

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

3 JOINT LEGISLATIVE HEARING

4 In the Matter of the
5 2022-2023 EXECUTIVE BUDGET
6 ON HEALTH

7 Virtual Hearing
8 Conducted via Zoom

9 February 8, 2022
10 9:36 a.m.

11 PRESIDING:

12 Senator Liz Krueger
13 Chair, Senate Finance Committee

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

16 PRESENT:

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

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

21 Senator Gustavo Rivera
22 Chair, Senate Committee on Health

23 Assemblyman Richard N. Gottfried
24 Chair, Assembly Health Committee

Senator Neil Breslin
Chair, Senate Insurance Committee

Assemblyman Kevin A. Cahill
Chair, Assembly Committee on Insurance

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2 Health
2-8-22

3 PRESENT: (Continued)

4 Senator Patrick M. Gallivan

5 Assemblyman Kevin M. Byrne

6 Senator John C. Liu

7 Assemblyman Khaleel M. Anderson

8 Assemblywoman Rodneyse Bichotte Hermelyn

9 Assemblyman Harry B. Bronson

10 Senator Brad Hoylman

11 Assemblyman Edward C. Braunstein

12 Senator Todd Kaminsky

13 Senator Rachel May

14 Assemblyman Phil Steck

15 Assemblywoman Marjorie Byrnes

16 Senator Diane J. Savino

17 Assemblyman John T. McDonald III

18 Assemblywoman Linda B. Rosenthal

19 Senator Cordell Cleare

20 Assemblywoman Alicia Hyndman

21 Assemblywoman Amy Paulin

22 Assemblywoman Yuh-Line Niou

23 Senator Sean M. Ryan

24 Assemblywoman Jessica González-Rojas

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3 PRESENT: (Continued)

4 Senator Andrew Gounardes

5 Assemblyman Steven Cymbrowitz

6 Assemblywoman Pamela J. Hunter

7 Senator Pete Harckham

8 Assemblyman Jake Ashby

9 Assemblywoman Michaelle C. Solages

10 Assemblyman John Salka

11 Senator Susan Serino

12 Assemblyman Thomas J. Abinanti

13 Assemblywoman Aileen M. Gunther

14 Senator John E. Brooks

15 Assemblywoman Melissa Miller

16 Senator Leroy Comrie

17 Assemblywoman Rebecca A. Seawright

18 Senator Edward A. Rath III

19 Assemblyman Jarett Gandolfo

20 Senator James Tedisco

21 Assemblyman Josh Jensen

22 Senator Peter Oberacker

23 Senator Julia Salazar

24 Assemblywoman Karines Reyes

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3 PRESENT: (Continued)

4 Assemblyman Colin Schmitt

5 Senator George M. Borrello

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10 LIST OF SPEAKERS

11 STATEMENT QUESTIONS

12 Mary T. Bassett
Commissioner
13 NYS Department of Health
-and-

14 Brett Friedman
NYS Medicaid Director

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15 Adrienne Harris
16 Superintendent
NYS Department of Financial
17 Services

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18 Frank T. Walsh, Jr.
Acting Medicaid Inspector General
19 NYS Office of the Medicaid
Inspector General

307 312

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3 LIST OF SPEAKERS, Continued

4 STATEMENT QUESTIONS

5	Kenneth E. Raske President		
6	Greater New York Hospital Association		
7	-and-		
8	Bea Grause President		
9	Healthcare Association of NYS (HANYS)		
	-and-		
10	Michael Balboni Executive Director		
11	Greater New York Health Care Facilities Association		
12	-and-		
13	Carl Pucci CFO		
	NYSHFA NYSCAL		
14	-and-		
15	Jeffrey Call Chairman		
16	United New York Ambulance Network (UNYAN)	325	342
17	Eric Linzer President & CEO		
18	NY Health Plan Association -and-		
19	Rose Duhan President & CEO		
20	Community Health Care Association of NYS		
21	-and-		
22	Louise Cohen CEO		
23	Primary Care Development Corporation	366	378
24			

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3 LIST OF SPEAKERS, Continued

4 STATEMENT QUESTIONS

5	Helen Schaub		
	Vice President		
6	SEIU1199 United Healthcare		
	Workers East		
7	-and-		
	Manny Pastreich		
8	Secretary Treasurer		
	SEIU 32BJ		
9	-and-		
	Pat Kane		
10	Executive Director		
	NYS Nurses Association	384	395
11			
	Joseph Sellers, M.D.		
12	President		
	Medical Society of the		
13	State of New York		
	-and-		
14	Christopher R. Arnold		
	Northeast Region Liaison		
15	U.S. Department of Defense		
	-and-		
16	Stephen Ferrara		
	Executive Director		
17	Nurse Practitioner Assoc. NYS		
	-and-		
18	Jonathan Baker		
	President		
19	New York State Society of		
	Physician Assistants		
20	-and-		
	Jo Wiederhorn		
21	President & CEO		
	Associated Medical Schools		
22	of New York		
	-and-		
23	Jeanne Chirico		
	President/CEO		
24	Hospice and Palliative Care		
	Association of New York State	400	422

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3 LIST OF SPEAKERS, Continued

4 STATEMENT QUESTIONS

5 Lauri Cole
 Executive Director
 6 NYS Council for Community
 Behavioral Healthcare
 7 -and-
 Lara Kassel
 8 Coalition Coordinator
 Medicaid Matters New York
 9 -and-
 James W. Clyne Jr.
 10 President/CEO
 LeadingAge New York
 11 -and-
 Lindsay Heckler
 12 Supervising Attorney
 Center for Elder Law
 13 & Justice
 -and-
 14 Chuck Bell
 Programs Director, Advocacy
 15 Consumer Reports
 -and-
 16 Bobbie Sackman
 Campaign Leader
 17 New York Caring Majority 435 458

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4 STATEMENT QUESTIONS

5 Seongeun Chun
 Director of Health Policy
 6 New York Immigration Center
 -and-

7 Dan Egan
 Executive Director
 8 Feeding New York State
 -and-

9 Dr. Indu Gupta
 President
 10 New York State Association
 of County Health Officials
 11 -and-

Denise C. Tahara
 12 President
 New York State Public Health
 13 Association
 -and-

14 Kathy Febraio
 President & CEO
 15 New York State Association
 of Health Care Providers 481 499

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4 STATEMENT QUESTIONS

5 Karl Williams
 President
 6 Pharmacists Society of
 the State of New York
 7 -and-
 Mike Duteau
 8 President
 Community Pharmacy Association
 9 of New York State
 -and-
 10 Al Cardillo
 President & CEO
 11 Home Care Association of
 New York State
 12 -and-
 Lisa Newcomb
 13 Executive Director
 Empire State Association of
 14 Assisted Living (ESAAL)
 -and-
 15 Hannah Diamond
 State Policy Advocacy
 16 Specialist
 PHI
 17 -and-
 Bryan O'Malley
 18 Executive Director
 Consumer Directed Personal
 19 Assistance Association
 of NYS
 20 -and-
 Steven Sanders
 21 Executive Director
 Agencies for Children's
 22 Therapy Services (ACTS) 505 530

