us to bring forth all the resources we had to shore up our public health and healthcare infrastructure, mobilize all available state and federal resources, increase our testing capacity to meet increasing demand, and double down on our efforts to get New Yorkers vaccinated and boosted against COVID-19.

This strategy is working, as evidenced by the rapidly declining numbers of cases and hospitalizations that we're now seeing.

Ending the COVID-19 pandemic has been, and will remain, our department's top priority. We also must restore our public health institutions and workforce to help New Yorkers live healthier lives after the pandemic ends. And we must strengthen trust in science and in public health.

The consequences of this pandemic extend beyond its dreadful toll in lives

lost. Our lives have been upended, and we know that some of us will live with the effects of COVID-19 for a long time. The impact extends even further. For example, use of preventive care has fallen, affecting services from medication access to cancer screening. And we see troubling increases in sexually transmitted infections and a worsening opioid epidemic, with a tragic rise in the numbers of drug overdoses.

Governor Hochul's Executive Budget for fiscal year 2023 meets these needs and puts us on a path to a stronger Health Department and a healthier New York.

The Governor's vision prioritizes openness and transparency. In medicine and in public service, we owe it to our patients and our constituents to tell them what they need to hear -- not just what they want to hear. It is the public's right to expect -- and our obligation to deliver -- recommendations based on sound science and public health expertise.

This vision also prioritizes racial

equity and social justice. COVID-19 may have been caused by a new virus, but the societal conditions that made certain groups more vulnerable to COVID were not new. Indeed, COVID found its way through our collective failure to ensure safe workplaces, affordable homes, living wages, and access to healthcare for all. And it highlighted how deep racial and ethnic inequities continue to frame life chances.

Even during this most recent Omicron wave, the COVID hospitalization rate for Black New Yorkers rose to two times that of white New Yorkers. Such racial disparities are not due to biological differences. But the data clearly show that a person's race/ethnicity is a risk factor for severe illness and hospitalization. Considerations like age, comorbidities and preexisting medical conditions and, yes, race/ethnicity, should be considered in weighing whether some individuals are more likely than others to become severely ill from COVID.

Root causes of such disparities

include racism. Last December, Governor Hochul signed a package of legislation that included declaring racism a public health crisis, taking numerous meaningful steps and signaling this administration's commitment to righting the wrongs of systemic racism and injustice.

This year's Executive Budget is the best budget that the Department of Health has seen in a long time, providing an unprecedented investment in our healthcare system, Medicaid, public health programs and our own department's workforce. Governor Hochul understands that without a health workforce, there can be no pandemic response and no significant progress in making our communities healthier.

This budget includes a multiyear investment of $10 billion, with the goal of growing the healthcare workforce by 20 percent in the next five years. There is $1.2 billion for healthcare and mental hygiene worker retention, including bonuses for full-time health workers. There is also

a $500 million set-aside for wage increases through cost-of living adjustments. And there is funding for the Health Department to hire a much-needed 560 additional staff across the agency.

But a workforce alone does not give New Yorkers good healthcare. All New Yorkers must also have the means to access healthcare services. This budget updates the Medicaid global cap to make necessary investments in our Medicaid program -- improving public health programs and programs serving older adults, and enhancing critical health and social services, all while achieving savings through reforms and cost-control efforts.

It restores the 1.5 percent reduction from the fiscal year 2021 budget and increases Medicaid rates across the board by an additional 1 percent. The budget invests $2.8 billion in payments directed to safety-net hospitals that serve communities and care for patients hardest hit by COVID. And it makes overdue investments in long-term care.

Nursing homes are among the facilities that will benefit from a $1.6 billion capital program to fund much-needed improvements. Additional dollars are also allocated to long-term-care facilities to help them meet minimum staffing requirements.

Improving health and safety in our state's long-term care facilities extends far beyond COVID-19. Staff of these facilities must be adequately trained, supported, and equipped to provide the best possible care to their residents.

Among the many initiatives related to healthcare worker education is a new Nurses Across New York program that provides loan forgiveness for nurses who spend three years in an underserved community.

The Executive Budget also makes substantial investment in countless other areas of public health. The department's Wadsworth Center has been a beacon of science throughout the pandemic, from establishing the first diagnostic test for COVID-19 outside of the CDC to managing the regulatory

process for labs across the state that conduct testing and screening for variants like Omicron. This budget includes $2.4 billion to support capital infrastructure in healthcare and enhanced laboratory capacity, including $750 million to build a new Wadsworth facility on one campus.

This budget also utilizes more than $100 million collected from pharmaceutical companies responsible for the opioid crisis to make unprecedented investments in addiction services.

And the budget continues to support the department's efforts to end the AIDS epidemic, and includes enhanced support to fund health services, education and training, and capacity building in support of our LGBTQ+ community.

We are also addressing gun violence in our state, an epidemic that has claimed far too many lives. The department's new Office of Gun Violence Prevention will take a public-health-driven approach to preventing

gun violence and will deploy resources to those areas that need it most.

This budget also invests $20 million over two years in local health departments that have been at the forefront of this pandemic, and it also supports the General Public Health Works, which we know as Article 6. An additional $60 million will assist local health departments in hiring and retention of county public health staff.

In closing, Governor Hochul's FY '23 Executive Budget supports this department's efforts to do what is necessary to protect New Yorkers during this pandemic, and will enable all of us to live safe, healthy and fulfilling lives in the years to come. I want to thank Governor Hochul for investing in public health and in our future.

And I thank you, members of the Legislature, for the opportunity to address you today and work with you in the coming months and years. I look forward to answering your questions.

And with that, let me invite our

Medicaid director, Brett Friedman, to join me on the screen.

CHAIRWOMAN KRUEGER: Thank you very much, Dr. Bassett. And yes, while not listed on the document before you, we had agreed in advance that Mary Bassett was bringing some people with her from her department to help answer what are always very complex questions, particularly around Medicaid. So welcome, Medicaid Director.

Let's see. We've been joined by Senator Neil Breslin and Senator Sue Serino.

And unlike many of our hearings, our Health chair has asked to bat cleanup, as opposed to go first. So not to worry, I'm not overriding my Health chair, who I could not get through this day without. But I am going to start with our ranker, Pat Gallivan.

Good morning, Senator Gallivan.

SENATOR GALLIVAN: Good morning, Madam Chair.

And good morning, Commissioner. Thank you for being here and your testimony.

I've got a couple of questions that I

think many of my colleagues are interested in, so I may not get to them, of course -- dealing with the pandemic, among other things.

But the first one that really just piqued my interest right now, you mentioned that you've created a new unit or department, I forget exactly how you said it, relating to gun violence. Could you tell me, how is it that gun violence fits under the Department of Health? And you were talking about strategies to help prevent gun violence. Like what do you intend to do with that?

COMMISSIONER BASSETT: Thanks very much for that question, Senator. It's called the Office of Gun Violence Prevention, and I had the pleasure of meeting its director, who will be joining us quite soon. Her name is Calliana Thomas.

Gun violence is considered a public health issue because it ends life prematurely. And anything that affects the ability to live a long and healthy life we should be interested in from the point of

view of public health.

It is also something that we can understand from a population perspective. And it is something that we can prevent by identifying people at risk for gun violence, intervening with them, and in particular ending cycles of retaliatory violence.

So this office, which will be working closely with the criminal justice system, will be focused on data collection, convening and seeking to bring together the many agencies that are involved with the problem of gun violence.

As you know -- and I haven't run through the statistics -- we have had an escalation in gun violence fatalities during the pandemic. It occurs all over the state, in urban and rural areas, and typically it cuts short the lives particularly of young men.

So this is the goal of this new office. It is to bring the perspective of prevention to gun violence and to collaborate across agencies, bringing a public health

lens to criminal justice and collaborating with these agencies.

SENATOR GALLIVAN: How much money is dedicated to this in the budget proposal?

COMMISSIONER BASSETT: There's $500,000 in the budget. It will support three lines.

So the role of this office is more, you know, a coordinating, collaborating, convening role. And then there's additionally we will bring the data to bear that help us understand the patterns of gun violence across the state.

SENATOR GALLIVAN: Thanks.

The budget includes funding for a COLA, a 5.4 percent COLA increase for the home care workers, but specifically the home healthcare managers. I'm wondering if you can clarify who exactly is covered. Clearly those under the auspice of OMH and OPWDD are eligible for this COLA. But my specific question is are home healthcare managers under the auspice of the Department of Health eligible for this?

COMMISSIONER BASSETT: That's a good question, and I'm not sure of the answer to it. Should I -- I should ask our Medicaid director. Please, Brett.

MEDICAID DIRECTOR FRIEDMAN: Yes.

Thank you, Senator, for that question. Currently we're examining whether health homes should receive the same 5.4 percent COLA that mental hygiene workers are receiving as part of the budget increase.

Health homes as well as a few other programs, including health homes serving children, as well as what are called Article 29-I voluntary foster care agency providers, are these hybrid cross-system agencies. They fall currently under the auspices of the Department of Health rather than the Office of Mental Health or another mental hygiene agency. And so currently, as structured, the COLA would not apply to them.

SENATOR GALLIVAN: All right, thank you.

The last question -- you testified a little bit to the Governor's proposal to

address the healthcare workforce shortage, and we welcome your efforts in addressing that. But the proposals seem to be long-term solutions. How will these proposals help people right now, the various healthcare providers?

COMMISSIONER BASSETT: Well, you know about the set-aside of $1.2 billion to support bonuses up to $3,000 for individuals who work full-time for a year.

So that, we believe, will provide a needed financial infusion, particularly to low-wage workers, who will constitute the bulk of beneficiaries of the bonus program. So that's one effort.

Additionally, there are a range of educational efforts that I don't think will take that long to have an impact on the workforce. We mentioned the Doctors Across New York, the Nurses Across New York. And those will, you know, bear fruit in just a couple of years.

We also have put in place a new entity called the Office of Workforce Innovation

which will be funded with -- I believe it's $20 million, we get 10 additional lines -- that will help us have, for the first time, a sort of one-stop shop for -- that will have input on training opportunities, educational opportunities, employment opportunities that will enable individuals to match with these opportunities.

We'll be building this as a portal that will receive input on its content from labor, employers, educational institutions. So that's an additional way in which we can match people with opportunities.

MEDICAID DIRECTOR FRIEDMAN: And just one --

COMMISSIONER BASSETT: Oh, one more --

SENATOR GALLIVAN: Thanks, Commissioner. My time is up. But I hope --

COMMISSIONER BASSETT: Oh, sorry.

(Overtalk.)

MEDICAID DIRECTOR FRIEDMAN: Yeah, just one point to add on to there too, is that Dr. Bassett mentioned in her testimony the 1.5 percent restoration of the

1.5 percent across-the-board cut that was taken two years ago, plus a 1 percent increase.

As noted in the State of the State address, the Governor intends those funds to go towards workforce relief specifically. And that's about $440 million state share a year going right into wage relief across the board for providers.

I just wanted to make sure that's clear.

CHAIRWOMAN KRUEGER: Thank you.

SENATOR GALLIVAN: All right. Thank you. My time is up.

CHAIRWOMAN KRUEGER: I expect we'll get back to that question at some point. Thank you.

Over to you, Chair Weinstein.

CHAIRWOMAN WEINSTEIN: We've been joined since we began by Assemblyman Cymbrowitz, Assemblywoman Niou, Assemblywoman González-Rojas.

And we go to our Health chair, Assemblyman Dick Gottfried, for 10 minutes.

(Pause.)

CHAIRWOMAN WEINSTEIN: Dick, I think you're still muted on that.

ASSEMBLYMAN GOTTFRIED: Okay.

CHAIRWOMAN WEINSTEIN: Yup, you're all set.

ASSEMBLYMAN GOTTFRIED: Okay, I'll start again.

Good morning, everyone. And good morning, Commissioner. I want to say this is the 35th health budget that I have seen and worked on as Health Committee chair, and it is easily the best of all the 35. Someone might say that may not be saying a lot, but --

(Laughter.)

ASSEMBLYMAN GOTTFRIED: -- but in this case I think it is, and I want to express my appreciation for that.

But it has not, of course, achieved perfection, so I have a couple of questions.

In the area of home care, the bonuses will certainly be helpful but will not really put a dent in the home care workforce crisis.

The so-called Fair Pay for Home Care bill would provide that home care workers shall make at least one-and-a-half times the applicable minimum wage for where they are working.

Now, apart from the cost of doing that, does the administration have any policy objection to such a measure?

COMMISSIONER BASSETT: Well, let me start, and then I'm going to pass it to our Medicaid director.

Of course we've had a one-time infusion of funds that -- that are arguably best distributed as bonuses. The way in which the bonus program is designed, we expect that home healthcare workers will be among the principal recipients of the bonuses.

Additionally, as you've heard from the Medicaid director, there has been a reversal of the 1.5 percent across-the-board cut and increase by 1 percent of the Medicaid rate. And we would hope -- I would hope -- that this increase in resources available to

operators will -- you know, will mean that they're able to respond to the market, and part of it will address wages for this workforce.

Beyond that, let me ask if the Medicaid director has anything more to add to that.

MEDICAID DIRECTOR FRIEDMAN: Sure. Thank you, Dr. Bassett. Those points are very well taken in terms of the investments in this year's budget that are designed to address the home care workforce crisis.

From a policy objective, to go to your direct question, Chairman, home care is only one element of the entirety of the healthcare workforce that's struggling in this environment. And we need to think about the investments taken across the healthcare sector in terms of what's going to promote, advance, recruit and retain workforce for -- to achieve the Governor's goal of workforce increases.

And so as a policy matter, we're looking to do things that are designed to get

money quickly to promote recruitment and retention. And wage increases, as demonstrated historically by our experience with minimum wage, are inherently complex and the money takes additional time to get down to the worker. And so really as a policy matter, the bonus approach to us is far more timely and implementable to achieve the workforce crisis not just in home care but across the healthcare workforce in its entirety.

ASSEMBLYMAN GOTTFRIED: Okay. My second question is the budget includes some expansions of the Essential Plan. But one population in particular is still going to be ineligible for the Essential Plan, and that is those immigrants who are not eligible for federal matching money.

The so-called Coverage for All bill would provide a state-funded branch of the Essential Plan for those immigrants in households up to 250 percent of the federal poverty level. The same question: Does the administration have any policy objection to

this approach, apart from the cost?

COMMISSIONER BASSETT: So again, I'll just start and then I'll let our Medicaid director come in.

You're referring, Chairman, to the undocumented.

ASSEMBLYMAN GOTTFRIED: Yes, I am.

COMMISSIONER BASSETT: And among the 900,000 New Yorkers who lack health insurance, about half are undocumented. So there remain people who should be eligible for health insurance whom we want to get covered, and some of the expansions of the Essential Plan will go a ways to accomplishing that.

So it's both increasing coverage by raising the income cut point from 200 percent to 250. That will allow people who don't currently have health insurance to get it; we estimate that's about 14,000. And then another 90,000 or so people will have access to a more affordable plan.

So these changes are -- will, we expect, expand healthcare coverage. But they

do not address the question about the state match for -- with federal funding for people who are undocumented. That's going to require a discussion with our federal counterparts, a discussion that I'm looking forward to having. And -- but we are just looking forward to that process at this time.

ASSEMBLYMAN GOTTFRIED: Okay. And my third question is there is a major initiative in the budget to do a fresh procurement of Medicaid managed care, essentially telling all the existing Medicaid managed care plans -- and anybody who wants to come into the field -- that they have to apply fresh for a contract with the Health Department.

How will this procurement process benefit Medicaid enrollees?

COMMISSIONER BASSETT: Well, in a lot of ways. But this is something that Brett Friedman has worked really hard on, so I'm going to turn to him to explain it.

MEDICAID DIRECTOR FRIEDMAN: And thank you, Chairman Gottfried. This is a proposal that since the introduction of the Executive

Budget we've been getting a lot of commentary on, and it is critically important.

Just to put New York's experience into context, we have a managed care program in Medicaid that spends upwards of $60 billion and is the source of coverage for 6 million of the 7.3 million people on Medicaid.

If you look at the national landscape, of the 40 states that have substantial Medicaid managed care programs, 36 of them competitively procure their plans. And there's a reason for that, and those reasons tie back to the member. By competitively procuring, one, we encourage plans to expand geographically as well as expand in their types of program offerings.

So if an individual moves from one part of the state to the other or they are mainstream and need long-term supports and services, they can remain with their current plan through their life journey or through their income level if they need to go to EP or QHP.

Right now, given the fragmentation,

individuals will have to change if they are in mainstream and they have to go to MLTC or if they want a duals plan. So number one for the member experiences, being able to stay with your plan regardless of changes in need or income.

Number two is network. And we hear a lot of commentary about this is going to impact the network. The truth of the matter is we've seen massive network changes just in this past year with regard to health plans dropping large health systems, primary care providers. And the reason is we don't make plans compete on their network. All we do is hold plans accountable to the minimum network adequacy standards.

And so through a competitive permanent procurement we will have plans compete on having the most inclusive network possible so that members don't have to change their providers after they've selected a health plan.

And then the third is plans are not doing a good job adhering to the larger

Medicaid strategy, whether that's value-based payment, investments in social determinants of health, thinking about creative strategies called "in lieu of" services where you can fund things like social determinants in lieu of other Medicaid-covered benefits. We've had a really hard time having plans compete and succeed effectively on moving into that next environment of Medicaid reform.

And lastly, we have so many plans -- 26 MLTCs, for example -- that provide an overabundance of choice. Right? I like to analogize it to the Columbia jam experiment, where if you have too many choices of jam you leave without jam. But by having so much overhead, we are not appropriately utilizing Medicaid dollars and duplicating the same claims processing system, grievance and appeals apparatus, CEOs and CEO compensation. And we're really missing out on the administrative efficiencies that we could achieve by having eight or nine or ten plans that do a much more efficient job across the state in serving Medicaid members.

This is not a cost-saving initiative; this is really designed to improve the member experience start to finish.

ASSEMBLYMAN GOTTFRIED: If an enrollee today has relationships with several practitioners in a plan and after the procurement they are -- the plan that they have been in no longer exists, their various healthcare providers may be scattered among several different plans. How does an enrollee deal with that?

MEDICAID DIRECTOR FRIEDMAN: I mean, that's an excellent question. An enrollee deals with it -- one is we don't expect any provider network disruption. I mean, if you've looked at sort of provider panels, typically if a provider is taking Medicaid, they're taking most if not all mainstream Medicaid managed care plans. So one, we don't think the disruption is going to be material.

Second, in terms of the numbers of -- if you're talking about mainstream Medicaid managed care, which provides the vast

preponderance of healthcare services, as opposed to behavioral health or long-term care, the most that any one region of the state has is seven, and we're pegging for five. So we don't view many plans leaving the market, and those would be the fewest plans possible.

But we also have protections built into place. We have continuity of care requirements. On the long-term-care side, the new managed care long-term-care plans are required to keep that individual's plan of care in place for at least 120 days. And they -- you know, there will have to be an appropriate provider transition.

But again, we think the end result is going to be more inclusive provider networks. I would ask the plans today, what happens when you drop a large health system and all of their employee doctors from the network, which is happening just this year. And so that disruption is happening, and this procurement is designed to avoid it into the future. Because we can have plans play the

long game and hold them accountable for making those disruptive network changes over the course of the contract.

CHAIRWOMAN WEINSTEIN: Thank you.

We're going to send it back to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

And we've been joined by quite a few Senators, many of whom are already on the questioner list. But I think Senator Oberacker may not have been introduced earlier. Senator May, Senator Kaminsky, Senator Gounardes, Senator Serino, Senator Pete Harckham, Senator Julia Salazar. I believe I mentioned our Insurance chair, Neil Breslin. I think that's it so far. I'll keep naming them as they show up during the day. Senator Sue Serino -- in case I missed her, I apologize.

And Senator John Liu is up on bat for three minutes now.

SENATOR LIU: Thank you, Madam Chair. Thank you, Commissioner, for joining us.

Commissioner, it's reported that the Governor today will announce ends to certain mask mandates. I assume that's in consultation with you and your office. My question is, what about the mask mandates for schoolkids? This is something that we rely on your department for, and for you to consider all aspects of schoolchildren's well-being, including their mental health.

So what's the status of that mask mandate in schools, and is it going to change sometime soon?

COMMISSIONER BASSETT: So let me just speak to the mask mandate in school and say that there has been no decision made on a date in which the mask mandate in school will be -- will end.

As you probably are aware, several neighboring states have announced dates for ending the mask mandate. And all of us are -- should be aware that the numbers in terms of the Omicron surge are all going in the right direction.

I look at these every day, and every

day we have fewer people testing positive, we have fewer -- a lower proportion of all tests that are positive, we have fewer people hospitalized and we have fewer people getting various forms of intensive care. So there's no doubt that we are in a sustained downturn of the surge that began and peaked in January.

I'm very aware of the challenges that the pandemic has placed on children, and particularly the disruption of their education. I'm proud of the fact that we've been able to keep children safe and in school, and we've done that by throwing everything we have in terms of prevention, interventions that are keeping kids safe in school. And that will remain the priority that we all share, I'm sure.

SENATOR LIU: Okay, thank you. You know, we say that this is all based on science. It's more difficult to keep explaining to our constituents that when neighboring states are starting to lift their mask mandates, including for schoolkids. So

please consider that.

My last question in the short amount of time that I have for you is you talked about racism being a public health crisis in your testimony and your response to earlier questions. What about the racism that's been felt by Asian Americans across New York? Alongside the rise of COVID and Omicron, there's been this onslaught of anti-Asian hate. Has your department considered that aspect of the public health crisis? Not --

(Overtalk.)

COMMISSIONER BASSETT: Well, thank you --

SENATOR LIU: -- crisis?

COMMISSIONER BASSETT: Thank you for that comment. I absolutely agree that racism includes all devaluing of human beings on the basis of their racial or ethnic classification, including treatment of Asians.

A couple of things that have happened. You're probably aware of an expansion in data collection that will sort of disaggregate

what's been a kind of category called Asian and Pacific Islanders that combines people who have very different risks. For example, there was a really high uptick of -- among Pacific Islanders who -- specifically Marshall Islanders during the early phases of the COVID pandemic that wouldn't have been seen unless we could peel off Pacific Islanders. So there's been an agreement that we will start disaggregating that category of data.

The data are always a first step to identifying an issue. But the --

CHAIRWOMAN KRUEGER: Thank you. I'm going to cut you off. I'm sorry, Dr. Bassett.

COMMISSIONER BASSETT: No problem.

CHAIRWOMAN KRUEGER: John Liu will be happy to follow up with you afterwards.

Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: We go to our ranker on Health, Assembly -- I guess we're going to go to the Assembly ranker, Assemblymember Byrne.

ASSEMBLYMAN BYRNE: Thank you, Chairwoman. And thank you to the panelists, commissioners.

First just a quick question here. The financial plan assumes that Medicaid enrollment will decrease significantly in the next couple of years. However, a recent report from the State Comptroller says that such a decrease is unprecedented.

What information was used to project that enrollment is going to decrease, and what is included in the Executive Budget that is aimed at reducing Medicaid enrollment?

MEDICAID DIRECTOR FRIEDMAN: I can -- I'm happy to take that one, Dr. Bassett.

So right now Medicaid enrollment stands at about 7.3 million people. That is an all-time high. That number is a reflection of the pandemic and federal law, including the Families First Coronavirus Response Act, which has prevented us -- rightly so -- from taking any disenrollment actions outside of an individual dying or moving out of state.

And so from -- really, you know, dating back to January of 2020 when the public health emergency began, was declared as part of FFCRA, through now, we've been bringing people on to the Medicaid program and we haven't been disenrolling them. That is consistent with federal law, and the federal government is giving us 6.2 percent enhanced match to fund that enrollment growth.

As soon as the public health emergency ends, we have an obligation to start redetermining eligibility for those individuals. There are going to be 6.3 million people we have to redetermine eligibility for on the marketplace --

ASSEMBLYMAN BYRNE: Director, thank you, I'm not trying to interrupt you, but I have a limited amount of time. And I appreciate your answer in acknowledging my question. I do want to move forward, because I have several questions.

MEDICAID DIRECTOR FRIEDMAN: Sure.

ASSEMBLYMAN BYRNE: Over the last

several years the state has also been behind on providing Medicaid reconciliation savings to the counties. My understanding from the Affordable Care Act is the state's supposed to split or share some of that savings with counties.

Does the Executive Budget include Medicaid reimbursement to counties? If so, how much? And does this total amount due to the counties equal what they are owed?

MEDICAID DIRECTOR FRIEDMAN: The county share is also impacted by the pandemic and the enhanced match that we've been receiving. And so we are working collectively with our state partners to redo those calculations and ensure, consistent with our obligations, that the counties are paid.

I don't have a specific timeline or a specific amount right here with me, but we're happy to follow up on that question.

ASSEMBLYMAN BYRNE: Thank you. Because I understand that there is money in there, but there's still a significant

shortfall with what's owed to county governments. And obviously they are the implementers, for the most part, for a lot of the programs that we vote on and we support in state government, and our local county health departments are obviously a very big front-and-center throughout this pandemic on that.

Speaking of our health departments and our pandemic response, you know, I was a little troubled by some remarks that were made earlier about the need to review or not focusing on the past. You know, I do think it's important that we examine our state's pandemic response, everything from masks to contact tracing to controversial policies, like the March 25th mandate from a couple of years ago, to everything.

And I'd just like to ask the commissioner, would you support an examination of our pandemic response, a thorough one that would include the effect on nursing homes, including the March 25th mandate? I am a big believer in that you

have to learn from your mistakes. Whether we did things that were right or we did things that were wrong, for us to improve and do better in the future, I think that's important.

And I also think the Wadsworth Lab, which seems to have had funding cut and was extremely I think vital for our pandemic response when it came to testing, doesn't make a whole lot of sense. So could you just please respond to that? And would you support an examination of our pandemic response?

COMMISSIONER BASSETT: So first, thank you for that question. Obviously it's really important to learn from experience. As you're aware, I became commissioner on December 1st. The next day, the Omicron variant was identified in New York State.

And the experience in nursing homes not only in this state but across the nation was evidence that nursing homes were a place in which we should have a laser focus. I'm sure you're aware that a third of all deaths

have taken place among residents of nursing homes. And in general, older people -- three-quarters of deaths have occurred among people over the age of 65.

So I have been, from day one as commissioner, focused on the Omicron surge and keeping nursing home residents safe. I'm very proud of our track record in that regard --

ASSEMBLYWOMAN BYRNES: Commissioner, I'm so sorry to interrupt you. I have five seconds. And I appreciate your focus on the challenge before us now. We do have to walk and chew gum at the same time. We have a large state government with a very large state budget that we're debating and we're discussing, and I think it's important for us to also study and examine what we have done to make sure that works.

And I think people that feel that they were wronged or misled in the past just want those answers. I think it's only fair. I was troubled that the Empire Center wasn't provided the opportunity, because they were

extremely vital last year on a lot of these issues, and I had hoped they would be able to provide testimony in this hearing.

But I do think it's important that we have a thorough examination as well. I don't want to divert resources from you to actually manage our pandemic response, but we do have to learn from the past as well.

Thank you, Chairwoman.

CHAIRWOMAN WEINSTEIN: Thank you. We've been joined by Assemblyman Steck, Assemblyman Abinanti, Assemblyman Ashby and Assemblywoman Reyes.

Now to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

And next up is Senator Oberacker.

SENATOR OBERACKER: Good morning. Thank you, Chairman Krueger. And thank you, Commissioner Dr. Bassett, for making time for us today.

My questions are going to revolve around EMS -- you know, as a member of my local EMS squad and the rural challenges that

we're seeing on the EMS horizon. The Executive Budget provides $5 million in local aid to municipalities to potentially operate a pilot program for countywide EMS through an RFP. Do we have a number -- how many counties could initiate a countywide EMS system pilot program through the funding through the Executive Budget?

COMMISSIONER BASSETT: Thank you very much for that question. And as you're well aware, the whole EMS system across the state is sort of a patchwork. There's something like 1700 different EMS agencies, over 70,000 EMS providers, and it can vary county to county, even village to village.

So this $5 million will be made available for an effort that includes 10 different counties, each of which would be given a $500,000 award, and they will work on establishing a countywide system. The program here, which has learned a great deal in the course of the pandemic and was so critical to the state's response to the pandemic, has lots of ideas. It basically

boiled down to standardization and creating countywide networks.

SENATOR OBERACKER: Thank you. Thank you on that.

My second question is can we elaborate more on the proposed training programs for EMS proposed in the Part F of the HMH? And these current operations, these current trainings are sometimes prohibitive in getting members into our ranks, so to speak, in EMS. Is there any hope that we can sort of streamline that and maybe condense that into some shorter trainings?

COMMISSIONER BASSETT: You mean the duration of training, which is usually something like -- well, I know that there's a real strong interest in establishing a standardized training curriculum. And that would be the way of providing consistent training statewide.

I'll have to get back to you on whether or not there's agreement that it should be for a shorter period of time. We recently did do an accelerated training for

National Guard members, and that went well. But I'd have to consult with the team on whether they want it shorter.

SENATOR OBERACKER: And then my last question, real quickly, is there any consideration to making EMS an essential service?

COMMISSIONER BASSETT: Hmm. Well, I I'm not quite sure what that means legally. Certainly from the point of view that we all want to have -- be able to dial 911 and get somebody who responds to us; there's no question that all of us want to have that.

SENATOR OBERACKER: In those rural districts that I represent, I can tell you that it is an essential service. Thank you.

COMMISSIONER BASSETT: Thank you.

CHAIRWOMAN WEINSTEIN: We go to the ranker on Ways and Means, Assemblyman Ed Ra.

ASSEMBLYMAN RA: Thank you.

Good morning, Commissioner. Congratulations on your appointment.

Just going back to your answer you gave to Senator Liu regarding the masks in

schools, you know, the department I know is currently pursuing three permanent regulations that were put in the State Register back in December. The comment period is ongoing.

And I'm just wondering, you know, in particular with the masks, but there's also the vaccine requirements for healthcare workers and quarantine, why is the department pursuing this in this manner, as opposed to coming to the Legislature? As you know, the Legislature did give the prior governor some powers during the pandemic; those are gone. And this seems to be, you know, an end run around the Legislature at this point, to be pursuing permanent regulations in this regard.

COMMISSIONER BASSETT: Well, as you know, there has been a stay pending appeal of a case that originated in Nassau County that touches on some of the issues that you are raising. So we're awaiting a decision on that appeal.

I'm not sure that I follow all of

the -- all of the questions that you're talking about. The boosters for health workers has been done through our Public Health and Health Planning Council, which also considered the requirement of health worker vaccinations.

We don't have a permanent masking requirement in schools that I'm aware of. We --

ASSEMBLYMAN RA: There is the regulation, though, that would give you the permanent authority to make determinations regarding masking.

COMMISSIONER BASSETT: I see. Well, this is exactly what's going to be argued in the courts. And it has to do with the ability of government to respond with agility during a public health crisis.

ASSEMBLYMAN RA: I would again urge you, if you think that authority should be sought by the department, that should be a conversation that yourself and the Governor should have with the Legislature and not be done by regulation. Because I think this is

an attempt, to me, by the Executive to utilize through a back door the, you know, stronger powers that the previous governor sought and that the Governor now does not have because the prior emergency declaration expired.

And I would lastly just note -- I mean, I know if -- you said, you know, there will be maybe some determinations. I know the public places mandate, there's talk that perhaps that's going to be lifted, as it expires in a couple of days. But I would urge the department and the administration to talk to the Legislature about anything that's going to be a statewide determination, because otherwise I think we should leave things up to our local departments of health to be decided on a local basis.

I just wanted to move on to a different topic within the budget proposal. And within the Article VII language, there's this requirement for pharmacies to stock a 30-day supply of opioid antagonists. Could you elaborate (a) what that would require --

I mean, what would define a 30-day supply -- and really what problem the department is trying to rectify? We know this stuff is important. It's been very helpful training people in utilizing this stuff. But why a 30-day supply would be needed by --

COMMISSIONER BASSETT: Is this about naloxone?

ASSEMBLYMAN RA: Yes.

COMMISSIONER BASSETT: About having naloxone on stock?

ASSEMBLYMAN RA: Regarding a 30-day supply, correct.

COMMISSIONER BASSETT: Yeah. Well, I know, as you say, having naloxone available to reverse overdoses has been a key part of our response to the opioid epidemic. I don't know what calculation goes into the 30-day supply, and I'll have to get back to you.

But one of the things that's been achieved, through what are known as standing orders, is the ability to get naloxone at a pharmacy effectively over-the-counter. And obviously we want pharmacies to have naloxone

available if somebody goes in to request it.

But I'll have to get back to you about the specifics of calculating a 30-day supply.

ASSEMBLYMAN RA: Okay. Thank you, Commissioner. My time is up.

CHAIRWOMAN WEINSTEIN: Thank you.

Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Senator George Borrello.

SENATOR BORRELLO: Yes, thank you, Madam Chair. And thank you, Commissioner Bassett, for being here today.

I've been very outspoken on the topic of the waste, fraud and abuse that we've seen in the Medicaid non-emergency transportation system. I mean, this was something that Andrew Cuomo took away from counties, the dispatch of these non-emergency rides, a few years ago and handed it over to these transportation brokers that have raked in millions and millions of taxpayer dollars because they figured out a long time ago that the longer the ride is, the more money they make.

On top of that, you know, we have issues with these taxi drivers that are in some cases driving hundreds of miles a day, especially in rural areas like mine, to transport one person to a doctor's appointment, and being paid a lot of money for it.

And on top of that, there's a lot of -- I've been told by law enforcement that there are reports, many reports of, for example, a taxi driver taking someone to an addiction treatment service and then stopping on the way back so they buy illegal drugs on the street before taking them home.

Also I've heard reports directly from family members of cash bribes being paid to Medicaid recipients so that they can choose that driver next time around.

And the bottom line is this thing has been a failed mess. But these aren't just my words. In the MRT 2 reforms in 2020, they identified this as a huge waste of taxpayer dollars and said that we need to reform it. And it was actually put into the 2020 budget.

And as of this day, we've had nothing done. Still the same waste, fraud and abuse. I still see these taxi drivers all over my district. We're paying taxi drivers $300 to $400 a day, in some cases, to transport one person. And yet we're paying about, what, $150 a day for a skilled nursing facility to take care of our sick, frail elderly?

So when are we going to stop this waste, fraud and abuse? And why hasn't it been done yet?

MEDICAID DIRECTOR FRIEDMAN: I'm happy to take that one, Dr. Bassett.

So you're absolutely correct that we are in the process of a massive reform of the non-emergency medical transportation or NEMT industry, growing out from MRT 2. The hallmark reform as part of that package of initiatives was moving from what's called a transportation manager to a transportation broker.

And what's critical about that transition is the broker is being put at risk for managing the totality of the suite of

NEMT benefits that are currently provided in the Medicaid program. And by creating that alignment of risk, the broker now is incentivized to tamp down on fraud, waste and abuse.

That process -- we are very close to engaging the broker and moving to that model. We expect it to happen in the fall of this year. It's taken -- it's been a very massive procurement in moving to that structure, and we've collaborated closely with our partners at OMIG in building in the requirements in that broker contract to have FWA detection and recovery systems.

But there's now -- and critically, there's going to be full alignment so that the broker is financially accountable for that fraud, waste and abuse. Which we agree was missing from the existing manager model. So it's a really great question --

SENATOR BORRELLO: Thank you very much. My time's expired, and I appreciate -- and let me also just say quickly that I realize this was not on either one of your

watches, so I appreciate that you're addressing it. Thank you.

MEDICAID DIRECTOR FRIEDMAN: Yup, thank you.

CHAIRWOMAN WEINSTEIN: Next we go to -- we're actually now at the portion of members where there's three minutes per member. We go to Assemblyman Cahill.

ASSEMBLYMAN CAHILL: Thank you, Chair Weinstein. And thank you, Chair Krueger and Chairs Rivera and Gottfried. And Godspeed, Assemblyman Gottfried, in the future on whatever you're going to be doing next year when most of us will be doing this.

Welcome, Doctor. It's good to see you. And welcome to the State of New York government. I think your office is the single most important cabinet position in the New York State government. Not just during times of crisis, but during all times, you are responsible for that which is most important and nearest and dearest to most of our hearts, which is the health and

well-being of our constituents and our families and ourselves, even.

I was very interested in your comment in your testimony about restoring public health institutions and workforces to help New Yorkers live healthier lives after the pandemic, and also your observation that the use of preventive care has fallen off, including areas of mental health.

And that brings me to a topic that I raised last year at this hearing with your predecessor, and raised several times -- in fact, eight times with your agency formally, and innumerable times informally -- and that is the role of the Department of Health in enforcing Certificates of Need; that is, the license under which our healthcare institutions operate.

And specifically, Doctor, I'm talking about the inpatient behavioral health services that have been stripped away in the communities I represent by the Westchester Medical Center, in contradiction to their license, and repeated requests to your

agency, most recently on December 31st, acknowledged by your office in January but not responded to yet, about when your agency intends to enforce the rules that would require the provision of behavioral mental health inpatient services in accordance with the licensure of hospitals.

More broadly, let's talk about the role of your office in enforcing Certificates of Need. That's my question. Thank you.

COMMISSIONER BASSETT: Well, we have, I'm happy to say, received additional staff that will help us not only with our surveyance of nursing homes but also of hospitals.

With respect to the care of people with mental illness, of course we work closely with the Office of Mental Health on inpatient beds.

Regarding the specific situation with the Westchester Medical Center, I actually don't -- I don't know the details of that situation, and --

ASSEMBLYMAN CAHILL: Doctor, I'll be

happy to send you another copy of the letter we sent to you on December 13th that was acknowledged. And I'll also, if you need, I will send you the additional multiple pieces of communication and the transcripts of testimony by your predecessor regarding the issue.

I think it's time that behavioral services be restored to our communities, not just to pre-pandemic levels, but to the levels necessary to address the crisis that we're facing in that regard.

Thank you, Madam Chair.

CHAIRWOMAN WEINSTEIN: We've been joined by Assemblywoman Rosenthal and Assemblyman Bronson.

Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

I'm just double-checking who else we've been joined by. I think we're still good on that list, so I'm moving us along to Senator May.

SENATOR MAY: Thank you, Madam Chair.

Commissioner, I appreciated your

opening comments, which made it clear that you really understand that public health extends to issues of housing and workplace and racial justice. And I have said this to you before, but I want to say it publicly, I urge you very strongly to be paying attention to all the parts of the budget, all the other agencies where public health is at stake.

And in particular, I want you to work closely with the higher ed budget, because if you care about supporting medical research, such as the development of the Pfizer vaccine, if you care about our having a diverse healthcare workforce, then we need to support our SUNY hospitals and medical centers and get them the funding that they have lost over the past decade.

And by the other token, DOH actually has responsibility for getting money out the door to replace lead service lines but has not put any money out in the last couple of years. Do you know when DOH will announce the next round of grant awards? And are you working with the other agencies involved in

infrastructure, like the Environmental Finance Center, to make sure the funding does the most good for the most people?

COMMISSIONER BASSETT: Let me start with the thing about -- your question about the lead service lines. Because I think New York State has been ahead on this. I was really happy to see that pursuant to the Clean Water Act in 2017 that the state had already begun the replacement of lead service lines and had replaced about 2,000 of these at a cost of about $12 million. I tried to -- I looked into this when I was the city health commissioner and was really pleased to see that the state had taken these actions beginning, you know, several years ago.

There's now going to be federal funds that will be infused to really accelerate this effort. I believe that in the 21st century there's really no place for lead pipe. And so we're still waiting for the details from the federal government that will allow us to begin --

SENATOR MAY: I'm going to interrupt

you there and just say I hope you will take -- you'll be ready to go immediately as soon as that money is --

COMMISSIONER BASSETT: We're better placed than most jurisdictions because there's already a program that's been doing this.

SENATOR MAY: Okay. And then the rest of my comments and questions are for the Medicaid director.

Given what you said to Chair Gottfried, have you really reviewed the Fair Pay for Home Care language? Because it specifically addresses the issue of getting the funds out there directly to the workers as quickly as possible. And can you honestly argue that bonuses will make any difference in recruiting the workers that we need to fill our worst-in-the-nation shortage of home care workers?

MEDICAID DIRECTOR FRIEDMAN: We -- really appreciate that question. We have reviewed the bill closely. We've examined it from every angle. There is -- by nature of

the way that the funds flow in the Medicaid program, especially in home care, which go from the state to managed long-term care plans to licensed home care services agencies to the worker. And being able to flow the funds appropriately and ensure that the right amount goes to the right worker and is not either for administrative services or otherwise get -- you know, get deducted as it goes down -- I truly believe, in terms of the way this has to get operationalized, that it would be timely and it would result in a diminution of pay to the worker from what they feel that's owed.

We struggle every day with the prior minimum wage increase, ensuring that the amount of money that was paid from the plan to the LHCSA to the worker is adequate in that amount. So it is operationally complex and challenging.

SENATOR MAY: Then maybe we should sit down and figure that out. Because raising the wages is the only way to get more workers.

Have you reviewed the CUNY report that estimated the savings to Medicaid and -- as well as benefits to the rest of the economy, of having an adequate home care workforce that was paid a living wage?

MEDICAID DIRECTOR FRIEDMAN: We have reviewed all that -- you know, many reports and data in terms of the impact of workforce and wages. And we are taking all that data into account. So thank you, yes.

CHAIRWOMAN KRUEGER: Thank you.

SENATOR MAY: Okay, look forward to talking with you in the future.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblywoman Gunther, Aileen Gunther, for three minutes.

ASSEMBLYWOMAN GUNTHER: Good morning, and thank you for this -- for this moment that I have to talk to you about the Department of Health in Sullivan County.

The Department of Health in Sullivan County, they say they're moving our

Department of Health, which we are 61 out of 62 in regards to health and wellness. I think that this move was done or this negotiation was done during the Cuomo years, and basically it will put our folks about 45 to 50 minutes away, those that work for the DOH in Sullivan County.

Our population goes from around 80,000 to over 300,000 in the summertime. We need to make sure that all of our summer camps have the inspections necessary. I feel that this was done before the Governor took office. I think it's the wrong move. I have pleaded with one person after the other after the other.

People in my community do not have transportation. So having it in the middle of Monticello, at least the buses go there and there's a free bus they can get to. They cannot get to Middletown. I know this was made years ago. They say there's no alternative. Well, I feel there's got to be an alternative.

You know, again, Sullivan County is

getting pushed aside. And we need that in our community. We have water issues, we have an increase in population to over 300,000, we have more construction that's been going on now than ever before. And without the Department of Health in our community, we will have very little access.

Again, for the people that work there, it's about a 45, sometimes 55 minutes to get down to Middletown. I heard through the grapevine that there was a situation with eminent domain, I don't know if it's true, and it was one of those deals that were made during the Cuomo era. And I think it's wrong, I think it's wrong for Sullivan County, I think we're 61 out of 62.

And if somebody doesn't help us, you know what, my community is going to be very disappointed, as well as the businesses in Monticello. And even if you don't want to stay in that building, we've got other buildings you could occupy. Not fair. Again, we're being thrown to the wolves. And I'm very angry about it. I know it's not

under your watch, Commissioner, but I need your help and I need Kathy Hochul's help.

Thank you.

COMMISSIONER BASSETT: Thank you.

And thank you for standing up for Sullivan County. Some of you may know that I have a personal connection to Sullivan County; my mother is a resident.

I understand that people are disappointed in this move. It won't be accompanied by any service decrease. The people who worked in that office will still go out and do the environmental health work that they did. This is not a service reduction. It's not -- it's simply a fact, I'm told, that there was no real estate available to suitably house this office.

ASSEMBLYWOMAN GUNTHER: Now, we know that's not true. I know that's not true. I know that -- you know what, we can find an agent to do it. I know that there was eminent domain. I know that the people were upset about that land, that land being taken away, and this was the agreement that was

made. I'm sorry. And it's not for betterment of Sullivan County, and I'm -- I'm not angry with you, but I'm upset. I get calls, I've had hundreds of calls, Commissioner, hundreds of calls.

CHAIRWOMAN WEINSTEIN: Assembly --

ASSEMBLYWOMAN GUNTHER: And I'm not kidding. From the --

CHAIRWOMAN WEINSTEIN: Assembly -- Assemblywoman --

ASSEMBLYWOMAN GUNTHER: -- community, from everybody.

CHAIRWOMAN WEINSTEIN: Assemblywoman Gunther, I think it's an important issue that you raise that we won't be able to resolve right now. So I'd like the Commissioner to continue to talk --

ASSEMBLYWOMAN GUNTHER: I know, Helene, but it gave me the opportunity to make sure that I stood up for my district. So I'm sorry --

CHAIRWOMAN WEINSTEIN: No problem, Aileen. I think you know that I know well also that there are lots of opportunities in

Monticello to locate -- locate an office.

Commissioner, if you could continue to follow up with Assemblywoman Gunther --

(Overtalk.)

COMMISSIONER BASSETT: I also found it surprising, but I'm assured that every effort was made to locate it --

CHAIRWOMAN WEINSTEIN: I'd like to just -- I'd like certainly, as the chair of the committee, to be kept in the loop as to how this moves forward.

COMMISSIONER BASSETT: It also involves the Office of General Services, with whom I've had conversations with their commissioner --

(Overtalk.)

CHAIRWOMAN KRUEGER: I'm sorry, I'm going to cut everybody off on this conversation. Thank you.

And I'm going to move us to Senator Rath.

SENATOR RATH: Thank you very much, Madam Chair.

And thank you, Commissioner, for your

testimony today. These are all very important questions that we're asking.

My question goes to: Since the start of the pandemic, the regulatory goalposts have never stopped moving, and in many ways these government-based decisions can hardly be considered science-based if there's no quantifiable metric at which point we can reach back into everyday normal life.

So my first question is, what metric does the state have to reach in regards to COVID-19 cases to stop issuing these mandates?

COMMISSIONER BASSETT: And my answer to you, Senator -- and this is a question that I get a lot -- is that there is no single magic number that we look at and say, this pandemic is over. Except zero cases, which we all know is unlikely to occur anytime soon, especially as we've been unable to vaccinate most of the world.

So we look at the number of cases that are testing positive, we look at the number of people who become sick and are

hospitalized, we look at the number of people who become very sick and may need intensive care services. And we look at all of these together, and we look at the overall context: Are trends going up, or are they going down?

We are in a good place now with, every day, all of the numbers that I've mentioned to you have been going down. I looked at the numbers right before I came over, and today we had -- and these are from two days ago, the most recent public data -- about 3800 newly diagnosed with COVID and the number of people admitted to hospital was 422. We still have over 5,000 people in the hospital.

On December 1st, when this all started, we had 3,000 people in the hospital with COVID. So by some measures we're still high. And that --

SENATOR RATH: Thank you, Commissioner. I wonder if I could get on to my next question. But there has to be some end in sight for the people of the State of New York.

COMMISSIONER BASSETT: There is an end

in sight.

SENATOR RATH: Everyone is so ready for this to come to an end.

COMMISSIONER BASSETT: We all are.

SENATOR RATH: On January 28th the Governor announced the continuation of the indoor mask mandate until this Thursday, the 10th of February. She committed to reassess this mandate every two weeks. COVID cases, as you just indicated, are in steep decline. If there is a sincere intention by this Governor to reevaluate the mandates every two weeks, why does the department need to promulgate these rules and make them permanent?

COMMISSIONER BASSETT: I'll have to try and understand what the "promulgating the rules and making them permanent" means. All of these have been done by executive order, which have to be renewed from time to time. Can you just explain that to me?

SENATOR RATH: Well, it just seems like, you know, the ordinary rulemaking process has been overlooked, and it creates a

lot of confusion and alarm amongst parents, schoolchildren, people who own businesses. Many, many school administrators are confused and frustrated by this permanent promulgation of these rules. And there's no leveling and there's no clarity and there's no end in sight.

COMMISSIONER BASSETT: No -- well, thank you again. The things that have been done by rulemaking are, as I understand it, if I'm following, are around vaccinations. So we have made requirements for vaccination among health workers, and we recently extended those requirements to requirements for boosters.

It's clear that vaccinations have an important role in our response; they protect people from severe illness and hospitalization, and boosters make it even more likely that you will avoid severe illness and hospitalization. That's why we have moved to protect our workforce, which we've been talking a lot about today, and which we need in order to go forward with our

pandemic response.