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

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

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

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

1 Medicaid inspector general.

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

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

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

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

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

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

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

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

15 CHAIRWOMAN KRUEGER: Thank you.

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

18 And now over to Helene Weinstein to
19 introduce Assemblymembers.

20 CHAIRWOMAN WEINSTEIN: Good morning,
21 everyone.

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

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

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

8 ASSEMBLYMAN RA: Thank you.

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

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

15 And back to you, Senator Krueger.

16 CHAIRWOMAN KRUEGER: Thank you very
17 much, Assemblymember.

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

21 And the same rules apply to all the
22 government representatives. We will give you
23 10 minutes to present the highlights of your
24 testimony before us. We all have everyone's

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

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

11 So good morning, Dr. Bassett.

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

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

21 Joining me is Brett Friedman, the
22 state Medicaid director.

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

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

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

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

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

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

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

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

24 This vision also prioritizes racial

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

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

24 Root causes of such disparities

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

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

18 This budget includes a multiyear
19 investment of \$10 billion, with the goal of
20 growing the healthcare workforce by
21 20 percent in the next five years. There is
22 \$1.2 billion for healthcare and mental
23 hygiene worker retention, including bonuses
24 for full-time health workers. There is also

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

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

16 It restores the 1.5 percent reduction
17 from the fiscal year 2021 budget and
18 increases Medicaid rates across the board by
19 an additional 1 percent. The budget invests
20 \$2.8 billion in payments directed to
21 safety-net hospitals that serve communities
22 and care for patients hardest hit by COVID.
23 And it makes overdue investments in long-term
24 care.

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

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

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

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

1 process for labs across the state that
2 conduct testing and screening for variants
3 like Omicron. This budget includes
4 \$2.4 billion to support capital
5 infrastructure in healthcare and enhanced
6 laboratory capacity, including \$750 million
7 to build a new Wadsworth facility on one
8 campus.

9 This budget also utilizes more than
10 \$100 million collected from pharmaceutical
11 companies responsible for the opioid crisis
12 to make unprecedented investments in
13 addiction services.

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

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

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

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

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

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

24 And with that, let me invite our

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

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

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

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

19 Good morning, Senator Gallivan.

20 SENATOR GALLIVAN: Good morning,
21 Madam Chair.

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

24 I've got a couple of questions that I

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

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

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

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

1 view of public health.

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

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

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

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

1 lens to criminal justice and collaborating
2 with these agencies.

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

5 COMMISSIONER BASSETT: There's
6 \$500,000 in the budget. It will support
7 three lines.

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

14 SENATOR GALLIVAN: Thanks.

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

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

5 MEDICAID DIRECTOR FRIEDMAN: Yes.

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

11 Health homes as well as a few other
12 programs, including health homes serving
13 children, as well as what are called Article
14 29-I voluntary foster care agency providers,
15 are these hybrid cross-system agencies. They
16 fall currently under the auspices of the
17 Department of Health rather than the Office
18 of Mental Health or another mental hygiene
19 agency. And so currently, as structured, the
20 COLA would not apply to them.

21 SENATOR GALLIVAN: All right, thank
22 you.

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

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

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

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

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

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

1 which will be funded with -- I believe it's
2 \$20 million, we get 10 additional lines --
3 that will help us have, for the first time, a
4 sort of one-stop shop for -- that will have
5 input on training opportunities, educational
6 opportunities, employment opportunities that
7 will enable individuals to match with these
8 opportunities.

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

14 MEDICAID DIRECTOR FRIEDMAN: And just
15 one --

16 COMMISSIONER BASSETT: Oh, one more --

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

19 COMMISSIONER BASSETT: Oh, sorry.

20 (Overtalk.)

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

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

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

10 I just wanted to make sure that's
11 clear.

12 CHAIRWOMAN KRUEGER: Thank you.

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

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

18 Over to you, Chair Weinstein.

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

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

1 (Pause.)

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

4 ASSEMBLYMAN GOTTFRIED: Okay.

5 CHAIRWOMAN WEINSTEIN: Yup, you're all
6 set.

7 ASSEMBLYMAN GOTTFRIED: Okay, I'll
8 start again.

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

16 (Laughter.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 this approach, apart from the cost?

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

5 You're referring, Chairman, to the
6 undocumented.

7 ASSEMBLYMAN GOTTFRIED: Yes, I am.

8 COMMISSIONER BASSETT: And among the
9 900,000 New Yorkers who lack health
10 insurance, about half are undocumented. So
11 there remain people who should be eligible
12 for health insurance whom we want to get
13 covered, and some of the expansions of the
14 Essential Plan will go a ways to
15 accomplishing that.

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

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

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

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

16 How will this procurement process
17 benefit Medicaid enrollees?

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

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

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

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

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

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

24 Right now, given the fragmentation,

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

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

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

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

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

10 And lastly, we have so many plans --
11 26 MLTCs, for example -- that provide an
12 overabundance of choice. Right? I like to
13 analogize it to the Columbia jam experiment,
14 where if you have too many choices of jam you
15 leave without jam. But by having so much
16 overhead, we are not appropriately utilizing
17 Medicaid dollars and duplicating the same
18 claims processing system, grievance and
19 appeals apparatus, CEOs and CEO compensation.
20 And we're really missing out on the
21 administrative efficiencies that we could
22 achieve by having eight or nine or ten plans
23 that do a much more efficient job across the
24 state in serving Medicaid members.

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

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

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

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

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

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

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

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

4 CHAIRWOMAN WEINSTEIN: Thank you.

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

7 CHAIRWOMAN KRUEGER: Thank you very
8 much.

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

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

23 SENATOR LIU: Thank you, Madam Chair.

24 Thank you, Commissioner, for joining us.

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

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

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

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

24 I look at these every day, and every

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

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

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

1 please consider that.

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

12 (Overtalk.)

13 COMMISSIONER BASSETT: Well, thank
14 you --

15 SENATOR LIU: -- crisis?

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

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

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

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

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

17 COMMISSIONER BASSETT: No problem.

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

20 Assemblywoman Weinstein.

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

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

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

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

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

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

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

11 As soon as the public health emergency
12 ends, we have an obligation to start
13 redetermining eligibility for those
14 individuals. There are going to be
15 6.3 million people we have to redetermine
16 eligibility for on the marketplace --

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

23 MEDICAID DIRECTOR FRIEDMAN: Sure.

24 ASSEMBLYMAN BYRNE: Over the last

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 Thank you, Chairwoman.