So that -- that is something that I think that we'll have for some time to come. We need to have a vaccinated health workforce.

SENATOR RATH: Thank you (no audio).

COMMISSIONER BASSETT: And I think you were muted, but thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Yes, we move to Assemblywoman Solages.

ASSEMBLYWOMAN SOLAGES: Thank you so much, Commissioner, and welcome.

You know, I appreciate you addressing the public health concerns of racism and gun violence. However, the issue of maternal mortality and morbidity is just as serious. And this is my yearly question I ask. The prior administration started a doula pilot program in Erie County and Kings County. What is the status of this program, and what is this administration doing to ensure that women in need have access to a doula?

COMMISSIONER BASSETT: So let me start, and then a lot of the things that we're going to be doing around maternal mortality and improving maternal health services falls under the Medicaid program.

But for members who aren't familiar with the doula program, this is a -- sort of a non-clinical, more or less sort of a wise person who accompanies a pregnant person through pregnancy and birth experience and advocates for the person during this process. And it's been shown in several settings that these services are helpful to women, improving both the dignity and respect that we know is so important to maternal health outcomes, and improving the actual health outcome.

ASSEMBLYWOMAN SOLAGES: So what is the status of the --

COMMISSIONER BASSETT: Oh, no, no, I'm getting to that. So --

ASSEMBLYWOMAN SOLAGES: Because I'm running out of time, and I have another question.

COMMISSIONER BASSETT: No, I'm sorry.

So as I understand it, it's been difficult to implement this program in the Medicaid program, difficult to identify and recruit, particularly in the pilot site in Brooklyn. It doesn't mean that it's an effort that we've abandoned. I retain discretion, as commissioner, in pursuing it.

But this was a pilot that was hard to implement because it was hard to recruit the doulas to implement the program.

ASSEMBLYWOMAN SOLAGES: Yeah, and many of the doulas have said that a compensation of $600 was not enough --

COMMISSIONER BASSETT: That's right.

ASSEMBLYWOMAN SOLAGES: -- it wasn't, you know, articulate to what it actually is in the private sector.

So, I mean, with federal dollars I can't see why we can't even just issue this pilot program, a temporary program, to actually pay the doulas an appropriate wage to see if it really can work.

MEDICAID DIRECTOR FRIEDMAN: Yeah, and

that's -- I mean, that's a really good question. We've had better uptake in Erie County than we have in Kings County, and we think due to the pay differential.

One thing that we're really working hard on with the doula pilot is with plans. And it's something I mentioned earlier in response to Chairman Gottfried about plans' commitment to doing things called "in lieu of" services, which allow a plan to cover doula services as part of a package of maternal benefits as an alternative to other care.

Accessing federal support and federal funding, to your very question, is critical to the sustainability of doula services, and we're working hard on trying to find a pathway. I don't want to go further because I know you have one more question.

ASSEMBLYWOMAN SOLAGES: Yeah. And then another question, our local departments of health were very essential during the COVID pandemic. So this Executive Budget actually does not restore the previous cuts

from local departments of health.

So are we going to address that?

COMMISSIONER BASSETT: Well, it does actually increase the amount of money going to all local health departments, including New York City, which is a very large local health department, by both increasing the General Fund amount, which on a per-capita basis for -- is going from 0.65 to $1.30, and also for the first time allowing local jurisdictions to charge fringe, up to a fringe rate of 50 percent to what's called Article 6 funds.

So the general allocation has increased, and the ability to charge fringe to it will really be an aid to local health departments in hiring staff.

ASSEMBLYWOMAN SOLAGES: Thank you for your time. And please help the home health aid workers. Please help them.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Senator Gounardes.

SENATOR GOUNARDES: Thank you, Senator Krueger. Hello, Commissioner.

I have two questions, and I want to piggyback off some of the earlier questions that we heard about as it relates to public health. We've seen a lot -- we've heard a lot about investing in healthcare infrastructure and pandemic response and hospitals and Medicaid, but very little discussion about public health infrastructure. There was a really excellent report by the Empire Center that came out last year talking about how the state had for a decade or more really divested and defunded its public health infrastructure in terms of disease surveillance, testing capabilities and all the things that go into public health.

Can you talk a little bit about what this budget does to reverse those trends and start putting us on a path towards investing back into a public health infrastructure?

COMMISSIONER BASSETT: Well, that's a

really good point. And part of it is in the capital budget. We have a large capital budget. I didn't get to mention that the Wadsworth Lab has $750 million allocated towards a new building. This lab is a world-renowned lab that was the backbone of the public health response, and it will finally get located in one place -- it's now split in multiple different campuses -- although that process will take several years to design and build a new building.

Additionally, we have many new lines, 560 additional lines are coming to the Health Department. We will face a great challenge in recruitment. We have many vacancies now, and I'm assured that they will all be fully funded. So having the human infrastructure, the workforce, is an important part of the public health infrastructure.

SENATOR GOUNARDES: Will those lines be dedicated towards building public health positions, or will they be dedicated to other responsibilities in the department?

COMMISSIONER BASSETT: Some of them

are for the surveillance activities; for example, of the nursing homes and --

(Zoom interruption.)

SENATOR GOUNARDES: I get those seven seconds back. No, I'm kidding. Go ahead, Commissioner.

COMMISSIONER BASSETT: Oh, I see. That was a Zoom glitch, I guess.

So we also have purely public health lines that are part of the 560, including up to 10 positions that will be at my discretion for senior manager -- senior level people.

So I think it's a really good step. You know, no commissioner would ever say that it's everything. But we'll be in a much better position when we do all these --

SENATOR GOUNARDES: I appreciate that. And just in my last few seconds, you know, we all talk about how the pandemic has exposed all these vulnerabilities in our system. We can actually, you know, upstream a lot of those solutions by investing in public health infrastructure -- not just in physical infrastructure, but in the support networks

that are necessary to kind of help ensure that everyone has access to the right -- different levels of healthcare that they need.

And just for reference, there was an excellent article in The New Yorker a few weeks ago about Costa Rica's public healthcare system and how they've invested in the human capacity and capital as well as the physical capacity, to have a really robust public health network that I really encourage us to -- with all this money we're spending on healthcare in New York State, we really should be investing more in these solutions for the long term.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblywoman Bichotte Hermelyn.

ASSEMBLYWOMAN BICHOTTE HERMELYN: Thank you, Madam Chair.

Thank you, Commissioner, for being here. You know, healthcare is -- has been

always one of the -- {inaudible; Zoom issue} -- midwives adequately being incorporated.

But my question is around Medicaid in our safety-net hospitals. Medicaid currently, as you've been hearing, is underpaid -- is underpaying our safety-net hospitals. Currently Medicaid hospitals only pay up to 62 percent of the costs, and in some cases about 57 percent, and for 14 years there has not been any increase. And so there is an ask to increase 7 percent, which is equal to half a percent for the 14 years, per year that it was not increased, a total of 500 million.

We're also asking that the executive three-year budget includes a $1 billion -- a transformation sustainability fund of 1.5 billion. And we know that the Governor has a budget, a rainy day budget of 12.4 billion, and so we don't think that this should be an issue. You know, our safety-net hospitals include the one -- Brooklyn hospitals, which is the Brookdale, Kingsbrook

Jewish, Interfaith, Wyckoff, Brooklyn Hospital and Maimonides, Jamaica, Flushing, St. John's Episcopal, and St. Barnabas hospitals.

So we're asking for these asks, and can we finally increase hospital Medicaid rates for these safety-net hospitals that are, again, serving underserved communities, high-poverty-level communities, undocumented, minority communities, people of color communities? Can you elaborate a little bit about that, and if there's an opportunity for that?

COMMISSIONER BASSETT: Yeah, thanks. In the interests of time, I'm going to turn this directly over to our Medicaid director.

But as you heard in my testimony, there's a lot of funding in our budget this year for financially distressed safety-net hospitals.

MEDICAID DIRECTOR FRIEDMAN: That's right. And to build on that, the Governor's commitment in this budget to safety net and distressed hospitals is the biggest it's ever

been. The funding increase total to the pool of safety net and distressed hospitals is moving from 1.4 billion to 1.74 billion this year, with a lot of that money being directed to the coalition of safety-net hospitals, including the ones that you listed in your question.

We've been engaging extensively with hospitals to understand their need, and to do so compliantly with the limitations set in federal law. And this is what's really hard to navigate in terms of whether we do it as part of a fee increase or some sort of supplemental payment, is that the federal government has set something called Disproportionate Share Hospital caps, which limit the amount of money that hospitals can receive and still qualify for DSH funding, which is also a critical line of federal support for these hospitals.

And so we've been working through this allocation to try and provide as much money to these hospitals as possible while still complying with those federal limits. And

then to the extent that we can't comply, to do so with state-only funding.

With regard to the discussions with the coalition of hospitals that you mentioned, we've been engaged in extensive discussions. We are very close in terms of having a number that we can agree upon in terms of the support they need to not just survive but thrive, and we look forward to keeping people up-to-date on how those discussions keep going.

CHAIRWOMAN WEINSTEIN: Thank you. Please leave the Department of Health enough time to be able to answer your question.

Thank you. I just want to encourage the legislators to please leave the Department of Health enough time to be able to answer your question.

Thank you. Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you. Thank you for reminding everybody, Helene. Yes, that time clock is for both your question and the answer.

Next, to show us how to do it, Brad

Hoylman.

SENATOR HOYLMAN: Thank you, Madam Chair.

Good to see you, Commissioner and Director.

Of course, every New Yorker knows that we're experiencing a mental health crisis in this state, which unfortunately has had deadly results just a few weeks ago. Of course we've heard this sad story, the tragic story of the mentally ill man who killed a constituent of mine, Michelle Alyssa Go. I actually have her memorial card taped to my monitor to remind me on a daily basis of this problem.

We've seen reports on the various ways our mental health care system failed to treat the man charged with her death. One issue that we've identified is that federal law prohibits Medicaid reimbursement of long-term stays in large mental health institutions, but the state in fact can apply for a waiver. Many states have applied for such waivers, but New York hasn't. Do you know why? And

is this something you're considering applying for, to allow these larger mental health institutions to take patients for longer periods of time?

MEDICAID DIRECTOR FRIEDMAN: Yes, I'm happy to answer that.

Yes, it is a Medicaid option under something called the 1115 waiver that we can apply for, and we are in active consideration in terms of not just including IMD services -- for Institutions of Mental Disease, is the way that CMS calls them -- but also other facilities that are typically excluded from Medicaid funding, like qualified residential treatment programs for children. And so we are and we have worked closely with our federal partners to figure out the best pathway for funding.

Historically we've relied on other authorities to provide Medicaid funding for these facilities. So to say that they haven't been Medicaid funded is not entirely accurate, because we have been providing funding through managed care plans under --

I've actually said this before -- in the "in lieu of" services authority, especially for IMDs that treat substance use disorder. And we're looking to use the waiver as a way to expand that funding going forward, as other states have done. It's a recently developing authority that we look forward to working with our CMS partners to pursue.

SENATOR HOYLMAN: And when do you think we might see some movement on this application for a waiver?

MEDICAID DIRECTOR FRIEDMAN: I'm hoping in the very near future. Yeah.

SENATOR HOYLMAN: And then just in my last few seconds, Commissioner, how do you tie in mental health with the public health?

I appreciate your comments on your responsibilities for New Yorkers when their lives might be cut short. Obviously this is an enormous problem. Where does it rank on your agenda?

COMMISSIONER BASSETT: Yes. Well, obviously the fact that that we have the Medicaid program under the auspices of the

Health Department is an important resource for thinking about how to provide more services. It's part of the reason that I'm so happy that New York State has done that, and happy that we have a Medicaid director who thinks broadly about well-being and not simply about reimbursement and so on.

SENATOR HOYLMAN: Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Jensen.

ASSEMBLYMAN JENSEN: Thank you, Madam Chair.

Commissioner, you've talked about, a couple of times this morning, the $3,000 bonus for direct care personnel. However, it doesn't appear to be available to unlicensed employees at a healthcare facility -- people who work in housekeeping, dining, environmental services, maintenance -- and wouldn't be available to providers that don't meet a specific Medicaid percentage.

Is there a concern that this will

create inequalities amongst personnel and disincentivize personnel from taking jobs that may serve older adults or taking jobs that are in the back of the house, so to speak?

COMMISSIONER BASSETT: Well, I know that the design is to preference lower-wage workers. I don't know the issues around licensing, but maybe the Medicaid director can speak to that.

ASSEMBLYMAN JENSEN: Well, respectfully, if we're going to prioritize lower-wage workers, some of the most lowest-wage workers are CNAs in a nursing home, aides in hospital settings, again, the housekeeping and maintenance staff.

COMMISSIONER BASSETT: No, they would be eligible. I --

ASSEMBLYMAN JENSEN: It doesn't say so in the Governor's budget that they would be --

MEDICAID DIRECTOR FRIEDMAN: Yeah, the current Article VII legislation allows for the commissioner to define the eligible

classes of workers. And it's for the reasons you mentioned, which is, you know, this proposal is developing and we want to ensure that we can direct the bonus to the workforce that is most in need of it: the lower-wage professionals, those providing direct care services.

And so we look forward to engaging to ensure that we have the most adequate and robust list of services beyond those.

Your point about Medicaid funding is important, because Medicaid is going to be the apparatus through which the home care workforce bonus is paid, given that so much of the workforce is devoted to Medicaid members, who are 7.3 million of the state's 20 million population. And so we want to be sure that the employer types are those that serve Medicaid beneficiaries, given the connection between state funding and the support of this workforce.

ASSEMBLYMAN JENSEN: Okay, thank you.

And then the Medicaid scorecard indicates a $100 million increase in the

nursing home Vital Access Provider funding. Are these dollars going to be distributed through the VAP or VAPAP programs? And are there any already-obligated funds being spent for specific purposes?

MEDICAID DIRECTOR FRIEDMAN: No. So these -- this is brand-new funding that's going to be available to nursing homes. We have yet to determine whether that's going to be through the Vital Access Provider program or VAPAP -- they have different programmatic requirements attached to them -- or the Nursing Home Quality Pool program. Those are typically the three funding channels that we use to help support nursing homes that are in operational need.

That's different from any capital funding that's provided in the budget, much of which is going to go towards nursing homes. And so the funding currently is allocated towards nursing homes, it's not broken down by program. It's not currently obligated, and we're going to work to design and ensure that the nursing homes that need

it to survive will do so.

ASSEMBLYMAN JENSEN: Thank you very much. Thank you, Madam Chairs.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: We were -- let me just -- there are a few Assemblymembers who joined us a little while ago I neglected to mention. Assemblywoman Hunter, Assemblywoman Hyndman, and Assemblywoman Missy Miller.

Now to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

And I think we've also been joined by Senator John Brooks. I think he's the only other new Senator.

And we go next to Senator Todd Kaminsky.

SENATOR KAMINSKY: Thank you very much.

Commissioner, thanks for being here and thanks for your work.

Two different subjects I'd like to ask you about. The first is about a water interconnection study between New York City

and Long Island that the Department of Health has undertaken. With the discovery of emerging contaminants, it's obviously very expensive to treat them at the well source. And using excess water that New York City does not use I think would be very important for Long Island.

This is something I pushed in the budget a few years ago. The study was funded. And it should be hopefully coming out soon. I was hoping you can give us a status update with respect to that, tell us what's going on and what we might expect.

COMMISSIONER BASSETT: Right. I'm -- it absolutely is among the things that I've reviewed in the time that I've been here. Drinking water would be a very big issue if we weren't dealing with a pandemic.

And what I have is that we expect that the feasibility report for the idea of Long Island using New York City water supply should be available in the early spring. So that's not far from now.

SENATOR KAMINSKY: Okay. Well, I look

forward to working with you on that. I think it could be a really innovative way of ensuring that municipalities aren't charging gigantic water rates to put in expensive treatments if our neighbors have water that's readily available.

So I'd love to -- I hope that the feasible study shows it's feasible. I'd like to work with you on that.

Second, while I have you, I'm not sure if it came up already today, if you read the New York Times article from the fifth of this month about Martial Simon, the defendant who pushed a woman to her death in front of the subway. The title of the story was "Left Adrift in the System," and it talked specifically about state hospitals, but city hospitals as well, who are refusing to take mentally disturbed patients as inpatients and continually push them out the door onto the streets and dangerous situations.

It talked about how Medicaid rates were low and so getting that bed turned around for a higher-paying patient was

important.

And in fact, it said that this defendant told the state hospital a few years ago he's going to push someone in front of the subway tracks.

So we obviously have a broken system. Not all of it can be laid at the feet of the state hospital system. But we've got to do better when someone is either in a moment of crisis, or through a family member or through police intervention brought to a hospital with serious mental health needs. To be treated in a triage situation and turned back out onto the street just isn't working. And it's something that I'm really hoping you can focus on and work with your partners to change the system.

COMMISSIONER BASSETT: Thank you. And this came up with a comment that Brad Hoylman made earlier, and we discussed the idea of looking into the possibility of an 1115 waiver that would enable us to get more state funding for inpatient care.

So we've made an undertaking to do

that. And I agree with you, this was a man who was failed by the system, and it resulted in tragic consequences.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblywoman González-Rojas.

ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank you so much, Dr. Bassett, for being here.

I am thrilled to see that there was a Medicaid eligibility expansion for postpartum care from 60 days to one year. However, it does not include undocumented immigrants, and this is a big mistake, quite frankly.

Can you share why they weren't included and how we can include them?

COMMISSIONER BASSETT: Well, as I said in an earlier question to the Health Committee, in response to the Health Committee chair, these discussions require a conversation with our federal partners. So we will be having discussions with the Biden administration regarding the opportunities we have to extend coverage to undocumented

individuals.

As you point out, we have expanded coverage. We increased the cut point across the board for women in the Essential Plan, and we are making their coverage seamless. That's paid for by federal dollars. And we also, as you point out, extended to one year for Medicaid recipients.

Undocumented women do get coverage, but they don't get the full one year postpartum that you're referencing.

ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Yeah, and I want to underscore that there's legislation on Coverage for All. Of course the New York Health Act would help address these issues and these gaps. I represent a district that is 62 percent foreign-born. So every person needs care and shouldn't be disqualified due to their immigration status.

I want to ask one more question and press -- continue to press on the home care workers. I am someone who has utilized home care. Just to keep pushing on this point about the need to increase wages as opposed

to bonuses. Fifty-seven percent of home care workers rely on public assistance, and 49 percent lack affordable housing. If we're able to increase their wages, that saves the state tons of money that we're paying in public assistance. When they're caring for our families and our loved ones, shouldn't we be caring for them and ensuring that they have the wages to both care for our community and address the worst-in-the-nation health worker shortage in New York?

COMMISSIONER BASSETT: Well, I have the same response that I've given earlier in this hearing, which is that these workers will be receiving some cash infusion, a meaningful one. For people who work to up to a full year, they're eligible for $3,000. Obviously these home care workers all make below the $100,000 mark. And people who work --

ASSEMBLYWOMAN GONZÁLEZ-ROJAS: I respect that, but it's just not sustainable for their lives. And I appreciate that, and I just want to say --

COMMISSIONER BASSETT: It comes out of a federal bolus that is not a sustained part of our budget, in part.

ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Because of committee meetings, we are jumping around a little bit. Senator Tedisco next.

Turn your sound on, Jim. Nope, you're still on mute. Can you press the bottom left of your screen, the mute off? No, that's not working.

You know what, we're going to come back to you, Jim, I promise. We'll come back to you when you've gotten that figured out.

And I'm going to jump to Senator Cleare. Cordell, are you there?

SENATOR CLEARE: Yes, Senator, thank you so much. Thank you, Chairs.

And thank you, Commissioner, for being here this morning. I'm just interested, and

very happy and pleased -- thank you so much for recognizing gun violence as the health issue that it really is. And I just want to know, will the New York State Department of Health Office of Gun Violence -- how much staff does it have? And will they be working closely with Cure Violence and violence interruption groups like Street Corner Resources, in my district, who are on the ground and very close to the gun violence that is occurring at increasing rates in the community?

And where is the office located? Is there an office? Where is that office located locally? Is that somewhere that we can get to?

Can I ask just another question right along, and you can answer all of these at once. The renaming of the Office of Health Equity, I just want to know, will the renaming come with additional funding? I know there's going to be some structural changes; if you could talk about that and if there's going to be any additional budget for

that office.

And lastly, on the issue of lead poisoning, lead continues to be a threat across New York State for counties. I just want to know, will the advisory council, the New York State Advisory Council for Lead Poisoning Prevention, which hasn't met in two years, will they be meeting? And when will they be meeting? And is there funding to improve the database and lead staff for the New York State Department of Health?

COMMISSIONER BASSETT: Okay. On the Office of Gun Violence, Calliana Thomas will be starting on Monday. She'll be based in New York City and working out of 93rd Street, the State Health Department's offices in New York. She actually worked in the New York City Health Department, and actually we overlapped when I was commissioner. She worked in the Cure Violence program. So she's familiar with that program and other programs that you've mentioned.

She will have a role of --

{Zoom interruption.}

CHAIRWOMAN KRUEGER: Helene, mute, please.

COMMISSIONER BASSETT: -- of seeking to -- you know, to -- she really is going to be serving as a convenor/coordinator. She has three -- there are three lines in the office.

The next question that you asked about, renaming the Office of Minority Health to the Office of Health Equity, which is -- which we hope will be supported, I don't believe that it carries any budget change with it. It just is important from the point of view of the -- you know, how the office envisions its mission, that it have sort of an update, actually --

SENATOR CLEARE: What is the budget now? I'm sorry.

COMMISSIONER BASSETT: It's not a lot. I'd have to look it up for you. I think it might be about half a million dollars.

SENATOR CLEARE: Not a lot.

COMMISSIONER BASSETT: And I'll get the number to you.

And the final question was on lead and when we'll be having another meeting of the committee. And I'm going to have to get back to you on that as well. I know you're steeped in this issue. The state has, you know, also been active. It carries out many inspections every year, and it is --

CHAIRWOMAN KRUEGER: Dr. Bassett, I'm going to cut you off and agree that you need to get back to Cordell Cleare on the --

COMMISSIONER BASSETT: That's true. That's right.

SENATOR TEDISCO: Chairman, I'm back online here.

CHAIRWOMAN KRUEGER: Great. After the next Assemblyperson, we'll come back to you, Jim.

SENATOR TEDISCO: Thanks.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Anderson.

ASSEMBLYMAN ANDERSON: Thank you, Chairwoman.

Thank you, Commissioner and Medicaid Director, for being here today.

I have a few quick questions; I'm going to ask them and then hopefully you'll answer them on the back end.

So specifically with the home healthcare workers program, I'm concerned that requiring workers to work 24 hour shifts and only paying for 13 hours is problematic, and it particularly applies to our low-income woman of color who work in this industry. So I just want some clarity on that program as it relates to compensation.

Also, I want to thank my colleague Assemblywoman Bichotte, who mentioned some of the aspects of safety-net hospitals and how they have been essentially mistreated as it relates to the budget. My question is specifically, Commissioner, around capital. You know, the ask is for 1.6 billion for capital to ensure that our hospitals, particularly the safety-net hospitals, are in the best shape possible so that they can serve the most vulnerable communities that they serve.

If they can afford to have enough

space to have additional beds but need that additional capital, I'm asking for a dedicated capital -- I'm asking for an additional amount of capital to help upgrade their facilities for that to happen.

My next question is for federal clinics, will there be any reimbursement for COVID-19 resources, testing and the like, that they had to provide to immigrant communities of color in and around my district? That's really important.

I want to thank you, Commissioner, for the establishment of your Office for Gun Violence. As we know, gun violence is a public health issue.

I really would urge you to agree and commit to having a briefing with that office with communities that are experiencing heightened levels of gun violence, including my own.

And last question, Commissioner, what is your commitment to indoor air quality assessment? As you know, COVID-19 was an airborne disease. We want to make sure that

the indoor air quality is something that we are looking at closely. I have legislation to that effect.

Thank you, Commissioner.

COMMISSIONER BASSETT: Okay, I have 40 seconds to answer at least five questions.

The 13-hour rule refers to the complexities of having a person who's in that home for 24 hours and who sleeps there, and trying to figure out how to apportion pay. At the moment, the agreement is that that individual gets paid 13 hours for the 24-hour period, assuming that they sleep for five hours uninterrupted and that they get their meals, three meals, during that period.

I agree that it's a complex issue and that it is -- you know, we have to continue to --

ASSEMBLYMAN ANDERSON: Can we just --

COMMISSIONER BASSETT: Let me just turn to the --

ASSEMBLYMAN ANDERSON: The capital. Real quick, the capital.

COMMISSIONER BASSETT: Let me ask our

Medicaid director.

MEDICAID DIRECTOR FRIEDMAN: In terms of the capital, this budget provides for 1.6 billion in facility capital for both hospitals and nursing homes as well as some community based locations.

We anticipate that -- and it's done through an RFI process administered by the department. But we would expect that safety-net hospitals will be able to apply for that capital and that many of their capital needs would be able to be accommodated with that substantial increase in capital funding.

ASSEMBLYMAN ANDERSON: Thank you, Commissioner. Thank you, Director.

COMMISSIONER BASSETT: Thank you.

CHAIRWOMAN KRUEGER: I don't know, Helene, I think we've created monsters by teaching everybody to ask a lot of questions fast.

CHAIRWOMAN WEINSTEIN: We're going to start cutting people off. So if you want answers to your questions, leave time.

CHAIRWOMAN KRUEGER: That's true. That's okay.

All right, we're going back to Jim Tedisco, who got his microphone to work.

SENATOR TEDISCO: Thank you.

Commissioner, thank you for being here. When we talked last time at your nomination, I asked you about our most vulnerable population of 15,000 nursing home patients who lost their life. That doesn't include the assisted living individuals. And I asked you about the executive order that the governor came out with on the 25th of March. And you said you had not read it, and I think you mentioned you were not going to go back and unravel the impact on the loss of our most vulnerable population because of that requirement and mandate to put those with the contagion in a nursing home.

Here's my question. This is a chameleon. It changes. It's a moving target. We know we have a virus now which is even more contagious, but less of an impact, let's say, physically in terms of a loss of

life. But more contagious.

The governor at first, when he put this executive order out, actually said it was a matter of discrimination. People who are sick, people who have a virus should be able to go get nursing home care if they need it. That was a mistake, I believe, because the discrimination was with those who were just compromised but didn't have the virus.

My question to you, because he segued into the point where "We're getting all our beds filled, we have nursing home patients who still test positive for the COVID but they don't have symptoms, I have to keep them in nursing homes and put them in the nursing homes."

Have you developed a different plan? Because even a fourth-grader knows you shouldn't put people with this contagion into a place where people are compromised. Do you have a plan in place of what we would do with these patients who come from nursing homes, have to go to a hospital, recover, fight through it, but still have the contagion?

Where would you put them if that happens? Because it is more than likely we're going to have a pandemic down the road and another virus, and it may be even worse than the last one.

COMMISSIONER BASSETT: Well, we have so many more tools now than when we had a year ago --

SENATOR TEDISCO: What's the plan of where you would put these patients?

COMMISSIONER BASSETT: Can you -- so we -- as you know, we have now strict oversight of infection control, we have cohorting of patients as a means of ensuring that we reduce the risk of transmission within nursing homes.

Earlier in the hearing I was recounting that --

SENATOR TEDISCO: Did you say you'd put them back into nursing homes?

COMMISSIONER BASSETT: I was recounting that we have been very successful during this Omicron surge in --

SENATOR TEDISCO: Where to put them

but not in a nursing home? Are you saying you're going to put them back in the nursing home with a plan to separate them?

COMMISSIONER BASSETT: People in nursing homes have become infected with COVID-19. So we did have, during the first wave, there were up to 12,000 people who were infected with COVID-19 in nursing homes. During this wave, which saw levels of infection that we have never seen before in the general population. So we have --

SENATOR TEDISCO: Wouldn't it make more sense to go to commercial companies and say, Do you have a facility that we could utilize beds that are ready and all the needs that could take them into a separate place instead of putting them back with those who may be older, may be compromised with --

CHAIRWOMAN KRUEGER: Jim, you've now used up your time and not allowed Dr. Bassett to answer the question. So you're going to have to take this offline, I'm sorry.

Thank you, back to the Assembly.

SENATOR TEDISCO: Okay, thank you very

much. Appreciate the non-answer.

CHAIRWOMAN WEINSTEIN: We -- please leave time for people to answer.

We are going to Assemblywoman Niou.

ASSEMBLYWOMAN NIOU: Hello, Commissioner. Thank you so much for joining us.

I will actually allow you some time to answer the question about the 24-hour rule and the 13-hour rule -- the 24-hour work day and the 13-hour rule because it's something that I think is really important for us to address, because I do also believe that home care workers are not being paid right. And I also think that a bonus is not the same as a change in their wages.

COMMISSIONER BASSETT: So I've described my understanding of the 13-hour rule. I understand that this is undergoing active discussion between labor, management, operators, ourselves, on figuring out the pay and benefits for people who are -- there are clients, individuals who need somebody in the home with them for 24 hours, and how to pay

that person.

So, you know, your point that 13 hours is not adequate is something that is being actively discussed. That's where we stand at the present. The expectation is that somebody will get five hours of uninterrupted sleep. If their sleep is interrupted, they're allowed to report that so that they can get credit for the time in which they were not sleeping when we hoped that they would be.

Additionally, they get time for meals. They're not working, per se, in active direct care for all of the time during their 24 hours.

Now, we've had several discussions about the bonus. We're pleased that this bonus is being directed to lower-wage workers and that it will represent a real and meaningful additional source of income to them.

ASSEMBLYWOMAN NIOU: I just wanted to -- I'm sorry. I'm sorry to cut you off, because I did hear that.

COMMISSIONER BASSETT: That's fine.

ASSEMBLYWOMAN NIOU: I just wanted to say thank you for your answer, although I don't think that -- I think that a bonus -- again, I will say a bonus is not the same as a --

COMMISSIONER BASSETT: I agree that it is not at same as a wage. We've also --

ASSEMBLYWOMAN NIOU: And I think that we definitely -- I hope that you agree that we definitely need to raise the wages of our home care workers.

COMMISSIONER BASSETT: I mean, there are a lot of workers who arguably don't make a living wage. And I absolutely believe that people should make a living wage. This is not an issue limited to home care workers.

ASSEMBLYWOMAN NIOU: Yeah, I also wanted to note that -- so currently Member Abinanti and I are circulating a letter to you asking why it is that some of our constituents have been unable to get COVID tests due to a lack of internet access or lack of access to smartphones.

As it stands, pop-up test providers are allowed to turn away patients because of their lack of access somehow, and I think that this is something that -- I hope that you will address.

COMMISSIONER BASSETT: Well, I -- this certainly shouldn't be happening. We would love to hear those particular incidents. We've worked hard to make vaccination and testing available on demand.

ASSEMBLYWOMAN NIOU: Thank you.

COMMISSIONER BASSETT: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

To the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Back to Senator Sean Ryan.

SENATOR RYAN: Thank you, Chair. I had to jump off for another committee meeting, but I'm back.

Thank you, Commissioner, for your testimony.

I have three things. Let's see if we can make them quick. One is I keep hearing this idea of people wanting certainty, which

just doesn't really strike me as logic-based. But I'm from Western New York, and we keep having a persistently high rate. But I look at vaccination rates in places like Allegany County, Cattaraugus, Chautauqua County -- they're all lower than the rest of the state.

You know, are we going to be able to return back to what people want as -- you know, air quotes -- normal, if in fact places like Allegany County have persistently low vaccination rates?

COMMISSIONER BASSETT: Well, we do have variability in the uptake of vaccination. Probably the group that has -- well, the group that I know has the lowest vaccination coverage across the state are children between the ages of five and 11. And we need people to be vaccinated. As a state, we stand at about 70 percent overall vaccine coverage, which is simply not enough for a highly contagious virus.

So I absolutely welcome the opportunity to urge people to get vaccinated, get boosted. It remains an important tool in

confronting COVID.

SENATOR RYAN: I agree. I mean, the overall rate is somewhat misleading, because you think the state's in the high 70s, and you look at Queens, they're up in the mid-80s -- then you look at Allegany County, and they're not even in the mid-40s.

COMMISSIONER BASSETT: Correct.

SENATOR RYAN: So, you know, the idea of trying to treat the state consistently with people wanting to open up -- it seems like the people who want things opened up the most are ones that live in counties with the lowest percentage of adults and children vaccinated. It does make me scratch my head a little bit.

But on to the next question. We spend a lot of Medicaid dollars treating injuries that resulted from the childhood lead paint poisoning. One of the reasons we do that is because we exempt insurance carriers in New York State from having to provide coverage for lead paint poisoning, especially in children.

Could you help me get some data about how much money in Medicaid is spent on lead poisoning?

COMMISSIONER BASSETT: I don't know that number, but I have sitting next to me the state director --

SENATOR RYAN: I'm not asking for it now. Can I get follow up and get that?

COMMISSIONER BASSETT: Okay, we'll get it. We'll follow up with you, yes. We'll follow up with you.

Certainly, in general, prevention is always the better strategy.

SENATOR RYAN: That's right. And in my remaining 15 seconds, I'm very happy to hear about the gun violence initiative, but I would remind everyone that every year, it's about consistent, just over half of gun deaths in New York State are self-harm. So, you know, half the people dying every year are from suicides.

And what I would ask you to consider as part of your initiative is to have suicide awareness training put into hunter safety

courses but also put into the pistol permit concealed carry courses. I don't think people know that the gun they might have bought 20 years ago, you know, could be used -- you know, them using it against themselves. And to show people who live in a household with gun owners, you know, the signs of depression and understanding the relationship between self-harm and guns in your house.

COMMISSIONER BASSETT: Thank you for that comment.

SENATOR RYAN: Thank you, Commissioner.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblywoman Reyes.

ASSEMBLYWOMAN REYES: Thank you, Commissioner. Thank you for being with us here today.

I have a few questions, and I'm going to give you time to answer them. The COVID-19 pandemic has underscored the

critical role that schools play in providing health and wellness services to students. Are you familiar with CMS's 2014 free care reversal rule that allows states to amend their Medicaid plans to expand billing of Medicaid services provided to students without IEPs?

And long before the Executive Budget proposal, my office and the coalition for healthy schools have been engaging the DOH on this matter. Have you considered this as a viable option to leverage state dollars and bridge the need for health services to underserved students?

COMMISSIONER BASSETT: I'm going to turn this one to --

MEDICAID DIRECTOR FRIEDMAN: Yeah, we've received your outreach on that, so thank you. It's something we have been examining. We don't yet have a decision on it, but we are looking and working with CMS to figure out the best pathway to obtain coverage. It is important to us as well.

ASSEMBLYWOMAN REYES: Do you

anticipate that that is a lack of resources that maybe we need to advocate for? Or is it just some kind of administrative hurdles that we need to overcome?

MEDICAID DIRECTOR FRIEDMAN: I think it's a number of things. One is I don't think it's a lack of internal resources, I think it's required direction from CMS as to the best pathway to get to do it.

It's also our need to be able to work more constructively with the State Education Department as well as local school districts to make sure that they can adhere to the requirements that CMS will impose in order to obtain federal funding. Right? It's not just taking a match and doing what we would do normally. There's compliance obligations imposed on the school districts and to make sure that they're aware of them and can work to ensure that we don't jeopardize that match if there's noncompliance.

ASSEMBLYWOMAN REYES: And I look forward to us working more offline on this topic.

Also I wanted to make a comment about the bonuses for home care workers. Again, look, as a registered nurse, we always appreciate bonuses for healthcare workers. But the reality is that if you want to retain nursing staff, we need the resources and the conditions for us to be able to do our job safely. And that means across the board staffing. Not just nursing -- ancillary staff, environmental staff.

And in the Bronx particularly, we've seen overcrowding in emergency rooms. Part of that is due to a bottleneck in discharges. And the reality is that we cannot discharge people home safely without being able to connect them with adequate home care, adequate transfer plans. And part of that is due to this critical shortage that we have of home care workers.

Bonuses are a Band-Aid solution that I think we really need to reconsider. And perhaps working with the Legislature on what the best option for that would be.

Also I just wanted to talk about the

procurement proposal for the Medicaid managed care plans. Just thinking what the -- just wondering what DOH's thinking was on that in terms of cost savings, and the impact that you think it may have on communities of color, particularly indigent communities that rely heavily on Medicaid.

COMMISSIONER BASSETT: You're technically out of time. Do we -- through the chair, do we have permission to answer this question? It seems like it would be --

CHAIRWOMAN WEINSTEIN: A quick answer. thank you, Commissioner.

MEDICAID DIRECTOR FRIEDMAN: Yeah, a very quick answer on the procurement. We expect the procurement to have a positive impact on communities of color by encouraging investments in not just the healthcare services but social determinants of health through a community reinvestment strategy that encourages plans to compete on that level of investment.

We lack that opportunity now by not competitively procuring, and there's a

critical element to ensuring that plans are making that commitment in wanting to do business in the state. So that's a critical driver. It's not cost savings, it really is to serve those underserved populations currently.

(Overtalk, multiple speakers.)

ASSEMBLYWOMAN REYES: Many of our nonprofit plans already make that investment.

COMMISSIONER BASSETT: Yeah, and they will be -- they'll get points for that.

MEDICAID DIRECTOR FRIEDMAN: And there's a preference -- in the Article VII that's why there's a preference for those home-grown not-for-profit plans that are doing that work already.

CHAIRWOMAN WEINSTEIN: Thank you.

Now we go to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

And we're going to -- I lost track -- Senator Sue Serino.

SENATOR SERINO: Hello Chairwoman. Thank you.

And hello, Commissioner.

For the sake of time, my first question is really a yes or no answer so I can get on to the rest. But during your nomination hearing I asked whether you would support a review of New York's pandemic response, and you said that you had decided not to unravel what happened with the past administration. Just wondering if you've reconsidered that, or is it still your position today?

COMMISSIONER BASSETT: It's still critically important to me to make sure that residents of nursing homes remain safe during Omicron, and we've been doing that at the Health Department.

SENATOR SERINO: Okay, that's not the answer I was looking for, because we really need to look backwards to find out what went wrong. So I think that's unacceptable, respectfully.

And as you know, we have legislation that would actually require the Department of Health to do just that and to release a

public report on your findings and conduct a re-audit of the number of COVID nursing home deaths. And we've requested the Governor include this language in her 30-day budget amendments. So just wondering what financial resources would the DOH need to accomplish this? If you could answer that.

COMMISSIONER BASSETT: You know, if this is pending legislation, obviously I won't comment on that. If it's passed, of course we'll read it and --

SENATOR SERINO: Okay, thank you.

And then what's being done for the assisted living care facilities in this budget too?

COMMISSIONER BASSETT: Oh, gosh, there's so much. We have both funding for health workers and for capital support. Is this something you can --

MEDICAID DIRECTOR FRIEDMAN: I can help too, yeah.

The across-the-boards are going also to impact the assisted living providers, because they are a recipient of Medicaid

funding. To what Dr. Bassett mentioned, their workforce will be eligible for the worker bonuses.

And we're also considering ways to assist assisted living providers using enhanced federal match from Section 9817 of the American Rescue Plan Act, to help fund things that aren't covered in the rate, things like capital and other investments they've had to make during COVID. Those are under active consideration.

But assisted living is very important to us in the Medicaid program and the department, and we look forward to supporting it.

SENATOR SERINO: Yup. Okay, yup. And for the sake of time, too, I hope that you consider also people have been talking about the masks. And if you have had conversations with anybody about the mental health that's affecting our children, speech pathologists -- and we can always follow up with that too.

And I also want to -- I would suggest,

Commissioner, if you could possibly meet with the families, if you could set aside some time in the coming weeks to meet with them because they lost their loved ones to COVID in our nursing homes, so that you can really hear firsthand about their experiences. And maybe then you'll understand why we're so committed to continuing down this path.

And also if you -- Lyme disease, Lyme and tick-borne disease is not in the budget. I haven't heard anything. And you know what? That's really a major public health failure. So I would hope that that would be something that you would look into as well. And I look forward to sending you some more questions that you could follow up on.

Thank you.

CHAIRWOMAN KRUEGER: Thank you, Senator Serino.

Next to the Assembly.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Schmitt.

ASSEMBLYMAN SCHMITT: Thank you, Chairwoman. Thank you, Commissioner.

A question a lot of parents are asking: When will our children be able to be unmasked? When will that -- when will you clear that in a school setting?

COMMISSIONER BASSETT: Well, our top priority is to keep kids in school, and that's been accomplished through a whole range of public health interventions. We've talked about the importance of getting kids vaccinated. We've talked about the importance of other public health measures like distancing, the implementation of test to stay, and of course that relies on masking.

So this has been a multi-layered strategy that's kept our kids safe and in school. Of course we're looking at the numbers, which are falling by the day.

ASSEMBLYMAN SCHMITT: Sorry to interrupt. I have very limited time and I have a lot of concerned parents in my district. We have the State of New Jersey, which is very close to my district, just reversed their decision on the masking issue,

yet CDC that says the science and medical data show that one-way masking is effective if that's at personal decision. We have even your CNN's health experts came out today saying it's fine to get rid of mandates and they believe it's fine to get rid of all of government-form mandates and allow individual choice.

So what is the timeline? Today -- I want it today. My constituents wanted it today or yesterday. There's a lot of concern. Is this going to happen --

COMMISSIONER BASSETT: We're watching the numbers. And we don't have a date for you.

ASSEMBLYMAN SCHMITT: Secondarily, second question. Daycares have differing rules when it comes to COVID restrictions, COVID quarantines. Is there any timeline and potential modification of that? That's impacting a lot of families in my district that had different rules for children at different ages. Do you have any time on possibly bringing that in line with all other

guidance?

COMMISSIONER BASSETT: At the moment, as you say, we -- the early childhood and the littler children follow the regulations when they're in big school, and not in the freestanding daycare centers.

I understand that this has been a confusing time for parents. But that's where we stand at the moment. We do have different guidance --

ASSEMBLYMAN SCHMITT: When can we expect more streamlined guidance?

COMMISSIONER BASSETT: Well, we work with the Office of Children and Families, which oversees early childhood care. And, you know, we've recently updated our guidance about after-school. And we'll continue working with them.

ASSEMBLYMAN SCHMITT: I urge you to get some streamlined guidance if you can.

Last question for you. COVID is affecting many people. There are lifesaving treatments out there, including COVID antibody treatments. On December 27th, a

memo from your office implied -- and many publicly believe -- that it prioritized certain racial characteristics over others in the receipt of this treatment.

Can you clarify if that's accurate or not? People are very concerned. And it should be open equally to all regardless of any factors if they need lifesaving treatment.

COMMISSIONER BASSETT: Yes, and it is.

And first of all, let me just say I'm glad you raised this, because we have adequate supplies at this time. And we want to make sure that they're used.

So we want people who have mild or moderate COVID who are at risk for having adverse outcomes -- that means that they have -- even if you're simply overweight or obese or you have an underlying disease or you're immunocompromised -- if you get COVID and you have a mild case, you should talk to your doctor about getting treatment.

Now, regarding the inclusion of race/ethnicity as a risk factor, this

appeared in our guidance and it was driven by the fact that we have seen higher rates of both hospitalization and mortality in the Black, Hispanic and Native American Indigenous populations relative to whites. And that is simply a fact.

So it was something that we advised the clinicians to consider. Nothing ever takes the place of a clinician's judgment. Guidelines never replace a clinician's assessment of an individual patient. And I would never support the use of race to exclude anyone from treatment.

Sadly, the Centers for Disease Control data suggests that people of color, meaning Black or Hispanic people, have been less likely to get monoclonal antibody therapy than whites. So there is a need to make sure that we have equity.

But the main message that you've given me a chance to convey at this hearing is that we want clinicians and patients to be aware that we have these treatments and that we have adequate stocks, and they should seek

them if they get infected. Talk to your doctor if you have any underlying factors that might put you at risk for a worse outcome. Including just age, by the way -- just being over 65.

ASSEMBLYMAN SCHMITT: Thank you for that --

CHAIRWOMAN WEINSTEIN: Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

And we're on to Senator Salazar.

SENATOR SALAZAR: Thank you, Chair.

And thank you, Commissioner. Good almost afternoon, good morning.

I wanted to further discuss the proposed bonuses for home care workers in the Executive Budget, as opposed to sustained pay increases for these workers.

I'm concerned that for many of these workers -- earlier, Assemblymember González-Rojas mentioned that 57 percent of them receive public benefits -- that these bonuses would not only be inadequate for them

but could actually push people off of a fiscal cliff, you know, if they are currently earning minimum wage but relying on public benefits.

Is this something that you're concerned about with regard to the bonuses?

COMMISSIONER BASSETT: This is the idea that getting this additional $3,000 bonus would make you ineligible for other benefits. Well, that would certainly be a source of concern, and we would work to try and make sure that doesn't happen. Where it stands --

MEDICAID DIRECTOR FRIEDMAN: Yeah, that's correct. The issue is on our radar and something that we're considering by virtue of -- I think there's language in the Article VII that exempts it certainly from tax impacts of the individual.

But currently, too, for so long as the public health emergency lasts, we are prohibited -- rightly so -- from disenrolling anyone from Medicaid. And it's going to be a 14-month process before an individual is

redetermined and disenrolled, consistent with our public health wind-down.

So we don't know yet when the public health emergency is going to end, but that is going to trigger a process for redetermination, and it's going to be -- we're working hard to ensure it's -- people are notified, it's orderly. And as a result, the bonuses will be paid prior to the redetermination of eligibility, and that's actually a benefit for the one-time-only nature of it, is that that increase, given the redetermination timeline, is not going to directly impact their Medicaid eligibility until we're done through the unwind process.

SENATOR SALAZAR: I do think it would be preferable to see sustained pay increases that would hopefully lift some of these workers out of poverty.

But there is also in the Executive Budget a cost-of-living adjustment for human services providers, and we want this. It's necessary. But I'm wondering why Medicaid-funded home care workers aren't at

least receiving a COLA in the Executive Budget as well. And are you concerned -- I'm certainly concerned -- that this discrepancy will only lead to even more workers leaving the home care workforce when we desperately need more home care workers right now in New York?

MEDICAID DIRECTOR FRIEDMAN: Yeah, I can take that too.

You're -- you know, how -- and I think your question highlights one of the impacts of something that Dr. Bassett said earlier, that home care is not the only impacted sector of the workforce by the pandemic. We're experiencing across-the-board workforce increases. We too are thrilled that agencies working under the auspices of mental hygiene are getting this 5.4 percent COLA.

In our budget the 1.5 percent restoration and the 1 percent increase, consistent with the Governor's statement, is going to fund workforce, and home care, as the largest Medicaid sector, is benefiting most greatly. And we -- the expectation is

that licensed home care services agencies and consumer directed agencies are going to be pushing that money down in the form of increases.

CHAIRWOMAN KRUEGER: Thank you. I'm going to cut you off just because it's all gotten out of control already today. Thank you very much.

Next, to the Assembly.

CHAIRWOMAN WEINSTEIN: We go to Missy Miller.

ASSEMBLYWOMAN MILLER: Thank you.

Good morning, and thank you for being here.

I'm going to ask a couple of different type of questions. And let me just say upfront I recognize that you will not be able to give me an answer today. I don't expect one. But I do ask that you please submit answers to me in writing after you've had some time to think about it or find some answers.

I'm asking about issues that affect me personally. And in my search for answers and

for help, I've heard from far too many other people who are having the same obstacles to care that I have found myself in with my son. The issues are regarding individuals in New York State who are in need of skilled care in their homes, private-duty nursing care.

Now, these individuals have been authorized already, they've cleared medical necessity, they've been approved either by Medicaid for private-duty nursing or by -- through their insurance carriers by -- for private-duty nursing in the home. But it's impossible to actually get that care, whether it be through a private insurance carrier, as in my case, or through Medicaid.

My son's Oliver, he's 22, and he's had {inaudible} his whole life. And I'm fortunate, I guess, supposedly, that the nursing care has been approved for by my insurance. The problem that I face is that reimbursement to the nursing agencies -- roughly about $60, $75 an hour, around there -- is required -- is eaten up. Half of

that goes to the nurse. The rest is going to the agency for administrative costs. Which leaves the nurse with about $35, if they're lucky, an hour for RN -- I don't even know what it is for LPN. No nurse is going to work in the home for that amount of money. It's just not a competitive wage, especially when you look at the hospital wages.