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

14 Now to the Senate.

15 CHAIRWOMAN KRUEGER: Thank you very
16 much.

17 And next up is Senator Oberacker.

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

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

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

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

16 So this \$5 million will be made
17 available for an effort that includes
18 10 different counties, each of which would be
19 given a \$500,000 award, and they will work on
20 establishing a countywide system. The
21 program here, which has learned a great deal
22 in the course of the pandemic and was so
23 critical to the state's response to the
24 pandemic, has lots of ideas. It basically

1 boiled down to standardization and creating
2 countywide networks.

3 SENATOR OBERACKER: Thank you. Thank
4 you on that.

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

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

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

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

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

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

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

17 COMMISSIONER BASSETT: Thank you.

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

20 ASSEMBLYMAN RA: Thank you.

21 Good morning, Commissioner.

22 Congratulations on your appointment.

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

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

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

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

24 I'm not sure that I follow all of

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

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

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

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

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

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

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

19 I just wanted to move on to a
20 different topic within the budget proposal.
21 And within the Article VII language, there's
22 this requirement for pharmacies to stock a
23 30-day supply of opioid antagonists. Could
24 you elaborate (a) what that would require --

1 I mean, what would define a 30-day supply --
2 and really what problem the department is
3 trying to rectify? We know this stuff is
4 important. It's been very helpful training
5 people in utilizing this stuff. But why a
6 30-day supply would be needed by --

7 COMMISSIONER BASSETT: Is this about
8 naloxone?

9 ASSEMBLYMAN RA: Yes.

10 COMMISSIONER BASSETT: About having
11 naloxone on stock?

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

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

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

1 available if somebody goes in to request it.

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

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

6 CHAIRWOMAN WEINSTEIN: Thank you.
7 Back to the Senate.

8 CHAIRWOMAN KRUEGER: Thank you.
9 Senator George Borrello.

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

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

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

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

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

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

1 And as of this day, we've had nothing done.
2 Still the same waste, fraud and abuse. I
3 still see these taxi drivers all over my
4 district. We're paying taxi drivers \$300 to
5 \$400 a day, in some cases, to transport one
6 person. And yet we're paying about, what,
7 \$150 a day for a skilled nursing facility to
8 take care of our sick, frail elderly?

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

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

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

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

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

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

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

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

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

3 MEDICAID DIRECTOR FRIEDMAN: Yup,
4 thank you.

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

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

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

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

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

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

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

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

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

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

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

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

24 ASSEMBLYMAN CAHILL: Doctor, I'll be

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

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

13 Thank you, Madam Chair.

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

17 Back to the Senate.

18 CHAIRWOMAN KRUEGER: Thank you.

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

23 SENATOR MAY: Thank you, Madam Chair.

24 Commissioner, I appreciated your

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

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

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

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

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

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

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

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

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

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

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

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

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

11 CHAIRWOMAN KRUEGER: Thank you.

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

14 CHAIRWOMAN KRUEGER: Thank you.
15 Assembly.

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

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

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

1 Department of Health, which we are 61 out of
2 62 in regards to health and wellness. I
3 think that this move was done or this
4 negotiation was done during the Cuomo years,
5 and basically it will put our folks about 45
6 to 50 minutes away, those that work for the
7 DOH in Sullivan County.

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

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

24 You know, again, Sullivan County is

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

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

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

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

3 Thank you.

4 COMMISSIONER BASSETT: Thank you.

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

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

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

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

6 CHAIRWOMAN WEINSTEIN: Assembly --

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

9 CHAIRWOMAN WEINSTEIN: Assembly --
10 Assemblywoman --

11 ASSEMBLYWOMAN GUNTHER: -- community,
12 from everybody.

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

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

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

1 Monticello to locate -- locate an office.

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

4 (Overtalk.)

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

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

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

16 (Overtalk.)

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

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

22 SENATOR RATH: Thank you very much,
23 Madam Chair.

24 And thank you, Commissioner, for your

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

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

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

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

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

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

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

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

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

24 COMMISSIONER BASSETT: There is an end

1 in sight.

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

4 COMMISSIONER BASSETT: We all are.

5 SENATOR RATH: On January 28th the
6 Governor announced the continuation of the
7 indoor mask mandate until this Thursday, the
8 10th of February. She committed to reassess
9 this mandate every two weeks. COVID cases,
10 as you just indicated, are in steep decline.
11 If there is a sincere intention by this
12 Governor to reevaluate the mandates every two
13 weeks, why does the department need to
14 promulgate these rules and make them
15 permanent?

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

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

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

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

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

1 pandemic response.

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

6 SENATOR RATH: Thank you (no audio).

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

9 CHAIRWOMAN KRUEGER: Thank you.
10 Assembly.

11 CHAIRWOMAN WEINSTEIN: Yes, we move to
12 Assemblywoman Solages.

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

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

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

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

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

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

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

1 COMMISSIONER BASSETT: No, I'm sorry.

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

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

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

15 COMMISSIONER BASSETT: That's right.

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

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

24 MEDICAID DIRECTOR FRIEDMAN: Yeah, and

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

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

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

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

1 from local departments of health.

2 So are we going to address that?

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

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

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

21 CHAIRWOMAN KRUEGER: Thank you.

22 CHAIRWOMAN WEINSTEIN: Back to the
23 Senate.

24 CHAIRWOMAN KRUEGER: Thank you.

1 Senator Gounardes.

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

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

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

24 COMMISSIONER BASSETT: Well, that's a

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

12 Additionally, we have many new lines,
13 560 additional lines are coming to the Health
14 Department. We will face a great challenge
15 in recruitment. We have many vacancies now,
16 and I'm assured that they will all be fully
17 funded. So having the human infrastructure,
18 the workforce, is an important part of the
19 public health infrastructure.

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

24 COMMISSIONER BASSETT: Some of them

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

3 (Zoom interruption.)

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

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

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

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

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

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

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

16 Thank you.

17 CHAIRWOMAN KRUEGER: Thank you.

18 Assembly.

19 CHAIRWOMAN WEINSTEIN: We go to
20 Assemblywoman Bichotte Hermelyn.

21 ASSEMBLYWOMAN BICHOTTE HERMELYN:

22 Thank you, Madam Chair.

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

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

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

16 We're also asking that the executive
17 three-year budget includes a \$1 billion -- a
18 transformation sustainability fund of
19 1.5 billion. And we know that the Governor
20 has a budget, a rainy day budget of
21 12.4 billion, and so we don't think that this
22 should be an issue. You know, our safety-net
23 hospitals include the one -- Brooklyn
24 hospitals, which is the Brookdale, Kingsbrook

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

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

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

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

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

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

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

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

1 Hoylman.

2 SENATOR HOYLMAN: Thank you,
3 Madam Chair.

4 Good to see you, Commissioner and
5 Director.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 SENATOR HOYLMAN: Thank you very much.

9 CHAIRWOMAN KRUEGER: Thank you.
10 Assembly.

11 CHAIRWOMAN WEINSTEIN: We go to
12 Assemblyman Jensen.

13 ASSEMBLYMAN JENSEN: Thank you,
14 Madam Chair.

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

24 Is there a concern that this will

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

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

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

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

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

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

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

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

11 Your point about Medicaid funding is
12 important, because Medicaid is going to be
13 the apparatus through which the home care
14 workforce bonus is paid, given that so much
15 of the workforce is devoted to Medicaid
16 members, who are 7.3 million of the state's
17 20 million population. And so we want to be
18 sure that the employer types are those that
19 serve Medicaid beneficiaries, given the
20 connection between state funding and the
21 support of this workforce.

22 ASSEMBLYMAN JENSEN: Okay, thank you.

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

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

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

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

1 it to survive will do so.

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

4 CHAIRWOMAN KRUEGER: Thank you.

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

11 Now to the Senate.

12 CHAIRWOMAN KRUEGER: Thank you.

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

16 And we go next to Senator Todd
17 Kaminsky.

18 SENATOR KAMINSKY: Thank you very
19 much.

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

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

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

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

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

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

24 SENATOR KAMINSKY: Okay. Well, I look

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

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

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

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

1 important.

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

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

18 COMMISSIONER BASSETT: Thank you. And
19 this came up with a comment that Brad Hoylman
20 made earlier, and we discussed the idea of
21 looking into the possibility of an
22 1115 waiver that would enable us to get more
23 state funding for inpatient care.

24 So we've made an undertaking to do

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

4 CHAIRWOMAN KRUEGER: Thank you.
5 Assembly.

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

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

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

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

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

1 individuals.

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

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

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

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

1 to bonuses. Fifty-seven percent of home care
2 workers rely on public assistance, and
3 49 percent lack affordable housing. If we're
4 able to increase their wages, that saves the
5 state tons of money that we're paying in
6 public assistance. When they're caring for
7 our families and our loved ones, shouldn't we
8 be caring for them and ensuring that they
9 have the wages to both care for our community
10 and address the worst-in-the-nation health
11 worker shortage in New York?

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

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

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

4 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
5 you.

6 CHAIRWOMAN WEINSTEIN: Thank you.
7 We go to the Senate.

8 CHAIRWOMAN KRUEGER: Thank you.
9 Because of committee meetings, we are
10 jumping around a little bit. Senator Tedisco
11 next.

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

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

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

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

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

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

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

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

1 that office.

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

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

23 She will have a role of --

24 {Zoom interruption.}

1 CHAIRWOMAN KRUEGER: Helene, mute,
2 please.

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

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

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

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

22 SENATOR CLEARE: Not a lot.

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

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

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

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

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

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

18 SENATOR TEDISCO: Thanks.

19 CHAIRWOMAN WEINSTEIN: We go to
20 Assemblyman Anderson.

21 ASSEMBLYMAN ANDERSON: Thank you,
22 Chairwoman.

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

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

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

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

24 If they can afford to have enough

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

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

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

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

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

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

4 Thank you, Commissioner.

5 COMMISSIONER BASSETT: Okay, I have
6 40 seconds to answer at least five questions.

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

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

19 ASSEMBLYMAN ANDERSON: Can we just --

20 COMMISSIONER BASSETT: Let me just
21 turn to the --

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

24 COMMISSIONER BASSETT: Let me ask our

1 Medicaid director.

2 MEDICAID DIRECTOR FRIEDMAN: In terms
3 of the capital, this budget provides for
4 1.6 billion in facility capital for both
5 hospitals and nursing homes as well as some
6 community based locations.

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

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

17 COMMISSIONER BASSETT: Thank you.

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

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

1 CHAIRWOMAN KRUEGER: That's true.

2 That's okay.

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

5 SENATOR TEDISCO: Thank you.

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

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

1 life. But more contagious.

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

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

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

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

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

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

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

23 Thank you, back to the Assembly.

24 SENATOR TEDISCO: Okay, thank you very

1 much. Appreciate the non-answer.

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

4 We are going to Assemblywoman Niou.

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

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

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

1 that person.

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

12 Additionally, they get time for meals.
13 They're not working, per se, in active direct
14 care for all of the time during their
15 24 hours.

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

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

1 COMMISSIONER BASSETT: That's fine.

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

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

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

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

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

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

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

11 ASSEMBLYWOMAN NIOU: Thank you.

12 COMMISSIONER BASSETT: Thank you.

13 CHAIRWOMAN WEINSTEIN: Thank you.

14 To the Senate.

15 CHAIRWOMAN KRUEGER: Thank you.

16 Back to Senator Sean Ryan.

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

20 Thank you, Commissioner, for your
21 testimony.

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

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

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

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

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

1 confronting COVID.

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

8 COMMISSIONER BASSETT: Correct.

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

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

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

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

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

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

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

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

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

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

11 COMMISSIONER BASSETT: Thank you for
12 that comment.

13 SENATOR RYAN: Thank you,
14 Commissioner.

15 CHAIRWOMAN KRUEGER: Thank you.
16 Assembly.

17 CHAIRWOMAN WEINSTEIN: We go to
18 Assemblywoman Reyes.

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

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

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

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

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

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

24 ASSEMBLYWOMAN REYES: Do you

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

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

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

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

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

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

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

24 Also I just wanted to talk about the

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

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

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

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

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

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

7 (Overtalk, multiple speakers.)

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

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

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

17 CHAIRWOMAN WEINSTEIN: Thank you.

18 Now we go to the Senate.

19 CHAIRWOMAN KRUEGER: Thank you very
20 much.

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

23 SENATOR SERINO: Hello Chairwoman.
24 Thank you.

1 And hello, Commissioner.

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

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

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

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

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

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

12 SENATOR SERINO: Okay, thank you.

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

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

20 MEDICAID DIRECTOR FRIEDMAN: I can
21 help too, yeah.

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

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

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

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

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

24 And I also want to -- I would suggest,

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

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

17 Thank you.

18 CHAIRWOMAN KRUEGER: Thank you,
19 Senator Serino.

20 Next to the Assembly.

21 CHAIRWOMAN WEINSTEIN: Yes, we go to
22 Assemblyman Schmitt.

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

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

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

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

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

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

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

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

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

1 guidance?

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

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

11 ASSEMBLYMAN SCHMITT: When can we
12 expect more streamlined guidance?

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

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

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

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

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

10 COMMISSIONER BASSETT: Yes, and it is.

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

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

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

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

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

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

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

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

6 ASSEMBLYMAN SCHMITT: Thank you for
7 that --

8 CHAIRWOMAN WEINSTEIN: Back to the
9 Senate.

10 CHAIRWOMAN KRUEGER: Thank you very
11 much.

12 And we're on to Senator Salazar.

13 SENATOR SALAZAR: Thank you, Chair.

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

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

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

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

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

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

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

20 But currently, too, for so long as the
21 public health emergency lasts, we are
22 prohibited -- rightly so -- from disenrolling
23 anyone from Medicaid. And it's going to be a
24 14-month process before an individual is

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

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

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

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

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

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

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

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

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

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

9 Next, to the Assembly.

10 CHAIRWOMAN WEINSTEIN: We go to Missy
11 Miller.

12 ASSEMBLYWOMAN MILLER: Thank you.

13 Good morning, and thank you for being
14 here.

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

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

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

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

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

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

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

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

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

10 CHAIRWOMAN WEINSTEIN: Thank you.

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

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

15 COMMISSIONER BASSETT: With pleasure.

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

18 Thank you.

19 CHAIRWOMAN WEINSTEIN: Thank you.

20 And to the Senate now.

21 CHAIRWOMAN KRUEGER: Thank you.

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

1 SENATOR RIVERA: Thank you,
2 Madam Chair.

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

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

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

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

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

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

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

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

21 Are you familiar with this?

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

24 And despite the fact that you can use

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

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

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

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

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

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

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

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

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

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

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

9 The role of the global --

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

14 SENATOR RIVERA: Is it, though? Is
15 it?

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

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

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

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

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

13 (Overtalk.)