We have a Medicaid program that when somebody's authorized for private-duty nursing, Medicaid will allow individuals to contract directly with a private provider, a private-provider nurse. Which enables them to eliminate the agency and put more money in the nurse's pocket. I'm wondering why we can't have insurance carriers do the same. Insurance carriers require you use an agency, and that's why we can't get nurses in the private sector with insurance.

The other half of this is the Medicaid half. I said yes, it's a better system, they allow you to contract with private providers as the family. But once -- even though you're approved and you get a prior

authorization for that nursing, in order to get that prior authorization there is so much red tape and so much bureaucracy that literally stretches out weeks to months, and that's a direct obstacle to care. These patients are not able to get the care, the actual nursing in the home that they need because of that red tape, even though they're authorized. So --

CHAIRWOMAN WEINSTEIN: Thank you.

CHAIRWOMAN KRUEGER: Thank you. We're going to cut you off here.

ASSEMBLYWOMAN MILLER: I just ask you to look at those issues and get back to me.

COMMISSIONER BASSETT: With pleasure.

ASSEMBLYWOMAN MILLER: If you'd send it to Ways and Means, I'd appreciate it.

Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

And to the Senate now.

CHAIRWOMAN KRUEGER: Thank you.

And we've actually been asked by our chair, Gustavo Rivera, to slide him in for his 10 minutes now. Thank you.

SENATOR RIVERA: Thank you, Madam Chair.

Commissioner, Brett, good to see you both. A lot of stuff to cover. Let's get some stuff off the top.

I want to ditto a bunch of stuff that's been said already related to safety-net hospitals. Both Assemblymembers Bichotte and Anderson nailed it. We need -- and I'm glad that you folks are talking to them. Safety-net hospitals are essential.

Related to something that a couple of folks talked about -- Senator Salazar, Assemblymember Jessica González-Rojas -- related to Fourth Trimester and Coverage for All. I understand that we're having conversations with the feds, but this is about state money and we do not need authority from the federal government to use states money. So I would certainly consider -- I would certainly ask you to consider that, because as we all agree, just because someone is an undocumented person does not mean they do not need care.

So there's also -- Senator Cordell Cleare nailed it across the board, both on the issues of gun violence prevention and the Office of Health Equity. I'm certainly glad that these things are there, but we need far more details on what these offices are actually going to do. I want to make sure that they're not just ornamental.

I absolutely agree with you that gun violence is a public health issue and having a person that actually can organize the thing, wonderful. As far as health equity, I absolutely agree that we should -- that is kind of the focus, but we need more details on what both those offices are going to do so they're not just ornamental.

Finally, and then I'll get to the questions, this is -- I just want to underline, this is what Assemblymember Gottfried said. This is a good budget; we just need a lot more detail on things. But I'm very glad that I don't have to deal with the past administration. God bless America for that.

Okay, moving on. Bonuses, I want to just say -- also on this, I agree with many of the folks that have talked about it. While it's certainly appreciated, I am glad it is not something that's a long-term solution. We need a long-term solution. And I'm glad that you folks are already looking at the benefits cliff. That is not something to be ignored. We need to make sure we get to that.

But I also want to ask specifically, are you familiar -- and this is for Brett -- are you familiar with the directed payment mechanism that was used for federal money that actually made it so that it went past the plans? So there are mechanisms -- this is just to say that there are mechanisms available to make sure that we can skip some of the issues that you mentioned, which are certainly things to consider.

Are you familiar with this?

MEDICAID DIRECTOR FRIEDMAN: Deeply, deeply familiar with directed payment.

And despite the fact that you can use

directed payment to compel or require a plan to pay a minimum fee schedule or a rate add-on, it doesn't absolve the fact that the money still has to go to the plan and then the provider and then the worker. And the rate holistically has to be actuarially sound.

And CMS currently is not permitting something called reconciliation, so we cannot then say: We paid this, the workers got this, let's reconcile and see if everyone got the right money.

And directed payment is really, really new. Right? It's only been around in its form for two years. And we're still working with CMS to test the parameters of how good it can be. And we're hopeful it could in the long term solve a lot of this, but our experience in having the four or five directed payments we've had approved so far, some of those challenges are still persisting.

SENATOR RIVERA: Gotcha. So I would consider -- I would really encourage you to

follow up with Senator May so that you can have a conversation about this. I believe that there are ways to make sure that we can commit to a long-term solution here, not just a bonus. Bonuses are fine, but they don't actually solve the problem long-term.

Next, global cap. Why do you folks still think that we need to -- it's like the "mend it, don't end it"-type situation. Why do you folks feel that -- there's twofold. Number one, why do you feel that we need to still have a budget -- a global cap? I'm glad that you went above what it was before, but why do you think there needs to be a global cap? Number one.

And number two, why did you need a metric that considers spend as opposed to costs? Which would actually be -- which would be much better to tell us like --

COMMISSIONER BASSETT: Yeah. Our Medicaid director is the best place to answer this. But I do want to underline that we -- that this resulted in a change in the calculation of the global cap. As a result,

there's been a lot more money coming to the program. So something like $366 million this year.

MEDICAID DIRECTOR FRIEDMAN: This year. In '23, yeah.

COMMISSIONER BASSETT: This year. And it will go up going forward. So that's a thing.

The role of the global --

MEDICAID DIRECTOR FRIEDMAN: And then, you know, why the global cap. It's a good structure. Right? It gives us a level of discipline --

SENATOR RIVERA: Is it, though? Is it?

MEDICAID DIRECTOR FRIEDMAN: It gives us a good structure to analyze spend. It gives us certainty as to, year to year, how much we have to spend. It gives us a mechanism to track and report.

And for -- as the person that administers the Medicaid program, I very much appreciate knowing how much I'm going to have in FY23, how much I'm going to have in FY24.

I know what I have to report on, I know what I have to track, and I know what's in and what's out. A scenario without the global cap is scary.

SENATOR RIVERA: We need to talk much more about this. I do think that there's different metrics that could be used here -- specifically, as opposed to spend, cost. I think that that would be a far more accurate --

MEDICAID DIRECTOR FRIEDMAN: And I do -- we are --

(Overtalk.)

MEDICAID DIRECTOR FRIEDMAN: Yeah, just quickly on that point. The metric we have chosen, which is the CMS Office of the Actuary metric, does account for cost, it does account for utilization, and it does account for enrollment growth. Which is why it's increasing so much more year to year than the CPI metric is currently using.

SENATOR RIVERA: We will revisit this.

MEDICAID DIRECTOR FRIEDMAN: Yeah.

SENATOR RIVERA: Next, something that

the Governor mentioned but we can't find anything more -- she mentioned it during her presentation. She said, and I quote: Investing in healthcare transformation, the financial plan reserves $1 billion of additional resources to further support multiyear investments in healthcare transformation and sustainability efforts.

That's fantastic, thank you for that. But we got no details outside of the fact that there's 500 million slotted for this cycle, for this budget cycle, and 500 million for the next one. So we need a lot more details on what exactly that is. We don't have language -- I can't find language in the actual budget. So the Governor mentioned it, and the money's there, but there's no parameters on what it is, details on it.

Can you tell me anything?

MEDICAID DIRECTOR FRIEDMAN: Your statement matches my own understanding of that, and we look forward to further engaging with you on it.

SENATOR RIVERA: Okay, good, because

that's -- that will be good. We need some details on that.

Next, the managed care reforms. You already talked a little bit about this, the fact that there's a competitive bid process. It just -- it reminds me a little bit of the CDPAP process that we had a couple of years ago, which certainly was, at least on its face, something about -- which made sense as far as FIs and everything. I won't get into the whole thing.

But I definitely need a lot more details on this. You've given us some today, but I want to dig in a little bit deeper, even. Because I still have questions. And there's different analysis that I won't go into at this moment, but I certainly will go into it later with you on a one-on-one that says that your proposal would actually make it -- would have a negative impact on communities of color. I know you say the opposite, which is why we need to actually get together and kind of figure out which analysis is correct.

MEDICAID DIRECTOR FRIEDMAN: And we are -- you know, we are committed to meet with you. And understand, this is really important to us because we do think it's going to have a very positive impact long term on the managed-care sector.

And so we will definitely engage, and we think it's a pathway to achieving a lot of meaningful improvement.

SENATOR RIVERA: Gotcha.

Rolling on, capital grants program. The facility transformation stuff, I'm very glad that that stuff is there, particularly since there are a lot of these folks that need it. But I do want to kind of linger a little bit on language which you used related to it: "Notwithstanding," a term that gives a level of authority to move the money quickly. Which I certainly appreciate, right, because there have been times we see money that doesn't move to facilities, in all sorts of governmental money.

So I am glad that that language is there, but at the same time -- and again, we

have an Executive who's not a sociopath, I've said it many times. But I'm still very concerned about that issue. There's very broad language that gives you authority to move money very quickly and -- which could be both a positive and a negative. Right?

So that, I do want to dig a little bit deeper into that when we can. So that's related to the "notwithstanding" language in the capital grants program.

Okay, these are big and we're not going to have enough time. Both the scope of practice proposal -- I do not recall ever -- I've been here for 11 years. I've never seen as many scope of practice changes done as a policy area in -- I've never seen that before.

Could you give us a little bit on why you thought that it was necessary to actually go through all this and do it so --

COMMISSIONER BASSETT: Well, part of it is the experience of the pandemic, right, where scope of practice changes were needed to meet the demands of the pandemic. So that

meant both the ideas of providing a mechanism for people out of state to -- who were licensed out of state to come, for people who were, you know --

SENATOR RIVERA: I'm going to interrupt for a second only because -- only because there's -- there's -- I'm going to take a second --

COMMISSIONER BASSETT: Well, you know, chaining medication aides to the backs of --

(Overtalk.)

SENATOR RIVERA: Just to finish up. So I will take a second round to talk about something else that I think is important that I will leave all of that time for.

But the last thing I want to get to, we certainly need a lot more information both on this issue of the scope of practice and, tied to it, the change from SED to DOH, the idea that you're going to bring this all over to the Department of Health, that -- that we need to have a lot more conversations about, because those are --

(Overtalk.)

COMMISSIONER BASSETT: Okay. Well, let me just say that I have a huge amount of respect for Commissioner Rosa. On this one, we've agreed to disagree. She has been a fierce advocate for public education. And in this case I think that the agency that oversees the regulation of the health professions should be the one that licenses it. And there are all kinds of scope of practice things, you know --

SENATOR RIVERA: I will come back for Round 2.

COMMISSIONER BASSETT: Okay.

SENATOR RIVERA: Thank you, Madam Commissioner -- Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Gandolfo, three minutes.

ASSEMBLYMAN GANDOLFO: Thank you, Chairwoman.

And thank you, Dr. Bassett, for being here today and for your testimony and for taking our questions.

My question is related to school

masking as well, and daycare masking. So I know the Hochul administration policy has been to mask kids as young as 2 years old in daycare settings and school settings. Has the Department of Health consulted with or had any conversations with the Education Department about the potential impact to kids' development, either socially, emotionally, maybe some speech issues, on the impact that wearing a mask for hours and hours a day might have on that development?

COMMISSIONER BASSETT: We've talked a lot about the importance of keeping kids in school, and masking has been an important part of that.

As you know, the Centers for Disease Control does not recommend masking for children under the age of two. So this comes from the federal guidance --

ASSEMBLYMAN GANDOLFO: I'm not asking about who's recommending the masking. I want to know, has there been any conversation with the Education Department on the impact to a child's development, whether socially,

emotionally --

COMMISSIONER BASSETT: Yeah, it may sound like -- I'm not attempting to divert that question, but the number-one issue for children is that they be in school and in school safely. Remote learning was not good for children's development. And the Education Department has worked with us on maintaining masking as part of keeping kids safe and in school.

ASSEMBLYMAN GANDOLFO: Okay, I think it's an important thing to discuss, potential developmental issues that stem from this. I was hoping to hear just a yes, we have spoken about the potential impacts and how to rectify them.

Is that something you would hope to see in the budget, some kind of money to study the lingering impacts of, you know, masking young kids during their developmental years for -- while they're among their peers, while they're interacting with their teachers. They're not able to, I guess, learn how to read emotions as well from

strangers and new people. So I hope --

COMMISSIONER BASSETT: Well, we are beginning -- we have worked with OCFS most recently on figuring out the after-school access for kids, since obviously some kids, their school day includes an after-school component. But we have not yet addressed this issue.

ASSEMBLYMAN GANDOLFO: Okay. Well, you know, I think it's important to a lot of parents out there to know that the administration is cognizant of the potential issues stemming from masking the kids during their developmental years.

But I appreciate your response and your time being here.

COMMISSIONER BASSETT: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We move on the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Senator Comrie.

SENATOR COMRIE: Thank you, Madam Chairs. Thank you, committee chairs. Thank you, everyone.

Commissioner, good morning. I had a couple of questions.

First off, as you may remember, I represent the Southeast Queens area. And Queens in general is severely underbedded, has been for years. There were some studies that proved it since the eighties, and it still hasn't been resolved.

Also in Queens we have three safety-net hospitals -- Jamaica Hospital, Peninsula Hospital, and Flushing Hospital -- that are suffering because they are safety-net hospitals also taking trauma patients. And all three emergency rooms are in dire need of upgrades, and I'm hoping that we can finally get the state to finally invest some serious capital money in making that happen, making those upgrades happen, especially Jamaica Hospital, which takes all of the trauma patients from a two-borough area, including both airports. And all the international arrivals that come in that are in questionable health have to go to the Jamaica Hospital. They're overwhelmed and

underbudgeted to handle that.

So I would hope that they, especially as a safety-net hospital, can get some additional money. And I hope that that is reflected in the budget. I know that the Governor talked about it in small detail relative to the major investment in making sure that their emergency room and trauma room are -- have an increase in budget.

Also I want to talk about setting up some permanent testing centers, indoor centers, in Southeast Queens and in the Rockaways and throughout the borough. The fact that we have people standing outside on line for hours in the cold trying to get testing is a major problem. I don't think that we'll ever stop doing testing, unfortunately. I'm being a pessimist today. Because, as you said earlier, people are not taking -- everyone is not getting vaccinated. There will always be a percentage of the population infecting the rest of the population.

There's been a woefully inadequate

setup for testing centers in Southeast Queens that are indoor, and especially in the Rockaways that don't even have testing centers. So I hope that we can consider finding some indoor locations as well.

I'm moving fast because I only have a few seconds. The nursing homes, I hope that we can increase staffing for nursing homes throughout the state, but especially in Queens where our nursing homes are woefully understaffed, because they are seriously populated by people.

And finally I would hope that -- I was reached out to regarding a problem regarding the Medicaid global cap and the fact that the Medicaid plan that's being proposed would woefully hurt small medical providers, and that the cap as it's set up now would eliminate a lot of providers and the Medicaid plan being given less options than everyone else that will have unlimited health plan options, and those options would severely impact providers that most help the minority communities around the state. If you could

opine on that --

CHAIRWOMAN KRUEGER: Thank you, Senator Comrie.

So Dr. Bassett, don't even start. You're going to respond to Senator Comrie --

COMMISSIONER BASSETT: We will. That was what I was going to say. We will respond --

CHAIRWOMAN KRUEGER: At a later time.

COMMISSIONER BASSETT: -- at a later time.

CHAIRWOMAN KRUEGER: And those are all great questions. And anything that you were putting in writing, if you would please forward to Helene Weinstein and myself, and we'll make sure all members of the committees get the answers to the excellent questions that many members are asking today.

And with that, back to the Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblywoman Seawright.

ASSEMBLYWOMAN SEAWRIGHT: Thank you.

Thank you, Commissioner, for your testimony and availability today.

How is the Department of Health addressing pop-up sites for COVID testing that are taking longer than expected and receiving results with incorrect information? They don't respond to my constituents' questions. In particular, PacGenomics is a strong offender on the Upper East Side.

COMMISSIONER BASSETT: I have to apologize that I don't know these specific instances.

As you know, as a state government we've been committed to making pop-ups available, accessible. The goal is to have both testing and vaccination available to anyone who wants it. But these specific instances I just will have to get back to you on. And if we can get the details, somebody from our office can get the details on this. This obviously is not our intent, that there be these problems.

ASSEMBLYWOMAN SEAWRIGHT: Additionally, constituents have informed our office that there's a -- kind of like a green food truck with cannabis on the side, and

they're selling it on East 86th Street on the Upper East Side, in exchange for donations. They're also selling food products without a vendor's permit.

Are you aware of this operation in New York City?

COMMISSIONER BASSETT: No.

I mean, certainly the City Health Department should say something about the food part of it. No, I am not aware of this operation. We'll look into it and contact our colleagues in the city.

ASSEMBLYWOMAN SEAWRIGHT: Thank you.

CHAIRWOMAN WEINSTEIN: Back to the Senate.

CHAIRWOMAN KRUEGER: I'm sorry, Assemblymember Seawright, I can tell you -- because it's come up before -- that actually is a police issue if they are attempting to sell or pretend to sell marijuana, where there are no dispensary licenses yet.

And you can also contact the Office of Cannabis Management, who is also following up.

ASSEMBLYWOMAN SEAWRIGHT: We've contacted the 19th Precinct as well as Cannabis Management, and we've sent them pictures. And it's been in the local papers as well on the Upper East Side. It's a very decorated food truck van.

CHAIRWOMAN KRUEGER: These places are starting up all over, in violation of the law. Senator Savino and I have had conversations.

The one thing you can tell them, they're never getting a license if they're doing this now. So this is a short-lived, fun type of thing.

And I don't mean to cut us off from the next Senator, Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator Krueger.

Commissioner and the Medicaid commissioner, it's good to see you. Many of the questions that I would have asked have been asked and answered already, so I'm not going to repeat them. I do want to echo my support for the issue of the home care

workers. We are desperately in need of stabilizing that workforce.

And I would suggest that you take seriously the issue of the bonus payments. Because for those who are dependent on some level of public assistance, it can push them off the benefit cliff. Not only that, it can affect their household budget. If other members of the family are on some level of benefits, household income going up affects them as well. So please take a look at that; it is important.

I do want to address two issues, though, and you don't have to answer them today, you can get back to me on it. One is an issue with respect to medically fragile children.

Many of the agencies that service medically fragile children, when the children reach the age of 21, they are no longer able to serve them. They're forced to then get services provided by another agency, which is a disruption in that family's life, and it makes no sense.

So what I would appreciate is if you could explain to me in writing afterwards why that's necessary. Many of these agencies would like to be able to provide direct skilled care nursing to these young people from the cradle to the grave. And for people who are dependent on them, it's really important. That's the first thing.

The second thing --

MEDICAID DIRECTOR FRIEDMAN: I just want to point out, though, there is money in the Medicaid budget to provide that same level of reimbursement for when medically fragile children become medically fragile adults and they transition from age 22 to age 23. We are making a substantial investment to attack that very problem. So I just want to make sure that that's pointed out, but we're happy to provide a response as well.

SENATOR SAVINO: Thank you. I appreciate that.

And the other thing is on mental health beds. I know Todd Kaminsky mentioned

it earlier, and I just want to hammer home that point. We have a crisis of mental health problems right now, exacerbated by the pandemic but certainly made even worse by the disinvestment in both mental health beds on the state side, whether they be in state-run facilities or just the really low level of reimbursement. The Medicaid reimbursement rate to the nonprofit hospitals and the safety-net hospitals has disincentivized hospitals from setting aside mental health beds.

You know, for instance, I think in New York City, Medicaid only reimburses about 55 percent of the cost for an inpatient stay for a person who's in a bipolar crisis. And what we're seeing is because the inpatient and even the outpatient reimbursement rates are so low, people are cycling in and out of the emergency room back out into the street, many of them are homeless, exacerbating this crisis.

So please, whatever we can do to invest in mental health beds, to expand

access to treatment, and increase the reimbursement rate. Because we cannot continue to have people cycle in and out of the emergency room, or in and out of Rikers Island, trying to deal with mental health crises. So I just want to put that on your radar screen. We have money. We need to invest it in the more appropriate, humane way of addressing mental health crises.

Thank you.

CHAIRWOMAN KRUEGER: Thank you, Senator Savino.

CHAIRWOMAN WEINSTEIN: Assemblyman --

CHAIRWOMAN KRUEGER: Nope. No, I'm sorry, Assemblywoman, before we go on to the next member we're going to take a 10-minute personal need and stretch break, and then we will come right back to the order that we're in. So everybody check your watch, and 10 minutes from now come on back to your box.

Thank you so much.

(Brief recess taken.)

CHAIRWOMAN KRUEGER: Thank you. The Joint Budget Hearing on Health continues

after a brief break.

Handing it over to Chair Weinstein.

CHAIRWOMAN WEINSTEIN: Thank you.

And I have a couple of questions from Assemblywoman Linda Rosenthal, who is under the weather and has lost her voice. So I am channeling her in these remarks.

"I was so pleased that Governor Hochul appointed you to head the Department of Health.

"I first want to say that I'm very concerned about home care workers and the fact that they are paid paltry wages, and bonuses do not ultimately solve the issues they and their patients face.

A bipartisan congressional report on the overdose epidemic was released today detailing a $1 trillion cost to the nation from overdose deaths each year, along with a series of policy recommendations. Yesterday the Justice Department also said they were evaluating overdose prevention centers.

"As you know, I have sponsored bills since 2016 to authorize their operation. How

do you see the overdose prevention centers fitting into the fight against the overdose crisis? What are your thoughts on decriminalizing buprenorphine?"

And then one further question, and I'll leave you a few moments to respond. "The American Cancer Society estimates that 46 percent of cancer patients and survivors experienced a change in their ability to pay for care due to the pandemic; 79 percent experienced delays in treatment. The cancer services program saw its funding cut in the '17-'18 budget and has been flat-funded. When do we expand this program to meet the growing needs of New Yorkers?"

COMMISSIONER BASSETT: Okay, thanks. Thanks for channeling that for Assemblywoman Rosenthal.

As she will remember and other members may also be aware, I was part of the effort to get overdose prevention centers, then called safe injection sites, in New York City. I see the goal of these centers as trying to ensure that people don't die

related to their drug use.

That said, there are numbers of barriers to these centers. One of them is I hope being addressed by the Justice Department, that the centers violate, in the view of some opinions, what's sometimes called the crack house statute. And I think it's called a statute.

MEDICAID DIRECTOR FRIEDMAN: Yeah.

COMMISSIONER BASSETT: And so we're all watching what's going on in New York. We at the state have not made a determination on the use of this strategy. In New York they have reported the reversal of more than 100 overdose deaths, and they haven't faced any federal action. So we're watching what's happening. I think that we will have something to learn from that experience.

CHAIRWOMAN WEINSTEIN: And if you could just --

COMMISSIONER BASSETT: On cancer? And I'm sorry, I talked --

(Overtalk.)

CHAIRWOMAN WEINSTEIN: Perhaps you

could send us --

COMMISSIONER BASSETT: Yeah, we do have some expansions occurring this year. For example, the Roswell Park centers received funding to do mobile vans that will do lung cancer screening, a form of cancer screening that has not received broad community-based access. So there have been some expansions.

And we continue to have the funds to do breast cancer and support colon cancer screening.

CHAIRWOMAN WEINSTEIN: Thank you, Commissioner.

Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much. I think I'm the last Senator. So thank you, Dr. Bassett, for being with us today. So many people have raised so many important questions. And actually some of mine were asked by others who already used up their time, but I thought this was an excellent place to start.

There's been a lot of attention and

focus in recent months on the issue of skyrocketing hospital costs for different services. There have been stories in Crain's and other newspaper publications detailing wild fluctuations in costs of care across different hospital systems in different health insurance networks with the same or similar patient outcomes.

Has DOH done any analysis of what the state is spending on healthcare for various hospital networks or procedures? Sort of consumer pricing, so to speak.

COMMISSIONER BASSETT: Yes. No, I understand what you're getting at, and looking at the variability, across systems, of reimbursement rates or expenditure. And I don't know the answer to that question.

Do you know?

MEDICAID DIRECTOR FRIEDMAN: I can comment a little bit too.

I mean, one of the benefits of the Medicaid program is we determine what we build in. And most -- and this relates back to some of the other questions -- most of our

services are run through Medicaid managed care and we pay plans to pay providers at what's called the benchmark rate, often pegged at what we do on fee-for-service. Plans can choose to negotiate with hospitals to pay more or less, based on the benchmark rate, but that helps us, through the managed care system, control our overarching facility spending.

We've heard from other Assemblymembers and Senators that, you know, in certain cases that may not be sufficient as safety nets, and we're working through those issues. But unlike in the commercial market, the price variability doesn't necessarily increase the cost to the state programs.

One thing we have been doing with our colleagues at the Department of Financial Services -- and I know you're speaking with the superintendent next -- is looking to ensure compliance with the Surprise Bills Law and the federal Surprise Bills Law, which is increasing measures of transparency. And we've done a tremendous reconciliation

process -- I encourage DFS to speak about it -- in terms of how we enforce those transparency provisions against what we've already done in New York.

And we were really -- I was really pleased to see, and I'm sure DFS was too, that our transparency measures, our surprise bills measures were in many cases more rigorous than what even the federal law required. And enforcement will be a fairly streamlined effort as a result.

But, you know, ensuring price transparency and ensuring consumer choice I think remain key hallmarks of what the department looks to achieve and cooperate with our partners at DFS.

(Overtalk.)

CHAIRWOMAN KRUEGER: So you mentioned the public -- the public health -- I'm sorry. I'm sorry, Mary?

COMMISSIONER BASSETT: No, I was just saying it seems like we ought to be able to look at this, at least document it.

CHAIRWOMAN KRUEGER: Yes. Yes.

Because it's not just the Medicaid spending -- where it's true, you control the price -- but all the union workers in the state and localities that are on insurance plans that attach to specific hospital networks. I've even been invited to protests by unions outside some of my own hospitals over the price increases.

So I would urge you to try to take a look at the differences and the variations. Because I do think people are right that even though we've built in more transparency -- I proudly carried one of those surprise billing laws -- that somehow the networks are figuring out how to get around us. And the least we can do is offer people transparency so they can see what the differences are. So thank you for following up on that.

You've also heard today -- and I think you must hear every day -- about the concerns around healthcare deserts and shortages, as you've heard, on mental health and on psychiatric beds and on maternal mortality services. And we always knew we had these

things, but the pandemic obviously made it so much worse. And we see things now that maybe were in front of our eyes all the time but we didn't really look at them as systemic problems before the pandemic.

And I'm curious whether in order to effectively prioritize the allocation of healthcare funding in New York State, New York State DOH should start to support evaluation of where state healthcare funding goes based on these shortages by specialty and/or region, including through the CON application and review process, saying, No, we don't need more of that here, we need more of that over there, and vice versa.

Can you see yourselves taking on this new sort of planning for our future role?

COMMISSIONER BASSETT: Well, part of the package of legislation that the Governor signed in which she declared racism as a public health crisis included the idea of a health equity assessment that would accompany any application for a project that would affect a hospital's healthcare. I can see --

I can see a connection between that and what you're talking about.

MEDICAID DIRECTOR FRIEDMAN: And just to -- if I can build onto that too. We've also been advancing a new 1115 waiver designed with CMS that would build an entity called health equity regional organizations, which function as regional planning entities to try and deliver better health-equity-driven services to individuals through Medicaid funding.

It would involve all manner of stakeholders, providers, community-based organizations, technology providers such as the SHIN-NY, members of the workforce, members of the community, all to come together in order to identify what that region needs in terms of promoting health equity for the population. So with the federal funding that will come with a waiver, we can prioritize that.

And that would be the successor program to DSRIP, which I think started a lot of those things, but with a health equity

focus. And with that sort of regional planning element around health equity, we think in the Medicaid program we can further a lot of those goals as well.

COMMISSIONER BASSETT: Thanks for highlighting the certificate of need process. That is a good entry point.

And I would just say --

CHAIRWOMAN KRUEGER: And I believe that -- go ahead.

COMMISSIONER BASSETT: No, I'm sure people don't want to hear about my experience in New York City, but we did try to break down our budget according to the geography of spending. And it turned out to be far more difficult of an exercise than you might guess. Figuring out what exactly what locality the money goes to is often not that simple. But a good question to ask.

CHAIRWOMAN KRUEGER: And I believe that Governor Hochul signed a bill by Gustavo Rivera and Dick Gottfried on the CON process not that long ago. He might go back to that in his second round; he has his

thumb up for me. And that also should hopefully give you some more authority to look at these questions. So thank you on that.

And then finally, again, even though health is going to be so long today we may never complete it, there are so many issues where health is so relevant to other hearings, including mental health, as you've already heard today, behavioral health.

And the Governor also just announced with the commissioner, I believe, of Mental Health a plan to open 12 sites around the state for mentally ill people acting out in ways that may involve the criminal justice system. And I think everyone was pleased to see that. But when I read the details, it's only to keep them for a maximum of 24 hours. And you don't resolve serious mental health problems in 24 hours.

So how are you going to be able to help ensure that a few years from now we won't just all take a look and go, Well, that didn't work?

COMMISSIONER BASSETT: Well, that's not an easy question to answer, but a good one to ask.

I would say that -- first of all, I know and communicate with the Office of Mental Hygiene Commissioner Ann Sullivan. I'm aware that Medicaid offers a real strength that we have as a health department. In using its authority over this important insurer, we have a potential of influencing other insurers in the state, as apparently is often how it happens.

So we've seen, for example, in maternal health care, this year we're seeing an expansion of services that will include mental health services that I could ask our Medicaid director to speak to. But, you know, this is going to require structural changes. And that -- you know, you're right, it's not a -- there's not a 24-hour solution.

Some of the efforts that have been underway in the past -- that I would have to look up and see how they went -- were having intensive in-community management of people

with serious mental illness. In other words, enrolling them in a program of frequent contacts and finding ways that Medicaid can help pay for this, you know, may be a way that we can manage some people rather than saying, Now we need to put all of them in the hospitals and keep them there.

CHAIRWOMAN KRUEGER: Thank you, my time is up. I'm going to pass it back to Assemblywoman Weinstein.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Abinanti.

ASSEMBLYMAN ABINANTI: Thank you, Chairs. And thank you, Commissioner, for joining us today.

Look, we all agree that the goal is to make sure that all New Yorkers have access to good-quality, appropriate healthcare. I want to start by expressing some concern about the global cap, because what it means -- and the answer that one of you gave earlier confirms this -- is that we're basically rationing services. We've set a limit on how much we're going to spend, and it has not

necessarily anything to do with the need.

Now, people with disabilities are getting insufficient care. And increasing funding for increased enrollment merely increases insufficient care. We need to take some steps to better the care.

So I'd like to deal with two issues. The first one is people with disabilities, especially those with intellectual disabilities, are having great difficulty finding medical professionals who understand their challenges. And the difficulty increases as they age. For example, I know of many young adults with autism who are still being cared for by pediatricians.

So what efforts is your department -- what efforts are your department taking to train doctors, dentists, nurses, other healthcare workers in treating those with intellectual disabilities? And what are you doing to increase a specialty, let's say in medical schools, to make sure that there are trained people to deal with people with intellectual disabilities? Is there anything

in this budget that addresses this issue?

COMMISSIONER BASSETT: I'm not sure.

What I can say in response to your remarks about the global cap is that the Medicaid program in this state has seen enormous expansion, even faced with a cut --

(Overtalk.)

ASSEMBLYMAN ABINANTI: Doctor, I understand. I'd rather not spend the time on the global cap --

COMMISSIONER BASSETT: But your specific question about care of people with disabilities and training in medical school to, you know, to help increase both doctors and dentists and other health workers' understanding of people, particularly with intellectual disabilities, on that I'll have to get back to you. Mostly --

ASSEMBLYMAN ABINANTI: Can I go to a second question? I only have a minute left.

COMMISSIONER BASSETT: Yup. Yup.

ASSEMBLYMAN ABINANTI: Are you still planning to push people with developmental disabilities into Medicaid managed care?

I know in Westchester County there are very few doctors that accept Medicaid. It's virtually impossible to find a specialist like a psychologist or psychiatrist or a dentist who accepts Medicaid. And despite their affirmations, the Medicaid managed care agencies do not have these professionals available. And when they have someone, the wait is forever. Other states like Connecticut have abandoned Medicaid managed care for people with disabilities.

Will you consider using fee for services and increase the rates?

MEDICAID DIRECTOR FRIEDMAN: So I'm happy to address that.

We -- as you know, there's been a lot of transitions occurring at OPWDD of late. Commissioner Neifeld is a new commissioner there, and we at the department will support Commissioner Neifeld's and OPWDD's determination as to whether managed care best serves that population, whether through provider-led plans, as is currently the vision, or otherwise.

And so we're here to support Commissioner Neifeld in that journey in terms of how best to care for people with I/DD.

One point to note too is that most I/DD spending is not in the global cap. And so we're happy to work with Commissioner Neifeld and others to ensure, you know, where those funding -- where those investments may live in this budget.

ASSEMBLYMAN ABINANTI: Okay, good. Thank you.

CHAIRWOMAN KRUEGER: Thank you both.

ASSEMBLYMAN ABINANTI: I look forward to working with you on that issue.

CHAIRWOMAN WEINSTEIN: Senate.

CHAIRWOMAN KRUEGER: Senator Gustavo Rivera for his second round.

SENATOR RIVERA: Thank you. I'm going to focus on just one thing that I think is incredibly important related to workforce that we didn't get to at first.

Are you folks familiar with the Area Health Education Centers?

COMMISSIONER BASSETT: Yes.

SENATOR RIVERA: Okay. But you didn't fund them here.

COMMISSIONER BASSETT: Yes.

SENATOR RIVERA: So I wanted to ask, because there's certainly -- there's two things, there's a Diversity in Medicine program, that's a million dollars --

COMMISSIONER BASSETT: Yes.

SENATOR RIVERA: -- as well as New York State Workforce Innovation Center, which has very few details. That's a new thing, I guess.

COMMISSIONER BASSETT: Yes.

SENATOR RIVERA: I wanted to ask, since there are already Area Health Education Centers that are incredibly successful in having -- in providing for a diverse workforce in the medical field -- and obviously you recognize that that's an important thing. You've certainly been talking about equity and all these issues.

How does that fit into not funding AHEC and then putting two new programs together? Could you walk me through that,

please?

COMMISSIONER BASSETT: Well, I understand that the Legislature has been committed to AHEC, and I'm going to have to look into that for you.

SENATOR RIVERA: Yeah. I mean, it's a legislative add we do every year. And it's -- I mean, we certainly -- I mean, obviously we'll discuss it as a conference, et cetera. But I'm pretty sure that we'll do it again because of the success that they've had, they continue to have.

And so if we're committed to having a diverse workforce in the medical field, I think that it's -- I'm glad that these two are there, there's a million dollars for the Diversity in Medicine program and 20 million for the New York State Workforce Innovation Center. But it seems that you might be reinventing the wheel with that second one, so --

COMMISSIONER BASSETT: Okay. Well, all right, point well taken. Let's move on.

SENATOR RIVERA: Gotcha. Oh, yes,

yes, ma'am. Moving on.

(Laughter; overtalk.)

COMMISSIONER BASSETT: Sorry. This is my first time, I -- dealing with you as the --

(Laughter; overtalk.)

SENATOR RIVERA: Since I got a minute-twenty, two quick things.

First, certainly we need to talk more about the EMS reforms. I heard what you said related to kind of standardization, creating countywide networks, et cetera. We'll need a lot more information on that to kind of see if it's something that we can ultimately be supportive of.

It's just something -- again, you kind of -- there's a couple of places where you're just, you know, going for the fences, you know, batting for the fences, and I'm like I want to understand them a little bit more.

Last but not least, the distressed hospital funds. I'm glad that that's there. However, there doesn't seem to be a definition of distressed. In particular,

there is a concern that exists in Health + Hospitals Corporation -- which I'm sure you're aware of, as you were in the City of New York -- that they did not get any of this funding in prior years. So we just want to make sure certain that that -- if indeed these taxes -- because as you know, this is like captured taxes from both counties and the city, et cetera -- that if this is going to happen, that this money is available to HHC.

COMMISSIONER BASSETT: It's a really good question. I asked for a list of distressed hospitals, and I think it contained over 40 hospitals across the state. But I am not sure what definition has been used. So I'm going to turn this over to Brett.

MEDICAID DIRECTOR FRIEDMAN: Yeah, there's not a singular statutory definition. And, you know, New York City Health + Hospitals is a little bit of a different animal than the voluntary hospitals, given its nature as a public benefit. And through

various initiatives that are a little bit different than the traditional financially distressed hospital funding, we do a lot to support New York City H+H. One --

SENATOR RIVERA: Well, we'll get into that.

MEDICAID DIRECTOR FRIEDMAN: We'll get into that, yup.

SENATOR RIVERA: My time is up, so we will follow up.

But thank you, Madam Chair, for the second round.

CHAIRWOMAN KRUEGER: Thank you.

Assembly, I think the Senate's closed, because I'm not letting anyone else pop up this late. They could have been here all these hours. So I will hand it over to you to continue through the Assembly.

CHAIRWOMAN WEINSTEIN: We have two Assemblymembers, and then I have -- need to speak.

Assemblyman McDonald.

ASSEMBLYMAN McDONALD: Thank you, Chair Weinstein.

And Commissioner, it's good to see you again. And Brett, thanks for being here.

And first of all, Commissioner, your point about opioid prevention centers a little bit ago -- if anything, we need to focus on getting through the issues with it. But the reality is if we're going to look at substance use as a medical lens, opioid prevention centers makes perfect sense. We've got to get away from the criminal justice conversation.

I've noticed you starring in the commercials lately -- doing a great job, very sincere. And as you know, I'm a strong proponent of vaccination -- not mandating it, but encouraging it. And we talk about testing, vaccinating, we talk about all these different things, but I notice a message that I don't see too often is about the fact that indoor air quality plays a very large role in regards to the virus and whether it thrives or it dies.

Is there any bureau within the department that's focusing on this to give

guidance not only to our institutions and long-term-care facilities but also to just average residents? I mean, I tell people all the time, it's winter. Open the window for a minute, get some fresh air.

COMMISSIONER BASSETT: Well, we do, as a health department, look at issues of air quality. That falls under the Center for Environmental -- for the Environment.

And -- but I know in my tenure this has come up mainly about the schools and the idea of whether we're paying attention to air quality in schools. And we provide guidance to the Department of Education about air quality. Not all settings can use the guidance that we have provided. The housing stock is very variable in terms of its age and its ventilation, et cetera.

ASSEMBLYMAN McDONALD: Well, I just think it would be valuable for the general public at large to be more informed about it.

COMMISSIONER BASSETT: Yes. Well, simple things like opening the windows, for example.

ASSEMBLYMAN McDONALD: It makes sense. It sounds crazy, but it's true.

We don't have time for this, but I'll just mention I have mixed feelings about the proposal to move the health professions from the Education Department to the Department of Health. I see some benefits; I see some also demerits. Your comments and thoughts?

COMMISSIONER BASSETT: I started out by saying that the agency that oversees the regulation of the professions should also license it. This mainly is around the scope of practice issues that came up with Senator Rivera.

We've learned so much during COVID about the kinds of things people can do if we are flexible about the scope of practice. We had pharmacists running COVID testing. We had paramedics doing vaccinations. All of this was done through executive orders because the Department of Education will not use its administrative authority to make these changes.

So this is principally not about

administrative things, this is about modernizing our workforce, enabling people to work at what we call the top of their license, and doing it with agility, the kind of agility that we need during a pandemic.

So I -- you know, it's not a criticism of the mechanics of this, it's a criticism of the rigidity with which the Department of Education has responded to our requests to expand scope of practice in ways that's better for patients, better for workers, whose work becomes more interesting, and allows the higher trained staff -- nurses and nurse practitioners -- to do the kind of work that they were trained to do, not just roll down medication carts but, you know, function at the top of their licenses too.

So it's those sorts of issues that have led me to respectfully agree to disagree with Commissioner Rosa's opposition to this plan, to this proposal. It would be good for professionals and good for the people of this state.

CHAIRWOMAN WEINSTEIN: Thank you.

ASSEMBLYMAN MCDONALD: Sounds like a topic for a longer conversation. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

Assemblyman Ashby.

ASSEMBLYMAN ASHBY: Thank you, Madam Chair.

And thank you, Dr. Bassett and Director. Really appreciate your time and consideration during the hearing, and your stamina during all of this as well.

My question relates to assisted living facilities. And last year they were excluded from receiving funds from the American Rescue Plan. And, you know, this year they're looking -- they're looking to receive assistance with this. And I know that, you know, they don't participate wholeheartedly in the Medicaid program, but they are a stopgap in a lot of ways, and a transition for so many of our seniors. And they've been negatively impacted throughout this pandemic, and they are in desperate need of help as well.

And I'm wondering if you would support

them and are considering helping them receive a budget allocation.

COMMISSIONER BASSETT: It sounds as though our Medicaid director has something to say, but let me just frame this a little bit, in the fact that we are putting substantial resources into long-term care.

The Governor, in the State of the State, referenced the idea of a master plan for aging. And we recognize that we need more than nursing homes as a place to age and that we need to support people as they age in a spectrum of settings. And we have some additional funding to do that in our budget this year, with $50 million allocated for an innovative model called the Green House Model.

But for the specific questions on -- are you familiar with the Green House Model?

ASSEMBLYMAN ASHBY: I am. And I'm really happy to hear that, because I think the longer we can encourage and keep people independent and maintaining their independence and aging in place, wherever

that may be, whether it's in an assisted living facility or at home or in a group setting, that's the best that we can do. So I'm really happy to hear you --

COMMISSIONER BASSETT: And it's our legal obligation, as well under the Olmstead -- yes.

ASSEMBLYMAN ASHBY: The Green House Model is the gold standard, no pun intended, and I think that's great that we're looking to do that.

MEDICAID DIRECTOR FRIEDMAN: And just to add, in terms of our financial support in Medicaid for ALPs, one, the across-the-board rate increases will help ALPs as Medicaid funding providers. That's important for at least a component of ALP services that can be Medicaid funded.

The other opportunity that we're pursuing with CMS -- and it remains to be seen whether the federal government will approve it -- is in the American Rescue Plan, and specifically Section 9817, which provides the ability to reinvest some of the enhanced

FMAP we're getting for home and community-based services. We're looking to make a capital investment in ALPs, given the fact that they've been excluded from other sources of funding.

And so as part of our next submission we're going to explore that opportunity with CMS in hopes that we can utilize some of this funding specifically for them.

ASSEMBLYMAN ASHBY: And would that include those who don't participate fully with Medicaid? Or is that only --

MEDICAID DIRECTOR FRIEDMAN: We would have to work through the funding parameters. But this is Medicaid funding.

ASSEMBLYMAN ASHBY: Okay. Thank you.

MEDICAID DIRECTOR FRIEDMAN: Yup.

CHAIRWOMAN WEINSTEIN: I am going to speak now, so we can put 10 minutes on the clock.

First I have -- Assemblymember Kim was not able -- is not a member of one of the committees, so he's not able to attend, so he submitted two questions for me to read.

And Commissioner, I just would say, when I read the question, that I have not done any due diligence, so -- in terms of the veracity of the information that I am about to say. And it relates to the discussion we've been having about the 24-hour home care work.

So Assemblyman Kim asks: Should the worker be unable to receive the sleeping and eating times, the Court of Appeals and DOL have both said the employer is liable for full payment of 24 hours worth of wages. However, one of the largest home care agencies, that employs more than 7,000 home care workers, claims that DOH is ordering 24-hour shifts based on periodic assessments of clients. Right now the provider is telling home care workers to only report 13 hours in 24-hour shifts; otherwise, the workers would be committing Medicaid fraud and can go to jail.

So he asks, are home care workers therefore committing Medicaid fraud for reporting inaccurate work hours? And does

DOH force providers to take on 24-hour contracts and threaten workers if they claim overtime?

And let me just get to his second question. Did the Executive consult with DOH and did DOH sign off on a moratorium for nursing home operators for our state law that would require more direct care and staffing?

COMMISSIONER BASSETT: The second, and I'll let --

MEDICAID DIRECTOR FRIEDMAN: You take the second one, perfect. I was just going to suggest that to your question.

CHAIRWOMAN WEINSTEIN: Sure.

COMMISSIONER BASSETT: Oh. Oh, okay, I'll start. So I'm starting with the second question about the executive order that suspended the staffing requirements in nursing homes that was issued really as a consequence of the Omicron surge and the crisis in workforce and in increasing demand that we've all been talking about today.

This was -- it's not fair to call this a moratorium. This is something that will

expire on March 1st. And we will, you know, consider the situation as it exists in terms of the capacity of the nursing homes to safely look after their residents during -- and the state of the surge.

We have published regulations. The public comment period is going to end on the 14th of February. And then we'll review the comments and respond to them. So that's my comment on the first question, on the executive order that suspended the safe staffing rules with respect to nursing homes.

Let me turn to you.

MEDICAID DIRECTOR FRIEDMAN: And then with regard to the 24-hour rule, in Assemblymember Kim's statement there's a number of concerning elements, the first of which is, you know, we don't want to litigate, you know, potential noncompliance here in the course of a hearing. But just to describe the rules.

One is the Department of Health is not the authorizer of services in this regard. Those services are authorized by either the

local district or a managed care plan, depending on how that individual receives his or her or their Medicaid coverage.

That said -- and the Department of Health rules dating back to December of 2015 are very clear that the worker should be reporting the 24 hours, but they are paid for 13 if there are five uninterrupted hours for purposes of sleep and the three meals, as Dr. Bassett mentioned earlier. The reporting should always be accurate. And if the workers are being told to not report their time accurately, that that should be a referral to the Department of Labor or to the OMIG to investigate the causes.

If the worker is not getting the five uninterrupted hours, then the rules are different and the licensed home care services agency is supposed to report that so the workers can get appropriate compensation for their time.

And so part of -- I just want to highlight here -- and we didn't address it, but the Department of Health for two years

has been in the process of conducting a request for proposals specific to LHCSAs. And part of that is because of concerns that we've heard with regard to wage and hour noncompliance in the licensed home care services space. And we want to be able to engage in the Medicaid program those LHCSAs who are doing their job and promoting accurate work rules and reporting and electronic visit verification and training.

And so I know we didn't get questions on it. It's in this year's budget again. I just -- this to me also speaks to the need to really get a handle -- there are over 1400 LHCSAs; 690-plus LHCSAs serve Medicaid members. And this is a really strong reason to be able to ensure that we have a group of LHCSAs that are really doing their best to support the workers and ensure legal compliance.

CHAIRWOMAN WEINSTEIN: And then shifting just to follow up on what Assemblywoman Gunther had raised, perhaps you can send us in writing just some more detail

about the real estate search, what was done, by whom, when was it, was there any community consultation, and what's the stage of the process. So I guess the question is, is this really a done deal or can we still have some input into this?

COMMISSIONER BASSETT: A lease has been signed. A 10-year lease has been signed.

CHAIRWOMAN WEINSTEIN: So can you just follow up --

COMMISSIONER BASSETT: I can tell you -- yes, we will look back. And I can tell you what I've been told, but let me just send this to you in writing.

CHAIRWOMAN WEINSTEIN: Sure. That's what I would appreciate.

And before I send it back to the Senate, I want to just say that, you know, I share many of the concerns that members have raised about the crisis in the home care -- for both the home care workers as well as the individuals who need to receive home care.

I have a unique district. I have a

lot of elderly constituents who are in need of home care and receive home care, and also a number of individuals who are home care workers. So I've heard from both ends of the spectrum. So I just want to join my colleagues in raising that concern.

And I send it back to the Senate because I do not see other hands raised. Thank you. Back to Senator Krueger.

CHAIRWOMAN KRUEGER: Thank you very much, Helene.

And yes indeed, I believe we have now completed the questioning of -- Helene, you have an Assembly member waving at me.

CHAIRWOMAN WEINSTEIN: Right, I have -- Assemblywoman Paulin has now raised her virtual hand as well as waving her real hands. So can we just give her time for a question before we end?

CHAIRWOMAN KRUEGER: I'm handing it back to you, yes.

ASSEMBLYWOMAN PAULIN: Sorry about that. I text instead of doing it the right way. Sorry.

So I have just a couple of I think short questions. The first question: I'm hearing from my hospitals and nursing homes that there's some concern on their part regarding the DOH surveyors coming into their facilities and their being unable to ask them whether they've been vaccinated, boosted and/or unable to give them a rapid test. And since those are requirements that their own staff have, wondered about why that was going on. They have a lot of health concerns about the DOH personnel.