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

22 SENATOR RIVERA: We will revisit this.

23 MEDICAID DIRECTOR FRIEDMAN: Yeah.

24 SENATOR RIVERA: Next, something that

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

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

19 Can you tell me anything?

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

24 SENATOR RIVERA: Okay, good, because

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

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

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

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

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

10 SENATOR RIVERA: Gotcha.

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

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

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

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

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

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

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

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

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

9 COMMISSIONER BASSETT: Well, you know,
10 chaining medication aides to the backs of --
11 (Overtalk.)

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

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

24 (Overtalk.)

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

11 SENATOR RIVERA: I will come back for
12 Round 2.

13 COMMISSIONER BASSETT: Okay.

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

16 CHAIRWOMAN KRUEGER: Thank you.

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

19 ASSEMBLYMAN GANDOLFO: Thank you,
20 Chairwoman.

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

24 My question is related to school

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

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

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

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

1 emotionally --

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

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

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

1 strangers and new people. So I hope --

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

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

15 But I appreciate your response and
16 your time being here.

17 COMMISSIONER BASSETT: Thank you.

18 CHAIRWOMAN WEINSTEIN: Thank you.

19 We move on the Senate.

20 CHAIRWOMAN KRUEGER: Thank you.

21 Senator Comrie.

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

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

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

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

1 underbudgeted to handle that.

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

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

24 There's been a woefully inadequate

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

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

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

1 opine on that --

2 CHAIRWOMAN KRUEGER: Thank you,
3 Senator Comrie.

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

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

9 CHAIRWOMAN KRUEGER: At a later time.

10 COMMISSIONER BASSETT: -- at a later
11 time.

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

19 And with that, back to the Assembly.

20 CHAIRWOMAN WEINSTEIN: We go to
21 Assemblywoman Seawright.

22 ASSEMBLYWOMAN SEAWRIGHT: Thank you.

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

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

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

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

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

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

5 Are you aware of this operation in
6 New York City?

7 COMMISSIONER BASSETT: No.

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

13 ASSEMBLYWOMAN SEAWRIGHT: Thank you.

14 CHAIRWOMAN WEINSTEIN: Back to the
15 Senate.

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

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

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

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

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

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

17 SENATOR SAVINO: Thank you,
18 Senator Krueger.

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

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

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

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

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

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

9 The second thing --

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

21 SENATOR SAVINO: Thank you. I
22 appreciate that.

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

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

13 You know, for instance, I think in
14 New York City, Medicaid only reimburses about
15 55 percent of the cost for an inpatient stay
16 for a person who's in a bipolar crisis. And
17 what we're seeing is because the inpatient
18 and even the outpatient reimbursement rates
19 are so low, people are cycling in and out of
20 the emergency room back out into the street,
21 many of them are homeless, exacerbating this
22 crisis.

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

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

10 Thank you.

11 CHAIRWOMAN KRUEGER: Thank you,
12 Senator Savino.

13 CHAIRWOMAN WEINSTEIN: Assemblyman --

14 CHAIRWOMAN KRUEGER: Nope. No, I'm
15 sorry, Assemblywoman, before we go on to the
16 next member we're going to take a 10-minute
17 personal need and stretch break, and then we
18 will come right back to the order that we're
19 in. So everybody check your watch, and
20 10 minutes from now come on back to your box.

21 Thank you so much.

22 (Brief recess taken.)

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

1 after a brief break.

2 Handing it over to Chair Weinstein.

3 CHAIRWOMAN WEINSTEIN: Thank you.

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

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

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

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

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

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

5 And then one further question, and
6 I'll leave you a few moments to respond.

7 "The American Cancer Society estimates that
8 46 percent of cancer patients and survivors
9 experienced a change in their ability to pay
10 for care due to the pandemic; 79 percent
11 experienced delays in treatment. The cancer
12 services program saw its funding cut in the
13 '17-'18 budget and has been flat-funded.
14 When do we expand this program to meet the
15 growing needs of New Yorkers?"

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

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

1 related to their drug use.

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

9 MEDICAID DIRECTOR FRIEDMAN: Yeah.

10 COMMISSIONER BASSETT: And so we're
11 all watching what's going on in New York. We
12 at the state have not made a determination on
13 the use of this strategy. In New York they
14 have reported the reversal of more than
15 100 overdose deaths, and they haven't faced
16 any federal action. So we're watching what's
17 happening. I think that we will have
18 something to learn from that experience.

19 CHAIRWOMAN WEINSTEIN: And if you
20 could just --

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

23 (Overtalk.)

24 CHAIRWOMAN WEINSTEIN: Perhaps you

1 could send us --

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

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

13 CHAIRWOMAN WEINSTEIN: Thank you,
14 Commissioner.

15 Back to the Senate.

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

24 There's been a lot of attention and

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

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

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

18 Do you know?

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

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

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

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

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

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

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

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

17 (Overtalk.)

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

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

24 CHAIRWOMAN KRUEGER: Yes. Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 And I would just say --

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

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

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

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

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

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

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

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

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

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

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

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

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

11 CHAIRWOMAN WEINSTEIN: We go to
12 Assemblyman Abinanti.

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

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

1 necessarily anything to do with the need.

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

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

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

1 in this budget that addresses this issue?

2 COMMISSIONER BASSETT: I'm not sure.

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

7 (Overtalk.)

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

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

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

21 COMMISSIONER BASSETT: Yup. Yup.

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

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

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

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

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

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

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

10 ASSEMBLYMAN ABINANTI: Okay, good.
11 Thank you.

12 CHAIRWOMAN KRUEGER: Thank you both.

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

15 CHAIRWOMAN WEINSTEIN: Senate.

16 CHAIRWOMAN KRUEGER: Senator Gustavo
17 Rivera for his second round.

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

22 Are you folks familiar with the Area
23 Health Education Centers?

24 COMMISSIONER BASSETT: Yes.

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

3 COMMISSIONER BASSETT: Yes.

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

8 COMMISSIONER BASSETT: Yes.

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

13 COMMISSIONER BASSETT: Yes.

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

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

1 please?

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

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

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

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

24 SENATOR RIVERA: Gotcha. Oh, yes,

1 yes, ma'am. Moving on.

2 (Laughter; overtalk.)

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

6 (Laughter; overtalk.)

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

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

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

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

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

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

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

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

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

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

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

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

13 CHAIRWOMAN KRUEGER: Thank you.

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

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

22 Assemblyman McDonald.

23 ASSEMBLYMAN McDONALD: Thank you,
24 Chair Weinstein.

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

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

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

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

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

6 COMMISSIONER BASSETT: Well, we do, as
7 a health department, look at issues of air
8 quality. That falls under the Center for
9 Environmental -- for the Environment.

10 And -- but I know in my tenure this
11 has come up mainly about the schools and the
12 idea of whether we're paying attention to air
13 quality in schools. And we provide guidance
14 to the Department of Education about air
15 quality. Not all settings can use the
16 guidance that we have provided. The housing
17 stock is very variable in terms of its age
18 and its ventilation, et cetera.

19 ASSEMBLYMAN McDONALD: Well, I just
20 think it would be valuable for the general
21 public at large to be more informed about it.

22 COMMISSIONER BASSETT: Yes. Well,
23 simple things like opening the windows, for
24 example.

1 ASSEMBLYMAN McDONALD: It makes sense.
2 It sounds crazy, but it's true.

3 We don't have time for this, but I'll
4 just mention I have mixed feelings about the
5 proposal to move the health professions from
6 the Education Department to the Department of
7 Health. I see some benefits; I see some also
8 demerits. Your comments and thoughts?

9 COMMISSIONER BASSETT: I started out
10 by saying that the agency that oversees the
11 regulation of the professions should also
12 license it. This mainly is around the scope
13 of practice issues that came up with
14 Senator Rivera.

15 We've learned so much during COVID
16 about the kinds of things people can do if we
17 are flexible about the scope of practice. We
18 had pharmacists running COVID testing. We
19 had paramedics doing vaccinations. All of
20 this was done through executive orders
21 because the Department of Education will not
22 use its administrative authority to make
23 these changes.

24 So this is principally not about

1 administrative things, this is about
2 modernizing our workforce, enabling people to
3 work at what we call the top of their
4 license, and doing it with agility, the kind
5 of agility that we need during a pandemic.

6 So I -- you know, it's not a criticism
7 of the mechanics of this, it's a criticism of
8 the rigidity with which the Department of
9 Education has responded to our requests to
10 expand scope of practice in ways that's
11 better for patients, better for workers,
12 whose work becomes more interesting, and
13 allows the higher trained staff -- nurses and
14 nurse practitioners -- to do the kind of work
15 that they were trained to do, not just roll
16 down medication carts but, you know, function
17 at the top of their licenses too.

18 So it's those sorts of issues that
19 have led me to respectfully agree to disagree
20 with Commissioner Rosa's opposition to this
21 plan, to this proposal. It would be good for
22 professionals and good for the people of this
23 state.

24 CHAIRWOMAN WEINSTEIN: Thank you.

1 ASSEMBLYMAN MCDONALD: Sounds like a
2 topic for a longer conversation. Thank you.

3 CHAIRWOMAN WEINSTEIN: Thank you.
4 Assemblyman Ashby.

5 ASSEMBLYMAN ASHBY: Thank you,
6 Madam Chair.

7 And thank you, Dr. Bassett and
8 Director. Really appreciate your time and
9 consideration during the hearing, and your
10 stamina during all of this as well.

11 My question relates to assisted living
12 facilities. And last year they were excluded
13 from receiving funds from the American Rescue
14 Plan. And, you know, this year they're
15 looking -- they're looking to receive
16 assistance with this. And I know that, you
17 know, they don't participate wholeheartedly
18 in the Medicaid program, but they are a
19 stopgap in a lot of ways, and a transition
20 for so many of our seniors. And they've been
21 negatively impacted throughout this pandemic,
22 and they are in desperate need of help as
23 well.

24 And I'm wondering if you would support

1 them and are considering helping them receive
2 a budget allocation.

3 COMMISSIONER BASSETT: It sounds as
4 though our Medicaid director has something to
5 say, but let me just frame this a little bit,
6 in the fact that we are putting substantial
7 resources into long-term care.

8 The Governor, in the State of the
9 State, referenced the idea of a master plan
10 for aging. And we recognize that we need
11 more than nursing homes as a place to age and
12 that we need to support people as they age in
13 a spectrum of settings. And we have some
14 additional funding to do that in our budget
15 this year, with \$50 million allocated for an
16 innovative model called the Green House
17 Model.

18 But for the specific questions on --
19 are you familiar with the Green House Model?

20 ASSEMBLYMAN ASHBY: I am. And I'm
21 really happy to hear that, because I think
22 the longer we can encourage and keep people
23 independent and maintaining their
24 independence and aging in place, wherever

1 that may be, whether it's in an assisted
2 living facility or at home or in a group
3 setting, that's the best that we can do. So
4 I'm really happy to hear you --

5 COMMISSIONER BASSETT: And it's our
6 legal obligation, as well under the
7 Olmstead -- yes.

8 ASSEMBLYMAN ASHBY: The Green House
9 Model is the gold standard, no pun intended,
10 and I think that's great that we're looking
11 to do that.

12 MEDICAID DIRECTOR FRIEDMAN: And just
13 to add, in terms of our financial support in
14 Medicaid for ALPs, one, the across-the-board
15 rate increases will help ALPs as Medicaid
16 funding providers. That's important for at
17 least a component of ALP services that can be
18 Medicaid funded.

19 The other opportunity that we're
20 pursuing with CMS -- and it remains to be
21 seen whether the federal government will
22 approve it -- is in the American Rescue Plan,
23 and specifically Section 9817, which provides
24 the ability to reinvest some of the enhanced

1 FMAP we're getting for home and
2 community-based services. We're looking to
3 make a capital investment in ALPs, given the
4 fact that they've been excluded from other
5 sources of funding.

6 And so as part of our next submission
7 we're going to explore that opportunity with
8 CMS in hopes that we can utilize some of this
9 funding specifically for them.

10 ASSEMBLYMAN ASHBY: And would that
11 include those who don't participate fully
12 with Medicaid? Or is that only --

13 MEDICAID DIRECTOR FRIEDMAN: We would
14 have to work through the funding parameters.
15 But this is Medicaid funding.

16 ASSEMBLYMAN ASHBY: Okay. Thank you.

17 MEDICAID DIRECTOR FRIEDMAN: Yup.

18 CHAIRWOMAN WEINSTEIN: I am going to
19 speak now, so we can put 10 minutes on the
20 clock.

21 First I have -- Assemblymember Kim was
22 not able -- is not a member of one of the
23 committees, so he's not able to attend, so he
24 submitted two questions for me to read.