COMMISSIONER BASSETT: I assume that this has to do with, you know, people having the right to personal health information. But I don't -- you know, I don't know whether there's a legal barrier to the hospitals that you're describing asking that information. So I'll have to get back to you on that.

I understand the problem that you're being asked, and I may -- since somebody's mouthing to me something, I may be able to get an answer to you before we finish.

ASSEMBLYWOMAN PAULIN: Okay, thank

you.

And just one of -- I don't know whether you had -- I know it was a little bit before you started, but the Assembly, under Dick Gottfried's leadership, had a phenomenal hearing on maternal health. And it was -- I think in your spare time it might be worth watching it, because I think there's some very important gaps that the Health Department needs to fix in order to really address the high level of C-sections that we have in New York compared to other states. And the -- and some of the other aspects of why New York is not doing as well as it should be as it pertains to maternal mortality and other things.

So I thought it was just -- you know, rather than go into all that detail, I just think it would be worth the time of you actually personally looking at that hearing and hoping to take New York into a better place than it is.

COMMISSIONER BASSETT: Absolutely. And we've done -- we won't have time to tell

you, but made use of Medicaid to greatly strengthen access to high-quality maternity care. And we talked earlier about doulas and about our commitment to tracking the data, which continue to show large racial gaps and adverse maternal outcomes.

I'm told that the problem with the surveyors are CMS guidelines, the Centers for Medicaid. But I'll get back to you with a more complete answer.

ASSEMBLYWOMAN PAULIN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I believe this now completes --

CHAIRWOMAN WEINSTEIN: Just -- I wasn't sure, Assemblyman Gottfried had to leave before. I'm not sure if he's here. If he is -- I don't see him. So if -- yes, so he'll follow up with the commissioner directly.

Thank you, Senator Krueger.

COMMISSIONER BASSETT: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

So now, Commissioner Bassett, I want to thank you and the director of Medicaid for

spending so many hours with us. And you have lots of follow-up homework for us. And we respect and appreciate how much work you are taking on for the 20 million New Yorkers, who we all care about and want to make sure have the best public health system available in the country.

So go on with the rest of your day. Thank you very much.

And I'm going to be calling up --

COMMISSIONER BASSETT: Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

I'm going to be calling up our new Financial Services superintendent, Adrienne Harris, at the New York State Department of Financial Services.

Some people get a little confused because it's both insurance and banking. We are not dealing with the banking finance side of financial services today at this hearing. We are exclusively dealing with the responsibilities of DFS for insurance in the State of New York, preferably even health

insurance in the State of New York. But if something else sneaks in there, I think it will be okay.

And with that, I want to welcome Adrienne. Ten minutes to summarize your testimony; we all have your full testimony. And then it will be shifting to Chairs Gottfried {sic} and Cahill for the insurance section of this hearing.

Good -- it is afternoon, oh yes. Good afternoon, Superintendent Harris.

DFS SUPERINTENDENT HARRIS: Good afternoon, Senator Krueger, thank you. And good afternoon, Chairs Krueger, Weinstein, Breslin, Cahill, Rivera and Gottfried, the ranking members, and all distinguished members of the State Senate and Assembly.

Thank you for inviting me to testify today. As Senator Krueger said, my name is Adrienne Harris. I'm privileged to have been confirmed just a couple of weeks ago as superintendent of the Department of Financial Services.

DFS's broad mandate is to protect

New York consumers, strengthen our financial services industries, and safeguard our markets from fraud and other illegal activity. The department regulates approximately 3,000 banking, insurance, and other financial institutions with assets totaling more than $9 trillion. The department's operating expenses are assessed to industry under Section 206 of the Financial Services Law.

As superintendent, I know that market growth and consumer protection are not competing concepts but must align to ensure that your constituents receive the best financial services in the nation, including health insurance.

Governor Hochul has an ambitious agenda to improve the quality and accessibility of healthcare for all New Yorkers. And before I take your questions I'd like to provide an overview of the DFS-driven healthcare initiatives in this year's Executive Budget, beginning with telehealth.

A shift from in-person to virtual healthcare delivery happened overnight as a result of the pandemic. Telehealth has the potential to connect historically underserved communities to all kinds of providers that were previously out of reach. This year's Executive Budget includes proposals to support access to telehealth services for more people across the state.

Currently insurers are required to have sufficient in-network healthcare providers to deliver in-person benefits. The Executive Budget would require insurers to also have an adequate network for telehealth providers.

Next, the Executive Budget would require commercial insurers to reimburse telehealth services on the same basis, at the same rate, and to the same extent as in-person services.

While telehealth proposals will expand access to health services, we must also protect New Yorkers from unfair billing practices after they get needed health

treatment. Governor Hochul's 2022 agenda includes multiple proposals to strengthen protections against surprise bills and to combat crushing medical debt.

New York's Independent Dispute Resolution, or IDR, resolves disputes between insurers and a limited number of facilities or physicians over emergency and other surprise bills so patients don't get stuck -- left with the bill. In just the first few years, this program has served New Yorkers and saved them hundreds of millions of dollars. The Executive Budget expands this successful program to all healthcare providers, hospitals, and emergency services.

Governor Hochul also has proposed important protections for consumers when their provider leaves their network. Insurers will be required to give consumers written notice when a provider leaves, and permit consumers to receive services from their provider at in-network costs for 90 days after the disaffiliation and, where applicable, for the duration of a pregnancy.

These and other consumer protections are critical and only made possible when we work collaboratively to identify and solve gaps in regulation or legislation. A great example of this is the work DFS did to chair the Administrative Simplification Workgroup, which engaged a diverse group of healthcare experts, advocates and industry to eliminate operational inefficiencies and unnecessary health insurance costs.

After a year-long effort, last October the workgroup issued its report to the Legislature, which included a total of 25 recommendations. DFS and the Department of Health are already working together to implement a number of the workgroup's recommendations where they don't require statutory action. Other recommendations are incorporated into the Governor's proposed budget, including limiting the time it takes for providers to join insurer networks.

Where the recommendations do require legislative action, DFS looks forward to discussing them with the Legislature and

other stakeholders.

Any discussion of reducing healthcare costs, though, would not be complete without mentioning rising prescription drug prices, the largest driver of health insurance premiums. Beginning with the passage of the 2020 budget, DFS commenced investigations into significant prescription drug cost spikes. And just last week I announced the conclusion of one of several investigations underway. DFS uncovered reporting errors by a manufacturer that led to publication of incorrect drug price information. Our investigation confirmed that no consumers were harmed, and secured commitments from the manufacturer to implement greater internal controls.

Looking ahead, I'm thrilled that the Legislature and Governor Hochul worked together in enacting legislation giving DFS the authority to regulate pharmacy benefit managers, or PBMs, which are key intermediaries in the prescription drug supply chain.

To implement this landmark legislation, the Executive Budget supports the creation of a new Pharmacy Benefits Bureau within DFS. The bureau is responsible for registering and licensing PBMs and establishing standards of conduct for this industry. I'm excited to say that my team has already begun outreach to interested parties and is working quickly to staff the bureau, which will monitor PBM practices and review complaints of misconduct.

Finally, I'd like to say a word about women's health. While the 49th anniversary of Roe v. Wade was celebrated last month, the future of this historic decision is under threat. Nevertheless, within our authority, I'm honored to acknowledge that New York leads the nation in protecting women's health choices. In line with New York's trailblazing initiatives, Governor Hochul has proposed codifying in statute a DFS regulation that guarantees insurance coverage for abortion services without cost-sharing. This is an important step in protecting

women's reproductive rights.

These are some of the critical healthcare initiatives included in Governor Hochul's agenda that DFS is proud to help advance in close collaboration with the Legislature. I also look forward to working with all government and community stakeholders on other important initiatives that will promote economic growth and create a more fair, inclusive, and sustainable financial system.

I think DFS can best serve New Yorkers by working closely and collaboratively with all of you. I enjoyed meeting many of you during the last few months, and I look forward to the conversations we will have throughout this budget process.

And I'm now happy to take your questions.

CHAIRWOMAN KRUEGER: Thank you very much, Adrienne. Appreciate your being here with us.

And I must correct myself on a major faux pas. The chair of the Insurance

Committee in the Senate is Neil Breslin. I apparently said Dick Gottfried. The rumor that Dick Gottfried is leaving the Assembly to join the Senate is false. Neil Breslin will be continuing to be the chair of Insurance and will be the first person up, with 10 minutes to ask questions.

Neil?

SENATOR RIVERA: You're muted, Neil. You're muted.

CHAIRWOMAN KRUEGER: Can you unmute, Neil? There you go.

SENATOR BRESLIN: Thank you very much, Chairman. And I assumed, when you made the faux pas, that you were correct, because Dick Gottfried's been around for 35 years, and I've been waiting for him to take over the Senate as well.

(Laughter.)

SENATOR BRESLIN: So I'm sure that we're all going to miss Dick Gottfried in the coming years.

But I'd first of all like to thank you, Chairman, thank the Governor, and thank

the new superintendent of insurance, Superintendent Harris. It's a long-awaited change and a very refreshing one. Not only did you start by getting out of the gate early, you've started with a gallop. And we're all very appreciative.

And one of the last things you mentioned was the PBM bill. And many of you know that I've been waiting for the PBM bill to become law for several years. And it was a joint effort with -- obviously with my two dear friends in the Senate and my dear friends in the Assembly, Dick Gottfried and Kevin Cahill.

So I'd like to ask you first, can you give us an idea of whether you think that $5 million is sufficient to start regulating PBMs.

DFS SUPERINTENDENT HARRIS: Thank you so much, Senator. And you're absolutely right, this has been a long time coming, so I'm thrilled that we have this legislation now and now DFS has this authority.

I think $5 million will get us started

in staffing the bureau and hitting these initial deadlines that we have, in accordance with the legislation, including registering the PBMs for June and starting our first annual report to the Legislature.

I suspect that as time goes on and we're registering the PBMs and then we move, you know, down the line toward our next deadline of licensure and we get into more investigations and more enforcement, it may in fact require more money. As a commissioner I will rarely say no to more resources. But I think that is enough to have us start building, building the bureau and start registering these entities.

SENATOR BRESLIN: Right. I know we all expect periodic reviews of where we're at, because I'm anxious to see where all the money went and I'm also anxious to see the progress. I think it's an important step forward.

And I'm only going to ask you a couple of questions. That's one of them.

On telehealth, which I've been

actually involved in for over 15 years at the national level, what do you see in New York State in terms of the policing of telehealth in the short term, and if you see any pitfalls in executing a policy for telehealth in the state.

DFS SUPERINTENDENT HARRIS: Yeah, I think it's an incredibly important trend that we saw accelerated. It might have taken us a decade to get to this level of usage in telehealth were it not for the pandemic. And so we've been forced to catch up and adjust to this new normal, and I think it's a wonderful reason why the Governor has put these new proposals in her budget.

So now that we are here, I think telehealth is here to stay. So we're requiring that insurers have network adequacy for telehealth just like they do for in-person providers. So they have to have an adequate network. And if a patient can't get the provider they need in their network for telehealth and they have to go out of network, the insurers will be required to

cover that at in-network costs.

The insurers have to provide up-to-date directories so that patients and New Yorkers can see which providers provide telehealth services.

And now we have the proposal for payment parity, which I think will incentivize providers to provide telehealth services for patients where it makes sense to do so. And I think that's incredibly important when we think about mental health and substance use disorder, that patients have the ability to partake in those services from the privacy of their own homes and can do so and have that payment parity and coverage parity for those services. Because especially with the pandemic, we've seen what a continuing issue mental health and substance use disorder are.

SENATOR BRESLIN: Okay. And I'd mention not only mental health and substance abuse but people in areas that haven't been able to see their physician. And I think it's going to go a long way to -- for

equality for medical care. And the pandemic has shown one thing, that we don't have equality in medical care. Hopefully that will change significantly in the months and years to come.

So that's all I have now. I'll be pestering you over the next couple of years. And I just look forward to -- I think there's going to be a relationship with the Legislature with the Department of Financial Services that we haven't seen in years, and we all should be appreciative of it. And I know as I look at my dear friend Senator Rivera, he's shaking his head yes, and I know Kevin Cahill is shaking his head as well.

So with that, I'll give back the microphone.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: And we will call on Assemblyman Cahill, the chair of our Insurance Committee.

ASSEMBLYMAN CAHILL: Thank you, Chair Weinstein and Chair Krueger.

And welcome, Superintendent, for our first official public visit, but certainly not the first time we've communicated.

Let me just begin -- because it is very important and quite frankly unprecedented in your office -- echoing the strong words of praise that my colleague Senator Breslin just offered. Your office has been so transparent, so available, so willing to discuss important insurance issues -- in just a few months you have transformed the way that the New York State Legislature can deal with important insurance issues. And I thank you for that and I look forward to a long and deep engagement on many of these issues.

I was very happy to read your testimony, particularly regarding the many aspects that the department is engaged with on behalf of Governor Hochul to expand healthcare options. I wanted to start by just talking about one specific area that has just been so difficult to deal with, and that is in the area of mental health. The

pandemic has really taken a huge toll. And I want to know what the department is doing to ensure that our insurance companies are honoring and complying with mental health parity requirements.

DFS SUPERINTENDENT HARRIS: Absolutely. Thank you, Assemblyman. It's been wonderful to get to know you and your colleagues, and I too look forward to a long and prosperous working relationship.

We have a number of authorities here at DFS when it comes to mental health and substance use disorder. First, insurers are required to file reports with us every two years outlining their compliance with mental health and substance use disorder parity requirements, and those reports are made public on the DFS website so that anybody in the public can examine for themselves those insurers and their compliance with those laws.

We also have the ability to do targeted exams. So where we hear word, either from legislators or through our

complaint system that there may be violations of those laws, we have the ability to do targeted exams of those insurers to ensure their compliance.

And finally, we have the ability to bring enforcement actions where those insurers are not in compliance with the law, and indeed I've done so already. I brought an action against three insurers where they were not in compliance with mental health parity requirements. And I think one of the things that often goes underappreciated about our enforcement capabilities here at DFS is not only do we have the ability to assess penalties, to punish bad behavior -- which I did in those cases -- we also have the ability to require remediation of a company so that they must also do better going forward and we can outline in a lot of detail what we expect from them going forward.

And in the case of the enforcement actions I recently brought, we were able to get remediation for New Yorkers and put money back in their pockets. And I think it's an

incredibly important thing that we were able to do in that instance.

ASSEMBLYMAN CAHILL: Well, I agree it is one of the issues that many of my colleagues still bring to us when they find out that in their own communities that mental health services are being denied by insurance companies and that they have to go through an appeals process before they can actually get those needed and oftentimes emergency services.

So I applaud you for the good work there and assure you, you will be hearing from me and from my colleagues whenever we think that there's a need to even double down on that enforcement.

Let's move on to some of the other health issues, and then I want to also -- time permitting -- discuss a few others. If we don't get to them now, I'll have to use my second three minutes.

The Governor has included a mandate that insurance companies cover pregnancy termination services. Do you believe that

that will increase the cost of insurance? Do you believe that it will have a fiscal impact on the state? And most importantly, how do you view it in terms of the federal mandate that we not expand benefits under the Affordable Care Act without assuming the cost at the state level?

DFS SUPERINTENDENT HARRIS: For the Governor's proposal, effectively what she has proposed is that we take what is already in law in New York, which is that abortion services must be covered by insurers, and proposed that we strengthen that protection and codify it in statute.

So in effect, it's not an expansion of these rights, but it's codifying it given the threat that these rights are under around the nation, and I think in light of the 49th anniversary of Roe. So this is really the Governor's proposal to strengthen these protections on behalf of women.

ASSEMBLYMAN CAHILL: I want to move on to telehealth.

I am not sure that I share the

enthusiasm with my colleague Mr. Breslin, Senator Breslin on exact equal payment for telehealth visits and in-person visits. But like him, we have been working on this issue, as you have, on a national level with the national associations that we are engaged with.

In the area of telehealth, is there any concern -- and other than the network adequacy laws that were cited in your testimony -- to assure that telehealth reimbursement will not cause a diminishment of community-based services?

DFS SUPERINTENDENT HARRIS: I think the thing to think about when we really -- other than network adequacy, to make sure that people have ready access to telehealth, in some ways falls outside of the DFS purview, which is making sure people have access to good broadband. Right?

In order to access good telehealth services you need a strong internet connection, and for too many people in urban and in rural settings, they don't have that

strong broadband. So it's incredibly important that we've got the infrastructure bill that the federal government just passed, and Governor Hochul has a number of other wonderful proposals, including a 30 -- I think it's a $30 a month program for broadband access.

So that really is sort of the other barrier that's going to require a whole-of-government approach to remedy.

ASSEMBLYMAN CAHILL: It's come to my attention that several people who sought in-person healthcare, particularly in-person healthcare for small children, babies, during the pandemic were relegated to telehealth visits instead of in-person visits, even though the folks responsible for those babies didn't believe that a telehealth visit was the appropriate venue. And that remains a concern, and I will bring that up and continue to discuss it with you as we move forward.

We do have legislation that would consider parity. I think there is a means of

getting to an end here that is successful that will assure access to healthcare for everyone.

The next aspect that I wanted to discuss was medical malpractice insurance and the proposal by the Governor to bridge two budget cycles for the payment of the annual excess medical malpractice claim.

Is there a risk here that we will be causing providers to have to front-load their payments and thereby making it possible that we will be constricting healthcare in New York State? Or have provisions been made to address that issue?

DFS SUPERINTENDENT HARRIS: I think, sir, it's a well-founded concern. We don't want to be overburdening providers, especially in underserved areas that already are cash-strapped. We want to make sure that that program is providing the proper incentive, in fact, for people to be serving those areas, for providers to be serving those areas.

So I think it's a question that we

should be working on as part of the one-house budgets and working collectively on to make sure that those providers do in fact have the incentive to be serving underserved populations.

ASSEMBLYMAN CAHILL: Thank you.

I have two more questions that I want to discuss with you, and I may only get to introduce one of them. But the first is about the startup of the PBM regulation and the addition of 57 new staff in your office.

And the second one I'll just give you a heads-up, because I think this is going to be reserved for my -- when I come back. The Governor's proposal on commuter vans. It's an $11 million proposal. There are 300 commuter vans in New York State -- in New York City, primarily. My quick math says that's $37,000 per van. That sounds like a pretty hefty state subsidy. But we'll come back to that.

Let's discuss the 57 new staff members and what that's all about, and also the $5 million appropriation for PBM regulation.

Is that an ongoing 5 million, or is that what it's going to cost to regulate PBMs? And where do we expect to get the money to do so?

DFS SUPERINTENDENT HARRIS: Absolutely. Thank you, sir.

So the 57 is for additional head count in DFS agency-wide. And of course a subset of that will go to the new PBM bureau that I'm so happy we now have the ability to stand up. But that number of 57 FTE is for agency-wide needs that we have here at DFS so we can best regulate the financial services industry.

And then as you know, sir, much of DFS or all of DFS is funded, as I noted, through assessments on industry. So this $5 million that is appropriated will be to get things rolling for PBMs. And then I think that we'll see as that authority -- as we move from registration to licensing, as we kick off more investigations, as we start to bring enforcement actions, if we need to revisit that number.

ASSEMBLYMAN CAHILL: Well, thank you.

And I will reserve on the commuter vans till I come back. But I will say that $5 million is a relatively minor investment for what is likely to be the tens of millions, if not hundreds of millions that consumers will save by taking this shadow industry out into the light of day.

Thank you very much. I know this wasn't as much fun for my colleagues as the mud wrestling that has occurred in other years when it came to conversations with the DFS superintendent, but trust me, it has been more enlightening and a great pleasure for me. So thank you very much, and I'll see you when all my colleagues are done.

DFS SUPERINTENDENT HARRIS: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

I've never seen Kevin Cahill be so nice before. So nice to see you today, Kevin.

(Laughter.)

CHAIRWOMAN KRUEGER: I didn't just say

that. I really didn't.

Senator Rachel May.

SENATOR MAY: Thank you, Madam Chair.

And greetings, Commissioner.

I wanted to start off with a question about the $750,000 in the budget to establish the Financial Exploitation Protection Program for older New Yorkers. We also just passed my bill to add identity theft to the definition of elder abuse. What do you see as the timeline for getting that program underway, and how many people do you think it will support?

DFS SUPERINTENDENT HARRIS: Yeah, thank you for that. It's an incredibly important issue, making sure we can protect our seniors, and we have a number of ways we do that here at DFS. Certainly through financial fraud and enforcement is one way. But that shows up where, when we get complaints or it's part of our targeted investigations and targeted exams, we uncover that elders have been defrauded of their retirement savings or of their nest egg.

And so we are already doing a lot of that work, but I think the additional monies will help support our data collection efforts and education that we can provide to elders in New York. And we're working very, very closely with the State Office for the Aging on these new programmatic features I think we can offer, including the bill-pay and other things.

SENATOR MAY: Okay, great, thank you.

And then turning to health insurance, so like many of my colleagues I support a single-payer health system, but for now we've got I guess 96 health insurance companies that you regulate. The last annual report was in 2019. I hope there's a new one about to come out. But all it lists is the premium amounts that they raise. And I'm wondering if you analyze somewhere and can provide information on how much profit they're taking, indicators of success like actual health and wellness of their customers or health disparities among different demographic groups, is that -- do you do that

kind of due diligence with these companies?

DFS SUPERINTENDENT HARRIS: We work very closely with DOH, as they're really the experts on care providing and the providers.

When it comes to the insurers, we do set the rates here at DFS. And I will tell you two things, or a number of things. One, the rate increases for 2020 and 2021 were the lowest since 2010. But they're nonetheless increases, of course. And what I will tell you is we work incredibly hard to balance rate increases with the safety and soundness of the institutions. Because of course one of the best consumer protections that we can offer is to make sure that there's money at the end of the line when people are filing claims. But for health insurers --

SENATOR MAY: Okay. Sorry, I'm just going to break in and say one other thing that I want to mention, which are the Municipal Cooperative Health Consortia. Governor Cuomo directed DFS to publish guidance to make it easier to create these consortia back in 2018. I'm wondering if

that's been done.

I know I'm running out of time, but if you can get back to me about that, that would be great. Because I think they save a lot of money for municipalities and school boards.

DFS SUPERINTENDENT HARRIS: Happy to come back to you on that.

SENATOR MAY: Thanks.

CHAIRWOMAN KRUEGER: She will come back to you on that. Thank you, Senator May.

Next, Assemblywoman.

CHAIRWOMAN WEINSTEIN: Yes. We have -- Assemblyman Gottfried has a question.

ASSEMBLYMAN GOTTFRIED: Yes, thank you.

Superintendent, the budget language calls for health plans to have an adequate network of telehealth providers. A concern is that a health plan might have a separate network of telehealth providers, perhaps, you know, a company that is doing it on the cheap. And the question is, should consumers have the right to go to their own doctor or other provider who is in-network who provides

telehealth services?

In other words, do providers who are already in-network, should they have a right to be in-network for telehealth?

DFS SUPERINTENDENT HARRIS: Yes. And I'll make sure I don't get over my skis, but I believe as a provider if you're in a network, you can choose your delivery mechanism, including choosing the platform over which you choose to deliver telehealth.

So I will make sure we come back to you on any data about separate networks. But I know that providers do have the option to provide care in-person, where appropriate, or over telehealth.

And we're working very closely with DOH and others to make sure people can access the platforms they need to provide telehealth, and those platforms often provide training for providers. So much now -- I mean, with the pandemic, people have become very accustomed to virtual life, as we all have. But the platforms that service those providers will often provide training for

them so they know how to use them and connect with patients that way.

And they also understand how to weave in compliance with HIPAA. So we make sure that those platforms work closely with DOH and others to make sure those platforms are secure and that patients don't have to worry about compromise of their medical information because they've chosen to engage with providers via telehealth versus in-person.

ASSEMBLYMAN GOTTFRIED: Okay, thank you very much. That's it.

DFS SUPERINTENDENT HARRIS: Thank you.

CHAIRWOMAN WEINSTEIN: Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

Senator Gustavo Rivera.

SENATOR RIVERA: Hello. Thank you, Madam Chair.

And hello, Commissioner -- Superintendent, apologies. I always forget. Superintendent, not commissioner.

I have three things. Number one, on

telehealth, since there are different areas of law where telehealth is included, it is both in Insurance Law and in Public Health Law. I want a little bit of clarity on the Governor's proposal, since there's like -- it seems that certainly as it relates to OMH and OASAS, they have the -- they would be at the discretion -- it's at the discretion of those agencies while there's things that are under Insurance Law. So I want a little -- I'm very supportive of it, I have a bill that actually would do exactly this. And it would go a little bit farther, but, you know, we'll get to that now.

But what exactly does the proposal do, particularly in relation to those two things?

DFS SUPERINTENDENT HARRIS: Yeah, so I will -- when it comes to DFS, our responsibility is to make sure that the network of telehealth providers is adequate, that there is payment parity, and that providers are being reimbursed at the same rate as they would for in-person provision of services.

And so I don't -- I'm happy to work more with you to understand sort of what the overlap is and in fact where there may be contradictions so we can make sure that those are worked out appropriately.

SENATOR RIVERA: Particularly since -- a quick clarification, Madam Chair. Do I have only three minutes? Okay, because Dick got 10. But I'll be quick.

CHAIRWOMAN WEINSTEIN: No, that -- you should stop the clock. It was a mistake, and Dick actually only used two and a half minutes.

SENATOR RIVERA: Okay. So we will dig into that deeper later, then, because there's another one that I absolutely -- you can start the clock again. This one definitely I want to talk about.

As you might be familiar, we passed a bill related to the opioid settlement fund, right, last year. And we're in the -- and that relates to legal action that the Attorney General takes, and the money goes there. However, as I understand it, you

folks have the ability to, in your own agency, to follow your own -- to do your own legal processes and to get your own settlements.

So could you tell us a little bit about -- I mean, if you're familiar with the opioid settlement fund, the goal of it was to make sure that the money is used strictly for treatment, for harm reduction, for recovery. Can you tell us about the commitments that you might be willing to make publicly related to whatever funds you're able to get so that it's used for those purposes as well? Even though you're not, you know, statutorily required to do so.

DFS SUPERINTENDENT HARRIS: Absolutely. And I will say, you know, we brought our own opioids action under the guise of insurance fraud, right, where that was the case. So it's slightly different legal claims, as you know, from the AG.

Typically funds from our enforcement actions go to the General Fund. And DFS, since its inception, has contributed, because

of enforcement, about $11 billion to the General Fund. So -- and as I said at the top, we're funded through assessments from industry and then we contribute, through enforcement actions, back to the General Fund.

And we'll have to come back to you on our opioid settlement money, whether it becomes part of the AG's fund or if it, like other enforcement money, goes to the General Fund. But we'll get the clarification for you.

SENATOR RIVERA: Let's make sure to follow up on that.

And then I'll ask you offline about the No Surprises Act. I've got a couple of questions on it, but I'll ask you offline.

Thank you. Thank you, Madam Chair, and thank you, Superintendent.

CHAIRWOMAN KRUEGER: Thank you.

Back to the Assembly.

CHAIRWOMAN WEINSTEIN: We now have actually a number of Assemblywomen who have questions. And we'll start first with

Assemblywoman Hunter.

ASSEMBLYWOMAN HUNTER: Good afternoon. Thank you, Chair Weinstein.

And congratulations on your confirmation, Superintendent Harris. I look forward to working with you.

I have a few questions. One, we have a significant antiquated insurance delivery process here in New York State. Many people think that it needs to be in-person and there are brick-and-mortar places for people to get insurance. And wanted to know, what is your department going to do to help younger people be involved in getting financially literate? And a lot of transactions younger people want to do on the phone, which is not necessarily eligible in some of the insurance products that are available.

And then also wanted to ask -- I know I had a conversation with someone from your office relative to -- a very wonderful conversation relative to insurance and climate. And just wanted to see what further steps are you going to be taking focusing on

communities that have been impacted by natural disasters like the increased flooding, fires? And what we can do to make sure that ratepayers who are not affected in some of these coastal areas aren't paying the burden of the increased rates?

Thank you.

DFS SUPERINTENDENT HARRIS: Absolutely. Thank you.

In terms of getting insurance over the phone, I'd love to come back to you and get more specifics. But what I will tell you is that whether insurance can be bought over the phone, through an app, online, in person, all the same rules apply regardless of the delivery mechanism. And to your point, consumers, New Yorkers should have the ability to choose how they want to get their services. And the same is true for banking, which I know is not our topic here today, but whether people want to do that on their computer, on their phone, in person, all the regulations should be equally -- are equally as stringent and apply to those providers

regardless of that delivery mechanism.

But certainly if you have a constituent who's having trouble securing insurance in some way, we're happy to work with your office to run that to ground, either through our consumer assistance unit or more directly if that's helpful.

On climate --

ASSEMBLYWOMAN HUNTER: I guess the issue I guess really rounds out to financial literacy and working to get younger people more versed in financial literacy. But the climate question.

DFS SUPERINTENDENT HARRIS: Yeah, the climate question.

And just very, very quickly, we now have as part of the Executive Budget a funded SOFIE office, a State Office for Financial Inclusion and Empowerment. So that's going to be a great vehicle for financial literacy and education.

On climate, as you know, one of the first things I did when I came into DFS was to stand up a standalone climate division,

the first of its kind in the nation. I went out to Queens, I went to Westchester and toured areas that were hit by Ida. My team has been in conversations with folks in Ulster County, the county execs, other local officials around the snowstorm up there, as we anticipate some claims coming there.

But there's a lot we can do and -- I'm cognizant of the time, but there's a lot we can do around climate to make sure particularly those communities that are disproportionately impacted by climate change are well protected.

We do have a good set of briefings here at DFS on flood in particular that we're happy to walk you or any of your colleagues through at any time.

CHAIRWOMAN KRUEGER: Okay, the Assembly's done. I'm going to jump to the Senate. Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator Krueger. Good to see you, Superintendent.

I want to talk to you about an issue

that you have now inherited from the previous superintendent. It's an issue I started working on a few years ago, and the previous governor adopted it through the budget process. And usually when that happens, it doesn't actually get done the way we originally intended. It's the expansion of IVF coverage for all New Yorkers. And what happened was the bill or the program that was adopted was that you had to be -- you had to attempt to get pregnant through the traditional process for up to six months before you were determined to -- you just jumped around there -- before you were determined to be infertile and before you would be eligible for IVF coverage.

As a result of that restriction, though -- and we also extended fertility preservation for those who might be suffering from a debilitating disease that would impact their fertility.

So that was a wonderful thing, but we left out certain groups of people, particularly the LGBT community, because of

course they don't engage in traditional ways of getting pregnant. We also don't cover things like patients who might have a genetic mutation which would make them not want to reproduce their own genetic material.

And so we've requested, I believe from your office, a clarification -- maybe an amendment through the regulations -- to expand this really important coverage so that all New Yorkers have real access to IVF coverage. So I'm not sure if you've had an opportunity to look at that. And if you haven't, please do so and get back to me. But if you can share any insight on it, I would really appreciate it.

DFS SUPERINTENDENT HARRIS: Sure, happy to. And good to see you again as well.

For infertility coverage generally, everybody is eligible for coverage on day one, and principles of non-discrimination apply here as they do in other areas of insurance law. So a same-sex couple is eligible on day one for infertility coverage.

For IVF, as I'm sure you know, we have

IVF coverage for large-group plans, for small-group plans and self-funded plans, right. There's the issue of the state fiscal or the essential health benefits which have to go through CMS on the federal level. But for large-group plans, IVF coverage is included.

On the other things you mentioned, I'm happy to run those to ground with the team and make sure we're circling back very quickly.

SENATOR SAVINO: Because under the statute that we adopted, I think it was the budget in 20 -- it might have been 2019, the language that was in there was though that the individual, in order to trigger the coverage for in vitro fertilization coverage, you had to attempt to get pregnant through traditional methods for at least six months before you would be eligible for this.

So obviously that does leave certain people out. And again, it also doesn't address the issue of people who don't want to reproduce their own genetic material because

of genetic mutations.

So again, if you could find out and get back to me, I would really appreciate that. Thank you.

DFS SUPERINTENDENT HARRIS: Of course.

CHAIRWOMAN KRUEGER: Thank you very much, Diane Savino.

Assembly?

CHAIRWOMAN WEINSTEIN: Yes, we go now to Assemblywoman Hyndman.

ASSEMBLYWOMAN HYNDMAN: Thank you, Chair Weinstein. And congratulations, Superintendent. The box has changed -- congratulations, Superintendent.

I'm really pleased to see in the budget the commuter van stabilization pilot program. I'm just muting myself on another Zoom, sorry. And as you know, because we -- I've been dealing with your office before you got there, you know, through the chair of the Insurance Committee in the Assembly and his good work, we were able to -- the process had started before with trying to help the commuter vans, and then the pandemic hits,

and now we are faced with commuter vans who are unable to operate because they're unable to get back what they lost.

So we're happy to see this $11 million. And has there been any more talk about how the commuter vans would apply for this money once it's passed, hopefully in both houses, how it gets to the actual commuter van operators?

DFS SUPERINTENDENT HARRIS: Yeah, absolutely. Thank you so much. This is an incredibly important transportation issue. Insurance is obviously a big part of this issue. But it's an issue that's been around for many, many decades with the commuter vans worsened, as you noted, by the pandemic.

The fund is meant to subsidize --

(Zoom interruption.)

CHAIRWOMAN KRUEGER: I'm sorry, off --

ASSEMBLYWOMAN HYNDMAN: Brad, mute your --

CHAIRWOMAN KRUEGER: Thank you.

DFS SUPERINTENDENT HARRIS: The fund is meant to help do a couple of things,

including subsidize insurance costs for these vans, and also to provide for additional safety features in the vans. Because we know when they have accidents, unfortunately, they tend to be very terrible accidents. So they're meant to help provide additional safety features -- cameras, seat belts, things like that that we see in other sort of mass transit vehicles.

The program will be a five-year pilot program, and at the end of it we'll have a study that takes a real look back over the decades of this issue. As I said, it has been an issue around, as I understand it, from the nineties. And ESD will be responsible, working closely with us at DFS, DOT, MTA, TLC, the Legislature and others.

So we think about the criteria for designing this program because we want to make sure, of course, that it's the legal operators that have access to this program and it's not so many of the illegal vans that are currently operating. So there's a lot of work to do I think to design the parameters

of this program. But I'm incredibly grateful for the engagement we've had on this issue, given the importance of the topic.

ASSEMBLYWOMAN HYNDMAN: And thank you.

In my remaining time I would just like to follow up with Member Hunter's questions when it comes to young people and accessing insurance and financial education. I just wanted to plus-one that and follow up with your office on that.

Thank you, Chair Weinstein.

DFS SUPERINTENDENT HARRIS: We look forward to standing up SOFIE as a part of this budget so that we have that opportunity to provide education to New Yorkers.

ASSEMBLYWOMAN HYNDMAN: Thank you.

CHAIRWOMAN WEINSTEIN: Back to the Senate. Thank you, Assemblywoman.

CHAIRWOMAN KRUEGER: Thank you.

Senator Cleare.

SENATOR CLEARE: Yes, congratulations, Superintendent. It is great to see you.

I just have some questions related to telehealth. You kind of brushed on this

earlier, and there would be training provided for providers. But does it cover training for patients as well as does it cover the cost of broadband and/or of the device? I'm not sure -- I don't understand the totality of it. But I'm just concerned about it covering the broadband, the device cost and the training cost.

DFS SUPERINTENDENT HARRIS: Yeah, absolutely. So typically what happens is the telehealth provider -- so think about the Zoom for physicians -- will provide training to the providers on how to use the portal. But I think your concern about making sure then that consumers and patients know how to use it is incredibly well founded.

So I don't know that that's part of the proposal, but it's something I look forward to working with you on, and we can obviously come back to you with more detail on it.

In terms of broadband coverage, the Governor has proposed this $30 a month program on broadband. Which doesn't fall

into DFS purview, but we're happy to provide your office with more details and work with ESD and others, who I believe are responsible for that.

But there is a much broader, as you indicate, problem around broadband access. Telehealth and tele-education, right, are only as good as the broadband networks, and this is an issue not just in urban areas of the state but certainly in rural areas of the state as well.

SENATOR CLEARE: Thank you.

CHAIRWOMAN WEINSTEIN: We go to Assemblywoman González-Rojas.

CHAIRWOMAN KRUEGER: Thank you.

ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Can you hear me? Okay, great. If you can just set the clock -- great.

Thank you, Superintendent, for being here. In the Executive's proposal I was so excited to see language related to the amended Insurance Law that it requires private insurance plans to cover abortion services -- you shared this in your

testimony -- without cost-sharing. I introduced legislation on this last year, so again, thrilled to see it in the budget.

However, there is language that allows the superintendent to grant an exemption if it affects federal funds that are not included in the budget language. So I've done a lot of federal work on reproductive justice, and it sounds really similar to the Weldon Amendment, which the U.S. Health and Human Services can refuse to enforce -- has refused to enforce because it creates barriers to abortion care.

So I would ask, would the Executive be willing to remove this language? Because it's really important to ensure, you know, coverage without this barrier presented.

DFS SUPERINTENDENT HARRIS: Yeah, absolutely. I think -- happy to work with you and collaborate with your office and your colleagues as part of the one-house proposals, and of course take this back to the Executive as well.

ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Great.

DFS SUPERINTENDENT HARRIS: I will note, as you know, there is the very limited religious employer exemption. But just so that folks know, and I'm sure you know this, for employees for religious employers, they are able to get riders to their insurance coverage so that they also get coverage for abortion services with no cost-sharing.

And it's currently the topic of litigation, so I won't say too much more, but just so that folks understand that that is also available for employees of religious employers.

ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Yeah, I'm familiar with that through the national work, so thank you for mentioning it.

I do want to clarify, does this remove the medically necessary language that would sort of give a reason for, you know, having an abortion? Because that's something my bill would remove.

DFS SUPERINTENDENT HARRIS: Yeah, as I understand it, all -- the medically necessary is not narrowing, in that it's applicable

throughout insurance coverage. Right? There's always sort of a clinical review.

But happy to engage with you more on that so we understand the technical definitions there. But all healthcare provision is subject to this review by insurers. But I think you're concerned that we make sure that people don't use it to unnecessarily and unfairly narrow the protection. It's very important.

ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Exactly. We don't want to sort of leave that up to insurers to determine what is and what is not medically necessary for a person who is pregnant.

So, all right. Thank you so much.

DFS SUPERINTENDENT HARRIS: Thank you.

CHAIRWOMAN WEINSTEIN: Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

Senator Kaminsky.

SENATOR KAMINSKY: Hi, Superintendent, how are you?

DFS SUPERINTENDENT HARRIS: I'm well. How are you?

SENATOR KAMINSKY: Good, thank you.

A question for you about cryptocurrency. I'm hoping you can tell us how you --

CHAIRWOMAN KRUEGER: I'm sorry, Todd, this only is about the insurance questions today, not the financial side of DFS.

SENATOR KAMINSKY: I understand. Then I will switch to my other question. Thank you, Chair Krueger.

CHAIRWOMAN KRUEGER: Thank you so much.

SENATOR KAMINSKY: We have been working for a while on the issue of parity for mental health services. DFS has undertaken a study by statute. Yet I'm still hearing from practitioners and parents that it's taking months just to get an appointment if you have an adolescent with mental health needs. We're hearing that it's still better to receive Medicare than -- sorry, than private insurance, it's just too

many people don't have it.

There's just a significant gap in mental health coverage, and especially with parents of adolescents who find themselves in trouble and needing help. They are not finding this to be a consumer-friendly market, and we could use some help.

DFS SUPERINTENDENT HARRIS: Happy to work with your office on any particulars and make sure that we're running those to ground on behalf of your constituents.

And on the issue more broadly, it is a network adequacy question. So where insurers are in violation of network adequacy, we can investigate that and look to make that better for all New Yorkers. So thank you for raising that.

And happy to circle back with you offline on crypto questions.

SENATOR KAMINSKY: Okay, we'll do that. Thank you so much.

DFS SUPERINTENDENT HARRIS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblywoman Reyes.

ASSEMBLYWOMAN REYES: Thank you, Helene. Thank you, Superintendent Harris.

I actually only have a question on the financial side of it, and it's one question, if I'm allowed to get it in.

CHAIRWOMAN WEINSTEIN: If it relates to health.

ASSEMBLYWOMAN REYES: It does not.

CHAIRWOMAN WEINSTEIN: No. No, so you'll -- we can do that offline, along with the --

DFS SUPERINTENDENT HARRIS: I'm happy to reach out offline.

ASSEMBLYWOMAN REYES: Okay, will do. Thank you.

CHAIRWOMAN KRUEGER: Sorry.

CHAIRWOMAN WEINSTEIN: Okay. Well, we still have more.

CHAIRWOMAN KRUEGER: Keep going.

CHAIRWOMAN WEINSTEIN: Assemblywoman Niou.

ASSEMBLYWOMAN NIOU: Thank you so

much.

So just to clarify for everyone, since we seem to have multiple questions on this, the abortion statute that -- that's putting in statute what is already a DFS regulation mandating abortion coverage without cost-sharing, right?

DFS SUPERINTENDENT HARRIS: Correct.

ASSEMBLYWOMAN NIOU: And that was done in 2017, so it's a new mandate, just making it a statute.

DFS SUPERINTENDENT HARRIS: Yes. It's solidifying the protection in statute.

ASSEMBLYWOMAN NIOU: And before the regulation, DFS required abortion coverage in model policies?

DFS SUPERINTENDENT HARRIS: I'd have to double-check, but I believe that's the case.

ASSEMBLYWOMAN NIOU: So I just wanted to clarify, because we were going a little bit in circles so I wanted to make sure that folks understood that. And it's not new, it's just to put it back into statute and

that's all.

So thank you, Liz.

And I just wanted to follow-up a little bit on Senator May's question, because I thought it was really good, about consumer protections during this time. Because right now we are seeing like, you know, so many different folks are being taken advantage of in our communities, and this is something that we have seen over and over and over again.

And so what are some of the key issues in insurance for I guess the resource allocations and for our consumer protections? But also, like, wanted to see if you were supportive of the UDAAP update, which is part of the Consumer and Small Business Protection Act that we are actually trying to push through in both houses. And I also think that that's like something that I think, you know, is very important right now because we are seeing that people can't make ends meet.

DFS SUPERINTENDENT HARRIS: Yeah, absolutely. No, I think you're absolutely

right. There were so many inequities, disparities that have long existed and that were exacerbated by the pandemic, and people like to act like the pandemic made those things brand-new when in fact, right, there's a lot of these things that have been existing for far too long.

So we have a number of things under our purview at DFS to help address those things. I think, you know, we talked quite a bit during my confirmation hearings about UDAAP and some of the ways that that could be helpful in helping DFS bring some of its enforcement action, where there are bad behaviors that fall just sort of outside of our authority and where UDAAP --

ASSEMBLYWOMAN NIOU: Like the Attorney General's office would be really great in being able to bring those to the fore.

(Overtalk.)

DFS SUPERINTENDENT HARRIS: So we're always happy to provide technical assistance on any bills. I think UDAAP authority generally will be a good thing for DFS and

for New Yorkers.

ASSEMBLYWOMAN NIOU: Great. Thank you so much. I appreciate your answer on that because I think that, you know, that's something that's really key. You know, and this is kind of hovering on both ends, on the financial part and on the insurance part. But like I know that this is something that's really important, especially when it comes to insurance and when it comes to healthcare.

So also, you know, funding the New York CDFI Fund, we've seen, you know, folks really like are --

CHAIRWOMAN WEINSTEIN: Ahhh, you are veering away from health there --

ASSEMBLYWOMAN NIOU: No, it's not veering away from health. And you're taking my time.

(Laughter; inaudible overtalk.)

DFS SUPERINTENDENT HARRIS: I'm always happy to circle back and talk about CDFIs.

(Laughter.)

DFS SUPERINTENDENT HARRIS: Happy to talk about CDFIs offline and the CDFI Fund

and the things we've done and plan to do.

ASSEMBLYWOMAN NIOU: Okay. And I think that the other thing is also our constituents are being really hit hard, especially seniors, on the rent-a-bank schemes. So what is DFS's -- what is DFS doing about ending those and those licensing that are evading those New York licensing?

CHAIRWOMAN WEINSTEIN: Unh, unh, unh.

ASSEMBLYWOMAN NIOU: This is like really, really -- this is tied in. Seriously.

CHAIRWOMAN WEINSTEIN: Right, okay. Let's see how we get this answer related to health.

DFS SUPERINTENDENT HARRIS: Wow, this is going to be a challenge to sort of tie this to health.

So I think usury laws should be -- the state usury laws should be enforced and leveraging a charter from another state should not get anybody around state usury laws or other consumer protections. And where there's a corollary in health

insurance, I think, you know, we should be enforcing New York laws as well.

CHAIRWOMAN WEINSTEIN: Very good.

DFS SUPERINTENDENT HARRIS: Happy to talk more offline about --

ASSEMBLYWOMAN NIOU: I'm happy to talk to you about it offline. I just wanted to -- I mean, I felt like it was very important to connect it because our seniors are getting ripped off.

(Overtalk.)

CHAIRWOMAN KRUEGER: You should have just said not ripping off seniors leaves them more money for healthcare and moved on.

(Laughter.)

ASSEMBLYWOMAN NIOU: Okay, thank you. Thank you, Senator.

CHAIRWOMAN KRUEGER: Thank you. Where are we?

CHAIRWOMAN WEINSTEIN: Back to the Senate.

CHAIRWOMAN KRUEGER: Senator Gounardes. Are you there, Senator Gounardes? You were a second ago. I see your picture

but not you.

All right, we're going to go on to Senator Liu, and we'll see if we can come back to Senator Gounardes.

SENATOR LIU: Madam Chair, can I ask about CDFIs?

CHAIRWOMAN KRUEGER: No.

SENATOR LIU: Can I ask about commuter van insurance?

CHAIRWOMAN KRUEGER: About what?

SENATOR LIU: Commuter van insurance.

CHAIRWOMAN KRUEGER: No, let's stick with healthcare insurance.

SENATOR LIU: I mean, these are potentially issues of mental health.

CHAIRWOMAN KRUEGER: You could take a stab at it, but I'll let Helene shoot you down.

SENATOR LIU: Let me just congratulate the superintendent on her confirmation and look forward to talking about a lot of insurance-related issues with you, since I'm barred by our chairs from asking insurance-related questions today.

DFS SUPERINTENDENT HARRIS: I look forward to that as well.

CHAIRWOMAN KRUEGER: This was three-way agreed with the Governor's office, I'm just telling you. Okay. Sorry, please answer, Adrienne.

SENATOR LIU: It's not for me to break agreements.

DFS SUPERINTENDENT HARRIS: I look forward to working with you as well, sir, on a host of issues. And I know you have great expertise in the area, so I look forward to leveraging that on behalf of New Yorkers.

CHAIRWOMAN KRUEGER: Are there other questions, John?

SENATOR LIU: I do, I have a lot of other questions. I don't know if you and Helene will consider them health-related, but can I ask them?

CHAIRWOMAN KRUEGER: No. No. If you know they're not health-related, no.

(Laughter.)

CHAIRWOMAN KRUEGER: But you know what, as you've just heard from several of

your colleagues, this superintendent is extremely easy to get ahold of and will be -- she's going to shake her head yes, she'll be happy to talk about these with you offline. I have her confirmation. We're all watching her head shake.

DFS SUPERINTENDENT HARRIS: Yes.

SENATOR LIU: I can hardly wait.

CHAIRWOMAN KRUEGER: And I'm going to hand it back to the Assembly.

CHAIRWOMAN WEINSTEIN: We only have Assemblyman Cahill for his -- are you finished, then, Senator?

CHAIRWOMAN KRUEGER: No, we have Senator Gounardes, who's re-arrived, and myself --

CHAIRWOMAN WEINSTEIN: Okay, so Assemblyman Cahill for his second round, three minutes.

ASSEMBLYMAN CAHILL: Thank you very much. I'm sorry I was distracted with another piece of business.

Superintendent, let me find you on this Brady Bunch screen here. I mentioned in

my first round that I wanted to discuss with you the commuter van issue. We know that there has been an extremely difficult problem with commuter vans in certain parts particularly of New York City. So --

CHAIRWOMAN WEINSTEIN: Kevin? I'm sorry, because we've been limiting the questions just to health insurance. Even though I share your concerns about commuter vans, this isn't the proper forum for that discussion, unfortunately.