1 And Commissioner, I just would say,
2 when I read the question, that I have not
3 done any due diligence, so -- in terms of the
4 veracity of the information that I am about
5 to say. And it relates to the discussion
6 we've been having about the 24-hour home care
7 work.

8 So Assemblyman Kim asks: Should the
9 worker be unable to receive the sleeping and
10 eating times, the Court of Appeals and DOL
11 have both said the employer is liable for
12 full payment of 24 hours worth of wages.
13 However, one of the largest home care
14 agencies, that employs more than 7,000 home
15 care workers, claims that DOH is ordering
16 24-hour shifts based on periodic assessments
17 of clients. Right now the provider is
18 telling home care workers to only report
19 13 hours in 24-hour shifts; otherwise, the
20 workers would be committing Medicaid fraud
21 and can go to jail.

22 So he asks, are home care workers
23 therefore committing Medicaid fraud for
24 reporting inaccurate work hours? And does

1 DOH force providers to take on 24-hour
2 contracts and threaten workers if they claim
3 overtime?

4 And let me just get to his second
5 question. Did the Executive consult with DOH
6 and did DOH sign off on a moratorium for
7 nursing home operators for our state law that
8 would require more direct care and staffing?

9 COMMISSIONER BASSETT: The second, and
10 I'll let --

11 MEDICAID DIRECTOR FRIEDMAN: You take
12 the second one, perfect. I was just going to
13 suggest that to your question.

14 CHAIRWOMAN WEINSTEIN: Sure.

15 COMMISSIONER BASSETT: Oh. Oh, okay,
16 I'll start. So I'm starting with the second
17 question about the executive order that
18 suspended the staffing requirements in
19 nursing homes that was issued really as a
20 consequence of the Omicron surge and the
21 crisis in workforce and in increasing demand
22 that we've all been talking about today.

23 This was -- it's not fair to call this
24 a moratorium. This is something that will

1 expire on March 1st. And we will, you know,
2 consider the situation as it exists in terms
3 of the capacity of the nursing homes to
4 safely look after their residents during --
5 and the state of the surge.

6 We have published regulations. The
7 public comment period is going to end on the
8 14th of February. And then we'll review the
9 comments and respond to them. So that's my
10 comment on the first question, on the
11 executive order that suspended the safe
12 staffing rules with respect to nursing homes.

13 Let me turn to you.

14 MEDICAID DIRECTOR FRIEDMAN: And then
15 with regard to the 24-hour rule, in
16 Assemblymember Kim's statement there's a
17 number of concerning elements, the first of
18 which is, you know, we don't want to
19 litigate, you know, potential noncompliance
20 here in the course of a hearing. But just to
21 describe the rules.

22 One is the Department of Health is not
23 the authorizer of services in this regard.
24 Those services are authorized by either the

1 local district or a managed care plan,
2 depending on how that individual receives his
3 or her or their Medicaid coverage.

4 That said -- and the Department of
5 Health rules dating back to December of 2015
6 are very clear that the worker should be
7 reporting the 24 hours, but they are paid for
8 13 if there are five uninterrupted hours for
9 purposes of sleep and the three meals, as
10 Dr. Bassett mentioned earlier. The reporting
11 should always be accurate. And if the
12 workers are being told to not report their
13 time accurately, that that should be a
14 referral to the Department of Labor or to the
15 OMIG to investigate the causes.

16 If the worker is not getting the five
17 uninterrupted hours, then the rules are
18 different and the licensed home care services
19 agency is supposed to report that so the
20 workers can get appropriate compensation for
21 their time.

22 And so part of -- I just want to
23 highlight here -- and we didn't address it,
24 but the Department of Health for two years

1 has been in the process of conducting a
2 request for proposals specific to LHCSAs.
3 And part of that is because of concerns that
4 we've heard with regard to wage and hour
5 noncompliance in the licensed home care
6 services space. And we want to be able to
7 engage in the Medicaid program those LHCSAs
8 who are doing their job and promoting
9 accurate work rules and reporting and
10 electronic visit verification and training.

11 And so I know we didn't get questions
12 on it. It's in this year's budget again. I
13 just -- this to me also speaks to the need to
14 really get a handle -- there are over
15 1400 LHCSAs; 690-plus LHCSAs serve Medicaid
16 members. And this is a really strong reason
17 to be able to ensure that we have a group of
18 LHCSAs that are really doing their best to
19 support the workers and ensure legal
20 compliance.

21 CHAIRWOMAN WEINSTEIN: And then
22 shifting just to follow up on what
23 Assemblywoman Gunther had raised, perhaps you
24 can send us in writing just some more detail

1 about the real estate search, what was done,
2 by whom, when was it, was there any community
3 consultation, and what's the stage of the
4 process. So I guess the question is, is this
5 really a done deal or can we still have some
6 input into this?

7 COMMISSIONER BASSETT: A lease has
8 been signed. A 10-year lease has been
9 signed.

10 CHAIRWOMAN WEINSTEIN: So can you just
11 follow up --

12 COMMISSIONER BASSETT: I can tell you
13 -- yes, we will look back. And I can tell
14 you what I've been told, but let me just send
15 this to you in writing.

16 CHAIRWOMAN WEINSTEIN: Sure. That's
17 what I would appreciate.

18 And before I send it back to the
19 Senate, I want to just say that, you know, I
20 share many of the concerns that members have
21 raised about the crisis in the home care --
22 for both the home care workers as well as the
23 individuals who need to receive home care.

24 I have a unique district. I have a

1 lot of elderly constituents who are in need
2 of home care and receive home care, and also
3 a number of individuals who are home care
4 workers. So I've heard from both ends of the
5 spectrum. So I just want to join my
6 colleagues in raising that concern.

7 And I send it back to the Senate
8 because I do not see other hands raised.
9 Thank you. Back to Senator Krueger.

10 CHAIRWOMAN KRUEGER: Thank you very
11 much, Helene.

12 And yes indeed, I believe we have now
13 completed the questioning of -- Helene, you
14 have an Assembly member waving at me.

15 CHAIRWOMAN WEINSTEIN: Right, I
16 have -- Assemblywoman Paulin has now raised
17 her virtual hand as well as waving her real
18 hands. So can we just give her time for a
19 question before we end?

20 CHAIRWOMAN KRUEGER: I'm handing it
21 back to you, yes.

22 ASSEMBLYWOMAN PAULIN: Sorry about
23 that. I text instead of doing it the right
24 way. Sorry.

1 So I have just a couple of I think
2 short questions. The first question: I'm
3 hearing from my hospitals and nursing homes
4 that there's some concern on their part
5 regarding the DOH surveyors coming into their
6 facilities and their being unable to ask them
7 whether they've been vaccinated, boosted
8 and/or unable to give them a rapid test. And
9 since those are requirements that their own
10 staff have, wondered about why that was going
11 on. They have a lot of health concerns about
12 the DOH personnel.