ASSEMBLYMAN CAHILL: Madam Chair, traditionally the only opportunity we have to discuss anything with the Department of Financial Services is the -- is this hearing. And this is an important issue. And quite frankly, it does have health ramifications, because if people can't get around --

CHAIRWOMAN WEINSTEIN: Well, then, you know, if people can't get to their healthcare appointments because of commuter vans, why don't you figure a way to say that.

ASSEMBLYMAN CAHILL: Superintendent, I'm asking you about the way people get to

healthcare in their communities because of commuter vans. So if we can discuss helping to keep that industry moving.

I know that the Governor has proposed an $11 million program. That seems like a very, very substantial amount of money for the 300 vans that would be involved. My first question on that subject is, would it also help people in other parts of the state in terms of other means of transportation where there are transportation deserts that would prevent them from accessing healthcare?

DFS SUPERINTENDENT HARRIS: I've got to tread very carefully here. But so the program is designed for -- at least as it's proposed in the Executive Budget -- for the commuter vans, so that people may get access and transportation to their healthcare providers, mental health providers and other things, should they choose to do that in-person versus via telehealth.

It is -- the number we proposed is for the first year of a five-year program, and it was determined calculating what AIPSO, a

national organization, told us was the premium required to cover the higher-than-average losses, loss ratio presented by the commuter vans, and what the commuter vans were previously paying to an insurer that has since become insolvent.

So it was designed to cover that delta and to make the insurance more affordable for these incredibly important transportation options, as well as to provide some monies to increase safety and security in the vans.

And then as part of this -- and I believe this will show up as part of the 30-day amendments, we will also then do a study at the end of the five-year pilot to look back over the many, many years that this has been an issue and to provide transparency to the Legislature and other stakeholders.

ASSEMBLYMAN CAHILL: Thank you, Superintendent. I have to conclude here, but I will follow up with you in a different forum where we are allowed to talk about this in all contexts. Thank you, everybody.

CHAIRWOMAN WEINSTEIN: Perhaps the

Insurance chairs would like to host a hearing.

ASSEMBLYMAN CAHILL: Possibly.

CHAIRWOMAN WEINSTEIN: What a novel idea.

(Laughter.)

CHAIRWOMAN KRUEGER: What a great idea. To the Senate.

DFS SUPERINTENDENT HARRIS: I think -- and we actually have, I should put in a plug, we I think actually have a meeting coming up, so I'll make sure that everybody who's interested has the invite to that where it will be the chamber, DFS, AIPSO and others, to talk about this issue.

CHAIRWOMAN WEINSTEIN: To the Senate.

CHAIRWOMAN KRUEGER: Thank you.

We've been visited again by Senator Gounardes.

SENATOR GOUNARDES: Thank you, Senator Krueger. And I apologize, I missed the roll call before.

Hello, Commissioner, good to see you again -- Superintendent, rather.

My question is bankruptcies across this country, one of the leading drivers of bankruptcies are unaffordable healthcare costs. And that's true everywhere in the country; it's especially true here in New York as well. And we know from lots and lots of data that one of the significant drivers of escalating healthcare costs are the skyrocketing costs and the inconsistent costs of hospital care. I know we've talked a little bit about it at this hearing, the wildly fluctuating amounts of costs attributed to hospitalizations for similar outcomes.

So my question to you, as DFS commissioner, you know, there's been a lot of study and data to show that a lot of the drivers of these costs are linked to anti-competitive contract provisions between insurance companies and hospital networks. Now, using your jurisdiction over the insurance industry, I'd really be curious to know if you've taken a look at the problem of skyrocketing hospitalization costs and

healthcare costs as it relates to the use of anti-competitive and anti-consumer contracting provisions that you have jurisdiction over.

DFS SUPERINTENDENT HARRIS: Absolutely. Thank you so much, Senator, for that question.

So DFS does not have jurisdiction over the contract negotiations between hospitals and insurance companies. We have in the past used our convening authority to help keep the parties at the table when they might otherwise walk away, but that really is an exercise of our soft powers and not our statutory authorities.

I will tell you we -- in other contexts, especially when we think about mergers and acquisitions or change of control in the insurance industry, including with health insurers, we have rigorous criteria that we use to assess those acquisitions or those changes of control, including the best interest of patients or policyholders. And I have used that provision of law to make sure

that community stakeholders were included at the table to voice their concerns to the parties engaged in the transaction.

And so far during my tenure we've had great success leveraging that prong of the law to bring community stakeholders to the table, including securing many community benefit agreements -- in contexts that we can discuss offline and not here -- but also in the insurance context, where we were able to incorporate commitments around consumer protections on data sharing and other things.

As you're alluding to, healthcare costs -- of course we've talked about the cost of prescription drug prices and our new PBM authorities, which I think will help keep those prices low, or lower. And of course I think the issue of antitrust is an incredibly important one here, and if the Legislature looks to put forward an antitrust bill, we're happy to provide technical assistance where it touches on our authorities.

SENATOR GOUNARDES: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We have Assemblyman Anderson.

(Pause.)

CHAIRWOMAN WEINSTEIN: Khaleel, I saw your hand is up. Are you here with us? Going once, going twice, and three times -- it is back to the Senate.

CHAIRWOMAN KRUEGER: All right, thank you. I believe I'm the last Senator --

SENATOR HOYLMAN: I have a question, Senator.

CHAIRWOMAN KRUEGER: Oh, excuse me. Then I will allow Senator Hoylman to go first, please.

SENATOR HOYLMAN: Thank you. Thank you, Senator. Thank you, Chair, I appreciate it.

Good afternoon, Superintendent. I wanted to ask you a question -- this is from personal experience -- about neuropsychological evaluations for children. You may or may not know that when a parent seeks a neuropsychological evaluation,

generally speaking it's only covered if it is considered medical in nature. So head trauma or some other physical evidence is required.

But if a parent is concerned, for example, as my husband and I were, that our child might be dyslexic, we are not covered for such an evaluation. And what the real sticking point is is that these evaluations cost upwards of $7,000 to $10,000.

Any assessment on how we can move the needle on coverage for so many parents who are desperate to have their child evaluated but yet can't afford to get into the doctor's office because of the lack of coverage from insurance?

DFS SUPERINTENDENT HARRIS: Yeah, thank you. It's an incredibly important issue. I think like you, I have some personal experience with this, including a -- and I won't take up too much time, but including a very close personal friend who didn't get diagnosed until he was well into adulthood because his parents could never afford the evaluation.

So it's not something I'm well versed in, but happy to dig into it and come back to you and partner on some solutions here.

SENATOR HOYLMAN: I would love that. Thank you so much.

DFS SUPERINTENDENT HARRIS: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Should we look for Assemblymember Anderson again?

CHAIRWOMAN WEINSTEIN: We'll give him one more chance.

Assemblyman Anderson. There he is.

ASSEMBLYMAN ANDERSON: Thank you. Sorry about that. Sorry about that, Chairwoman.

CHAIRWOMAN WEINSTEIN: No problem.

ASSEMBLYMAN ANDERSON: Can you hear me?

CHAIRWOMAN KRUEGER: Yes.

CHAIRWOMAN WEINSTEIN: Yes, we can.

ASSEMBLYMAN ANDERSON: Okay. Thank you so much, Superintendent, for being here. Congratulations on your new role. I think you're a first, so congratulations on being

the first African-American woman in the role, in the position.

So I had two questions, and I will try to be brief. I know that the Governor included a pilot program to help address the insurance issues that many of our commuter vans are facing across the state. And so I wanted to just get a sense of what your commitment is to help in ensuring that, one, that program is successful, but two, we make sure that it achieves its objectives and its goals, and that's to help keep insurance rates down for commuter vans. Because as we know, much of our state -- much of the city as well -- are transit deserts. So I wanted to get a question answered on that first.

And I know we're not doing banking, but just throwing it out there, I'm big on public banks and I hope that you take a position on it.

DFS SUPERINTENDENT HARRIS: Thank you so much. I'm incredibly gratified that we've got this program now on commuter vans because they are so important for helping New Yorkers

get to their healthcare providers, among other things.

And so we've got $11 million in the current budget for the first year of a five-year program. And at the end of that five years -- and again, I believe it will show up in the 30-day amendments -- that we'll do a study to look back over the many, many years, because this has been an issue for so long, to add some transparency to the issue, to the history of rate increases.

We also have a briefing coming up for electeds -- so if you haven't received the notice for that, we'll make sure you get it -- on this issue. But we're going to be very keen to work with ESD, DOT, TLC, MTA, the Legislature to make sure that this program is designed well and can benefit this incredibly important transportation option.

ASSEMBLYMAN ANDERSON: Thank you, Superintendent. And I have one more question, since I have some time. I never do this, Chairwoman.

But in terms of mold and asbestos, I

know that Chairman Cahill had a piece of legislation -- or we have a piece of legislation that would allow for rental insurance to cover remediation. Do you have a position on that?

DFS SUPERINTENDENT HARRIS: Happy to work with you and your colleagues and have the department provide technical assistance on a bill that's an incredibly important issue, especially for underserved communities that I know are disproportionately impacted by mold and asbestos in the home.

ASSEMBLYMAN ANDERSON: And Superintendent, I know it's not a budgetary issue, but certainly I just want to hear your commitment to it should it become one, because I think it's really pertinent and important. People who have mold and asbestos in their unit, if we're paying all this money towards insurance companies, that it should be covered and remediation should be part of the coverage.

CHAIRWOMAN WEINSTEIN: Assemblyman Anderson, so as the commissioner -- as the

superintendent, rather, mentioned, there will be some follow-up meetings to discuss non-health insurance issues.

ASSEMBLYMAN ANDERSON: Thank you so much, Chairwoman. Thank you, Superintendent. Congratulations again.

DFS SUPERINTENDENT HARRIS: Thank you.

CHAIRWOMAN WEINSTEIN: Back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Although I was going to give him that; remediation of mold is actually a health issue, just for the record.

(Overtalk.)

CHAIRWOMAN WEINSTEIN: That's why I let the first part go, but then you were moving on.

(Laughter.)

DFS SUPERINTENDENT HARRIS: Happy to chat more about it.

CHAIRWOMAN KRUEGER: Okay, thank you, Superintendent.

Senator Gounardes brought up the issue of, you know, now we have 95, 96 percent of

New Yorkers covered by insurance, but it's not always clear that what insurance is paying actually can be affordable by people and get them the healthcare they need. And my concern is parallel to that same story. We in theory have these networks, and we have the Marketplace where you can take a look and try to figure out the right one if you have options. And then you discover none of the doctors really are taking new patients, even though they're listed on the Marketplace. Or they didn't even know they were listed as a member of that network, and they're not taking you.

And so I know there's cross-authority between Health and DFS, but I feel like the constituents get dropped through the cracks of being told they've bought an insurance plan or provided an insurance plan by their employer, they believe that they're in X network and can get Y doctors -- except they can't. And is there a role that DFS can be playing more aggressively to make sure if they say this doctor is in the network,

you're supposed to be able to get an appointment with them before you die?

DFS SUPERINTENDENT HARRIS: Yes. So one of the things I've done is we've proposed a regulation that required -- and this speaks to part of your issue but not all of it, so I'll make sure to address all of it. But part of this issue is for insurer directory misinformation.

And we've proposed a regulation that would hold consumers harmless if the directory says the provider is in-network and in fact they're out-of-network, and to hold the consumer harmless for that misinformation. And we'll be looking to adopt that regulation after the SAPA process.

That does not solve what you've highlighted, right, when you have a doctor or provider who's not taking more patients. And that goes to the network adequacy requirements, and I think also to a broader shortage of healthcare professionals, not just in New York but nationwide, that's going to require a whole-of-government approach to

remedy, especially when it comes to general practice physicians and providers in low-income areas.

CHAIRWOMAN KRUEGER: And I think it goes both directions between the insurance companies and the hospitals. So I'm very pleased that the Governor put in her budget a bill that I had to require that cancer centers be allowed into networks for people who are on the Marketplace. Because we learned that the best cancer centers in New York State, even though they were willing to get paid exactly what other insurance was paying and other hospitals were receiving, that they weren't getting allowed to be in any network on the Marketplace. Which seemed to me to be crazy.

So the Governor did address that in her budget. But I really do think -- that's why I think it's dual DOH and DFS, because the storylines fly in both directions.

DFS SUPERINTENDENT HARRIS: Yes.

CHAIRWOMAN KRUEGER: Related to that -- I think we did talk about this at

some point over the last few months -- we attempted to set up a system of long-term-care insurance in this state maybe 25 years ago. Longer, perhaps. And then we told everybody, sign up, it's great, and we really just hoped they would never have to go on Medicaid. And then the whole thing collapsed in on us, and the long-term insurance companies either went bankrupt, fled the state, or psychiatric skyrocketed their rates so high that no one can possibly afford to pay for their existing coverage, and so they negotiate for lower coverage at higher cost. And I don't even know if there's anybody buying new policies.

Is there something we can do? Do we just go, Well, that didn't work, or is there a second plan?

DFS SUPERINTENDENT HARRIS: Yeah. Well, two things, just very quickly on the note of cancer that you mentioned. I actually -- I lost my mother to cancer about 20 months ago, so that is an issue that's near and dear to my heart. Always look

forward to working with you and others around cancer care.

On long-term care, as you note, it's a longstanding and national issue. We just over last weekend and this weekend we're meeting with the National Association of Insurance Commissioners, and this topic took up hours of conversation. You're absolutely right, for the old closed books of business, right, the policies that people bought 20 years ago that they're now looking to bring claims on, they're faced with this terrible choice of increased rates or decrease in service, despite the fact that they've been paying into these policies for decades.

We at DFS do a lot of work to try and balance the rate increases with keeping these insurers solvent, as you noted, so that there is money at the end of the line to pay claims when people look to have those claims paid.

But for the newer books, the newer policies -- and people are in fact buying them, they're just -- they're much better

priced because people now have more experience with the cost of claims and long-term care. But for the existing policies, I know the Governor has signed into law a number of bills put forward by the Legislature to help address this issue, but there's certainly more work to be done there to protect seniors.

CHAIRWOMAN KRUEGER: Thank you. And thank you for your work on behalf of the state. And I believe that -- unless I see a new hand pop up -- the Senate is done.

CHAIRWOMAN WEINSTEIN: We actually do have an Assemblymember.

CHAIRWOMAN KRUEGER: Okay. Assembly.

CHAIRWOMAN WEINSTEIN: Assemblyman Jensen. And we will close the line at this point after him.

ASSEMBLYMAN JENSEN: Thank you very much, Chairwoman, for allowing me to sneak in at the tail end.

Superintendent, continuing care retirement communities are subject to both DOH and DFS oversight, and this sometimes

leads to cumbersome and lengthy administrative processes and reviews that have kind of slowed the ability to secure this refinancing or otherwise be responsive to a changing economic environment.

Is there anything that DFS can do to help assist the continuing care retirement communities with streamlining this process and making it more efficient?

DFS SUPERINTENDENT HARRIS: Yeah, absolutely. I'll tell you, we are responsible for the financial safety and soundness of the CCRCs, while DOH is responsible for the provision of care inside those facilities. We do a lot of things: We help them restructure debt, we help them find operational efficiencies. When it's appropriate for them to have new residents and new revenue, we assist with that, of course making sure that consumers have the appropriate disclosures about the financial state of the CCRCs.

But there's always room for improvement whenever you're talking about

across divisional jurisdiction, and there's always room for improvement there. And I know, you know, Dr. Bassett and I have already developed a wonderful working relationship. So I think if there are other things that we can continue doing to streamline these processes, working with you and your colleagues, we're absolutely happy to do so.

ASSEMBLYMAN JENSEN: Thank you very much, Superintendent. And thank you, Chair.

CHAIRWOMAN WEINSTEIN: Thank you.

CHAIRWOMAN KRUEGER: Thank you. Any other Assemblymembers, Helene?

CHAIRWOMAN WEINSTEIN: No, that is it. I just think we have Assemblywoman Hyndman's hand is up in error.

CHAIRWOMAN KRUEGER: Got it.

All right. Then with that, Superintendent Harris, we're going to thank you for your work on behalf of the State of New York, your time with us today. And clearly we all want to talk to you about everything else DFS does, and maybe we'll

just do some giant multi-committee hearing with just you.

So thank you again very much.

DFS SUPERINTENDENT HARRIS: Thank you all. Have a good one.

CHAIRWOMAN KRUEGER: I'm next going to call up the New York State Office of Medicaid Inspector General, Acting Inspector General Frank Walsh, Jr.

Hello, Mr. Walsh. You have up to 10 minutes to summarize your testimony, which we all have, and then we will ask you a few questions.

ACTING MEDICAID IG WALSH: Fantastic. And I hope to beat the clock.

Good afternoon, Chairperson Krueger, Chairperson Weinstein, distinguished members of the Senate Finance and Assembly Ways and Means Committees, and Health Committee Chairs Senator Rivera and Assemblyperson Gottfried. I appreciate this opportunity to share with you the activities and initiatives of the Office of the Medicaid Inspector General -- my first since joining the agency last year.

The COVID-19 pandemic, as we all recognize, continues to pose significant challenges and impact the healthcare delivery system in profound ways. In response, OMIG has effectively adapted to the rapidly changing environment by implementing new processes, performing ongoing outreach to the Medicaid provider community and stakeholders, and executing solutions that serve a vital dual purpose -- to protect the integrity of the Medicaid program while not unnecessarily limiting healthcare access.

Over the past year, as it did throughout 2020, OMIG continued to work closely with individual providers, associations, and other stakeholders to gain critical insights into the current environment and used this knowledge to inform agency practices with respect to audit activity, investigative efforts, and compliance initiatives.

From the onset of the pandemic in 2020 and continuing into 2021, OMIG pivoted its activities to a remote setting to protect the

health and safety of OMIG staff, the provider community, and Medicaid recipients, and was flexible in giving providers necessary additional time to respond to requests. Additionally, to enable providers to address critical emergent issues, OMIG temporarily paused non-urgent audit activities in regions where positivity rates were a cause for concern.

Since then, in accordance with state and federal guidance, the agency has significantly increased its on-site oversight activities and fieldwork while promoting safety, addressing the concerns of healthcare providers, and continuously monitoring the progression of the public health emergency.

Further, in 2021, in response to requests from providers concerning financial hardship, OMIG developed and implemented an enhanced financial hardship process that affords providers the opportunity to apply for relief in the event an OMIG audit may pose a financial hardship to the organization. More information on this

process is available on OMIG's website.

As a result of OMIG's efforts throughout the public health emergency, and despite the temporary interruption of certain activities, the agency continued to deliver impressive results to New Yorkers in 2021. Preliminary results indicate total cost savings and recoveries exceeded $3.1 billion, an increase of more than $152 million, or 5 percent, over the prior year -- without unnecessarily impacting providers or the availability of critical health care services and supports.

In addition, OMIG also received over 3,600 allegations of Medicaid fraud; completed more than 2,900 investigations; referred nearly 800 cases to other state oversight agencies -- including nearly 200 to the Attorney General's Medicaid Fraud Control Unit, MFCU; finalized more than 1,200 audits; and received 33 applications for relief due to financial hardship.

These and other details are still being reviewed and finalized and will be

reported in OMIG's 2021 Annual Report, which, by statute, will be released by October 1, 2022.

While these measures of our performance are very positive, it is important to stress, again, that they would not be possible without OMIG's comprehensive efforts throughout the pandemic to strengthen relationships and communications with Medicaid providers and the introduction of collaborative process improvements that will support our efforts over the long term.

I am extremely proud that the dedicated team at OMIG, in the midst of the extraordinary challenges posed by the COVID crisis, delivered on our pledge to ensure Medicaid beneficiaries' access to the state's high-quality healthcare delivery system, and at the same time combat fraud, waste, and inefficiency, which benefits all New Yorkers. In doing so, we're continuing to set the national standard for ensuring access, controlling costs and, in partnership with law enforcement, holding wrongdoers

accountable.

Thank you, and I'm pleased to address any questions you may have.

CHAIRWOMAN KRUEGER: Thank you very much. You were very succinct with your presentation.

Do I see any hands up? Because I have a couple of questions. So while others are thinking about theirs, then maybe I'll start off if you don't mind, Mr. Walsh.

During COVID there were some changes in rules involving what they call MAGI Medicaid for people basically under 65 with expanded benefits. But my understanding is during the COVID crisis, when people turned 65, we allowed them to stay on MAGI Medicaid, but now they will need to be transitioning to Medicare or possibly traditional Medicaid with Medicare.

Is there any reason we should be concerned that these people are going to get caught up somehow in being perceived as committing fraud? Because they don't even understand what all these systems mean. And

I'm not sure I do understand what the letters mean.

ACTING MEDICAID IG WALSH: I'm familiar with the letters, which I believe is modified adjusted gross income.

And, you know, what I would say is --

CHAIRWOMAN KRUEGER: People were changed without even realizing it.

ACTING MEDICAID IG WALSH: What I would say in that regard -- I mean, I think that is something that, you know, the Department of Health has close oversight of, and we would work with them in understanding that. And I'm happy to work with them and get an answer to your question.

(Pause.)

UNIDENTIFIED PARTICIPANT: Senator Krueger, can you hear me?

SENATOR RIVERA: I think we might have lost her. I think she's frozen.

Yeah, Helene, I think that Liz is frozen -- oh. Liz, we just lost her.

Helene? Chair Weinstein? Chair Weinstein.

UNIDENTIFIED PARTICIPANT: Take over, Gustavo.

SENATOR RIVERA: So I guess I'm running this now. And actually, was there an Assemblyperson waiting to ask questions? If not, I have actually something for the inspector general. So I guess I'll just go ahead.

Inspector General, how are you?

(To moderator) A quick three minutes on there for me, if you could. And save eight for Liz when she comes back.

Okay, so Inspector General -- so Inspector, there's an institution that approached my office with an issue where -- I know that the way you audit -- sometimes your audits are -- they use randomized data for reviews and you extrapolate based on that, which makes sense, because it can save -- I guess you can save some money on some of the investigation.

But there's a provider in particular, I'm not going to mention who, but it's a provider that had -- there was like a

selection of information like that actually was a small error, but because it was -- because you extrapolated, your agency extrapolated from that data, it actually meant not only a large penalty but a large penalty that actually forced them to close that program.

So certainly I can understand the necessity of doing stuff like this to save money, but the question I have for you is, is there any internal process that you folks have for instances like that where, you know -- because certainly there's -- I'm sure that you can agree that a small mistake is different than -- that a small error is different than malicious intent. And that when you're issuing -- you know, when you're doing your investigation and you're issuing your -- you know, the penalties, et cetera, that you take that into account.

So could you tell us a little bit about any internal processes that you might have to check when such a thing happens?

ACTING MEDICAID IG WALSH: Sure.

So I appreciate the concern, and very familiar with concerns with regard to the use of extrapolation. But I think it's -- it's a technique that's commonly misunderstood.

But to get to your specific question, you know, our internal processes are intended to try and reach a collaborative decision, recognizing that we're enforcing the rules and regulations of the Medicaid program that, you know, have been developed as we have interpreted them and the Department of Health and other state Medicaid agencies are sort of implementing them. So the requirements that we're holding providers to are ones that were set for the program.

The other point that I would make with regard to extrapolation is it's not an intent to deliver a specific result, it is actually an intent to be able to conduct these audits in an administratively sensitive way. The use of a randomized sample is a way that's commonly used to avoid the administrative burden of having to look at many more records as we go through the process.

So while we --

SENATOR RIVERA: I only have 50 seconds, so let's do this. Let's actually follow up offline, only because I'd want to kind of dig deeper into this particular situation. I just want to make sure it's not like a thing that's happened a lot, because some of these programs are valuable and I wouldn't want them to be closed because of a small error that's made that then turns into a large penalty that forces them to close things.

ACTING MEDICAID IG WALSH: We would be happy to follow up, Senator.

SENATOR RIVERA: Thank you, sir.

Oh, see, the chairwoman is back.

CHAIRWOMAN KRUEGER: Thank you, everyone. I apologize. Suddenly everyone froze, and I realized it was me that froze and I had to reboot.

Assemblymember, do you have any other questions?

CHAIRWOMAN WEINSTEIN: Yes, we actually do have -- Assemblyman McDonald has

a question.

CHAIRWOMAN KRUEGER: Okay.

Unmute.

ASSEMBLYMAN McDONALD: Thank you. Thank you. And Frank, thanks for being here.

Actually, I want to follow up where Senator Rivera was going, and it may not be the same entity but it's the same problem. And as you know, I am no longer a licensed provider with the state, so I don't really have any conflicts in having this discussion, but I've been through the process in the past.

And, you know, to the Senator's point -- and I think this is where I'd like to know a little bit more about it -- there are providers out there, particularly in areas of mental health and substance use, that are really doing really God's work. It's not easy by any stretch of the imagination.

And at the same token, they will be making -- they do make -- technical errors. But through the extrapolation process, it

does get to be unwieldy. And I guess it's a catch-22 because, you know, in talking to a variety of different statewide organizations, we do have providers -- I'm not talking about pharmacy, just to be clear, because you know that's my background -- but other nonprofit providers of behavioral health that are really on the forefront of going out of business because the extrapolation method does run things to a much higher degree.

And I just think it's a concern. I can tell you, being through this process before, it was painful. I mean, the State of New York wanted $2 million for everything that was actually backed up with factual information and signed affidavits by patients and providers, and the agency's own rules prevented this happening. And, you know, life moved on, people got through it.

But I just worry about a lot of these nonprofits that are in areas providing services where nobody else would dare go. And I just don't know if there's a process to review that. I know that going through the

whole process, the draft process, there's a place to appeal, but at some point you're up against it.

ACTING MEDICAID IG WALSH: No, I appreciate that. I appreciate the comments.

And, you know, the one thing that I would sort of say is that, you know, we're here trying to, you know, improve the integrity of the Medicaid program or protect the integrity of the Medicaid program, but a key focus is sort of making sure that, you know, we maintain access to the high-quality healthcare services and healthcare providers that are out there. We're not out there to try and target anyone.

But I'm happy to follow up with you and any of the other members with regard to our practices and, you know, how we can be more open about that process and provide opportunities for, you know, collaborative discussion as we progress through our activities.

ASSEMBLYMAN McDONALD: Thank you, Frank.

CHAIRWOMAN WEINSTEIN: Back to the Senate. There are no other Assemblymembers.

CHAIRWOMAN KRUEGER: Thank you.

Then I'm just going to follow up with the second question I had for you before I got frozen out, Frank. I think it's a little bit of a variation.

So I read a story recently about a not-for-profit healthcare provider getting a very large penalty because they were billing Medicaid for multiple services on one visit. And so it struck me that, oh, yes, that's illegal. But I know I have heard over the years that, say, in hospital settings somebody comes in and they have multiple services provided even by different units within that hospital, but it's all the same visit. And I believe that they do bill multiple times, and I never questioned that that was a problem.

But are there different rules if you're a hospital versus another kind of healthcare provider for multiple billings of Medicaid for multiple services on one visit?

ACTING MEDICAID IG WALSH: And I believe the answer to that question, Senator, is yes.

You know, we have -- we have a wonderful Medicaid program, probably, you know, tops in -- on many lists. You know, but understanding sort of the specific details and the facts behind the individual instances, I've learned, has been something that is really important in these conversations.

And, you know, happy to take any concerns that you have either, you know, in your office or on behalf of your constituents and really dig down into kind of what those particular factual instances are, and can provide a better answer.

CHAIRWOMAN KRUEGER: All right. Maybe I will follow up. They weren't a constituent, it was just an article I was reading that made me think about how this actually works in today's world. Because we all recognize, I think, that we're paying extremely low rates per service within

Medicaid, and we've even had serious discussions about why won't doctors take Medicaid patients, because it pays so little.

But if we're setting up a system where we're sort of creating multiple barriers to people accessing the benefit we think we provide them, I think it's at least worthy of more discussion. But we won't do it here today. So thank you very much.

And if nobody else is raising their hand, I'm actually going to excuse you and thank you for your service to the State of New York and move on to the next panel.

ACTING MEDICAID IG WALSH: Thank you.

CHAIRWOMAN KRUEGER: No hands? Nobody waved at me that they must speak?

So thank you very much for your service. Go back to your job. Thank you.

ACTING MEDICAID IG WALSH: Thank you.

CHAIRWOMAN KRUEGER: All right, we are now moving off of the government section of a hearing to the organizations who have asked to testify before us on the state budget.

And they will be called up in panels.

Each person on the panel will get three minutes to testify. This is like speed dating, if you haven't been watching our other hearings. So you will each get three minutes to summarize your testimony even though you've given us sometimes very lengthy testimony. Then legislators get to ask the panel questions. So a legislator also only gets three minutes to address their questions to the entire panel. So it's speed dating in both directions.

But again, I want to emphasize everyone has access to the full testimony and the contact information of the testifiers, so my colleagues, I guarantee you if you call up anyone who testifies and say "I'd like to have a follow-up discussion with you about what you were talking about," they will be happy to do so. They volunteered to come here and testify.

And unfortunately we had to turn away more people than we could accept because I knew it would be 3 o'clock before we started this part of the hearing, and there's only so

many hours in the day.

So with that, I will call Panel A. I will read the names and organizations once, and then we'll just go from one, two, three, four, five, six. So the Greater New York Hospital Association, Ken Raske, president; the Healthcare Association of New York State, Bea Grause, president; the Greater New York Health Care Facilities Association, Michael Balboni, executive director; the New York State Health Facilities Association -- different group, similar name -- Carl Pucci, CFO; and the United New York Ambulance Network, Jeff Call, chairman.

So we'll start with Ken Raske. Good afternoon.

MR. RASKE: Thank you very much, Madam Chairman and your colleagues on the panel.

The opportunity this afternoon is special for me to address the budget. It's an extraordinary budget that this administration has put forward. The Governor has done an incredible job in putting

exclamation points on issues that the healthcare community has faced, particularly in the last couple of years, which have been -- to say the least -- traumatic.

And I want to thank the administration for doing such a superb job and trying to nail down those issues which are extraordinary to this healthcare community. Let me focus on a couple of points, though.

The first one is the efforts to assist in putting together our workforce and reinforcing it with bonuses and support. That idea is superb, it's a hundred percent supported by all the hospitals that I represent. And it is an idea that's been a long time coming. So we would ask for due consideration by the Legislature to actually enact those bonuses that are being proposed by the executive branch. And during this period of time we will try to iron out any of the questions that have come up earlier in your hearing.

And then to a couple of issues that are of utmost importance: The lack of a

trend factor and the administration recognizing some degree of relief there, 1 percent, and elimination of the 1.5 percent deduct that has taken place. Those are very important points, and we support them. We think it could be enhanced, however.

And then one of the ideas of enhancements would be to tie it into some additional funding for mental health services. Earlier I think it was Senator Savino was talking about some of the problems here. And there is no question that we need to do more about mental health services.

The next area is safety net hospitals, and that too has been the subject of many of the -- your colleagues on the panel today that have brought this issue up, safety net hospitals in their communities. Those safety-net hospitals need assistance. The budget helps, but I would like to see enhancements for those safety-net hospitals, hospitals such as One Brooklyn, Maimonides in Brooklyn, and Medisys, and in the Bronx with Montefiore as well. These are important

institutions for the fabric of New York, and their colleagues that I couldn't have time to mention. But those are areas that I would ask due consideration by this august legislative body for additional investments.

Madam Chairman, I've stayed within my three minutes, I hope.

CHAIRWOMAN KRUEGER: Thank you very much, Ken.

Next, Bea Grause.

MS. GRAUSE: Thank you. Good afternoon, Chair Krueger, Weinstein, Rivera, Gottfried and committee members. Thank you very much.

And I appreciate everything that my colleague Ken has said, and we are in a great deal of concurrence with a lot of his comments.

I wanted to take everyone back to the topic that's really been underlying today's discussion, in that we're now approaching the third year of COVID-19. And the reality that our healthcare workers on the front lines, hospitals, health systems and post-acute care

providers are still struggling with this pandemic to this very day. Without federal support, our hospitals and health systems collectively would have reported a negative 10 percent operating margin in 2020. And thanks to federal support, that margin was still negative 1.4 percent, the worst in two decades.

Someone recently pointed out that hospitals ended 2020 in the black, but that was the goal of federal support and what we all should hope for, as this funding helped to preserve access to care for New Yorkers.

Unfortunately, the pandemic did not end in 2020. The federal provider relief funding has run dry, with no funding left to help hospitals recover from Delta, Omicron or any future wave. And so with that as a backdrop, I wanted to return to the state with our urgent requests.

The first one, as Ken mentioned, is workforce. Providers in New York and across the nation are facing a staffing crisis. The Executive Budget includes several investments

and policy actions that would begin to address these very real workforce challenges in both the short and long term. We have to take action now. I urge you to include in the final budget measures that would begin to provide immediate relief by recognizing providers from other states and allowing professionals to practice at the top of their training or license.

HANYS also encourages the Legislature to address equity and operational challenges in the Executive proposal to provide bonuses to frontline healthcare workers.

The second is Medicaid. While the state has expanded eligibility for Medicaid and increased covered services, which we greatly appreciate, provider reimbursement has remained flat. Medicaid reimburses hospitals just 61 cents for every dollar of care provided.

I urge the Legislature to go significantly further than the Executive Budget by restoring a meaningful and persistent Medicaid trend factor to hospital

and nursing home payment rates on a go-forward basis. Proposals regarding Medicaid payment rates and supportive funding must benefit all of New York's hospitals and health systems statewide.

The third is infrastructure. Through prior capital funding the state has recognized the tremendous importance of modernizing and transforming New York's healthcare system. HANYS urges the Legislature to support the proposed healthcare capital funding included in the Executive Budget.

We are also very grateful to Governor Hochul for advancing proposals in this surplus budget year in all of these areas, and we urge the Legislature to build upon them. We hope that you will continue to make meaningful, sustained investments that address both the acute challenges caused by COVID-19 and the chronic challenges our healthcare system has faced for years, such as workforce shortages.

I encourage you to review the summary

document that's included with my written testimony, and that includes HANYS's position on the major healthcare proposals in the budget such as telehealth, payment parity, and access to coverage.

Thank you for your continued partnership, and I look forward to hearing your questions.

CHAIRWOMAN KRUEGER: Thank you, Bea.

Next, the Greater New York Health Care Facilities Association.

MR. BALBONI: Good afternoon, Madam Chairwoman and my colleagues -- I'm sorry, some of my former colleagues. And I really enjoyed all of the colloquy that you had beforehand. And I think that these Zoom formats are actually really good in listening to a lot of comments back and forth.

So let me just begin by saying what a difference a year makes. You know, the entire perspective of long-term healthcare has changed, and it's done so because, frankly, Kathy Hochul has set the table. And it's so important to recognize that the

budget she put out there, in our estimation, is the best budget in 14 years. Obviously we support it. We ask you to support it as well.

But I want to touch upon one point. This is an opportunity, I think all of you recognize it, to reset healthcare in the State of New York. Thanks to the federal support, the funding that you have available to you now has allowed a lot of the reinvestments at a time when we didn't have investments. I mean, just think about it -- for 14 years there was no such trend factor, cost-of-living increase, nothing for the long-term-care industry.

And so what's happened is we now all talk about the fact that there is not staffing. But the truth of the matter is we had staffing problems for nursing homes way before the pandemic. This is because the nature of work is changing. The perspectives of our workforce are changing. And in that 14-year period what you had was -- when you had the original minimum wage versus the

starting salaries for a certified nurse assistant, that delta was dramatically closed over the 14 years.

And so when we talk about investing in the workforce and getting people to decide, you know, I'm not going to work in retail, I'm going to work in healthcare, we've lost a lot of that mission, that message. And then came the pandemic where you had so much loss in the homes and you had story after story detailing all the deaths. You know, how could you possibly want to go work in that industry? And we've got to build back, for the industry, and convince people that this is really meaningful, important work.

And so the other thing that most of you may not know about is that we have done a collective bargaining agreement for 230 of the nursing homes in the metropolitan area. We have provided the largest increase in benefits that we have in the history of this industry.

Now, on top of that, you have a $3,000 bonus for workforce. And there are

statements by the Governor in her proposal that talk about the need to provide educational opportunities, to get people to actually invest in the education for themselves -- and we'll invest in them. These types of steps -- increased wages, increased opportunity -- are absolutely essential.

The last quick point is this. We missed our moment when we should have seen long-term care as nodes of surveillance information for disease states. We should reexamine that and try to do a better bridge between the information on the ground in nursing homes and the state.

Thank you very much, Madam Chairwoman.

CHAIRWOMAN KRUEGER: Thank you very much.

Next, the New York State Health Facilities Association, Carl Pucci.

MR. PUCCI: Yes, good afternoon, Madam Chairman.

My name is Carl Pucci. I'm the chief financial officer of NYSHFA|NYSCAL, whose

members and their 90,000 employees serve 70,000 residents in over 450 not-for-profit, for-profit and government facilities.

As has been mentioned, the past history of Medicaid cuts over the last 15 years has created a large Medicaid shortfall at almost $55 a day, the difference between the rate and the cost of care. The current per diem average of $246 would be equivalent to $10.25 per hour for 24 hours of skilled care -- below the state minimum wage.

Last year's FMAP increases to the state were not passed on to long-term-care providers. In fact, as is documented, the previous administration cut Medicaid revenue 1.5 percent during the height of COVID. We certainly support the restoration of this cut, as well as the 1 percent increase to the Medicaid rate. After 14 years without a trend increase, our long-term-care sector having been seen, in our view, as an expense to the state, this budget now recognizes our sector as an investment.

The Medicaid rate add-on should be

increased to allow our providers to compete in the labor market with the retail and food service sectors.

With the current significant staffing crisis as declared in the statewide emergency, the 3.5 minimum staffing mandate will be almost impossible to attain. In addition, based on pre-COVID 2019 cost report data, the 70/40 staffing requirement will cost providers an additional $500 million in expenses, and that could only increase during 2020.

We do support the proposed 70/40 technical amendments. However, they are not enough to reverse the negative impact of this law. We support the $3,000 worker bonus and the COLA increase and the inclusion of our adult care and assisted living providers in these provisions.

We strongly support the authorization of certified medication aides to administer routine meds, as this represents a career ladder for the profession. We support the Nurses Across New York loan repayment program

and recommend the language be more long-term-care specific. And finally, we support joining the Interstate Medical Licensure Compact, which should be less complicated in structure to increase efficiencies and reduce nurse's wait times.

In conclusion, New York must invest in its skilled nursing and assisted living providers and implement measures to improve and retain our long-term-care workforce. NYSHFA|NYSCAL will continue to work with the Governor's office, the Legislature and other constituencies to continue delivery of high-quality, cost-effective long-term care for residents in New York that we serve.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

And the last on our panel, Jeff Call, chairman of the United New York Ambulance Network.

MR. CALL: Good afternoon and thank you, Madam Chairwoman. I also want to thank Chairpersons Gottfried, Weinstein and Rivera,

as well as all esteemed members of the Legislature for our opportunity to testify today on the state budget.

I'd like to take a quick moment to thank Chairperson Gottfried for his tireless lifetime of advocacy for the entire healthcare community.

As chairman of the United New York Ambulance Network and general manager of Guilfoyle Ambulance, I represent more than 40 commercial not-for-profit ambulance providers across the state, from Long Island to Watertown, Albany to Buffalo, and everywhere in between.

Throughout the pandemic, our members have played a vital role in public health and safety services. EMS providers all over the state continue to work on the frontlines of the pandemic, bringing COVID care, screenings, vaccinations to the residents of New York State, all while continuing to answer the traditional EMS calls and continuing to do our work every day, as well as keep ourselves healthy.

UNYAN members answer over 47 percent of all emergency calls and 78 percent of all non-emergency calls, according to New York State documents. Our industry continues to struggle with being severely underfunded and short-staffed, like most other healthcare industries. We are grateful for the Governor's $10 million investment proposal and hope the state will take the necessary steps to include the ambulance industry in this revitalization plan.

The $6 million budget allocation for EMS training has remained the same for over 23 years, since 1999. We're asking the Legislature to double the budget for EMS training to $12 million to ensure the EMS system is prepared for the future.

Part F of the Executive proposal -- although UNYAN agrees that portions of the Public Health Law need to be modernized, many of the proposals in Part F seek to remove input and consideration of the State EMS Council and leave decision-making power with the Department of Health and the

commissioner. Local experts' input is needed.

We feel Part F should be removed and these changes fully thought out with the input of SEMSCO and industry stakeholders, and the details of these changes should be fully vetted outside the context of this budget.

Most importantly, we present to you that a provider assessment could generate additional Medicaid funding for non-governmental EMS providers at no cost to the state. DOH will use provider-supplied dollars to increase the federal funding coming into the state. These new funds will support Medicaid rates for EMS providers. Increased reimbursement can be used to improve our EMS system capabilities, improve equipment, improve wages, and provide training for EMTs and paramedics. We're asking the Legislature to include language in the budget to create this ambulance assessment program.

UNYAN represents an overwhelmingly

cost-effective option for ambulance services in New York. Our workforce is in desperate need of financial support and improvement in order to continue this fight. It is imperative that our members receive the critical resources needed to continue doing their jobs safely and effectively.

We at UNYAN are committed to working with our state resources to find solutions and continue to serve as the front door to healthcare in New York State, with our partners. Thank you, and I appreciate your support and I appreciate your time today.

CHAIRWOMAN KRUEGER: Thank you very much.

I'm going to first look to the chair of the Health Committee for the Senate, Gustavo Rivera.

SENATOR RIVERA: Thank you. Thank you, Madam Chair.

Hey, folks. A quick thing.

First of all, the gentleman that just was speaking, Mr. Call, so you saw the reforms that the Governor's proposing around

EMS. Right? You talked about some of the issues there. What is your general feeling about that proposal? Because it's a very extensive proposal, and I'm kind of still -- still have not taken a position on whether I support it or not.

MR. CALL: So which part are you -- are you talking about Part F, the changes in Part F or --

SENATOR RIVERA: That's a good question. What part is it? Hold on, buddy.

MR. CALL: So Part F has multiple changes, and a lot of them deal with rewriting Article 30 Public Health Law.

SENATOR RIVERA: I think that you're probably right, it's -- no, no. No, I think you're probably right. Damn, I should have had that. I should have had that readily available. I don't remember the part. But it's basically a re -- it's like a redefinition of emergency medical services. It's a whole host of reforms related to EMS.

MR. CALL: We love the redefinition. It takes us out of the transportation

industry and puts us into a healthcare setting. It includes a lot of the other things that we've been doing for years, they just haven't been included in our description.

As far as rewriting Article 30, our concern with that is we feel that shouldn't be done. Article 30 is regulated by SEMSCO, State EMS Council, and we think that they as well as us should have a hand in rewriting the laws.

SENATOR RIVERA: By the way, you are correct, it is Part F. Since I only have a minute and 30, I'll ask the rest, though thank you for that.

To the rest of the folks, there's also -- there's a bunch of managed care reforms that are being proposed by the Governor. I am also still on the fence about them, because I'm trying to understand exactly what the purpose of it is. You probably saw the questioning that we did of the commissioner and the Medicaid -- the Medicaid dude a little bit before.

So do you have anything, either Greater New York, Balboni, Bea? Do you have anything? What are your general thoughts about it? Anybody.

MR. RASKE: Well, Chairman Rivera -- this is Ken here -- we are taking a really hard look at some of these reforms, particularly on the managed long-term-care side, since a number of the nursing home members have those. And they created a dialogue already with the executive branch as to what are the ultimate goals here. And at this point, we're still trying to sort that out.

I will sit down with all those members and try to ferret out exactly what those goals of the state are and how those institutions can achieve those goals. So for me, Senator, it's a work in progress at this point. That's an as-clear-as-I-can-get answer.

SENATOR RIVERA: Am I to guess it's still for the both of you as well?

MS. GRAUSE: Senator, yeah. I mean, I

think Brett's comment about it's really a tension between consumers and cost containment. And so I think, as Ken said, there are a lot of different provisions that we are looking through and would be happy to talk with you about it. But it's --

SENATOR RIVERA: Gotcha.

MS. GRAUSE: -- there are a lot of -- there's a lot to wade through.

SENATOR RIVERA: We will catch up offline. Thank you. Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Okay, thank you.

Assembly?

CHAIRWOMAN WEINSTEIN: We have two Assemblymembers. We'll start with Assemblymember Bichotte Hermelyn.

ASSEMBLYWOMAN BICHOTTE HERMELYN: Hello to the panel. Thank you so much for being here and testifying.

As you know, recent analysis shows that one of the priciest hospitals in New York also has one of the largest charity care deficits in the country. In fact, the private hospital systems have been doing less

and less charity care over the past years. And given these facts, just want to say that we need to invest more in our public health system that is doing the bulk of the charity work.

And as you know, improving health outcomes for women, particularly women of color who are having a baby, is a key concern for many of us. One vital part of this issue is making sure that care is affordable. So how much does your hospital charge for state employee healthcare, for example? What is the average charge for childbirth through a vaginal delivery? What is the cost relative to Medicare for the same procedures? And do you think we should provide taxpayer relief for hospitals if you are not or do not overcharge to the state for employee care?

MS. GRAUSE: Assemblywoman, this is Bea Grause from the Healthcare Association of New York State. We don't represent any particular hospital, we represent almost all of the hospitals across the state. They're all not-for-profit. I'd be happy to come in

and speak with you about many of the charitable efforts that hospitals undergo, above and beyond providing charity care.

So, you know, there are -- it is a complex issue, and I think hospitals work every day to maintain a margin while serving their communities. But there are many, many issues involved, and I'd be happy to speak with you about that.

MR. RASKE: And Bea, I would only add to the great questions that were asked by the Assemblymember the fact that we are totally supportive at Greater New York Hospital Association on the safety net hospitals, which are the ones that provide a concentration in their respective communities of charitable care.

And their well-being is important to me, and their well-being is important to the entire economic structure of New York. So it's for that reason we are going to bat in this legislative arena for them as much as we are. So I want you to know that your concerns are shared not only by me but a lot

of your colleagues in the field as well.

So I'll be talking with you, as Bea will, about those other matters, but I wanted to be clear. We are very much concerned about safety net hospitals.

ASSEMBLYWOMAN BICHOTTE HERMELYN: Thank you very much. That's very important.

CHAIRWOMAN WEINSTEIN: We have another Assemblymember if you don't have a Senator.

Senator Krueger, you are still muted.

CHAIRWOMAN KRUEGER: I'm sorry, I was saying that we have one more Senator, myself, and then we'll head back to you.

CHAIRWOMAN WEINSTEIN: Go ahead.

CHAIRWOMAN KRUEGER: Thank you.

Just also a huge question, but quickly, I think mostly for Ken and Bea.

So we're living in a world where the hospitals are sort of the chains, the store chains, and more and more doctors are not having freestanding practices, they are hospital doctors and they sort of, you know, are within your control, although you'll disagree with me, but I'll just say that now.

So how do we get more doctors to do primary care, preventive care, gerontological care, quality OB-GYN care, all the fields we are talking about not having enough doctors in that are actually incredibly cost-efficient if we can get doctors to do this, but aren't necessarily revenue-generating for the hospitals or even particularly high paying. You know, it's sort of -- for years you might have said, well, it's not really the hospital that decides that. But I've decided it sort of is, because there's nobody who's a doctor, at least in Manhattan, who's not really a hospital doctor by now. It may be different in different parts of the state.

MS. GRAUSE: Yes, Senator, I think, you know, as the saying goes, if you want a service to exist, the payment has to cover the cost of the services. Which is why the Medicaid -- increasing the Medicaid trend factor is so very important. That will help.

There's not just -- there's not one solution. And I think every market is

unique, and I'm sure, as Ken realizes, you know, New York City is very, very different than the Mid-Hudson or Rochester or Buffalo. So there are a lot of market differences, and there are changes in independent practitioners both ways currently.

Again, I think there are many, many different factors. But I think having sufficient reimbursement, sufficient support for special populations such as the elderly, mental health populations, is really important depending on the unique aspects of the community.

MR. RASKE: I think I would add, Bea, the Senator's observation for Manhattan is absolutely correct, but as you move outside of Manhattan into the other boroughs and beyond, into the Hudson Valley and Long Island -- there's really two phenomena going on. One is gravitational pull to hospital-based activities, and the other one is independent. And this, Senator, is really important, where you have a cluster of physicians on an independent basis who then

turn around and negotiate with hospitals for the respective services.

But your point, fundamental point about a concentration on either camp, if you would to call it that, is accurate. And Bea's point about the fact that there is under-reimbursement for those primary care activities is absolutely accurate and a fundamental driving force involved here.

CHAIRWOMAN KRUEGER: So again, my time is up. But if one looks at the state budget and health budget as trying to incentivize certain kinds of quality healthcare that we know we're short of, you know, I'm very interested in exploring how we change the rules of the road to get those outcomes that we all agree we need.

MR. RASKE: Absolutely.

CHAIRWOMAN KRUEGER: And I'm hearing you that it may be a different answer in certain boroughs of New York City than in upstate New York or in Long Island, where I also think there's chain power, so to speak.

MR. RASKE: Right.

CHAIRWOMAN KRUEGER: So thank you --

MS. GRAUSE: It -- yeah, it's a journey. And there are a lot -- again, there's no one solution.

CHAIRWOMAN KRUEGER: Correct.

MS. GRAUSE: Solutions over time.

CHAIRWOMAN KRUEGER: Correct.

Assemblywoman.

CHAIRWOMAN WEINSTEIN: Yes, we have two Assemblymembers, so I will call them in order.

First, Assemblyman Jensen.

ASSEMBLYMAN JENSEN: Thank you, Madam Chair.

I know Bea and Mike touched on this a little bit in their testimony, but is the proposed trend factor going to be enough to support the increase in wages over time?

And sort of coupled with that idea, while the Governor proposed restoring the misguided Medicaid cut, is the lack of sufficient reimbursement in long-term care, along with other mandates and restrictions that were put in place last year -- is there

going to be enough support from the state to address a lot of the issues that you're facing when it comes to long-term care, dwindling census numbers, more restrictions on day-to-day operations?

MS. GRAUSE: Under the current budget, no, I would say. We need more funding, absolutely. Because those -- in the nursing home -- we have nursing home patients who are backed up in hospitals because the nursing homes are not able to expand and provide additional services.

So go ahead, Michael.

MR. BALBONI: So it's a good -- and thank you, Bea. It is good news, bad news. The good news is that we haven't had any kind of trend factor for 14 years. But the CPI is well over 6 percent. And so when you take a look at the costs, especially the ancillary costs like PPE and the different types of stresses that the financial system has set -- and as you correctly point out, the census is historically low right now, and what we're trying to do is attract a workforce.

So, you know, there are two types of staffing issues, right? One is the surge staffing, which frankly we don't do well in the state at all, but then there's the long-term development of staff, which needs that long-term investment.

And so, you know, if we had our druthers, we'd certainly -- again, we love the Governor doing the 1.6 percent; that's a great message in terms of continuing investment. But if it could go up more, then we could do more over time.

ASSEMBLYMAN JENSEN: So kind of jumping off that, when we're looking at staffing shortages, you know, for the long-term-care facilities that you represent, are they struggling to compete with the hospital and larger health systems to try to recruit staff just because of the nature of the work in a long-term-care setting?

MR. BALBONI: So I would always say this -- and Bea, I hope that you agree with this. You know, it's always been a challenge to get people to come out of school and work

in nursing homes. Why? Because they don't do TV shows about nursing homes. They do it about hospitals, because that's where the action is.

The greatest challenge right now to attracting people is Amazon. You know, the retail stores that are paying much more than the CNA starting rates, especially when you get into upstate communities. So this is a continuous, competitive market that we've got to do the investment to get people in.

MS. GRAUSE: You know --

ASSEMBLYMAN JENSEN: Well, I think -- oh. Go ahead, I was going to make a joke, Bea, but --

MS. GRAUSE: Well, sorry, sorry to interrupt your joke. But, you know, I've worked as a nurse in both a nursing home and a hospital, and I would say that the skill sets overlap, so there certainly is some competition. But, you know, working in a nursing home isn't for everyone; working in a hospital isn't for everyone. I think you have that reality.

ASSEMBLYMAN JENSEN: I was going to say maybe when we question somebody from the film tax credit, we can maybe make a requirement that they have to film some sort of nursing home long-term-care show in New York State, so --

MS. GRAUSE: There you go.

ASSEMBLYMAN JENSEN: Thank you. Thank you, Chairs. And thank you to the witnesses.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Abinanti.

ASSEMBLYMAN ABINANTI: Thank you, Madam Chair. Thank you to all of you for being here today.

I asked the question earlier that I'm going to ask again. It's a follow-up of what Senator Krueger was talking about: How do we get more people to deal with special populations? As the chair of the Committee on People with Disabilities, I am very, very concerned about the lack of expertise by doctors in dealing with people with these special challenges. I know with kids -- I have a 22-year-old son, and there are many of

his peers who are still using pediatricians because there don't seem to be doctors who deal with adults who know how to deal with people with autism and what their needs are, how to interpret what they're saying, et cetera. So still using pediatricians because there seem to be a few more pediatricians around who know how to deal with kids with autism and other developmental disabilities.

So what efforts do we do? What do we do to train doctors, to train nurses, to train other healthcare professionals, train dentists, to get them out there and let them understand this population? Or even just get people who are specialists in this?

And secondly, how do we get hospitals to be more accommodating? I understand from an economic point of view it is not necessarily a winning situation. But many of the people with disabilities who just need a simple dentistry procedure need to go into the hospitals where they can get sedation, just for a simple examination of their teeth.

And yet the hospitals more and more are backing away from allowing their -- their what do you call it, operating rooms to be used. There was a time when there were a lot more hospitals that would allow dentists to come in and use their operating rooms. Now we're finding that there's a shortage, a significant shortage.

So as Senator Krueger said, you know, you guys are kind of a driving force. What do we do?

MS. GRAUSE: I guess I would say funding and coordination. HANYS recently released a report on complex case discharges that contained a number of suggestions on how to coordinate and address care for those with complicated mental and physical challenges.

But it's reimbursement and coordination with both public agencies as well as private providers, and the families and the patients.

ASSEMBLYMAN ABINANTI: What about training? How do we get a --

(Overtalk.)

MR. RASKE: It's an excellent question, sir. You know, and frankly I'm not smart enough to answer it. But I do know people that are. So I would think -- and I would offer this to you because the chairman indicated we could talk offline, but it's welcome with all the members, your colleagues, as well. I would put together a number of these institutions which currently provide these kinds of services and ask those serious questions about what can be done.

You know, we represent a whole host of institutions which represent special needs populations and of course a lot of rehab. I believe you're from Westchester, sir, so you know that. And I'm a Westchester resident as well. You know, we have some really outstanding facilities there. Bring them together and we will do that under our auspice, welcome you and your colleagues' participation, and try to find out, how can we get more of these services involved. It's a great question, and I'll do it.

ASSEMBLYMAN ABINANTI: I'll take you

up on your offer. Thank you very much.

MR. RASKE: Yes, sir, you do that, because I'm -- it's real.

ASSEMBLYMAN ABINANTI: And could you please send me that report, Bea? If you wouldn't mind sending that report.

MS. GRAUSE: Yes, I will.

And Ken, we can work on that together. That's definitely something we've spent some time on.

MR. RASKE: Absolutely, Bea, as always. No question.

MS. GRAUSE: Yeah, look forward to it.

ASSEMBLYMAN ABINANTI: Thank you. Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Helene, I see another hand for you.

CHAIRWOMAN WEINSTEIN: Yes, Assemblywoman Niou.

ASSEMBLYWOMAN NIOU: Thank you so much for waiting for so long. And thank you, Chairwomen.

I just wanted to ask, you know, the proposed increase to Medicaid rates that you

had mentioned only brings us back to funding levels before the 2018 cut and does not account for this year's inflation increase. What type of increase would it take to fully fund our health services, in your opinion? Mr. Raske.

MR. RASKE: You know, there was parts of your question that broke up, and I'm sorry. Could you repeat it? If the 1 percent is not enough?

ASSEMBLYWOMAN NIOU: I just said that -- yeah, you mentioned that the proposed increase to Medicaid rates only brings us back to one level --

MR. RASKE: Yeah, okay. Forgive me, it was my hearing problem here.

The issue for us is the adequacy of the rate itself in relationship to the costs that we're experiencing. You can measure those in a lot of different ways -- CPI, Consumer Price Index; component parts of the CPI. But those aren't always a good measure of the kinds of costs that we're experiencing.

But I would offer the following. Any kind of input price measure will show that it will be significantly higher than 1 percent, any which one you pick. CPI's at 7 percent. Thursday the CPI's coming out, people expect it to be 7.6 percent. So that gives you an idea of what consumers are experiencing. Hospitals will have some variation on that. But you pick any one, and I'm for it, because that will be closer --

ASSEMBLYWOMAN NIOU: Our consumers are experiencing, for example, different rates of -- different costs for the same treatment at different places. Right? And they're also wondering, you know, like what that means, how is that calculated. Is there no cap or is there no, you know, framing of like what those costs might be? And then in New York City providers are -- many providers are not in-network, right, so we see that a lot happening. And, you know, the hospital requires you get the MRI or the x-ray at the hospital, and then the independent companies, you know, they have, you know, their cost --

MR. RASKE: Absolutely.

MS. GRAUSE: A lot of the consumer confusion around prices and costs really can be addressed by the payer. Because really the variables there are the consumer's insurance and what is covered and what are the copays and deductibles. And they can actually contact their insurer and talk to them about what it is that they want to have and where --

ASSEMBLYWOMAN NIOU: Most people are not that sophisticated about it, though. You know? Like I just received what the cost is in my statement, and then I pay a copay, but I don't really go in and question the cost. But it costs my insurance and it also costs me eventually, right? And I think like that is something that people should be questioning, and it's not really like --

MR. RASKE: The thing that Bea is getting at --

MS. GRAUSE: There's no easy answer on a piece of paper.

Sorry, Ken, go ahead.

MR. RASKE: And what you're saying basically is lookit, whatever insurance that you have -- state insurance, obviously -- that entity will negotiate with hospitals. Those prices that they negotiate will vary among those hospitals. It will vary because of bargaining power that the payer has, it will vary because of capital structures of the hospitals, and it will vary because of perceived or real qualitative differences among the hospitals themselves.

So all of that is baked into your insurer is the one that's negotiating those different prices, which is much different than what people would pay if you just directly paid out of pocket. And that in itself is an issue. But your payer, your provider, your insurer, is the one that negotiates those deals with each of those hospitals.

CHAIRWOMAN WEINSTEIN: Thank you. Thank you, Ken.

Senator Krueger, we send it back to you.

CHAIRWOMAN KRUEGER: Thank you very much. And I want to thank the panelists all for being with us today. And we will no doubt be following up with you, but I think we are all very optimistic that this was a much better budget for healthcare than many of us have seen in many a year.

(Inaudible agreement.)

CHAIRWOMAN KRUEGER: With that, I'm going to invite you to remove yourselves from the screens.

And I'm going to call up Panel B: New York Health Plan Association, Eric Linzer, president; Community Health Care Association of New York State, Rose Duhan, president; Primary Care Development Corporation, Louise Cohen, CEO; and the New York Health Foundation -- oh, I'm sorry, David Sandman had to excuse himself today, so just the three for this panel. We still have his testimony in your packets.

All right, we'll start with Eric Linzer. Good afternoon.

MR. LINZER: Good afternoon,

Madam Chair, and good afternoon to the rest of the members of the committee. I'm Eric Linzer, president and CEO of the New York Health Plan association. We represent 29 health plans that provide coverage to 8 million New Yorkers.

I appreciate the opportunity to offer comments today. I'm going to focus on three specific areas. First, our opposition to Part P of the Governor's budget; second, our support for the coverage expansion proposals that were included, but also the importance of going beyond those items; and third, a request for funding for unanticipated costs related to COVID.

As has been discussed earlier today, Part P would direct the Department of Health to reduce the number of health plans in the Medicaid program to no fewer than two and no more than five in each region, with an effective date of October 1, 2023. Eliminating health plans from the Medicaid program will take options away from more than 5.5 million New Yorkers who rely on their

health plans for their care.

These are individuals who often have multiple health conditions that require coordination of numerous services that include both fiscal and mental health, as well as help coordinating social services such as housing, employment, education and food services. By reducing the number of plans available in the Medicaid program, it will take choices away from patients and will disrupt their relationships with their providers.

It's been talked a lot earlier today about the complexity related to this. I think one point to keep in mind here is that this will have significant {inaudible}, particularly the fact that at the time that this procurement will be moving forward, the state is expected to recertify eligibility for more than 7 million New Yorkers on Medicaid. So, you know, there will be significant challenges for patients, providers and the rest of the marketplace. We would urge the Legislature to reject this

proposal.

With regard to coverage expansion, we support the proposals in Parts Q, S and U around the Essential Plan, extending postpartum coverage in Medicaid and eliminating the $9 monthly premium in the CHP program. But we would also encourage you to go further than that by providing a state-funded insurance option for uninsured low-income immigrants. A large portion of these individuals are not allowed to enroll in federally funded coverage options because of their status. New York in many instances already provides coverage to some of these individuals. Establishing a state-funded program to provide coverage to these individuals would be an important step in furthering the state's goal of universal coverage of New York.

And then finally with regard to COVID costs, you know, the cost of -- particularly the cost of testing through 2020 and 2021 was not factored into the commercial premium rates. The federal requirement around

over-the-counter testing, you know, has added additional costs which likewise are not incorporated into the current year's rates. These costs are substantial. We would urge the Legislature to consider providing a fund to help support and offset these unanticipated costs for health plans because of the importance of testing.

Thank you for the opportunity to offer comments, and I look forward to answering your questions.

CHAIRWOMAN KRUEGER: Thank you very much.

Next up, the Community Health Care Association of New York State.

MS. DUHAN: Good afternoon. I'm Rose Duhan, president and CEO of the Community Health Care Association of New York State.

As many of you know, CHCANYS is the primary care association for New York's 70 federally qualified health centers, or community health centers, which serve about 2.1 million New Yorkers at over 800 sites throughout the state.

Thank you to all of the legislators and to the chairs for your perseverance during this very long day of testimony. I'm going to just highlight our budget priorities.

First, expanding the Governor's telehealth initiative to ensure Medicaid payment parity among all remote visit types, regardless of location. CHCANYS was pleased to see the Governor recognized the importance of remote healthcare visit options and endorsed establishment of a Medicaid pathway for payment regardless of modality. But the budget language as written may not address the technology limitations of patients in both rural and urban areas, and could create barriers to creative solutions to address workforce challenges, especially in the area of behavioral health services, where pandemic flexibilities have led to increased patient engagement and served as a competitive recruitment tool for employers.

We ask the Legislature to advance clear language that will direct DOH to create

regulations that establish full payment parity in Medicaid, regardless of modality or patient or provider location.

Second, we ask you to enact policies to expand the capacity of the depleted healthcare workforce -- specifically, certifying medical assistants and allowing them to perform vaccinations. In 48 other states, certified medical assistants provide injections and administer vaccines under the supervision of doctors, nurse practitioners or physician assistants. We are facing a massive provider shortage, as you've heard throughout the day, and recognizing medical assistants and allowing them to vaccinate is a step New York can take to advance ongoing efforts to address COVID-19 and would allow nurses and other healthcare workforce to perform more complex tasks that are needed and for which they are trained.

Third, we ask you to repeal the pharmacy benefit carveout. We are extremely grateful for legislative action last year to delay the implementation of the pharmacy

benefit carveout from the Medicaid managed care program until April 1, 2023. We thank you for sharing our concerns about the catastrophic impact on safety net providers this carveout will have.

The community health centers cannot wait until 2023 to resolve this issue. Uncertainty over the future of the 340B program undermines the safety net community's long-term financial stability. CHCANYS respectfully requests that the Senate and Assembly fully repeal the pharmacy benefit carveout this year. We stand ready to explore alternatives to this policy initiative.

Finally, we ask you to establish a $7 million COVID equity pool to protect community health centers from rate disruptions.

As required by federal law, community health centers and rural health clinics have cost-based reimbursements which are adjusted annually. The Department of Health has determined that rate adjustments should not

be made based on visits conducted during the 2020 calendar year due to the unprecedented nature of the pandemic. We strongly support this action.

But a group of small community health centers that serve populations that can least afford to lose primary care providers will face the loss. We request that the Legislature provide funding to these safety net providers by creating a $7 million health center COVID equity pool.

Please refer to our written testimony for more information on the listed policies for which we're advocating. I welcome your questions.

CHAIRWOMAN KRUEGER: Thank you very much.

And the last panelist, Primary Care Development Corporation, Louise Cohen.

MS. COHEN: Good afternoon, Chairs Weinstein and Krueger. And I also want to give a shout-out to Dick Gottfried for his leadership and his championship of primary care for these many years.

My name is Louise Cohen, and I'm the CEO of the Primary Care Development Corporation, which is a New York-based not-for-profit and a Community Development Financial Institution, a CDFI, that is certified by the U.S. Treasury. Our mission is to create healthier and more equitable communities by building, expanding and strengthening access to quality primary care, which we believe is essentially the load-bearing beam of the healthcare system.

We know that primary care saves lives, improves community health, and is central to health equity. And we know that hospitals, federally qualified health centers, and independent practices are all part of the primary care ecosystem. And we know that people who have primary care are more likely to live longer and healthier lives. And in fact one of the central stories of the pandemic has been that communities with less access to primary care before the pandemic had higher rates of sickness and death during the pandemic, and they're most likely to be

poor Black and brown communities. So primary care is a key pillar of equity.

We're concerned. We believe that there's a lot in this budget to celebrate and to appreciate, but it could be strengthened with a prioritization of primary care. You know, today in New York State primary care gets about 5 to 7 cents on the healthcare dollar, which is one key measure of access, quality and equity. And national and international experts really believe that primary care should be about 12 to 14 percent of healthcare spending.

One way to address this inequity is to follow the lead of about 11 other states around the country who have looked at their own state spending and recommended a significant increase over time, using a variety of mechanisms such as reimbursement, incentive payments and other value-based approaches. And these efforts have reduced preventable emergency room visits and hospitalizations and demonstrably reduced total cost of care.

With regard to infrastructure, we support the capital -- the healthcare transformation dollars.

We also administer a New York State Community Healthcare Revolving Capital Fund, which was created by the Legislature in 2017, and we've provided affordable financing to Article 28, 31 and 32 providers. The original program limited this to facility financing. We ask the Legislature to amend this to include some things like debt restructuring, which is very important. And we also ask the Legislature to replenish these funds to infuse new funds into that fund.

We also ask you, as Rose did, to repeal the 340B pharmacy carveout. We lend to many 340B entities, and what we know is 340B has been a critical component of their financial stability, which impacts their ability to borrow money from other lenders, including CDFIs. So we think that this will be a critically important way to maintain the stability of the 340B entities.

And so with Governor Hochul's historic $10 billion investment in healthcare, we think there are ways and opportunities to increase equity, especially through promoting primary care.

Thank you for your time.

CHAIRWOMAN KRUEGER: Thank you.

And I'm just looking -- I do not see a Senate hand up. Just checking. And so I'm passing it back to the Assembly for first round.

CHAIRWOMAN WEINSTEIN: Assemblyman Ra.

ASSEMBLYMAN RA: Thank you, Chair.

Eric, I want to go back to Part P and your concerns with that. Starting with, you know, what's the ultimate impact on Medicaid patients from this?

MR. LINZER: So, you know, as I'd mentioned, the proposal talks about reducing the number of plans in the market to no fewer than two but no more than five. In some areas of the state that is going to mean that there would be the elimination of some plans from the Medicaid program.

What this means for patients is that if their plan is eliminated and removed from the program, they're going to be forced to move to another plan, which could then affect -- you know, have disruptions in their relationships with their providers. It's going to raise continuity of care concerns, as these individuals -- many of whom, as I'd mentioned, in need of a number of services, support services -- would then have to be transitioned from their old plan to their new plan. So this has significant implications for disrupting care for patients.

ASSEMBLYMAN RA: So I assume, then, you know, for providers as well. You know, if you're -- now the plan is not part of the program, that's going to have that impact on the patient of having to find a new provider.

MR. LINZER: It's certainly going to have repercussions for providers as well, particularly those that, say, for example, are engaged in value-based payment arrangements with the plan or those that may have, you know, longstanding relationships

with their patients who, if they're forced to move, it does create a number of issues there.

I think the other piece is -- you know, I don't want to underscore -- or I can't overstate enough what we think is the complexity in all of this. You know, when we've looked at this and seen what's gone on in other states, these are -- you know, this is a time-consuming appearance process, it creates a lot of concern and potential disruption in the marketplace for patients and for providers. And for a state like New York, that as I mentioned in my testimony will be recertifying Medicaid coverage for 7 million New Yorkers at around the same time this procurement is taking place, it's going to have a lot of unnecessary disruption for some of our most vulnerable New Yorkers.

ASSEMBLYMAN RA: And lastly I know you mentioned, you know, what other states have done. So is there a way to meet the goals of what this is trying to accomplish without doing something that may be so disruptive?

MR. LINZER: We think that the state already has, you know, existing authority through the contracts with the plans to make, you know, the changes that they're looking to do without having to go through a disruptive procurement process.

You know, they can define expectations, they can set quality standards, they can identify and direct community investments that they wish plans to be making. So there's sufficient authority to be able to do, you know, what the state's looking to without having to go through, you know, a process that ultimately is going to create an awful lot of disruption for the entire marketplace, but most importantly for patients.

ASSEMBLYMAN RA: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I don't see a Senator's hand up, so I'm handing it back to you, Helene.

CHAIRWOMAN WEINSTEIN: So the only other questioner we have is Assemblywoman Miller.

ASSEMBLYWOMAN MILLER: Yes, thank you.

My question is for Eric as well. I don't know if you had heard my earlier question of the Health commissioner and the director of Medicaid. It was regarding private-duty nursing in the home care environment.

Can you tell me or do you know what is the current practice? Can insurers contract directly with a private-duty nurse if a family's unable to secure nursing through an agency?

MR. LINZER: You know, Assemblymember, I think they can. But we certainly would want to go back and double-check that. And we'd be happy to come back to you and your staff to sort of provide any additional context on that issue for you.

ASSEMBLYWOMAN MILLER: Great, thank you. I would really appreciate it. Just, you know, if it's already something that is common practice, I'd be thrilled and like to be able to offer that as maybe a potential solution to myself and others. But if not,

if it's something that we can look into.

Thank you. I really appreciate it.

CHAIRWOMAN KRUEGER: All right. I do not see any other hands up. Helene?

CHAIRWOMAN WEINSTEIN: No, I do not either.

SENATOR RIVERA: I think Khaleel put his name in the chat. I don't know if you --

CHAIRWOMAN KRUEGER: I don't see him in his box.

CHAIRWOMAN WEINSTEIN: And I've asked him if he wants to ask a question, so I think it may have just been that he was arriving at the hearing again. He didn't respond to wanting to ask a question, so we will go to Senator Krueger.

CHAIRWOMAN KRUEGER: All right. Then I want to thank the three testifiers for joining us today. And again, I know that your testimony is much more detailed than the three minutes we gave you, and no doubt people will have follow-up. Thank you.

MULTIPLE PANELISTS: Thank you.

CHAIRWOMAN KRUEGER: The next panel,

of labor: SEIU 1199, Helen Schaub, director of policy and legislation; 32BJ SEIU, Manny Pastreich, secretary treasurer; and the New York State Nurses Association, Pat Kane, executive director.

All right, we'll just start with Helen.

MS. SCHAUB: Thank you so much. Good afternoon, everyone, and thank you so, so much for sticking through the whole day. I know there's been a lot of discussion about a lot of important issues, so we really appreciate that.

You know, I want to start out by saying something that I said at the hearing specifically on the healthcare workforce, which is healthcare workers are really not okay. I think people know the toll that the last two years have taken. We're really trapped in this kind of vicious cycle of understaffing, where people can't do their jobs. They're not leaving because they can't handle their jobs, they're leaving because they can't handle not being able to do their

jobs -- not being able to give the kind of care that they want to give.

And then as people leave, the people that are left are in the same situation or worse situation.

So we do really appreciate the focus on the healthcare workforce. We think it is crucial not only for workers themselves but to deliver the kind of care that needs to be delivered. The workforce investments are particularly important. Some of them take a couple of years, but we have to start them now if we're going to not be in the same situation in a year or two.

We appreciate the bonuses. If the bonuses are in the final budget, we'd like to make sure that they do go to all vital members of the healthcare team. Saying that because you're cleaning a COVID patient's room or delivering their meal is not included while other kinds of care is we think is not appropriate and really doesn't recognize all of the vital roles of the folks in the care team.

A lot of people have talked about the surpluses, which are really driven by Medicaid and the federal higher matching percentage. We want to make sure that there are real investments to address the kind of crises that people have been talking about -- psychiatric care, the safety net hospitals.

We are focusing on two in particular. As I mentioned, the safety net hospitals, we need higher rates and we need more dedicated funding. Five hundred million dollars, in addition to the billion that has been set aside, we think, in the transformation pool is crucial.

And then, of course, Fair Pay for Home Care, which we really appreciate all the advocacy from members of the Legislature. A bonus is not the same thing, as many of you have pointed out. You pay your back rent and you're still in the same deficit situation. You're not going to take a job that you can't afford to take just because you might get a couple of hundred dollars in six months.

We need to, you know, just make sure

everybody understands it's not true, as was said earlier, that bonuses are easier to administer. That's not a reason to do them. If you put a statutory wage, the money will get to the workers. And that's been true before, and the state needs to make sure the money flows to the employers. But it's not true that it's easier to administer a bonus than it is to administer a wage increase.

And just in my last couple of minutes, we did flag in our -- couple of seconds, we did flag in our testimony we do have real concerns about the impact on quality of care in nursing homes with the certified med tech proposal. We think there's much better ways to create career pathways for CNAs and deliver the care that needs to be delivered.

So thank you so much for having me today.

CHAIRWOMAN KRUEGER: Thank you very much.

And our next testifier is 32BJ.

MR. PASTREICH: Great, thank you for having me today. It's a real honor, and I'm

honored to give this presentation along with 1199 and New York Nurses Association. You know, the frontline work that they do is so appreciated by all of our members.

So the focus of what I'm going to talk about today is sort of the impact of high hospital prices on the budget.

With a little bit of background, you know, 32BJ, as most of you know, we are essential workers in our own way. We were the ones taking care of the buildings as everyone sort of ran back to those residential buildings, taking care of the office buildings during the last two years, and the ones working through COVID. And it's not that healthcare isn't an important issue all the time, but it was especially important these last years.

And our union has had a real focus on ensuring that our members have access to the high-quality healthcare, to the institutions where the 1199 and Nurses Association members work, and at an affordable price that they can -- that works for them as middle class,

but the middle class that are stretched every single day living in New York.

And what we looked at when we looked at the data -- and our fund has sort of unique access to the data of how much hospitals charge -- we've seen, number one, healthcare inflation of the hospitals going up so much that if it had gone up as regular inflation over the past 10 years, our members would have $5,000 in their pockets more if all that excess inflation went to their wages. Which is really how bargaining works.

And if hospitals charged our fund the same that they charge the government for Medicare -- same hospitals, same doctors, same procedure -- our members would have another $10,000 in their pockets. And, you know, that $15,000 would make a huge difference for those workers.

In essence, the hospitals are charging three times the rate of Medicare to our fund, and we fully believe that they're charging the same rate to state workers, city workers and other private-sector workers across

New York State.

And I just want to say that there's no sign -- and New York State itself has done studies to show this -- that price and quality are related. So while many of these large institutions like New York Presbyterian are charging high prices, many of them don't -- can't back that up with quality care. There's many low-priced and medium-priced hospitals with high-quality care, and there's many high-priced hospitals with low-quality care.

And what's important to us is these high-priced hospitals threaten our wages. As we go into bargaining for the 32,000 residential workers in New York City, at the heart of the matter will be how much money goes to healthcare and how much money goes to wages. And we need to put more money in our members' pockets.

So as I finish up, I just want to say that, you know, our suggestions are that the state really use its purchasing power to spur change. You know, the budget that

New Yorkers -- this impacts New Yorkers' budgets, and we think there's well over a billion dollars to be saved. And we really suggest the state audit the institutions to see what money is going where, audit the amount that these hospitals are charging.

So I wish I had more time, but I know you all have had a long day, so I will turn it over to the next panelist.

CHAIRWOMAN KRUEGER: Thank you very much. And the next panelist is the New York State Nurses Association.

MS. KANE: Thank you. Good afternoon.

I'm Pat Kane, executive director of the New York State Nurses Association and a nurse with 30 years of hospital experience. I want to say, on behalf of 40,000 NYSNA members, I want to thank the chairs and members for inviting us to share our views on the budget today.

First, it's really refreshing that for the first time in many years we're not here fighting against budget cuts to healthcare. We applaud the initiatives to expand health

coverage, including expanded services and eligibility for Medicaid, CHP and the Essential Plan, raising the Medicaid cap, and increasing funding and reimbursements to providers.

We do support reining in the proliferation of managed-care plans, requiring applicants to meet broader local health needs, and including public hospitals in their networks.

We do have concerns, however, that the scope of some of the budget proposals falls short at this critical moment. First, we do need to do more to end racial and social disparities in healthcare. We cannot ignore a two-tiered system in which some hospitals are flush with cash while our public and private safety net hospitals are barely kept afloat.

The budget proposes to increase funding for safety net hospitals by 450 million to 700 million, but sadly, this is not enough. These hospitals do require bolder action to allow them to care for our

most vulnerable New Yorkers.

Second, we need to do more to address hospital staffing right now. The current situation is really unsustainable. We do support the goal of increasing the workforce by 20 percent over the next five years, which translates into at least 16,000 additional nurses. Our hospitals cannot meet surge-and-flex demands or even safe care standards when they don't have enough nurses.

Our healthcare workers have faced such traumatizing conditions over the past two years, many are feeling ignored and abandoned by agencies charged with protecting them and their patients from harm. We've seen too many leave entirely while others are taking temporary traveler jobs because they offer much better working conditions.

So to fix staffing shortages, we have to stop the exodus of nurses, we have to try to win others back, and make nursing the attractive and fulfilling profession that it does deserve to be. And this requires fixing the retention bonus to cover all healthcare

workers, expanding tuition support and nursing school capacity beyond the 3 million budgeted for the Nurses Across New York program, fully enacting all of the provisions of the Nurse Practitioner Modernization Act, creating a dedicated fund for hospitals to achieve safe staffing levels, and provide competitive wages and benefits.

And lastly, we have to reject the quick fix proposals that will really lower practice standards, including shifting oversight of the professions to the DOH, joining the Interstate Licensure Compact, expanding the scope of EMS practice, and allowing non-nurses to dispense medications in nursing homes.

In conclusion, we must increase funding to keep hospitals open and to ensure that there are enough nurses and other staff to provide the care our patients need and to mentor those just entering the workforce. If we don't make these bold investments in healthcare that we need right now, we know our state and our people will pay dearly for

years to come.

Our positions are covered in more detail in our written testimony, and I can respond to any questions. Thank you so much.

CHAIRWOMAN KRUEGER: Thank you, everyone.

I see Senator Gustavo Rivera, our Health chair, with his hand up.

SENATOR RIVERA: Hello, folks. Thank you so much for joining us.

Okay, since I only have three minutes, Pat, I'll start with you. So I figure that you folks have a strong opinion on the whole scope of practice issue and switching from SED to DOH. Could you tell us what the position of the union is on that proposal?

MS. KANE: Sure. I mean, I think, you know, Gustavo, is if it's not broke, don't fix it, right? I mean, the SED, we worked with them for many years. They really are the professional -- where our professional standards of practice, a lot of that comes from.

You know, DOH, that's a whole

different -- that's a whole different animal, right? There's a lot of influence from the industry, right, and the Public Health Planning Council, and we really think that the practice issues and industry issues need to be kept separate. We think that's worked for us very well over the years. It's kept our standard of practice high. We are held to a higher standard than oftentimes the DOH is able to enforce.

SENATOR RIVERA: Gotcha.

Helen, from 1199's perspective, do you folks have an opinion on the scope of practice issue?

MS. SCHAUB: I mean, as I mentioned -- and we certainly are the same with NYSNA on the question of certified medication aides in nursing homes. We think the better strategy there is to help grow more licensed practical nurses who do the work in nursing homes, by creating a real career pathway for CNAs rather than paying them a couple of dollars more.

And we know that more nurses in

nursing homes is very --

(Zoom interruption.)

MS. SCHAUB: -- important for the higher quality of care, and that --

SENATOR RIVERA: Come on, Helene, come on.

CHAIRWOMAN WEINSTEIN: Sorry.

MS. SCHAUB: -- by allowing medication aides will lead particularly for-profit nursing homes to reduce the number of nurses.

It's not necessarily that somebody can't hand out prepackaged meds, but that a nurse, when she's doing that, is also interacting with the resident, getting a sense of how the resident is doing, able to respond to other clinical needs. And we need more nurses in nursing homes, not less.

SENATOR RIVERA: Gotcha. I want to give you the rest of the time so that you can dig a little deeper. You said that today Brett was wrong about what he said regarding bonuses and regarding how money can and should go -- could you give us a little bit more on that, on why you think he is wrong?

MS. SCHAUB: Sure. I mean, we -- when we've raised the minimum wage before, or when we set the statutory wage and wage parity, the law says you have to pay X amount. That means that the employers have to pay X amount. That's a very efficient, clear way of ensuring that that money gets to the workers.

The kind of back-and-forth that he was referring to is really about how the employer -- the state and the plans pay the employers, not how the money gets to the workers. And we think that there are more efficient ways to make sure that the money gets passed through to the employers so that they can afford to do what they're legally obligated to do.

For example, by setting a labor rate, it's very clear if you pay somebody $20 an hour or $22 an hour, you know how much it costs to do that. Right? You know what the FICA is, et cetera. You can say the labor component of the rate to the employer has to be at least equal to X to cover this cost.

SENATOR RIVERA: Gotcha.

MS. SCHAUB: And so the idea that, you know, employers submitting lists to the state and then having to pay that bonus money out is more efficient than saying "Every employer has to pay X," is just not true.

SENATOR RIVERA: Okay, thank you. Thank you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you.

Assembly?

CHAIRWOMAN WEINSTEIN: We do not have anyone. We just want to thank the witnesses on behalf of the work their members do for our constituents.

CHAIRWOMAN KRUEGER: I agree. I want to thank you all. And, you know, I'm going to wish you an easier year coming up, but no guarantees. So thank you, thank you.

Our next panel will be Panel D, for people who are following along. Let's see, one second. We're going to start with the Medical Society of the State of New York, Joseph Sellers, president; the United States Department of Defense -- you'll understand

why he's here when he testifies -- Christopher Arnold, Northeast Region liaison; The Nurse Practitioner Association New York State, Stephen Ferrara, executive director; the New York State Society of Physician Assistants, Jonathan Baker, president; the Associated Medical Schools of New York, Jo Weiderhorn, president; and the Hospice and Palliative Care association of New York State, Jeanne Chirico, president.

So we're just going to go down the six of you first, thank you, starting with the Medical Society of New York State.

DR. SELLERS: Thank you. I am Dr. Joe Sellers, an internist pediatrician and the physician executive at the Bassett Medical Group in Cooperstown, New York, and I am the president of the Medical Society of the State of New York. I thank you for inviting me today.

Our submitted written testimony expresses support for many items in the Executive Budget, but there are some that do raise concerns as well.

With so many in our healthcare system exhausted after two grueling years of responding to the pandemic, often putting our lives and our health at risk to address patient needs, we welcome various things in the budget that support the healthcare infrastructure and the healthcare workforce.

Specifically, MSSNY supports the increased funding for the Doctors Across New York loan repayment program as an investment in the future of our healthcare system, particularly when our young physicians are leaving medical and residency with hundreds of thousands of dollars in student loan debt.

Likewise, telehealth parity as proposed by Governor Hochul is an important investment to ensure our patients, particularly those with chronic conditions, have access to needed care and options to maintain regular contact with their physicians when various circumstances may limit their ability to leave their homes due to limited mobility, transportation options,

or the risk of COVID transmission.

MSSNY also supports the positive initiatives to help our patients who earn too much to qualify for Medicaid to be able to enroll in comprehensive state health insurance programs, including expanding the income eligibility limits for the Essential Plan, expanding the time frame for postpartum coverage, and eliminating premiums for CHP eligibility for children in low-income families. MSSNY also supports the proposed increase in Medicaid payments as a start in the right direction.

MSSNY also supports budget proposals that address health insurance obstacles to coverage and payment, including limiting credentialing delays and reducing excessive and unnecessary medical record requests. But we further support insurance reforms not included in the budget such as limits on excessive preauthorization requirements and improved network adequacy. We thank the superintendent of DFS for mentioning that.

First, we ask the Legislature, though,

to reject the Governor's proposal to cut the Excess Medical Liability Insurance Program. It will foist hundreds of thousands of dollars of new costs on physicians who are already struggling to recover from the economic hardship of the pandemic. We thank Assemblymember Cahill for bringing that up earlier.

But we are concerned about the budget proposals related to pharmacists and other care providers that would create silos in healthcare delivery and away from a physician-led team model. We urge you to protect the Medicaid prescriber prevails protection.

And finally, we support the proposal in the Education & Labor Budget to place some initial limits on restrictive employment covenants, but it needs to go further to address highly restrictive covenants that help systems require employee physicians which can negatively impact patient continuity of care if a physician leaves employment.

Our written testimony has other items that are just as important to us in the budget. We thank you for giving us this opportunity.

CHAIRWOMAN WEINSTEIN: Thank you.

If we can go to Christopher Arnold now.

MR. ARNOLD: Thank you, Madam Chair, Madam Cochair. The Department of Defense is grateful for the opportunity to support the policy changes proposed in the Executive Budget HMH Part B to enact the Interstate Medical Licensure Compact and the Nurse Licensure Compact, which address licensing issues affecting our uniformed service members and their families.

I am Christopher Arnold, the Northeast Region liaison at the United States Department of Defense-State Liaison Office, operating under the direction of the Undersecretary of Defense for Personnel and Readiness. I am also an Army combat veteran and son of a practicing New York registered nurse of 53 years, and I thank you for the

opportunity to address you today.

Licensure issues for both service members and their spouses have been a top concern for the department for over a decade, and the Secretary of Defense recently made taking care of families the fourth line of effort in our national defense strategy. The First Lady, Dr. Biden, has called military spouse licensure a national security imperative, key to both military readiness and retention. Pre-pandemic research showed that unemployment rates for licensed military spouses ranged as high as 28 percent. The secretaries of the military departments have made the importance of military spouse licensure explicitly clear as they consider the availability of license reciprocity when evaluating future basing or mission alternatives.

The fiscal year 2020 National Defense Authorization Act requires the military departments to consider the quality of healthcare near bases, whether reciprocity of professional licenses is available for

military families, and produce annual scorecards evaluating license portability. The Air Force's approved strategic basing criteria assesses things such as membership in the Nurse Licensure Compact, and future Air Force basing decisions will be made with a consistent framework to ensure optimal conditions for service members and their families.

The NLC allows an active-duty service member or their spouse to designate a home state where the individual has a current license in good standing. This state then serves as the individual's home state for as long as the service member is on active duty, while adhering to the laws, rules and scope of practice in New York.

This is significant for the military community in that along with active-duty military spouses receiving the benefit of compacts, active-duty members, members of the Reserve component, Reserve component spouses, transitioning service members and other veterans benefit from the mobility provided

through compacts, as New Yorkers serving around the country will have their multistate license recognized when transitioning in and out of 39 other states.

Congress provided the department with authority to enter into a competitive agreement with the Council of State Governments to provide grants to professions to develop compact law to be approved by states, and I'm glad we have Chairman Rivera, our CSG East health policy chair, here with us today.

In addition to supporting the drafting of model compacts for the professions, federal law requires DOD to support them by developing database systems to make the compacts more efficient and operational, allowing states to share information about practitioners using the compact provisions to work in the member states.

The department encourages states to engage in immediate actions to fully implement their laws and make them accessible; near-term actions to obtain a

baseline of getting a spouse a license within 30 days; and long-term solutions for instant reciprocity through compacts. How fast these actions and solutions can be approved and implemented is up to the states.

As always, as liaison to the Northeast, I stand ready to answer whatever questions you may have.

CHAIRWOMAN WEINSTEIN: Thank you.

We go now to The Nurse Practitioner Association New York State.

DR. FERRARA: Hi. I'm Dr. Stephen Ferrara, nurse practitioner and the executive director of The Nurse Practitioner Association, the organization representing more than 25,000 NPs throughout New York State. The NPA appreciates the Legislature's longstanding support and the opportunity to testify regarding Governor Hochul's Health Article 7 bill today.

In New York, NPs gained legal scope of practice with full prescribing authority more than 30 years ago. NPs possess a license and experience as an RN, then obtain additional

certification as an NP upon completion of a master's or doctoral degree. To quote the State Ed Department, the law does not require a physician to supervise a nurse practitioner or cosign any documents, and holds them independently responsible for the care provided.

Prior to 2014, however, all NPs were statutorily required to maintain contracts with physicians as a condition of practice. These written agreements proved to be a costly artificial barrier to accessing healthcare services that had no positive impact on healthcare outcomes. As a result, as part of the 2014 budget negotiations, the NP Modernization Act was enacted. This reform eliminated the written agreement for NPs who completed 3600 hours of practice, but required them to maintain collaborative relationships, another administrative function without patient benefit.

The Legislature insisted on including a study, report and sunset. That sunset date is now June 30th of 2022.

Ultimately, SED and DOH jointly concluded that the law was achieving its purpose without any indication of adverse impact on quality of care and should be made permanent.

The COVID pandemic has bolstered the justification for updating the modernization act. NPs have been on the front lines throughout this pandemic and, as a result of still-in-effect executive orders, have been able to do so without maintaining written agreements or mandated relationships. The suspension of these requirements over the last two years has made it evident that the administrative burdens provide no clinical benefit.

The NPA is encouraged that Governor Hochul's Health Article 7 bill calls for eliminating statutory collaboration requirements. We support making the law permanent and eliminating the unnecessary burden placed on NPs who have completed 3600 hours of practice. However, the language needs to be clarified so that the

standard applies regardless of the healthcare services provided or the setting in which it is delivered.

The chairs of the legislative healthcare committees, and many of your colleagues, have made it clear that they fully understand the role of NPs by sponsoring A1535 and S3056A. These similarly track the budget proposal but specifically eliminate any statutorily mandated collaborative relationship for all NPs with greater than 3600 hours of experience.

The NPA supports the implementation of integrated team-based approaches to healthcare delivery that are centered on patient needs. As the National Academy of medicine explains, this is a systems approach to care and not a licensure construct. Preventing clinicians to practice at the top of their education, as Commissioner Bassett just stated, without unnecessary statutory mandates, needlessly reduces the flexibility and capacity of the workforce. NPs will always continue to collaborate with other

health professions.

It is imperative that either through Chairs Gottfried and Rivera's bills or a modified version of the Governor's proposed language, New York join the 24 other states that afford NPs full practice authority. Multiple and robust peer-reviewed clinical studies exist and consistently prove the high-quality care provided by NPs.

Let us remember that psychiatric nurse practitioners are also providing much-needed access to mental health services.

The NPA respectfully requests that the Legislature work with the Executive as part of this budget process to allow NPs to practice at the top of their license without unnecessary statutory mandates. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We move on to the New York State Society of Physician Assistants.

MR. BAKER: Hi. Good afternoon. And thank you to the Senate and Assembly chairs and committees here today for holding this hearing.

My name is Jonathan Baker, and I'm the president of the New York State Society of PAs.

As the New York healthcare workforce shortage inevitably worsens over the coming years, it is essential that PAs are included in the state budget as part of the healthcare workforce solution. PAs are healthcare providers trained in the medical model, based on physician training. We are nationally certified, licensed by the state, and overseen by the State Board for Medicine. We provide preventive health services, diagnose illness, develop and manage treatment plans, prescribe medications, and often serve as primary care providers.

Our education, scope and training allow flexibility to care for patients of every age, in every discipline, and in every medical setting across every region of New York State.

For the past two years, under Executive Orders 202 and 4, the nearly 20,000 PAs licensed in New York State have

been able to care for our patients without the requirement for physician supervision. This has allowed PAs to practice to the fullest extent of our scope and training while working with the healthcare team, including our physician colleagues. Our unique medical training, skill set and flexibility allow us to fill critical workforce gaps and prepared us to provide essential care on the front lines of the COVID-19 pandemic.

PAs proved critical in establishing and managing emergency care triage tents, staffing safety net hospitals, critical care access, hospital emergency rooms and ICUs, vaccination and testing efforts, telemedicine implementation, and everything in between. During this nearly two-year de facto demonstration project, we are not aware of any PA who has worked outside of their scope or any untoward patient events.

A review of the data from the National Practitioner Data Bank for the last six years shows that there's no change in the number of

reports processed against PAs for the time period the executive orders have been in place.

Included in my written testimony is a number of peer-reviewed journal articles showing that PAs provide care with similar outcomes to physicians at significantly decreased healthcare costs. PAs expand access to care for New Yorkers with a special focus on underserved populations, including immigrants, LGBTQ+ and rural populations.

Several states have permanently removed the supervision requirement for PAs, while others have legislation pending.

New York's 28 PA programs are educating the future of our healthcare workforce. By allowing PAs to practice at the top of our license, we ensure that we are not exporting some of New York's most valuable resources, our PAs.

Additionally, any loan repayment programs included in the budget should be extended to PAs as well.

The New York State Society of PAs

requests that the State Budget include language to codify the executive orders as it pertains to PAs, effectively removing administrative barriers, which will allow PAs to continue to meet the many and diverse healthcare needs of our patients.

Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We now go to Associated Medical Schools of New York.

There you go, Jo.

MS. WIEDERHORN: Okay, sorry.

I'm Jo Wiederhorn, and I'm the president of the Associated Medical Schools of New York. I want to thank all of you for allowing me to testify today.

Normally I come before this body and I'm either asking for more money or I am asking you to please put the money back in the budget for our programs that have been taken away. Today I am not. Today I am here to thank you, thank you for your continued support.

I think you'll see, in the addendums

that I've provided, our medical school enrollment is now over 21 percent underrepresented minority students in the entering class, and over 18 percent in the total aggregate of medical students. This has come a long way since we first started these programs. But we still say we have a long way to go, and we know we have a long way to go.

In the Executive Budget the Governor basically doubled our budget. We now -- they have now put in $2.44 million for us to expand our programs. We certainly can use these funds. We have programs across the state that are looking to advance their diversity programs.

So my request to you all is to please keep the $2.44 million in the budget and have it be in the enacted budget.

I also wanted to speak briefly about our scholarship program. The scholarship program is a legislative add-on. Last year we received $550,000 to provide scholarships to medical students who will then make a

commitment to work in an underserved area. We would be very grateful if this money was put back into the budget for this coming year.

But finally I want to talk to you about our stem cell program. The stem cell program, as you know, has been cut out of not only the budget, but it has been cut out of the Article 7 language. Assemblywoman Seawright and Senator Hoylman each have a bill to reinstate the stem cell program. We think this is very important, because we couldn't even put more money in unless the program is put back into the Article 7 language.

We would also, of course, like to have some funds put back into the budget to continue -- to be able to continue the NYSTEM programs that are currently in effect. We have programs that were started that are right on the edge of going into clinical trials and having new treatments, and they are being cut off.

And then just very quickly, I just

want to say this is a real problem because our stem cell researchers are being contacted by California, that just put $5.5 billion into their stem cell program. And we certainly have the chance of a brain drain out of New York.

So thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

And our last member of this panel, Hospice and Palliative Care Association of New York State.

MS. CHIRICO: Hello. And thank you for allowing me to present today. I thank the chairs, and I thank all the members who are here and still on the line. I've learned an incredible amount already today.

And I appreciate the Governor's budget where our association believes there are many opportunities to support people with serious illness. But without your help, with the one-house bills and budget clarifications, hospices will once again be left out of the resources that New York offers.

There are opportunities within the

budget to debate the use of the funds, and there are things that we might agree with or disagree with. But I hope that we can all see that when it comes to hospice, there is no debate. We are all going to die at some point. We all are going to lose a loved one in our lifetime. And I hope that if you have lost a loved one, that you have had an opportunity to experience the benefits of hospice services.

But unfortunately, you may be in the minority of people if you have, because New York is failing its constituents in helping them to access hospice services. New York is last in the nation in its hospice utilization. Only about 25 percent of the Medicare beneficiaries in New York State access hospice services at the end of their life, which is what puts us last in the nation.

There are a variety of reasons for this, but our association believes that there are opportunities within this budget to show your commitment and dedication to people with

serious illness by aligning some of these items with the needs of our people who are seriously ill.

For example, within the Department of Health, helping us to create a position dedicated to hospice and palliative care services.

Working on a state campaign for advanced care planning to assure that all New Yorkers, not just people who receive Medicaid, but all New Yorkers understand their rights and that they have an opportunity to choose the care that they prefer at the end of their life.

So a statewide advanced care planning campaign that coincides as well with healthcare registry for advanced directives that include the MOLST form. Right now the MOLST e-registry is being housed by a third party out of their community service. It is not under the New York State Department of Health, it is nowhere under the guise of New York State. And we request that this change and that the Legislature help us

change that and make that happen through budgetary alignment.

So thank you for allowing me to be here. And I believe you'll see in our written testimony expanded explanation of all these things. But we ask for your help to support the seriously ill in New York.

Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

Is Assemblyman Byrne here? I know he had raised his hand to ask a question.

ASSEMBLYMAN RA: I think we lost him.

CHAIRWOMAN WEINSTEIN: If not, so then Mr. Ra.

ASSEMBLYMAN RA: Thank you, Chair.

I just had a question for Mr. Arnold.

So thank you for your testimony. I originally saw the witness list and I wasn't sure, and then read your testimony and obviously you talked about an issue which I think is very important. I'm just curious how the compacts relate to the state's current authority to independently set its own standards for education, training and

licensure.

MR. ARNOLD: Thank you for the question, Assemblyman.

A nurse licensure compact does not set standards for nursing education, training or licensure. The NLC contains 11 licensure requirements that all states must meet before obtaining a multistate license. These licensure requirements are contained in the legislation and cannot be changed by the interstate commission.

All standards for a single state license, nursing education, nursing practice and discipline remain at the state level. I cover 11 states. Every state perceives their state has the highest standards, yet they are more alike than different. The bolstered commonality of the NLC's multistate license mirrors or exceeds New York in-state licensure requirements that applicants graduate from an accredited nursing program, pass the national council licensure examination, and undergo a state and federal fingerprint and criminal background check.

The best evidence that we have about the quality benefits of licensure relate to occupations that tend to have more harmonized standards across states. Where we do not have any strong evidence, however, is to suggest that the type of license recognition in the NLC is associated with worse quality or worse care outcomes.

This type of well-designed licensure regime can enhance public safety while expanding healthcare access in historically underserved communities.

ASSEMBLYMAN RA: And you mentioned towards the end about this national background database. Could you just talk a little bit more about that?

MR. ARNOLD: Certainly. Congress required the department to enter into a competitive agreement with the Council of State Governments and their National Center for Interstate Compacts, and provided $5 million in grants to select professions to develop model compact legislation addressing license portability affecting transitioning

military spouses along with other practitioners in the profession.

The current effort is a collaboration between the federal government, state governments, nongovernmental organizations representing professionals and state licensing boards. And through this effort, all practitioners will have greater mobility while sustaining the focus on assuring public safety.

For example, in 2015 the previous enhanced NLC, which included standard licensure requirements among NLC states to guarantee that bedside nurses follow the same licensing guidelines, was amended to include additional safeguards such as the mandatory FBI and state police background checks and fingerprinting. Such changes required states which were members of the prior compact to pass new enabling legislation to practice under the amended compact. We perceive that the ongoing effort to develop these databases will further enhance public safety.

And while, for example, executive

orders to suspend licensure requirements could be used during a time of emergency, that would create a system where unvetted nurses would be practicing. Whereas all nurses who practice under a compact license have been background-checked and are free of any current disciplinary actions.

ASSEMBLYMAN RA: Great, thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

Hi. I was listening, I was just taking a short lunch break while all of you were testifying.

Rachel May has her hand up.

SENATOR MAY: I do, thank you.

And this is directed to the Medical Society and the Medical Schools. As chair of the Aging Committee, I've gained an enormous respect for geriatricians and for the field of geriatrics, and I understand that it's not a top priority for a lot of people in medical school.

So I have a bill to make geriatricians dual-eligible for the physician loan

repayment program and the physician practice support program, but I would love your thoughts on other ways that we can incentivize people to go into this really important and fascinating field.

DR. SELLERS: Let me let Jo go first.

MS. WIEDERHORN: I was going to say let me let Joe go first.

(Laughter.)

MS. WIEDERHORN: Well, thank you.

I think there are a number of ways that gerontology can be sort of advanced in medical school. I know a number of our medical schools have programs where students go with attending physicians and with faculty to people's homes to provide them care in their homes.

I think doing innovative programs like that where students are actually brought in and can help with care -- I think that that is really, really important.

I think the idea of allowing people to get both Doctors Across New York monies and the physician repayment money, I think that's

a very good idea as well.

But I think really the key to getting more people interested in going into gerontology is their faculty advisors when they're in medical school. I can't tell you the number of students I talk to who say that, you know, they're interested in going into X or Y specialty because of their faculty advisor.

So I think we need to look at what programs are out there and see if they can be replicated.

DR. SELLERS: Again, I would agree a hundred percent with what Jo said.

You know, this is a great discussion for us to have if we look at workforce issues and for the various specialties in medicine where there might be shortages of practitioners and wanting to help people find a great career like gerontology -- or my own career. I'm an internist and a pediatrician; I'm at the other end of the spectrum.

But the -- a lot of it is mentors, role models, it's getting people out into --

early in their careers, out into the community to see how medicine is practiced. There's a great variety of medicine, it's all exciting, it's all great careers, and we just need to work with our medical schools and work with the docs who are in practice to be helping the medical schools get clinicians who can be those role models.

But again, having the dollars to support practice and to support loan repayment is a wonderful idea, and we would support that wholly.

SENATOR MAY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly, do you have any hands up?

CHAIRWOMAN WEINSTEIN: We do not. So we can continue.

CHAIRWOMAN KRUEGER: Okay, we have a couple of Senators still.

So Senator Sue Serino.

SENATOR SERINO: Thank you, Chairwoman. And thank you to everyone that's testifying on this panel today.

But my question is for Dr. Sellers.

You've provided very extensive testimony today, and one thing that really stuck out to me was your veterans mental health training program. You know, so much of our testimonies have been about -- and our discussion has been about mental health. And I love that you've been working with the Joseph P. Dwyer Peer-to-Peer Program.

So I'm just wondering if you can elaborate a little bit about the program and tell us about the amount of funding that you're looking for as well.

DR. SELLERS: Thank you for asking.

So we have been providing more and more education to the physician community on how to care for veterans. It turns out about half of veterans get their care outside of the VA system, but into the general community of physician practitioners across the state.

And again, working at improving the skills of physicians in providing care to veterans with their specific needs. We've had education programs looking at women veterans, looking at veterans with substance

use, looking at veterans with mental health care.

And we're asking to continue to renew the grant support to our Medical Society to continue this vital program.

SENATOR SERINO: And that's great. I see how you mentioned how the suicides have gone up. You know, we've all talked about this too with everything since COVID. And so this is great; I was really happy to read about what you are doing, and I can't thank you enough.

So thank you for talking to us about it today.

DR. SELLERS: Thank you for bringing it up, Senator.

SENATOR SERINO: Thank you.

CHAIRWOMAN KRUEGER: Thank you, Senator Serino.

So I don't see other hands, so I'll just jump in quickly, for our guest from Hospice and Palliative Care Association, Jeanne Chirico.

So Jeanne, I think I did my first sort

of town hall on palliative care and hospice almost 18 years ago.

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Oh, wait, somebody -- Helene, press -- okay. Sorry.

I think about 18 years ago I did a town hall, and nobody wanted to cosponsor with me, and they all said, No one will come. And it was standing room only. And ever since, we have made it a big focus to work on doing town halls and webinars on advanced directives and on the value of hospice and palliative care, and we get huge response.

So your point that New York is almost last in the nation on people using these services, I'm just fascinated. We're also almost last in the nation on organ donation. Do New Yorkers really just think we don't die like everybody else? Do we hire a cultural anthropologist to study this question for us? I'm really sincere. I don't understand what is it about us as New Yorkers that -- these are incredible services. I had both of my parents in hospice care, and it was

invaluable.

So help me understand why we're just so different here in New York.

MS. CHIRICO: You know, I wish there was one simple answer, because we would have been jumping on that right away.

However, New York State, the way that our system is set up is so hospital-centric. This is coming from a person who's been a provider for many years. It's very difficult for patients and families to know that they have the ability to make choices and ask questions. And without really some in-depth knowledge, the fact that you can choose your care path and that it's not just an acceptance of a direction given to you by a specialist or another -- New York is so blessed with a plethora of advanced medical institutions and specialists that it's sometimes -- there's always one more to try, one more thing before anybody has the courage to have the conversation that says, You know, you don't have to try one more; there is another alternative called hospice and

palliative care.

That's just one simple answer, but it's a complex issue. And at this point we don't have anyone at the helm helping to drive the options for people with serious illness. There's not a person or a department or a division that we can turn to to ask for help to help guide this discussion.

CHAIRWOMAN KRUEGER: I want to thank you and your members for their work, because it is truly invaluable medical care that you do offer, and I would like to work with you as we move into the future on this.

Thank you.

MS. CHIRICO: Thank you, Chairwoman.

CHAIRWOMAN KRUEGER: Thank you. Are there any other legislators with their hands up for this panel?

CHAIRWOMAN WEINSTEIN: None in the Assembly.

CHAIRWOMAN KRUEGER: Okay, I do not see any in the Senate, so I'm going to thank this panel of extraordinary professionals,

and thank you to all your members for all the work they're doing for us every day of the year.

And I'm going to call up Panel E, the New York State Council for Community Behavioral Healthcare, Lauri Cole, executive director; Medicaid Matters New York, Lara Kassel, coalition coordinator; LeadingAge New York, Jim Clyne, president and CEO; Center for Elder Law & Justice, Lindsay Heckler, supervising attorney; Consumer Reports, Chuck Bell, programs director; and New York Caring Majority, Bobbie Sackman, campaign leader.

So we'll just start going down with the six of you, starting with the New York Council for Community Behavioral Healthcare.

MS. COLE: Good afternoon. Can you hear me okay?

CHAIRWOMAN KRUEGER: Yes.

MS. COLE: Okay, good.

My name is Lauri Cole, and I'm the executive director of a statewide membership association, the New York State Council. We

represent 107 mental health and substance use disorder providers across New York State.

Thank you for permitting me the opportunity to speak to you today. As you know, so much of what goes on in mental health and substance use care has an overlay with Medicaid policy, and that's why I'm grateful to be here today.

Last year I came to this committee and I was kind of begging for help. Since behavioral health services were carved into Medicaid managed care in 2015, we have watched and wondered what was happening to the premium dollars that were paid to MCOs that were put into the carve-in to manage benefits. And only recently, within the last two years, did we really take up the fight to try and understand what was happening in terms of overall MCO performance in our Medicaid managed care carve-in.

And I came to this committee and I asked for help in getting that performance data. It took us 15 -- it took us 20 FOILs, aggressive, aggressive advocacy, and the help

of both chairs of the health committees to get to a point where we understood that certain MCOs across the state in the behavioral health carve-in were not meeting expenditure targets that were required by contract. And as such, the law requires that when they don't meet expenditure targets, that money, those funds that are essentially overpayments to MCOs, are supposed to be reinvested with OASAS and OMH. And we realized that that was not happening.

And after 15 months of advocacy and begging and pleading, we finally have Part FF, which is a proposal in the Health & Mental Hygiene budget that returns $111 million state share to OASAS and OMH as a result of these overpayments that have now been recouped from certain MCOs.

I tell you this story because we need you to protect this proposal. I also would ask that you do everything that you can to enhance surveillance monitoring enforcement by the state as it relates to our carve-in. Our carve-in is the poster child for what is

wrong with a Medicaid managed carve-in with MCOs that are not procured competitively. And I just told you a story about $111 million, grossing to 222, $111 million that was not spent on actual care for clients during a two-year period.

The competitive bid proposal will have considerable positive impacts for consumers of care. For one thing, there have been 150 citations issued by OMH, OASAS and DOH against MCOs and health plans across the state that have violated either state laws or requirements in two main categories; that is, compliance with federal and state parity laws and also claims denials that were inappropriate.

I have a long list of concerns that are brought about by the transactions between providers and MCOs who are not interested in the best interests of the consumers that we serve. It is clear to us that we need a change, and the competitive bid proposal can be that change. We are not concerned that consumers will get lost in the shuffle. What

we are more concerned about is that providers -- that health plans and MCOs that don't pay timely and in full reduce access to care across the state.

That is our concern, and that is something to take up and to talk about. Because every time a provider has to chase a plan to get paid or be reimbursed, it is essentially restricting access to care on behalf of a provider that is fragile, that has no reserves, that has very little margin and cannot afford to increase care -- which is what we've needed during the COVID period -- but instead has to contract it because they can't afford to do business with MCOs that don't pay them.

So I see my time is up. I'm happy to take questions. Please ask me questions about either Part FF or Part P.

CHAIRWOMAN KRUEGER: (Muted.)

MS. COLE: I don't hear you.

MS. KASSEL: I believe I am next on the witness list, so shall I go ahead? We don't hear you, Senator Krueger.

CHAIRWOMAN KRUEGER: I'm so sorry. I'm the one on mute. I was saying you were on mute.

(Laughter.)

CHAIRWOMAN KRUEGER: Yes, please go, Lara.

MS. KASSEL: Okay, thank you.

Thank you. Thank you for the opportunity to testify today and for your attention. Thanks also to your staff for everything that they do during the budget process.

I am aware that there are many advocacy groups that signed up to testify and submitted their testimony in time for the deadline and they were not selected for the hearing, and many more will submit written testimony. I urge you to review all of their testimony. The advocacy community is broad and diverse and includes a wide variety of perspectives that must be considered as you consider the state budget.

Medicaid Matters is the statewide coalition representing the interests of the

over 7 million people now served by New York's Medicaid program, and the safety net providers that serve them. Our members are individuals enrolled in Medicaid, family members, community-based organizations, community-based providers, legal services agencies, policy and advocacy organizations and more.

We firmly believe the best way to go about policy-making and budget-making is to consider how policy changes and budget cuts or investments impact on people and their access to services. Our mission is to ensure the interests of people are included, understood, and met in all venues in which Medicaid is debated in New York State.

New York's Medicaid program is a strong, successful program. Is it perfect? Of course not. That's why we do what we do every day to advance the interests of people, because it is often people who suffer the negative consequences when Medicaid isn't allowed to do what it was intended to do as a safety net program that provides for people's

needs.

As it relates to this year's budget, we agree with many of you and others who have testified today that this is a great budget, probably one of the best we've seen in a long time. There are also many things that we are concerned about in this budget that we urge you to consider as you draft your one-house budget bills and negotiate the final budget.

We are thrilled the Governor is proposing to expand Medicaid income eligibility for people with disabilities and older adults and eliminating the asset test for them. These are two pieces of a three-part eligibility equity proposal that Medicaid Matters and other advocacy groups proposed last year. We need the third piece, which is expansion of income eligibility in the Medicare savings program to be included in the final budget.

We applaud the Governor for expanding the Essential Plan. Let's enact coverage for all so that immigrants have access to affordable insurance coverage no matter their

immigration status. We are glad the Governor proposed to take up the federal option to extend post-pregnancy coverage, but it specifically excludes immigrants from the coverage. We need the final budget to include them. Please fix that.

So many of you and your colleagues have raised the importance of support for safety net hospitals. We need the Legislature to consider including the Indigent Care Pool bill in the final budget. We support the Fair Pay for Home Care campaign. And last but not least, let's "scrap the cap," repeal the global Medicaid cap.

Thank you very much.

CHAIRWOMAN KRUEGER: Thank you very much.

Next we have LeadingAge New York.

MR. CLYNE: Hi, I'm Jim Clyne, the CEO of LeadingAge New York. We represent over 400 not-for-profit and government long-term-care providers, from nursing homes to HUD housing.

I wanted to cover five areas and give you a little context. The first is the budget is a great start on the Medicaid side, but a 1 percent increase is not nearly enough. If the 14 years of COLAs had not been repealed, the Medicaid rate for nursing homes would be 31 percent higher. I don't think you're going to do a 31 percent increase, but certainly 1 percent across the board is not nearly enough to make up for the underfunding.

We support the Governor's initiative on staffing and quality funding for nursing homes. We think it's important to reward good providers.

I just want to clarify the impact of the budget on assisted living, which is a little bit confusing, I think. There's an Assisted Living Program, which is 14,000 beds, which is Medicaid-funded. That program will benefit from whatever Medicaid increase you do. But there are 37,000 other assisted living beds out there that will receive no assistance in this budget, nor have they

received any federal aid throughout the pandemic. The state put enormous requirements on these assisted living providers as far as staff testing and PPE. So we're asking for $75 million to support the assisted living programs, which really have not benefited from any assistance and will not benefit in this budget.

Next I'd like to cover the RFP for Medicaid managed care. That will essentially close the community-based not-for-profit long-term-care programs who are currently operating, primarily in New York City but in other parts of the state also. So imagine a year and a half from now you're going to have 100,000 to 150,000 elderly and disabled people having to change their Medicaid plan. If anybody remembers going through some of the plans that have closed down on their own and the mayhem that that created, the thought of 100,000 to 150,000 elderly and disabled people changing plans I think is an extraordinarily bad idea. And that the goals that the department is trying to reach could

be reached without going through this RFP process.

The last two pieces. Med techs, we strongly support that. The single biggest thing you could do to help rural providers is enact the med tech program. It's extraordinarily difficult to recruit nurses into rural areas, and med techs would really be able to fill the gap. Not every person wants to become an LPN, so the med tech is a great stepping stone for CNAs.

And finally, we want to look at the bonus program. We agree that it needs to cover all providers -- all job classes. We do think it's important when we have food service workers and maintenance people be included in the bonus pool. And again, the assisted living program is not part of the bonus pool, so on the same campus you could have people who are working in the nursing home getting a bonus but the people who are working in assisted living, doing the same or similar job, not getting a bonus. So we really need to look at that.

Thank you. I appreciate the opportunity to testify.

CHAIRWOMAN KRUEGER: Thank you very much.

And our next testifier -- sorry, I just have to move my page -- the Center for Elder Law & Justice.

MS. HECKLER: Great. Thank you for the opportunity to testify today.

My name is Lindsay Heckler, and I'm a supervising attorney with the Center for Elder Law & Justice. It is our mission to improve the quality of life for older adults and persons with disabilities through the provision of free civil legal services, primarily in Western New York. We are also proud partners with the Region 15 Ombudsman Program.

During the '20-'21 session, the Legislature took various actions to address the failures of the nursing home industry. However, portions of the Executive Budget directly undermine your actions. While our written testimony provides our support and

recommendations for increasing access to care in the community, such as fair pay, today we focus on actions the Legislature must take to ensure its efforts from '20-'21 are not eroded.

First, we urge the Legislature to reject the Executive's proposed changes to the new minimum direct spending law and also urge you to reject changes proposed by the nursing home industry. This law ensures operators are held accountable by requiring funds are spent on resident care and services, not excessive administrative expenses, management contracts or related party transactions.

Operators in recent litigation have revealed excess resources yet failed to demonstrate how they use these excesses in resident care. One Buffalo operator, a plaintiff in a lawsuit, for example, invested in a really nice lobby but had consistently failed to invest in staffing prior to the pandemic. Most recently, they were cited for immediate jeopardy for insufficient staffing.

Don't water down the law that requires nursing homes change the way they do business and prioritizes resident care.

Second, we urge the Legislature to reject the Governor's proposal to establish certification for memory care. Nursing homes are mandated by federal law to meet the care needs of residents living with dementia. Establishing a new certification that would allow facilities to advertise providing memory care services undermines the federal law and will further promote an inequitable tiered system that already exists when it shouldn't exist. The state must focus its efforts on enforcement.

Third, we urge the Legislature to directly support persons living in nursing homes by increasing the personal needs allowance from $50 to at least 100, with annual increases for cost of living. The $50, set back in 1981, is all a resident whose care is paid for by Medicaid is allowed to retain of their income. Fifty dollars is all they have to buy personal items that

directly improve their quality of life -- beauty/barber services, clothing, internet, books, as an example.

Increasing the allowance in the budget to enable a person to retain more of their income is a straightforward way the state can directly improve the quality of life for those living in nursing homes.

Lastly, invest $20 million into the Long Term Care Ombudsman Program. Ombudsmen can play a significant role in raising the level of care provided and ensure each resident is treated with the dignity and respect they deserve. However, the state's severe underfunding is preventing the Ombudsman Program from succeeding in its role. State investment in the program is needed, not another study.

Thank you for the opportunity to testify today.

CHAIRWOMAN KRUEGER: Thank you very much.

Next up is Chuck Bell, Consumer Reports.

MR. BELL: Thank you, Madam Chairs and members of the committee. I represent Consumer Reports. We're a national nonprofit member organization that works with truth, transparency and fairness in the marketplace, based in Yonkers, New York.

I wanted to briefly highlight two issues that are important to consumers and patients: The serious threat of antibiotic-resistant superbugs, and ending the scourge of unfair medical debt collection practices.

With respect to antibiotic resistance, the COVID-19 pandemic has brought home to all of us how a previously unknown disease can wreak havoc not just on our lives in New York, but on human life all over the world. And it underscores the importance of prevention and early intervention.

With this in mind, Consumer Reports urges New York State to increase its efforts to address the growing threat to public health that is posed by strains of antibiotic resistant bacteria, also known as superbugs,

which are bacteria that are immune to lifesaving antibiotics. The growth of antibiotic resistant superbugs has been aptly described as a slow-moving pandemic by the Centers for Disease Control and the Department of Health and Human Services. The CDC currently estimates that antibiotic-resistant bacteria are responsible for at least 2.8 million infections in the United States, and at least 35 deaths every year -- and some experts believe those numbers are much higher.

In addition, 661,000 Americans get sick every year from eating food that is contaminated with antibiotic-resistant bacteria, and 24 percent of all antibiotic-resistant infections come from food and animals.

New York took an incredibly important step last year when it passed a law requiring every hospital and nursing home to establish an antibiotic stewardship program. But since two-thirds of all antibiotics that are sold in this country are used for livestock

production, it's imperative from a public health perspective to also address overuse and misuse of antibiotics on farms and in food production.

So we're urging the Department of Health to open up an office of antibiotic resistance control and also establish the state antibiotic resistance control board, consisting of heads of relevant state departments, public members and stakeholders. And we have goals that we'd like to see the state establish for reducing the use of medically important antibiotics in animals and also reducing healthcare-acquired infections.

With respect to debt collection, we're pleased to join with the Community Service Society and Healthcare for All New York in calling for passage of three bills that would help protect patients against unfair medical debt collection practices. The bills are listed in my testimony.

One would make it more easy for patients to find out about financial

assistance programs by standardizing those programs and increasing eligibility to 600 percent of the federal poverty level.

A second bill would prohibit hospitals and medical providers from placing liens on patients' homes or garnishing their wages to recoup a medical debt judgment.

And the third bill would require providers to notify patients ahead of time if a provider adds facility fees onto the cost of their visit, and to prohibit such fees for preventive services.

So thank you so much for the opportunity to testify, and I look forward to working with you and responding to any questions.

CHAIRWOMAN KRUEGER: Thank you very much, Chuck.

Our next testifier is Bobbie Sackman, New York Caring Majority campaign leader.

MS. SACKMAN: Thank you, Chairs and members of the committees. My name is Bobbie Sackman, campaign leader, New York Caring Majority and Jews for Racial and Economic

Justice.

The New York Caring Majority brings together organizations representing all of the groups who have a stake in investing in care work -- older adults, disabled individuals, family caregivers, home care workers and home care providers and agencies. We represent urban, suburban and rural areas, upstate, downstate, all over the state. And the fact that all of us have come together on this issue shows the breadth of support for valuing home care work, not just with words but sustainable wage increases.

I was formerly the director of public policy for LiveOn NY for 28 years, and I can say that fair pay would be the most transformational change to home care we've seen in decades.

I bring people with me as I speak today -- Loretta Copeland, who's 81 years old, lives in Harlem. She's supposed to get five days a week of home care, gets one or two. And she has fallen multiple times in the bathtub, and that's not a good thing.

I bring Renee Christian of Buffalo, who sleeps in a wheelchair night after night after night. We know we will be successful when nobody ever sleeps in a wheelchair again.

I bring with me Maggie Orenstein, who's been a family caregiver and lives in Queens since she's 17 years old. And she's still caring for her mom, who can't even get all the care she needs to this day, and Maggie's trying to earn a living.

I bring with me Mildred Gallery, a home care worker from Long Island, who after 30 years -- 30 years as a home care worker -- continues to make minimum wage.

These are just a few stories.

So here it is in a nutshell. We're an aging society. We have increasing people with disabilities and illnesses, especially since COVID. We have the largest shortage of any state in the nation of home care workers. Home care workers, a majority women of color workforce, are receiving poverty-level wages, which drives them away. Millions of family

caregivers in New York provide $31 billion of free care. They need help.

The CUNY labor study showed that Fair Pay for Home Care would wipe out the home care workforce shortage in less than five years, bring 200,000 home care workers to the field. We would see increased revenue through these jobs and moving people off of public assistance. Home care workers have skills, medical skills. They decrease falls. Toileting, bathing, transferring, ambulation. Think of Loretta Copeland, who's fallen in that bathtub.

They provide respiratory care, like to Kendra Skalia, who testified last week at the Human Services hearing. Kendra says that if her ventilator alarm beeps and she has no aide, she could suffocate. She can't adjust it. She can't fix the -- when she needs to cough, she could suffocate on phlegm. It's all these things we don't even think about, and they can cause disruptions and death.

Home care is hard work. People are getting paid $13.20 in 54 counties across the

state. The bonus is not the answer. I think it is time that we could all agree to end New York's policy of neglect and poverty-level wages.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much, Bobbie.

So a really diverse panel of lots of different views. And I see Senator May's hand up first.

SENATOR MAY: Yeah, thank you, Madam Chair.

Thank you to everybody who testified. Bobbie, those were great arguments and great words, and thanks for bringing all those people with you. It is -- it really is crucial that we get a home care workforce that is paid a living wage.

I did want to ask a question of Lindsay about the Long Term Care Ombudsman Program. You know, I've worked really hard on the legislation last year, but we definitely need that 20 million. I'm wondering what your thoughts are about --

about how we will know if there is communication, finally, going on between DOH and the LTCOP -- the ombudsman and the LTCOP program, because that was one of the things that my legislation was designed to address, so that the ombudsmen would know if the complaints they had forwarded to DOH were actually being acted on.

Is that something we will ever know? Do you have thoughts about how we monitor the success of that?

MS. HECKLER: Well, I think you'll know by asking not only the state ombudsman but the regional program coordinators, if that direct line of communication is working. So time will well.

I can tell you with our partnership with the regional program and working with the ombudsman programs across the state, the communication as it exists now is not there.

So that law is sorely needed, and time will tell.

SENATOR MAY: Okay. And in terms of the 20 million, do you think there are people

to be hired who will want to come forward and do the work if we can have paid staff instead of volunteers in those roles?

MS. HECKLER: I think there are. There are many people who are already working as ombudsmen who haven't had raises in many years. There's also many people who work in the social services industry who are currently volunteer ombudsmen but aren't taking that leap to become a staff ombudsman because the salaries really aren't there.

So with that investment, you'll get more staff ombudsmen, more complaints will be resolved, and more systems-wide issues will be brought before the Legislature.

SENATOR MAY: Great. Well, thank you for your advocacy and for lifting up that program, because it really is important. It's something we sorely needed a couple of years ago, and it's -- anything we can do to beef it up I think is important.

MS. HECKLER: Thank you. Thanks.

CHAIRWOMAN KRUEGER: Thank you.

Assembly?

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Jensen.

ASSEMBLYMAN JENSEN: Thank you, Madam Chair.

I want to direct my question to Mr. Clyne. You talked in your remarks about the restoration of the I believe 1.5 percent Medicaid cut. And I know that LeadingAge earlier this year called for larger cash -- capital injection. But when we have 70 percent of all long-term-care residents covered by Medicaid funding, why is it so critically important that we appropriately reimburse nursing homes and long-term care for the care that's actually being provided?

MR. CLYNE: Well, you can see right now one of the problems has been the backup of people who are nursing home eligible to come into nursing homes. About 60 percent of my members, on a recent poll we did, are controlling their admissions because they don't have the staff.

So it has a real-world effect on people who shouldn't be in a hospital, they

should be in a nursing home where there are programs tailored for them, where there are recreation programs, where there is socialization. You don't get that when you're in a hospital.

I mean, hospitals do a great job at being hospitals, but you are not going to solve this problem by restoring a cut and doing 1 percent across the board. There's got to be more in order for us to be competitive to hire and recruit and retain the people that staff our facilities.

ASSEMBLYMAN JENSEN: So I know in my community and in communities across the state the Governor has deployed National Guard medical units into facilities. Has that made a discernible difference on the capacity for care?

MR. CLYNE: It's great for the facility that gets the National Guard. But six National Guard people who are there temporarily -- it's a big relief and can help with the staff, but that's not going to make a facility open up a unit that they've

closed. It's not going to make them make 20 beds available for more discharges. You can't plan like that when you're going to get, you know, six National Guard people for a temporary period of time.

Again, the state covers more than 70 percent of the cost -- or the days. The next biggest payer is Medicare. The government funds nursing homes, and it's the government's responsibility to pay for the care that they'd like to see. So without a substantial increase, it's just -- it's not going to happen, and you're going to have people, you know, staying in hospitals longer than they should be.

ASSEMBLYMAN JENSEN: And for your members, James, has there been any reimbursement from the state for some of the mandated items that your members have had to purchase, whether it's been PPE, whether it's been testing supplies, things of that nature?

MR. CLYNE: There's been no reimbursement for it, no.

There was a cut in the middle of the

pandemic. The state has started sending out more test kits lately, which has been helpful. But again, we've gone almost two years now with mandates on testing, PPE, increased staffing to deal with the visitor requirements. So it's just been enormous. And federal government has provided some aid, but it's only been about 40 percent of the cost.

ASSEMBLYMAN JENSEN: Thank you, James. And thank you, Madam Chairs.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Back to the Senate.

CHAIRWOMAN KRUEGER: I'm looking for Senate hands.

Gustavo, did you have -- oh, I'm sorry, George Borrello.

SENATOR BORRELLO: Yes, thank you.

CHAIRWOMAN KRUEGER: Yes. Thank you, Senator.

SENATOR BORRELLO: Thank you very much. And first of all, I want to say thank you to all of you for being such -- so

passionate about our senior citizens and all that you've done to help them.

But I want to direct my question to Mr. Clyne, and I want to specifically dovetail off of a little bit of what Assemblyman Jensen was talking about.

You know, I asked the question earlier about the waste, fraud and abuse in our non-emergency Medicaid transportation. And the reason I bring it up is because, you know, we're paying more to a taxi driver to transport one person to a doctor's appointment than we are for you to care for our senior citizens in a nursing home, with all the costs, all the administrative costs -- the healthcare costs, everything else. It's really egregious.

We identified this as a huge waste of money, you know, more than two years ago. And we've wasted millions more and done nothing about it, unfortunately.

And my question to you is, as far as reimbursements, even though we're giving you a modest increase, where do we stand as far

as, you know, based on today's dollars which are being reimbursed now? And how far back, essentially, since you've actually had an increase? How far behind are you?

MR. CLYNE: It's been 15 years -- 14 years since we've had a COLA.

We had a 1.5 percent cut in the middle of the pandemic. And an outside research body did a study of the Medicaid rates across the country, and New York comes in last when you compare the revenue paid to the cost of providing care. We are dead last.

It's expensive to run a nursing home, obviously, in New York. It's expensive to run downstate in particular, a unionized workforce -- which is great, it can help, but the state needs to pay for it. And that's why you're seeing people backed up in hospitals now. You can't get the workers. We're not competitive in the marketplace.

SENATOR BORRELLO: Yeah. I mean, it's really truly disgusting. You know, we talk about how much we care about our senior citizens in New York, but we haven't given a

COLA increase to care for them in 14 years. I mean, so egregious.

And at the same time, as I mentioned before, we're going to pay a taxi driver $300 to take somebody to a doctor's appointment, but we won't pay you 150 to care for a senior citizen.

So that's really the point I wanted to make. And we need a much larger increase. You know, let's shut down all of these ridiculous, wasteful programs that are just political payoffs that our former governor presented to these transportation brokers, and let's direct all that funding, all that funding to the care of our senior citizens.

So thank you for all you're doing. Thank you.

CHAIRWOMAN KRUEGER: Other Assemblymembers?

CHAIRWOMAN WEINSTEIN: Yes, we have Assemblywoman Niou.

ASSEMBLYWOMAN NIOU: Hi.

So just wanted to quickly ask Bobbie -- you know, one of the things that

you had mentioned about the bonus structure rather than wage increases is very concerning to all of us, as you heard throughout this period of time. But, I mean, I wanted to talk a little bit more about the {unintelligible} limits benefits cliff that could actually hurt so many workers. Could you elaborate a little bit more on that?

MS. SACKMAN: Sure.

Well, about 57 percent of home care workers across the state get various kinds of public assistance -- Medicaid, food stamps, Section 8.

ASSEMBLYWOMAN NIOU: Because we pay them so little.

MS. SACKMAN: Exactly. It's a scandal, in my humble opinion.

And so by giving a one-time bonus, whatever that amount, it could push them over what they call a benefits cliff, so you could lose those public benefits. And then try to get back on. Your whole life is disrupted, you may have kids, this is your housing, your food. And bonus is not the way to go. We

need sustainable wages.

And the money is there, and the money should not be used for bonuses. It should be used for sustainable -- just listen to the depth of the problem. How could a bonus take care of it?

ASSEMBLYWOMAN NIOU: Thank you.

And also, you know, we both agree, like the 24-hour workday is, you know, not right. Right? And if people are paid -- if people are working 24 hours, they should be paid for 24 hours. There should not be a 13-hour, you know, limit to what they're paid, right?

MS. SACKMAN: No, of course. Look, there's so many parts of the home care industry, there are so many ways that home care workers have been taken advantage of, over decades. I mean, there's a long history of this with domestic workers and women of color, as we know.

ASSEMBLYWOMAN NIOU: It wasn't even seen as work, right?

MS. SACKMAN: Exactly. It wasn't part

of the New Deal -- you know, it goes on and on.

And so the 24-hour pay to 13 hours is definitely a big problem we need to take care of.

I would like to say that providing sustainable and living wages for home care workers is transformational. And that can open up the whole industry to other benefits like this back pay, this 13-hour. But that we need to get people into the industry first so nobody is sleeping in a wheelchair, nobody's falling in their bathtub. I just heard today about a woman during COVID who is -- can't get out of the bed by herself, lost her home care aide due to COVID. She was in bed three days by herself.

ASSEMBLYWOMAN NIOU: That's terrifying.

MS. SACKMAN: You can imagine what she went through.

ASSEMBLYWOMAN NIOU: Terrifying.

I did want to ask Chuck Bell one question before I ended my time. But I

wanted to ask about, you know, how the consumer protection and -- Consumer and Small Business Protection Act would help to prevent fraudulent, you know, insurance and other practices that have hurt so many people around our state.

MR. BELL: Yeah, so thank you for raising that.

So the general New York consumer protection has not been updated since 1970. And so there are many cases related to healthcare, medical debt or fraudulent healthcare remedies and so on that could be prosecuted by our enforcement officials, by the Attorney General or the DFS, but also by individual citizens. Because many times there's a small group of plaintiffs that experience a particularly abusive medical debt collection practice, and their frontline defenders are often legal services attorneys.

So the Consumer and Small Business Protection Act would be really super-helpful for protecting against many of the practices we're talking about.

Communities of color have twice as much medical debt as white communities and upstate we have communities in 16 counties where about a quarter of residents have medical debt on their credit reports. So this is really, really super-common, and we really hope that these kind of consumer protections could be passed.

CHAIRWOMAN WEINSTEIN: Thank you.

Back to the Senate?

CHAIRWOMAN KRUEGER: Thank you.

Senator Sue Serino. I see her hand.

SENATOR SERINO: Thank you, Chairwoman.

And, you know, this question is for Jim. But Jim, I just want to say, lookit, it's 5 o'clock and we're finally talking about assisted living. And I just want to say thank you so much for really highlighting the big gap in funding for assisted living too, because we know how many vulnerable New Yorkers really depend on those services.

But I want to know, is it correct that the assisted living workforce would not

qualify for the healthcare workers' bonuses that are in the current budget proposal right now?

MR. CLYNE: That's correct. That's where some of the confusion comes in.

Again, there's a program called the Assisted Living Program. That's Medicaid-funded. That's 14,000 beds. But there's 37,000 other seniors getting care in assisted living that will not qualify for the bonus.

And they also aren't going to get a Medicaid rate increase because they're not Medicaid providers, yet they've been subject to all these mandates from the state -- some which were smart and some which were probably overkill. But the state really needs to do something to invest in these assisted living providers and the seniors that they're serving.

SENATOR SERINO: Oh, absolutely. You know, we're so glad to see the Fair Pay for Home Care. It's been long overdue. We really need to keep hitting that home.

Bobbie's been a big champion for this. But, you know, bonuses are only temporary. We need long-term support.

I have a question really for everybody on the panel. And I was also -- Lindsay, I was glad to see you spoke about enhancing the EQUAL program. But do any of you -- anybody can answer this question -- do you believe that this budget does enough to combat elder abuse?

MS. COLE: I guess I'll take it. I think more can be done, and I would defer to my colleague Sarah Duvall {ph}, who supervises our elder abuse unit. But from what I understand, the budget doesn't fully fund the E-MDT program out of Lifespan, and that impacts not only our work, but across the state the E-MDTs, which is needed.

SENATOR SERINO: Yeah, that's a great program. And we saw how well that works. So disappointed in that too.

But I just want to say thank you to everyone, you know, for all the good work that you do. And nice to see everybody.

Thank you.

CHAIRWOMAN KRUEGER: Thank you, Sue Serino.

Assemblymember.

CHAIRWOMAN WEINSTEIN: Assemblywoman Byrnes.

ASSEMBLYWOMAN BYRNES: Thank you. Thank you, Madam Chair. Appreciate the opportunity.

My question is this. And I want to preface it because I've had lengthy meetings with the CEO of a nursing home in my area, lengthy discussions about how the vaccine mandate forced him to hire otherwise qualified, excellent workers that were lost just because of a mandate, that otherwise were great employees.

And, you know, it's great, you know, as Assemblyman Jensen said, that we have had National Guardsmen showing up to help out a little bit. But that's not nearly the number of people that got lost because of the mandate.

I'm just wondering, what role if any

has your organization played in making any efforts to try to either preserve these individuals' jobs or to try to get them back into the workforce? Clearly we have a shortage of healthcare workers. We have healthcare workers qualified that are sitting on the sidelines and would love to come back to work.

I'm just wondering, sir, what role your organization is going to play.

MR. CLYNE: Yeah, our members did a tremendous amount of education. We support the vaccination of the workforce, but thought that the state needed to do more to help us to convince people to stay in the workforce and get the vaccine.

And we're seeing the same problem with the booster now, again. We support it, but without more resources to help induce people to stay, it's going to be very difficult. We're going to lose more workers. And in the meantime, we're going to be, you know, in the middle of this budget discussion with no new resources.

ASSEMBLYWOMAN BYRNES: So actually the situation you anticipate is going to get worse, not better.

MR. CLYNE: Yeah, I just did a poll again on Monday of nursing homes that were on an all-member call, and 60-some-odd percent of them said that they were going to be, you know, controlling admissions or closing units --

ASSEMBLYWOMAN BYRNES: Right, that's what --

MR. CLYNE: -- because of the booster.

And again, don't get me wrong, the booster works. People should get it. But when you have a reluctant population, you need more than just put a mandate on. You need to provide some inducements.

ASSEMBLYWOMAN BYRNES: Right. Would you support a test or -- rather than a mandate, a requirement of testing in order to ensure the health of individuals that are working in the nursing homes, so like schoolteachers?

MR. CLYNE: Yeah, I mean, a test-out

could work if you had the proper PPE, if you had N95 masks, which are now easier to get. So that wasn't really a viable option early on.

ASSEMBLYWOMAN BYRNES: But it is now.

MR. CLYNE: But it's something we'd be willing to look at.

The other thing that's important is what's the community spread in a given area. So that's the biggest driver of what happens in our facilities, is what's going on in the community.

ASSEMBLYWOMAN BYRNES: But at this point it might be a viable option, correct?

MR. CLYNE: We would certainly look at it.

ASSEMBLYWOMAN BYRNES: Thank you.

CHAIRWOMAN WEINSTEIN: Back to the Senate. I think we are finished in the Assembly.

CHAIRWOMAN KRUEGER: I also think we are finished in the Senate. I don't -- oh, Cordell Cleare. Excuse me, Senator Cleare.

SENATOR CLEARE: I'm sorry. Just from

the last conversation, I just didn't hear what the speaker just said related to -- what more than the mandate are you recommending? You were just saying you have to do more than just put a mandate out --

MR. CLYNE: We called for a Medicaid increase. We wrote a letter to the Governor in November asking to do a Medicaid rate increase in order to deal with the understaffing in nursing homes.

And it's something that could have been done earlier, we didn't have to wait. Now we're going to wait till, you know, April 1 to see what happens. I mean, if you want to impact -- you folks are 70 percent of the payments. You know, the money's got to come from somewhere. We can't shift it somewhere else. The government is 90 percent of the payments.

And if you're serious about doing it, we need to do something now to try and compete in the marketplace. Because there are two places we're going to get people. We're going to get people who aren't employed

right now because of various reasons. One is we don't pay enough to get them to come in. And two, we need to be able to compete against other employers.

SENATOR CLEARE: Thank you. And let me just say I definitely support more pay. My mother was a domestic worker. She might as well have been working for nothing. And she spent her life raising other people and taking care of other people and sometimes neglecting her own family, unintentionally.

So I am 100 percent for fair pay.

MR. CLYNE: And we need it across long-term care, too. We really need it from everywhere. We don't need to have workers from one place going to another place because the pay is better there. We need to lift all boats.

SENATOR CLEARE: Everybody, got you.

Thank you.

CHAIRWOMAN KRUEGER: Anyone else?

CHAIRWOMAN WEINSTEIN: No one else.

CHAIRWOMAN KRUEGER: All right. Then I'm going to excuse this panel. Thank you

all very much for your work and for coming to testify before us today. And I know none of you got all the attention you wished because that's the way these things roll.

I'm moving on to the next panel: The New York Immigration Coalition, Seongeun Chun, director of health policy; Feeding New York State, Dan Egan, executive director; New York Association of County Health Officials, Dr. Indu Gupta, president; New York State Public Health Association, Denise Tahara, president; New York State Association of Health Care Providers, Kathy Febraio, president and CEO.

Let's start with New York Immigration Coalition.

MS. CHUN: Thank you. My name is Seongeun Chun, and I'm the director of health policy at the New York Immigration Coalition. Thank you to Chair Rivera and Chair Gottfried and the members of the Senate and Assembly Health Committees for convening this very important hearing.

I am here to demand that Governor

Hochul and our state leadership prioritize immigrant coverage and put Coverage for All in this year's budget. Governor Hochul's failure to include health coverage for immigrant New Yorkers in her first budget as Governor is not only shortsighted, it is literally a death sentence for many immigrant New Yorkers, many of whom are serving as the first line of defense in our state's ongoing battle against COVID-19.

We have been watching our community members die during this pandemic because they didn't have access to health coverage. If Coverage for All had been implemented, we would have saved thousands of lives that were lost. Our state leadership has blood on their hands because these individuals would be alive today had the right decision been made.

To call immigrants essential is not enough. Governor Hochul and the Legislature must back up their words with action by including Coverage for All in this year's budget. It is hypocritical and cruel of

Governor Hochul to talk about health equity when hundreds of thousands of undocumented immigrants do not have health coverage during a global pandemic.

We are also shamefully trailing behind other states, including California, Minnesota and Illinois, who have established state-only funded programs for certain groups of immigrants.

The Coverage for All proposal is represented in Assembly Bill A880A and Senate Bill S1572A. Governor Hochul and the Legislature must pass this bill, along with a commensurate budget allocation, immediately.

The cost of this coverage would be 345 million to create a state-funded Essential Plan for all New Yorkers up to 200 percent of the federal poverty level who are currently excluded because of their immigration status. We estimate that 46,000 of them would enroll annually when the program is fully implemented.

We hear all the time that the price tag of Coverage for All is too great. But it

isn't the funding that is lacking, it is the Governor's and the Legislature's political will that is lacking. I ask each of you, how much money would you spend to save the life of someone you love?

We don't know if there will be another variant or another pandemic, but we can save lives now. By including Coverage for All in the budget, Governor Hochul and our legislators can protect our essential workers and community members who are the most vulnerable and undocumented. Too many of our community members have already paid the price for our leadership's negligence.

Thank you for the opportunity to testify today.

CHAIRWOMAN KRUEGER: Thank you very much.

Our next testifier, Dan Egan, Feeding New York State.

MR. EGAN: Thank you, everyone. My name is Dan Egan. I'm the executive director of Feeding New York State. Feeding New York State is the association of Feeding America

food banks in New York State. Our members provide food to over 5,000 member agencies in every part of the state.

I want to begin by saying thank you to our champions in the Legislature, in both houses, who have done so much to help the most vulnerable New Yorkers for so many years, and especially the last two years of the pandemic, which has exposed and deepened the terrible problem of hunger in New York State.

It didn't create this problem. The economic crisis we're in now worsened a problem we already had. Prior to the pandemic, 2.2 million New Yorkers were hungry. During the pandemic, that number has risen to over 3 million. We continue to distribute food at nearly the same rate as during the worst days of the crisis, and we expect to be doing that for the next several years. Previous recessions have taken years to recover from, and we have no reason to believe that this one will be any different.

We don't have time today to talk about

why people are hungry, but we do need to get to that root cause conversation sooner rather than later.

We all know there's too many people in New York who are hungry. What you may not know is that we have all the food we need to provide them every missing meal. In New York we throw out more food than we need to entirely solve this problem. Our 10-member food banks distributed about 270 million pounds of food per year prior to the pandemic. Since the pandemic, we're distributing 470 million pounds.

But food alone is not the solution. We need the tools to transport, store and distribute that food. I want to tell you a quick story. Last month, during the month of January 2022, we distributed over 30 million pounds of food. However, we were offered donations of another 1.3 million pounds that we were not able to take. We couldn't transport it, so that food was lost. We are wasting billions of pounds every year: It goes into landfills or it's left unharvested

or we can't pick it up.

How do we solve that problem? We're asking you for four things. Number one, HPNAP, the Department of Health's Hunger Prevention and Nutrition Assistance Program, must be protected and enhanced. We're grateful for the support over the years of HPNAP, but HPNAP is critical because it funds our operations, paying for staff, rent, fuel and other things that aren't glamorous but are essential to getting food to people.

It's unconscionable that HPNAP funding has remained flat for over five years while a crisis swirled all around us. We're asking for a HPNAP increase to 54 million from the current 35 million. This is critically needed to ensure that operational resources at food banks and food pantries keep pace with need.

With respect to Nourish New York, we're grateful that the Legislature established Nourish New York as a program. There's $50 million budgeted for that in the Executive Budget. We're asking for

85 million. Over 4,000 farms have received income from this program, and millions of meals have been provided.

Third, capital funding. As the charity food system has nearly doubled its productivity in the last two years, its staff and equipment have been pushed hard. We are putting the pedal to the metal with every piece of equipment we have. It is critical that we replenish that. We're asking for a food bank capital fund of $10 million to get that work started.

Finally, we ask you to continue support for the DEC Food Donation and Food Scraps Law, which just passed last year and took effect this past month. In the last four months we've secured over 240,000 pounds of donated food from 39 new donors. That's a terrific success. Additional DEC funding for that program to continue and expand that work, especially food transportation funding, is needed for the long term.

CHAIRWOMAN KRUEGER: I've got to cut you off now, Dan, I'm sorry. I let you go

on.

MR. EGAN: Thank you so much.

CHAIRWOMAN KRUEGER: Thank you.

Next we have the New York Association of County Health Officials, Dr. Indu Gupta.

DR. GUPTA: Thank you.

Assemblymember Gottfried, Senator Rivera, Assemblymember Weinstein, Senator Krueger and esteemed committee members, I am honored to have this opportunity to present the state budget priorities of New York's 58 local health departments to all of you.

My name is Dr. Indu Gupta. I am commissioner of health of Onondaga County and currently serving as president of the New York State Association of County Health Officials, in short known as NYSACHO.

So entering this budget session in Year 2 of the ongoing COVID-19 pandemic, I see an early promise of renewed energy and significant opportunities for public health.

We truly appreciate the Governor's proposed budget, which will provide an

overdue increase to Article 6 state aid funding and help our state better prepare for any future public health emergencies. At the same time, it will allow us to do our core public health work to protect the health of our communities. We ask for your support to keep this proposal in the final budget negotiation.

We also respectfully urge you to make bold new funding and additions to support the ability of local health departments to protect the health of all New York residents via prevention and population-based strategies. This year NYSACHO has proposed the Public Health Reinvestment in Emergency Pandemic Adaptability, Readiness And Efficiency Act, known as the PREPARE Act, several provisions of which still need to be included in the final budget agreement.

Our request for your consideration is detailed in the submitted written testimony. Briefly, our requests include the following.

Number one, reinvest in our children's health. As you know, lead poisoning

prevention is one of the most critical responsibilities local health departments have under public health law. The holistic approach of wraparound services provided by the local health department staff provides the strong foundation needed to reduce and eliminate future childhood lead exposure.

In 2019, the state lowered the actionable elevated blood level from 10 to 5 micrograms per deciliter. And though it's very sound, it was not fully funded, leaving a big gap to be absorbed by the localities. So we are respectfully asking your support to reinvest in our children's health by fully funding the Lead Poisoning Prevention Program led by the local health departments by increasing appropriations by $30.3 million.

Number two, resume state reimbursement for 50 percent of pathology and toxicology services provided by the county medical examiners. Many of them are housed under local health departments.

Number three, restore New York City's Article 6 state aid funding from 20 percent

to 36 percent.

Number four, amend the proposed Executive Budget to allow local health departments to submit 100 percent of their county fringe benefit reimbursement by removing the cap below 50 percent. We respectfully ask you to invest public health infrastructure and programming as outlined in the PREPARE Act.

Thank you for your leadership and support for public health and your partnership in protecting and improving the health of New Yorkers. I'll be happy to answer any questions.

CHAIRWOMAN KRUEGER: Thank you very much.

The New York State Public Health Association.

MS. TAHARA: Thank you, Madam Chairwomen and all of the esteemed committee members in both houses for holding this 2022 Joint Budget Hearing on Health.

As president of the New York State Public Health Association, NYSPHA, and on

behalf of the board of directors and our membership, it's an honor to provide this testimony.

Our mission is to improve the public's health through advocacy, education, networking and professional development. I'm speaking to request that you increase support for public health programs and infrastructure to improve the health of our communities and to address health disparities in New York State.

The COVID-19 pandemic has amplified preexisting dire health and health behavior inequities in the population, the impact of which falls disproportionately on Black, Latinx, Asian and Indigenous New Yorkers, as well as those living in poverty in rural areas.

These populations were already experiencing significant health disparities that only have been further exposed and worsened by the COVID-19 pandemic. Structural and institutional racism has been a public health crisis for generations, only

to be exacerbated by this pandemic.

To promote health equity and public health preparedness for this and future pandemics, New York's public health infrastructure needs significant support. To maintain core public health services and address these emerging threats, NYSPHA supports the New York State Association of County Health Officials proposals contained in the PREPARE Act. We are pleased that two components -- increasing the base grant on the county health departments in Article 6, and making fringe benefits eligible for reimbursement -- were included. The Legislature should accept these proposals and, in addition, all those outlined by Dr. Gupta.

Every day, 10,000 people turn 65 in the United States, and that has caused an increasing number of vacancies due to retirements in our healthcare workforce, while simultaneously we have difficulty recruiting young professionals to fill these openings. NYSPHA supports the Executive

Budget proposal to address these workforce shortages.

NYSPHA also supports a comprehensive series of tobacco control proposals. Tobacco use remains the single largest cause of premature disease and death among New Yorkers. There are no new tobacco control initiatives in the Executive Budget proposal.

NYSPHA recommends the Legislature first increase funding for the Department of Health Tobacco Control Program by a third, to $52 million, as a down payment towards the CDC recommended level of $203 million.

Increase the excise tax on cigarettes by a dollar per pack. This tax has remained static for the last 10 years. Raising the cigarette tax is one of the most effective tobacco prevention control strategies, particularly in preventing smoking in youth, who are very price-sensitive. New York State should also raise the tax on other tobacco products, including e-cigarettes and cigars, to provide tax parity with cigarettes.

We urge you to use this extraordinary moment to use the budget process to adopt the Executive Budget's public health proposal, as well as those outlined in my testimony today and detailed in my written comments.

Thank you, and I'm available for questions and follow-up discussion.

CHAIRWOMAN KRUEGER: Thank you very much, Denise.

And last on this panel, New York State Association of Health Care Providers, Kathy Febraio.

MS. FEBRAIO: On behalf of the New York State Association of Health Care Providers, representing home care agencies across New York State, we thank you for the opportunity to testify on the Executive Budget proposal.

HCP asks you to consider the home care industry's needs as it provides safe, economical care in the face of a pandemic, state policy changes, and a challenging financial outlook. The home care sector in New York employs hundreds of thousands of

direct care workers. Longstanding workforce shortages are now critical. With some home care agencies losing as much as 30 percent of their caregivers in the last two years, patients go without services, putting them at risk of institutionalization or worse.

Governor Hochul stated that personal care is one of the services groups where employment is down over 15 percent, yet her budget proposal ignores these workers. The Governor's substantial healthcare investment makes no mention of home care outside the proposed workforce bonuses. Home care workers will not even receive a cost of living increase.

One-time bonuses do not solve the problem. A wage increase based on a 1 percent Medicaid rate increase does not compete with the retail or restaurant sector. We need you to support the Fair Pay for Home Care Workers Act because doing so helps lift Black and brown women out of poverty, helps low-income families caring for loved ones at home to stay in the workforce. It helps

delay or shorten costly nursing home and hospital admissions and helps reduce Medicaid expenditures across all sectors of the healthcare spectrum. And it recognizes that home care worker wages and adequate reimbursement rates for their employers are inextricably linked and inseparable.

To this end, we ask that you include language from the Fair Pay for Home Care Act in your one-house budget bills.

We ask for a repeal of the LHCSA RFP that will cause upheaval in our sector and limit access to services at a time when the demand for home care is growing. The LHCSA RFP and now a proposed MLTC RFP will shrink the industry and concentrate power into the hands of a very few players. Contract negotiations will suffer, and New Yorkers will have little choice over who is providing care in their own homes. We ask you to repeal the LHCSA RFP.

There are additional requests in our written testimony; I won't go through them now. But our members are proud of the work

they and their essential caregivers do for their frail, aging and disabled citizens. Their good work is at risk. Without home care services, hospitals overflow, families are overburdened, and New Yorkers languish, decline or face placement in institutional settings. Home care and those who depend on it cannot, should not and will not be overlooked.

I look forward to answering your questions.

CHAIRWOMAN KRUEGER: Thank you very much.

I am looking for hands. I see Senator Rachel May's hand.

SENATOR MAY: Yes, thank you, Madam Chair.

Kathy, I just wanted to follow up. Thank you for your testimony.

And do you think, if we are able to get the fair pay bill into the budget, would that -- would people come into the field? Would you be able to hire people?

MS. FEBRAIO: Absolutely. I mean,

it's amazing to me that so much of the workforce has been able to stay throughout this pandemic. But if we're able to give them a living wage, we would be overwhelmed, I think, with interest.

It's a wonderful profession. People love to care for others -- very rewarding -- and we think this is a sustainable answer for this workforce.

SENATOR MAY: And there are estimates of the payoff of having full employment in that field in terms of people being able to stay in the workforce who are leaving jobs to care for their loved ones and people being able to stay out of nursing homes and the workers themselves being able to lift themselves out of poverty and off of public assistance.

Do you -- does that ring true for you in your experience of this sector?

MS. FEBRAIO: Oh, it absolutely does. You know, it is just a tough -- if you can't get off of public benefits while you're working, it's just an uphill struggle your

whole life. And it's incredible that we are sitting here today talking throughout the day on how -- you know, the pros and cons of getting people off of Medicaid by paying them a living wage. I think it's just what needs to be done.

And our providers need to be able to hire a workforce that -- we spend so much time replacing people that leave so quickly, it's unsustainable. And it's not fair to patients, and it's not fair to their families.

SENATOR MAY: Okay, thank you.

MS. FEBRAIO: And we want to thank you for all of your help and support in crafting that act. It's incredible and very beneficial.

SENATOR MAY: Thank you.

Dr. Gupta, I want to say hi and nice to see you.

I wanted to ask you about something we -- I have a bill called the SIGH Act, which is about Schools Impacted by Gross Highways, and it has to do with Dr. King

School in Syracuse that is so close to I-81, but in general the idea of not locating schools that close to highways.

Is this the kind of public health issue that's on your radar, and do you think that those sorts of issues need to be part of the public health debate?

DR. GUPTA: So public health basically is the foundation for the prevention, right? So what you are suggesting at this point, if the highways are close to where people live, all the noise and all the pollution which goes around with the car traffic and everything, it can exacerbate their asthma, it -- it's not the ideal way to do that.

So we at the local health departments are not directly involved with the environmental impact assessments. Usually the state does work in those ones. But certainly as a local health commissioner, that will be very much in trust for the prevention agenda for us for the long term, that everyone should have opportunity to achieve the best possible health by creating

a safe environment. And how do you create a safe environment? By having good policies in which it will protect them.

So those are really I think very interesting points, and they should be part of the ongoing conversation with the state and with you.

SENATOR MAY: Okay. Thank you so much.

DR. GUPTA: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I don't think I see any other hands up. I do just want to point out to Dan Egan, my old friend, with my background in food and nutrition -- don't feel that you're alone, but the other people testifying on your topics came to the Agriculture Committee budget hearing. And you hadn't signed up then, so we wanted to make sure to put you on.

And yes, you're right if you point out the funding comes through the Health Department for nutrition. But it is sort of the dual realities of making sure New Yorkers

eat and that we're providing the funding that's needed to help the not-for-profit sector and the farm sector coordinate to not waste food and get it to New Yorkers who need it.

So I wanted to just sort of highlight that and thank you for that during this hearing today.

MR. EGAN: Thank you, Chairwoman.

CHAIRWOMAN KRUEGER: Thank you.

And with that, I think I am going to excuse this panel. Thank you all very much for your testimony today.

Gustavo, did you want to say something or you were just thumbs-upping?

SENATOR RIVERA: I'll just say it verbally. I'm very much a fan of all the work that these folks do in all their different ways, and thank you for being part of this today.

CHAIRWOMAN KRUEGER: Thank you. Thank you, Senator Rivera.

MULTIPLE PANELISTS: Thank you.

CHAIRWOMAN KRUEGER: All right, our

next panel, we'll start with the Pharmacists Society of the State of New York, Karl Williams, president; the Community Pharmacy Association of New York State, Mike Duteau, president; the Home Care Association of New York State, Al Cardillo, president and CEO; the Empire State Association of Assisted Living, Lisa Newcomb, executive director; PHI, Hannah Diamond, state policy advocacy specialist; Consumer Directed Personal Assistance Association of New York State, Bryan O'Malley, executive director; and Agencies for Children's Therapy Services, Steven Sanders, executive director.

And every year when we put together these panels, afterwards I say: Oh, wait, No. 32 really should have been on this panel; No. 39 really could have been on the earlier panel. But never mind, because I can't fix it now.

So welcome to you all, and thank you for being here. And let's just start with Pharmacists Society of the State of New York.

MR. WILLIAMS: Thank you for the

opportunity to discuss this remarkable budget proposal. It's my privilege to testify as the president of the Pharmacists Society of the State of New York, a 140-year-old statewide organization representing the interests of approximately 25,000 pharmacists who practice in a variety of settings, most in community pharmacy.

The Executive Budget proposal contains five pharmacy-related provisions to discuss. However, notably and distressingly absent is the language that's included in Assembly Bill 9165 and Senate Bill 7909, which requires Medicaid managed care plans to reimburse community pharmacies in an amount equal to the fee-for-service rate.

The bill's predecessor passed both houses unanimously in 2021 but was vetoed by the Governor, who indicated in her veto message that this matter should be addressed in the budget. We're calling on the Legislature to do exactly that and take this up in the budget.

Specifically, in this budget, I want

to voice our support for Part C, which would permit pharmacists to continue to do CLIA-waived testing; Part G, which would transfer oversight of licensed healthcare professionals from the State Education Department to the Department of Health; and Part I, the Medicaid rate increase, which we would add that as we are responsible for both product and service, that this should be applied to both of those.

We would oppose Part BB, elimination of prescriber prevails, and allowing that relationship to be unimpeded. And we'd also oppose Part HH, which would require pharmacies to stock a 30-day supply of opioid overdose reversal medication, although we'd welcome the opportunity to discuss that in more detail.

In Part C, the society strongly supports Governor Hochul's proposal to expand licensed pharmacists' scope of practice to perform CLIA-waived tests. This is a crucial infrastructure issue. The Governor enabled pharmacist testing under emergency powers at

the height of the pandemic, and this is now supported only by the grace of the federal PREP Act Declaration Amendments. Pharmacists are clearly competent to provide this care. Pharmacies built out capacity to address the public health emergency and continue to do so. Competence and capacity will remain after the pandemic subsides, and this should not be lost. Let's embody this in New York State legislation through the Governor's proposal in the budget.

PSSNY pledges to continue to work with members of the Legislature, administrative officials, and other stakeholders to develop and provide progressive policies that promote healthy communities, in which local pharmacies are integral and will thrive. Our members need relief to remain viable, and we need the fee-for-service parity law.

Thank you, and I look forward to taking questions and appreciate your time tonight.

CHAIRWOMAN KRUEGER: Thank you very much.

Next, the Community Pharmacy Association of New York.

MR. DUTEAU: Thank you, Chairs and other distinguished members of the committee. My name is Mike Duteau. I'm a pharmacist and president of the Community Pharmacy Association of New York, and we represent pharmacies of all types and sizes in every county across New York.

I would like to thank you for your leadership and strong past support of local pharmacies.

Pharmacists have played an essential role in the state's response to the COVID-19 pandemic. Pharmacies have remained open, providing access to COVID-19 testing and vaccinations, while still ensuring patient access to their medications and other important pharmacy care.

We support three provisions that we consider to be top priorities related to the 2022-'23 state budget.

Number one, we support better patient access to pharmacy care in Medicaid. Despite

our continued and expanded efforts to care for patients, we continue to be reimbursed at or below our costs by PBMs in Medicaid managed care. Because of this, we strongly support the shift of the Medicaid pharmacy benefit from managed care to fee-for-service so the state once again administers this program.

And as previously stated by my colleague Karl, there was a delay in last year's budget for two years. However, the Senate and Assembly did recognize the impact of this decision, and they unanimously passed legislation at the end of last year to help resolve these issues, most notably requiring health plans to reimburse pharmacies at the state fee-for-service rate. Also prohibiting restrictive PBM networks while allowing pharmacies to deliver and mail medications when requested. Also, importantly, it ensured 340B entities were not negatively impacted.

In late December, this legislation was vetoed, and the Governor stated it should be

considered in the context of state budget negotiations. We are very pleased to see that the vetoed legislation has been reintroduced by Senator Skoufis and Assemblyman Gottfried, and we respectfully ask that these protections be included in the Assembly budget and the Senate budget this year, as well as the final budget.

Secondly, we support expanded access to CLIA-waived testing. The current law allows pharmacies to administer CLIA-waived tests under a medical director. While this has been successful in practice, this requirement greatly limits the number of pharmacies able to offer this critical service.

During the pandemic, New York pharmacists were given the authority by executive order to serve as their own LSL directors and to order and administer these tests. Given our extensive training and experience, pharmacists are well prepared to order and administer these tests while clearly communicating results to physicians

and other healthcare providers.

Finally, we support the restoration of across-the-board Medicaid cuts and inclusion of the 1 percent increase. Pharmacies, like other providers, have been subject to across-the-board cuts -- 1 percent in 2019, 1.5 in 2020. We're very pleased to see the Executive Budget announcement that restores these cuts as well as includes a 1 percent. Between the cuts and PBM reimbursement, it greatly impacts our ability to continue to provide critical care.

We respectfully urge your support for ensuring these pharmacies, like other providers under Medicaid, are eligible for this rate increase in the final state budget.

Thank you for your consideration and your time.

CHAIRWOMAN KRUEGER: Thank you very much.

The Home Care Association of New York State. (Pause.) Hello? The Home Care Association of New York State is not with us?

MR. CARDILLO: No, I'm here.

CHAIRWOMAN KRUEGER: Oh, okay, hello.

MR. CARDILLO: I think I was muted. I'm sorry, Senator.

CHAIRWOMAN KRUEGER: Okay.

MR. CARDILLO: So again, thank you, Senators, thank you, Assemblymembers, for this opportunity to testify today to the committee.

HCA is the -- I'm Al Cardillo. I'm the president and CEO of the Home Care Association of New York State. HCA is the statewide association representative of certified home health agencies under Medicare and Medicaid, state-licensed home care agencies, managed long-term-care plans, hospices, long-term home healthcare programs. We have fiscal intermediaries and waiver programs. Basically, the full alignment of community services.

We are very appreciative and positive on the steps that the Executive has taken in proposing this, the first budget in probably 15 years, that starts without very deep Medicaid cuts. And we look to support many

of the positive investments that the budget would make into the system.

However, if what we really want to do is address the underlying needs in the system, this budget really has to at least start with making some very critical structural improvements in the way home care is supported and funded.

Ordinarily we come to you with many asks. Today I want to start by offering you a comprehensive solution that the Home Care Association has put forward. This legislation is called the New York Home Care First Act -- A9148, that's been introduced by Assemblyman Gottfried, and we have it before Senator Rivera for his consideration for introduction.

This legislation ensures, among a number of comprehensive steps, a first-option alternative to institutionalization: New funding for home care workforce compensation, recruitment, retention and related supports. It ensures calculation of reasonable and necessary funding and rates for home care

providers. It coordinates the state's overall home care policy so that one set of policies that supports the system is not undone by another set which contradicts the system.

It requires the Department of Health to include home care in critical policies of prevention, primary care, public health, capital support and workforce support where it is often omitted.

It also establishes and maintains a comprehensive public education program to assist consumers with accessing the system, addresses home telehealth needs, and it explores the expansion of home care insurance and other coverages outside of Medicaid.

Beyond that, there are issues within the Governor's budget that we're very concerned about. One relates to the expanded FMAP program where the Department of Health has taken the Legislature's appropriation last year and made it available to just 25 percent of the entire home care system. In that, that means it's excluding 75 percent

of the providers that serve constituents.

We're also very concerned about the proposed permanent procurement for managed long-term-care plans. The RFO for licensed agencies that Kathy spoke about earlier, the RFO for fiscal intermediaries, and the residual effects of the independent assessor, which the Legislature approved pre-pandemic in 2021, hasn't been implemented but will compete with the direct recruitment of nurses from home care agencies into a duplicative mechanism for assessment.

And I know I've concluded with my time, Senator and members. We have attached to our letter of testimony a full list of our recommendations related to the Governor's budget. And I hope you will all consider and sponsor the New York Home Care First Act.

CHAIRWOMAN KRUEGER: Thank you. Thank you very much, Al.

Next, the Empire State Association of Assisted Living, Lisa Newcomb.

MS. NEWCOMB: Thank you all for sticking it out with the last panel.

ESAAL represents 325 New York State Department of Health licensed adult care facilities, assisted living residences, and the Medicaid-funded Assisted Living Program serving 31,000 seniors.

Seniors pay for assisted living with either their own private funds, their pensions, Social Security or, for those that are indigent, they rely entirely on a fixed supplemental security income, SSI, and sometimes a Medicaid add-on from the Assisted Living Program.

The average age is in the late eighties. They need assistance with activities of daily living. Unlike other healthcare sectors, the state has not provided ACFs with any financial relief to offset pandemic costs, and federal government support has been just a fraction, a mere fraction of relief provided to hospitals and nursing homes.

Yet ACFs, we're often treated similarly to nursing homes when it came to very costly regulatory requirements such as

weekly testing of staff. Some of our members have five and six-figure bills that they owe to their laboratories. Since the beginning of the pandemic, 18 adult care facilities have closed.

Year after year, ACFs have been virtually ignored in the budget. We're always being told there's no money. This year there is money, and funds must be dedicated specifically to ACFs. We respectfully ask for the following: $75 million in pandemic relief funding dedicated specifically to ACFs for all ACFs, who have suffered significant revenue loss and exorbitant costs.

Capital dollars. Fifty million in statewide Healthcare Transformation Program funding is in there now -- thank you -- for nursing homes. And ACFs, we request that 20 of the 50 be dedicated specifically to ACFs. From the 750 million in non-competitive grants, a dedicated amount earmarked specifically to ACFs.

There's also up to 50 million in the

budget for residential and community-based alternatives to nursing home care. ACFs should be specifically noted as eligible.

SSI increase. For $42 a day, serving indigent seniors, providing housing, all meals, 24-hour general supervision, assistance with ADLs, medication assistance, et cetera. It is just not sustainable anymore for $42. We ask for an increase of at least $10 to $15 a day.

ALP rates. The Medicaid-funded ALPs serve nursing-home-eligible seniors at less than half the cost of the nursing home. ALP reimbursement is still based on 2002 rates, which ignore the huge increase in costs. The methodology for calculating the ALP rates should be revised, and the rates should be increased.

Let me clear up the question, with my remaining time, that was asked about the Assisted Living Program and whether staff were eligible for the bonuses. Only some of the staff working in the Assisted Living Program are eligible. It is the

Medicaid-funded services, so the home care staff, the aides and the nurses would be eligible. The rest of the staff, the dietary, would not.

And then for all of the remaining adult care facilities that don't have any -- that don't provide Medicaid services, although they may be providing services to Medicaid residents, they are not entitled to any bonus at this point, and that needs to be rectified.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next, PHI, Hannah Diamond.

MS. DIAMOND: Thank you for the opportunity to comment on the fiscal year 2023 Executive Budget for New York State. My name is Hannah Diamond. I am the state policy advocacy specialist for PHI, a national nonprofit organization based in the Bronx that partners with policymakers, payers, providers, workers and other advocates to transform elder care and disability services by promoting quality

direct care jobs as the foundation for quality care.

In New York State nearly 550,000 direct care workers, including nursing assistants, home health aides and personal care aides, provide care to older adults and people with disabilities. Immediate action is needed to support the current direct care workforce and to recruit new job candidates to this sector -- which, according to PHI's research, will incur 1.1 million job openings between 2018 and 2028.

PHI's primary recommendation is to raise wages for direct care workers. As a result of low wages and limited annual earnings, direct care workers experience tremendous economic instability. Nearly 50 percent of direct care workers in New York live in or near poverty.

While PHI commends Part D of the Executive Budget for acknowledging eligible healthcare workers, including direct care workers, for their service during the pandemic in the form of bonuses, these

one-off payments are far from sufficient to address the major wage disparities faced by direct care workers.

Therefore PHI calls on the Legislature to enact and fully fund Fair Pay for Home Care. This legislation will ensure that home care workers, who constitute the largest but lowest-paid segments of the direct care workforce, will receive an hourly wage of 150 percent of the regional minimum wage.

Further, PHI urges the Legislature to direct the Department of Health to incorporate livable and competitive base wages for all direct care workers into Medicaid rates across long-term-care settings.

The department should also establish a base rate that managed long-term-care plans must pay to providers that fully incorporates all labor-related costs.

And finally, the Department of Health must ensure that providers pass along livable and competitive base wages to workers.

Going further, we recommend clarifying

the Article 7 language to ensure that healthcare bonuses will not count towards a worker's eligibility for public assistance. With nearly 50 percent of direct care workers receiving public assistance, this clarification is important to ensure that workers actually benefit from the bonuses.

And I want to also highlight the importance of offering career advancement opportunities to workers. We applaud the creation of two new offices, the Office of Healthcare Workforce Innovation and the Office of Workforce and Economic Development, and we encourage these offices to work together to develop targeted strategies to meet the current and projected needs of the direct care workforce.

We also agree with the Executive Budget's proposal for the creation of an advanced role, the Certified Medication Aide role for CNAs. However, we're concerned with the lack of funding for this position, and we urge the Legislature to fully fund the costs of implementing this position, which include

training, supervision and wage increases that reflect the additional level of responsibility.

Thank you so much for your time and consideration.

CHAIRWOMAN KRUEGER: Thank you very much.

Next up we have the Consumer Directed Personal Assistance Association of New York State, Bryan O'Malley.

MR. O'MALLEY: Good evening. And thank you for the opportunity to be here.

My name is Bryan O'Malley, and I'm the executive director of the Consumer Directed Personal Assistance Association of New York State. We work to build and strengthen CDPA for the consumers who use it and the fiscal intermediaries who administer it.

Fifteen years ago, home care workers often made about 162 percent of the minimum wage. Today, home care is a minimum wage job and upstate, home care workers make 88 percent of the $15 fast food minimum wage. This has been driven by the Medicaid global

cap, which is why it must be repealed.

Artificially capping the growth of Medicaid has disproportionately harmed aging and disabled New Yorkers. As the state rapidly ages, enrollment in Medicaid long-term care has grown, and the only way to meet this cap has been to cut home care and CDPA, which has had the obvious effect of depressing wages.

But whether or not we repeal the global cap, home care worker wages must be raised by passing Fair Pay for Home Care, which enjoys a bipartisan majority of support in both houses. Bonuses are not sufficient. Early surveys of our memberships indicate that almost 15 percent of workers will not receive any bonus because they average less than 20 hours per week.

Many who do get a bonus will face benefit cliffs. For instance, a family of three working full-time as a home care aide would see their SNAP eligibility end for the year upstate.

Further, bonuses do not create the

lasting economic benefits Fair Pay for Home Care does -- economic benefits that generate increased revenue and savings that more than pay for the costs associated with the rates.

The home care shortage also impacts the budget in other areas. A proposal to align Medicaid for those who need long-term care and those who do not, the MAGI and un-MAGI population, will add tens of thousands needing long-term care to Medicaid rolls.

The budget also claims 110.5 million in savings by expanding the Essential Plan to those making 250 percent of poverty and including long-term care in that benefit package, thereby diverting folks from Medicaid. Without addressing our workforce shortage, though, these expansions only increase eligibility for programs people will not be able to actually use.

The Essential Plan savings will not materialize, which will put more pressure on the global cap. Home care in particular, CDPA, will be blamed, and instead of raising

wages, the cycle will begin anew and we will be facing cuts instead of the investment we desperately need.

Thank you very much for listening, and I look forward to any questions.

CHAIRWOMAN KRUEGER: Thank you very much.

And our final testifier on this panel, Assemblymember Steven Sanders, Agencies for Children's Therapy Services. Okay, he's no longer an Assemblymember, but he was one of mine when I started.

MR. SANDERS: Good evening, Chairwoman Krueger, Chairwoman Weinstein, Chairman Rivera, Chairman Cahill. I know you've been waiting to hear from me because I am last today, so I congratulate all of you for waiting all this time to hear the last person.

I am the executive director of Agencies for Children's Therapy Services. My association provides the majority of early intervention services for toddlers age birth to 3. For nearly two decades, the Early

Intervention Program has received virtually no increase, no trend, no COLA, no nothing. The Deficit Reduction Program cuts from 12 years ago of over 15 percent were never restored. And this despite the fact that during that period of time, new non-reimbursable responsibilities were placed on Early Intervention providers who serve 70,000 at-risk toddlers and their families.

The Early Intervention rates are less today than they were in 2010, and less than in neighboring states. The result is that therapists are leaving the program in alarming numbers. They're migrating to other health or education-related service venues where they can be compensated adequately for their professional skills, which in many cases require advanced academic degrees.

No one should be surprised that in the past two years the Early Intervention Program has lost nearly 2200 highly qualified therapists -- 14 percent of the program. That means fewer children are being served in the manner and frequency they need and are

legally entitled to.

But there's good news. Last year, under the leadership of a number of you on this panel, including Senator Rivera and Assemblyman Cahill, the Legislature passed a law which will save the state and counties a combined $28 million a year in Early Intervention costs by requiring commercial insurance to finally pay their fair share. The executive calculates the state share of those savings to be $15.4 million.

Those savings can and need to be reinvested into the program to help underwrite an 11 percent increase for those agency providers and therapists. That is the identical increase that the Governor has promised the providers of preschool special education programs.

So let me just say this in conclusion. Preschool special education programs serve the same population as Early Intervention providers do -- same children, same services, just a few months older than in Early Intervention. So I urge you to finally right

this ship called Early Intervention. Tie the rate increase to the same rate increase the Governor has promised for preschool special education -- who deserve that rate increase, but Early Intervention providers deserve it at least as much, if not more.

I thank you so much for all of your time and all of your hard work.

CHAIRWOMAN KRUEGER: Thank you very much, Steve.

And the first arm I saw up on the Senate side was Senator Rachel May.

SENATOR MAY: Thank you. And thanks to everybody who made it through the end of the day. All your testimony is really welcome.

This is for Bryan and maybe Hannah too. But I wanted your response to what the Medicaid director said this morning about how bonuses were the best way to get the money quickly to the workers.

MR. O'MALLEY: I think that we can very easily get wages out quickly. If we set a minimum wage, the speed with which those

wages go out is only determined by the effective date of the law.

We need to make sure that the money is going to the plans and that the plans are getting it to providers, but that can be done within the six-month vesting period that bonuses would go out, and there's no reason that by October 1st, when bonuses would be starting, we could not be starting Fair Pay for Home Care and paying people 22.50 on an ongoing basis.

SENATOR MAY: And you both talked about -- I think about how many home care workers wouldn't qualify anyway or -- and we heard testimony from a number of home care workers who either got sick from the clients that they visited and were out of the workforce for quite a while, or who couldn't get -- you know, if they had one client who died or went into the hospital, they had a big gap and didn't get another client for a while.

So it seems like the requirements for the number of hours they would work in order

to get the bonuses may be potentially punishing them for things that were beyond their control. Is that -- do you agree with that or am I off base about that?

MR. O'MALLEY: I would think that --

MS. DIAMOND: I would basically --

MR. O'MALLEY: Go ahead, Hannah.

MS. DIAMOND: I'm sorry, Bryan. I would just add that access to a consistent schedule is very difficult for workers within this field. And so absolutely, they might wind up actually not receiving $3,000 worth of bonuses but much less because they weren't able to access consistent work. And that's very common.

MR. O'MALLEY: And I would echo that and add that I think that would even be more true within CDPA, where the worker's working for one consumer or maybe two consumers, instead of an agency, who can send them to someone else. And so when that consumer goes to a hospital, that person is out of work until they get out.

And to the bonuses, you know, while

15 percent or so are not getting any bonuses, we are also finding that on the flip side, only about 25 percent or so, in early indications, are getting that $3,000. The bulk are in a much lower range.

SENATOR MAY: Thank you very much. Thanks for your hard work and for your advocacy and for hanging in there all day long. Take care.

MR. O'MALLEY: Thank you.

MS. DIAMOND: Thank you, Rachel.

CHAIRWOMAN KRUEGER: Next is Assemblymember Ra. And I've just been asked by Chair Weinstein to take over both roles because apparently the Assembly is having a conference, for those other Assemblymembers who are here and maybe don't want to be here.

Sorry. Assemblymember Ra.

ASSEMBLYMAN RA: Thank you, Chair.

I just had a question for the Community Pharmacists and the Pharmacists Society regarding the mandate for the 30-day supply of opioid antagonists and partial agonists. If you can elaborate on, A, what

you view the potential cost to stocking all of that, financially as well as, you know, having space to stock that, and if you have any idea what that might actually be based on, say, what a 30-day supply consists of.

MR. WILLIAMS: Mike, do you want to go first?

MR. DUTEAU: I was going to let you go first, Karl.

MR. WILLIAMS: I'm happy to.

Stocking a 30-day supply of an opioid antagonist is an enormous space requirement and an expense requirement. To be honest, it's unnecessary, given the ability of pharmacies to do just-in-time ordering and to have stock available on a next-day basis.

So while we oppose the scope of this provision, happy to talk about some compromise here.

MR. DUTEAU: Thanks, Karl. I would just add that we were able to work with some of the stakeholders up front. We have similar concerns.

Again, you know, the intent here is to

do the right thing for the communities that we serve. We are good partners. We just want to make sure that there's not undue burden that creates the law of unintended consequences.

So certainly can follow up afterwards with how we think it can be best approached and some pretty common-sense solutions.

ASSEMBLYMAN RA: I think that would be great, as it's -- you know, we all know the benefit of having access to it, the lives it saves, certainly the -- you know, I know a lot of people have made efforts to do trainings and everything else, and that's great. But I'm sure we can meet the goal without, you know, imposing too large a burden. So thank you, guys.

MR. DUTEAU: Yeah, I will just add, just to get it out there, because it will be an important part of the conversation, one of the major sticking points is that -- the wholesaler requirements with some of the suspicious order monitoring and thresholds.

That's something we've been working

through very closely, again, with all the stakeholders, and would be happy to engage afterward to make sure we're all on the same page.

ASSEMBLYMAN RA: Okay. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Sue Serino.

SENATOR SERINO: Thank you, Chairwoman.

And it's nice to see everybody today. And Al, as always, you gave us a lot to think about. You know, you really presented a transformational plan for healthcare, and it's really what we need after this pandemic. And I look forward really to delving into the details.

My question is for Lisa, though. You know, we heard a little bit from Jim Clyne about the gaps. And as you know, the Legislature has advanced legislation in the past to increase the SSI rate, including in 2017 when it was vetoed by the former governor, citing it should be handled in the context of the budget.

So given that in more than two decades there's only been one increase to the SSI rate, what do you think will happen if the state continues to ignore this desperately needed increase this budget cycle?

MS. NEWCOMB: Well, thank you, Senator. And you have always been a great champion for this worthy cause.

I guess I would just say I mentioned during my testimony that since the pandemic started, 18 facilities have closed. And before that, I think it was -- on average, it was about 10 to 12 per year. We have seen acceleration, so I think we will see continued closures.

And I think that, you know, I don't know -- I don't know how they can sustain themselves much longer. The ALP will help offset, but that rate -- could help offset some of it for those who have the Medicaid program, but those rates are stuck in 2002 as well. And they're not what -- the statute requires that -- the rate to be 50 percent of the nursing home rate, but that has eroded

over the years and we think it's somewhere between -- now it's somewhere more like 35 percent of what the nursing home gets per day.

So they're really in dire financial straits right now, and we're hoping that this is the year to make it right. Thank you.

SENATOR SERINO: I hope all of my friends are listening. Because, you know, I've been beating this drum for a long time. Once again, our most vulnerable are an afterthought.

So thank you for continuing the fight. Al, it's good to see you. And I also just want to say to Steven Sanders, you know, it's a real shame that we don't do more for Early Intervention, and I really appreciate your testimony today. So thank you to everybody. Thanks for hanging in there too.

MR. SANDERS: Thank you, Senator.

SENATOR SERINO: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next is Assemblyman Tom Abinanti.

You're on mute, Tom.

ASSEMBLYMAN ABINANTI: There we go. Thank you, Madam Chair. I've been in and out, I've been trying to run back and forth between conference and session and whatever, and I want to thank all of the others who stayed here during this whole thing, just like you have thanked them.

I've got a couple of questions. Number one, to the pharmacy guys. Do you still have the ability to get things from the local hospital if one of your people doesn't have something? I know there was a time when you could get resupplied by a transfer from another pharmacy or from a local hospital or something like that. Can you still do that? Can you get these types of products if you run low and resupply that way?

MR. WILLIAMS: Sure. There are some limits on that. In terms of controlled substances, there is a greater paperwork burden. But that is -- that is possible. We have to be aware of the wholesale regulations in New York State. So --

ASSEMBLYMAN ABINANTI: Well, how much

of this stuff do you go through a day? I mean, a 30-day supply, that's assuming that you're going to have a large demand for this. How much of a demand is there?

MR. WILLIAMS: It varies from place to place. I think Mike would agree.

MR. DUTEAU: I would agree. And again, if the demand is high, then typically the participants have a wholesaler license to be able to accomplish that.

ASSEMBLYMAN ABINANTI: Okay. Now, the other question I have is we're talking here about a bonus. What do we have to raise the salaries to, to make them competitive? I think we probably had some discussion about that during the day.

But what's your opinion on this? You know, I understand the problem with a bonus; I understand the benefit of having a bonus. But I think people want a consistent salary to stay in the industry. So what do we have to raise it to, to make it a competitive salary?

CHAIRWOMAN KRUEGER: And you mean in

home care, Tom, right?

ASSEMBLYMAN ABINANTI: I'm sorry, yes, in the home care. I'm not talking pharmacy anymore, right.

MR. O'MALLEY: Assemblyman -- go ahead, Al.

MR. CARDILLO: I would like to respond to that. That question I think is exactly on point. We have drafted legislation which has been introduced in both houses for probably the last four or five years to require a competitive labor market analysis of exactly what the thresholds are from recruitment and compensation in home care and hospice vis-a-vis what the competitive labor market is.

I think the reason that that's so important is because you've got competition from within the health system -- so between hospitals, home care, nursing homes -- but also with other sectors, that really isn't possible to measure by simply throwing a dart at a board. Or saying let's increase things $4 or $5.

We believe that we really need to understand what is the competitive threshold and then to have the recommendation for how the funding methodologies are adjusted to achieve that threshold.

I believe Assemblyman Bronson has the bill in currently in the Assembly.

ASSEMBLYMAN ABINANTI: Let me just press back one minute if I can.

How come you guys haven't done that? Can't you do that yourselves just by doing your own surveys? I've seen all kinds of surveys. Why can't you give us a number to tell us in the Legislature, hey, this is what we -- this is our target?

CHAIRWOMAN KRUEGER: Tom, you need to take that question offline since you've used up your time. So I bet Al will be happy to get you more information. Thank you.

ASSEMBLYMAN ABINANTI: Okay, good.

CHAIRWOMAN KRUEGER: Thank you.

Senator Gustavo Rivera, do you have your hand up? Suddenly you popped up in a box.

SENATOR RIVERA: I've always been here. But I believe that González-Rojas has a question.

CHAIRWOMAN KRUEGER: Okay, I just want to double-check there are no more Senators.

Cordell Cleare, did you have your hand up? Or you're also just in a box right now? You're good also.

Okay, then Assemblywoman González-Rojas.

ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Great, thank you so much.

Bryan, I wonder if you can -- I actually do want to give you space to answer Tom's question, because I think it's an important one. And I also want you to elucidate the shortage that we're facing. I understand that we have the largest home care worker shortage in the country right now. So if you could tell us more about what that looks like right now and what that can mean for future services as well as respond to Tom's point about what type of competitive -- what would a competitive salary look like to

keep folks in the field and support the labor shortage that we're facing.

MR. O'MALLEY: Sure. Thank you. And I want to leave some space for Hannah, because I know PHI has lots of great data on the workforce too.

We will often cite Mercer just because they are a national organization looking at the overall healthcare workforce, and they've identified that we're going to need 83,000 home care workers by 2025. Of that, they anticipate that we'll be able to fill about 50,000 of those spots by that time period. So, you know, that would leave us short 33,000 home care workers. And I think we are all seeing that now.

And to the wage, I think this is one area where we would definitely disagree with Al. We would argue that we've studied this. There was a study that was done in the budget for North Country wages several years ago, and we've not seen the results.

What we do know is when the wage was 162 percent of the minimum wage, when it was

higher, we didn't have problems recruiting home care workers. And so if we pay people, it is like Kathy Febraio said earlier: Passing Fair Pay, moving to 150 percent will absolutely solve this gap. And people will join the workforce. And we know it because we've seen it before.

ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank you so much.

MS. DIAMOND: I would just love to share. I shared a statistic. We have data that shows that this workforce, over a 10-year period, is going to incur 1.1 million job openings. That's both due to growth -- so increased demand for services -- but also because workers are leaving these positions for other opportunities.

And wages are a huge part of both recruiting and retaining workers to meet the anticipated demands that New York currently has -- it's currently a crisis -- and it's going to continue to have.

So I think to the discussion about what is the right amount, we need to be

funding Fair Pay for Home Care now. And then I would also welcome a stakeholder-informed conversation with the Department of Health to look at what is a competitive and livable wage for workers across long-term care. But it's not an or, it's an and. We need to be addressing this immediately to address the workforce crisis.

ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank you, Hannah.

CHAIRWOMAN KRUEGER: Thank you. So I need to just jump in and play devil's advocate.

Is it not true that we have the greatest shortage right now because since we have the largest Medicaid-funded home care program in the country, we had the largest number of people eligible for these services?

MR. CARDILLO: Well, we do. One of the things is is that New York has always been the national leader in home care, Medicaid home care but home care across the board. And that's been the case really since 1977. And I think that is a factor.

However, many of New York's policies have been specifically directed at having a more targeted admission and service practice, whether it's the payment of hospitals, the payment of nursing homes and other sectors. And with those kinds of policies, it drives the demand in a much more substantial way than you would see in other states, and I think that's a major factor in what drives then the need for services.

CHAIRWOMAN KRUEGER: Thank you.

MR. O'MALLEY: I think -- Senator, I think that's also something we've always been very proud of here in New York, right? We take pride in our Medicaid program and the fact that we do offer these services. We don't want to be Texas or Mississippi, right?

And so yeah, we could just cut services. We could say no one's getting 24-hour care, no one's getting live-in care, no one's getting any of the -- but that's not who we are as New Yorkers. And so if we want to provide the home care benefits, we actually have to make sure those benefits are

available.

CHAIRWOMAN KRUEGER: And I wasn't trying to tie a judgment on that because I don't disagree with you. I was just trying to sort of get a numbers angle on it, because in an earlier discussion I learned that New Yorkers don't use hospice, and I think that's a cultural issue. But I don't think it's a cultural issue that we have such a high shortage of home care workers; we just have a very large program that's grown, and because we pay so poorly and because of any number of other issues, now we have the largest shortage in the country. It's not a cultural issue about us. So thank you.

And Gustavo Rivera does have his hand up now.

SENATOR RIVERA: Yeah, I just wanted to do something really quickly as a kind of an exclamation point to the conversation that we've been having for certainly all day, but in the last five, 10 minutes.

I'm sure that you folks are aware as you're seeing this budget -- and we've all

talked about how it's much better than the ones that we've fought against in the past. But there's one aspect of it that we haven't actually talked about, and I forgot to ask this morning to the commissioner, and that is the fact -- certainly it's not a decision that she makes, but it is a decision that the Governor makes as far as how much money we put into reserves.

As I understand, there's a $9 billion chunk that's going to be put into reserves. And my -- what I wanted to ask this morning is like if we can put 9 billion into reserves, we can also put 7 billion into reserves and have 2 billion to do other things with, like what are some of the things we're talking about here, which is a long-term solution as far as -- not just a Band-Aid.

So if anybody wanted to comment on the fact that there are reserves that we have to the tune of $9 billion and still do the things that we're talking about -- if anybody wants to comment on that, I want to give you

an opportunity to do so.

MS. NEWCOMB: I guess I would just say that we're asking for a tiny, tiny, tiny, tiny portion of that, and then we would be just fine with that, with a very small portion. And so it's a matter of priorities.

SENATOR RIVERA: What would that small portion be, ma'am?

MS. NEWCOMB: I mean, I'd have to do the math in my -- you know. But I mean we're asking for just, you know, a few hundred million in between all the different programs, a lot of which the Governor, you know, has included, just to be part of them. And then the SSI increase, obviously. So that's a tiny fraction --

MR. SANDERS: May I just add to that briefly, from the -- back to the Early Intervention angle?

CHAIRWOMAN KRUEGER: Yes.

MR. SANDERS: The rate increase that we are asking for and desperately need can mostly be funded through the -- we don't have to tap the reserves. It can come from the

savings that, Senator Rivera, you championed last year, along with Dick Gottfried and Amy Paulin and Senator Reichlin-Melnick and Cahill, because we now have savings of nearly $30 million because commercial insurance is now paying more their fair share by being included under covered lives.

So we want to be taking those savings from Early Intervention and reinvesting it back into Early Intervention --

SENATOR RIVERA: Last 30 seconds. Last 30 seconds. Ms. Diamond? Because I see you with the hand up.

MS. DIAMOND: Thanks so much. Yes, I was just going to say that these investments that we're talking about require an initial influx of funds that will pay dividends in the future. So if we holistically address job quality for workers, which is wages, which is training, which is career advancements, it's going to save the state money in the future.

So it's -- the time is now to invest this -- in the direct care workforce.

SENATOR RIVERA: Thank you, Ms. Diamond. And thank you, Madam Chair.

MR. O'MALLEY: Plus one on Hannah.

CHAIRWOMAN KRUEGER: Thank you.

I think now we have completed the questioning by the remaining legislators --

SENATOR RIVERA: Senator Cleare, Senator Cleare.

CHAIRWOMAN KRUEGER: Cordell Cleare. Yes, ma'am. Put your mic on.

SENATOR CLEARE: I only wanted to hear what Assemblyman Sanders had to say. I wanted him to finish if the --

CHAIRWOMAN KRUEGER: Steve, would you please explain again how the covered life changes --

(Overtalk.)

SENATOR CLEARE: Or just finish it for us.

CHAIRWOMAN KRUEGER: -- got us some money.

MR. SANDERS: And I'll do it very quickly.

Forever, 20, 25 years, the entire

program -- more -- commercial insurance has been paying only 2 percent of the total Early Intervention cost. The rest comes from the state and counties. They were contributing $12 million, a pittance.

Last year the Legislature passed and the Governor signed legislation that requires them to pay $40 million. What that means -- in the covered lives program, Senator. What that means is that there is a savings to the state and counties of $28 million that's derived from the 12 million that commercial insurance used to pay with the 40 million that they're now paying. So the difference is 28 million.

And that money shouldn't just go into the General Fund, it ought to go -- it ought to be reinvested into the Early Intervention Program to support therapists and professionals who haven't had a rate increase in two decades.

SENATOR CLEARE: Thank you.

MR. SANDERS: Thanks for the question, Senator.

CHAIRWOMAN KRUEGER: Thank you.

See, you were the last person, but you got the last word also, Steve Sanders.

(Laughter.)

CHAIRWOMAN KRUEGER: And with that, since I see no other hands waving at me, I'm going -- John Liu, you've shown up to wave at me. Do you need the last question before we close this hearing?

SENATOR LIU: Madam Chair, I've been with you this whole time just doing other things as well, multitasking. But I --

SENATOR RIVERA: Want to ask about crypto now? You can ask about crypto now.

CHAIRWOMAN KRUEGER: No (laughing). Don't get him started, Gustavo.

Okay, so you were just turning your screen on again for the closing moments. And Rebecca Seawright, you were also just turning your screen on for the closing moments, you didn't want to wave your hand?

SENATOR LIU: We wanted you to know that we are with you, Madam Chair.

CHAIRWOMAN KRUEGER: Thank you, sir.

SENATOR COMRIE: That's right, Madam Chair, we're with you. We're with you.

CHAIRWOMAN KRUEGER: Thank you for the moral support, everyone.

SENATOR LIU: You see, we're all with you.

ASSEMBLYWOMAN SEAWRIGHT: We're all with you, thank you.

CHAIRWOMAN KRUEGER: Thank you. Now let's just get the budget done the way we all want it to get done --

(Cross-talk.)

ASSEMBLYWOMAN SEAWRIGHT: We need a song from Gustavo --

CHAIRWOMAN KRUEGER: All right, when the hearing's finished, people can request musical inter --

SENATOR RIVERA: (Singing.) Closing time, you don't have to go home but you can't stay here.

CHAIRWOMAN KRUEGER: A perfect closing to our Health Budget Hearing for 2022. Thank you all for participating, legislators and testifiers. And tomorrow morning we will be

starting at 9:30 with our Local and Municipal Government day. So go home, relax, don't get too comfortable, come on back in the morning.

Thank you very, very much. Good night, everybody.

(Whereupon, the budget hearing concluded at 6:39 p.m.)