13 COMMISSIONER BASSETT: I assume that
14 this has to do with, you know, people having
15 the right to personal health information.
16 But I don't -- you know, I don't know whether
17 there's a legal barrier to the hospitals that
18 you're describing asking that information.
19 So I'll have to get back to you on that.

20 I understand the problem that you're
21 being asked, and I may -- since somebody's
22 mouthing to me something, I may be able to
23 get an answer to you before we finish.

24 ASSEMBLYWOMAN PAULIN: Okay, thank

1 you.

2 And just one of -- I don't know
3 whether you had -- I know it was a little bit
4 before you started, but the Assembly, under
5 Dick Gottfried's leadership, had a phenomenal
6 hearing on maternal health. And it was -- I
7 think in your spare time it might be worth
8 watching it, because I think there's some
9 very important gaps that the Health
10 Department needs to fix in order to really
11 address the high level of C-sections that we
12 have in New York compared to other states.
13 And the -- and some of the other aspects of
14 why New York is not doing as well as it
15 should be as it pertains to maternal
16 mortality and other things.

17 So I thought it was just -- you know,
18 rather than go into all that detail, I just
19 think it would be worth the time of you
20 actually personally looking at that hearing
21 and hoping to take New York into a better
22 place than it is.

23 COMMISSIONER BASSETT: Absolutely.

24 And we've done -- we won't have time to tell

1 you, but made use of Medicaid to greatly
2 strengthen access to high-quality maternity
3 care. And we talked earlier about doulas and
4 about our commitment to tracking the data,
5 which continue to show large racial gaps and
6 adverse maternal outcomes.

7 I'm told that the problem with the
8 surveyors are CMS guidelines, the Centers for
9 Medicaid. But I'll get back to you with a
10 more complete answer.

11 ASSEMBLYWOMAN PAULIN: Thank you.

12 CHAIRWOMAN KRUEGER: Thank you.

13 I believe this now completes --

14 CHAIRWOMAN WEINSTEIN: Just -- I
15 wasn't sure, Assemblyman Gottfried had to
16 leave before. I'm not sure if he's here. If
17 he is -- I don't see him. So if -- yes, so
18 he'll follow up with the commissioner
19 directly.

20 Thank you, Senator Krueger.

21 COMMISSIONER BASSETT: Thank you.

22 CHAIRWOMAN KRUEGER: Thank you.

23 So now, Commissioner Bassett, I want
24 to thank you and the director of Medicaid for

1 spending so many hours with us. And you have
2 lots of follow-up homework for us. And we
3 respect and appreciate how much work you are
4 taking on for the 20 million New Yorkers, who
5 we all care about and want to make sure have
6 the best public health system available in
7 the country.

8 So go on with the rest of your day.
9 Thank you very much.

10 And I'm going to be calling up --
11 COMMISSIONER BASSETT: Thank you,
12 Madam Chair.

13 CHAIRWOMAN KRUEGER: Thank you.

14 I'm going to be calling up our new
15 Financial Services superintendent,
16 Adrienne Harris, at the New York State
17 Department of Financial Services.

18 Some people get a little confused
19 because it's both insurance and banking. We
20 are not dealing with the banking finance side
21 of financial services today at this hearing.
22 We are exclusively dealing with the
23 responsibilities of DFS for insurance in the
24 State of New York, preferably even health

1 insurance in the State of New York. But if
2 something else sneaks in there, I think it
3 will be okay.

4 And with that, I want to welcome
5 Adrienne. Ten minutes to summarize your
6 testimony; we all have your full testimony.
7 And then it will be shifting to
8 Chairs Gottfried {sic} and Cahill for the
9 insurance section of this hearing.

10 Good -- it is afternoon, oh yes. Good
11 afternoon, Superintendent Harris.

12 DFS SUPERINTENDENT HARRIS: Good
13 afternoon, Senator Krueger, thank you. And
14 good afternoon, Chairs Krueger, Weinstein,
15 Breslin, Cahill, Rivera and Gottfried, the
16 ranking members, and all distinguished
17 members of the State Senate and Assembly.

18 Thank you for inviting me to testify
19 today. As Senator Krueger said, my name is
20 Adrienne Harris. I'm privileged to have been
21 confirmed just a couple of weeks ago as
22 superintendent of the Department of Financial
23 Services.

24 DFS's broad mandate is to protect

1 New York consumers, strengthen our financial
2 services industries, and safeguard our
3 markets from fraud and other illegal
4 activity. The department regulates
5 approximately 3,000 banking, insurance, and
6 other financial institutions with assets
7 totaling more than \$9 trillion. The
8 department's operating expenses are assessed
9 to industry under Section 206 of the
10 Financial Services Law.

11 As superintendent, I know that market
12 growth and consumer protection are not
13 competing concepts but must align to ensure
14 that your constituents receive the best
15 financial services in the nation, including
16 health insurance.

17 Governor Hochul has an ambitious
18 agenda to improve the quality and
19 accessibility of healthcare for all
20 New Yorkers. And before I take your
21 questions I'd like to provide an overview of
22 the DFS-driven healthcare initiatives in this
23 year's Executive Budget, beginning with
24 telehealth.

1 A shift from in-person to virtual
2 healthcare delivery happened overnight as a
3 result of the pandemic. Telehealth has the
4 potential to connect historically underserved
5 communities to all kinds of providers that
6 were previously out of reach. This year's
7 Executive Budget includes proposals to
8 support access to telehealth services for
9 more people across the state.

10 Currently insurers are required to
11 have sufficient in-network healthcare
12 providers to deliver in-person benefits. The
13 Executive Budget would require insurers to
14 also have an adequate network for telehealth
15 providers.

16 Next, the Executive Budget would
17 require commercial insurers to reimburse
18 telehealth services on the same basis, at the
19 same rate, and to the same extent as
20 in-person services.

21 While telehealth proposals will expand
22 access to health services, we must also
23 protect New Yorkers from unfair billing
24 practices after they get needed health

1 treatment. Governor Hochul's 2022 agenda
2 includes multiple proposals to strengthen
3 protections against surprise bills and to
4 combat crushing medical debt.

5 New York's Independent Dispute
6 Resolution, or IDR, resolves disputes between
7 insurers and a limited number of facilities
8 or physicians over emergency and other
9 surprise bills so patients don't get stuck --
10 left with the bill. In just the first few
11 years, this program has served New Yorkers
12 and saved them hundreds of millions of
13 dollars. The Executive Budget expands this
14 successful program to all healthcare
15 providers, hospitals, and emergency services.

16 Governor Hochul also has proposed
17 important protections for consumers when
18 their provider leaves their network.
19 Insurers will be required to give consumers
20 written notice when a provider leaves, and
21 permit consumers to receive services from
22 their provider at in-network costs for
23 90 days after the disaffiliation and, where
24 applicable, for the duration of a pregnancy.

1 other stakeholders.

2 Any discussion of reducing healthcare
3 costs, though, would not be complete without
4 mentioning rising prescription drug prices,
5 the largest driver of health insurance
6 premiums. Beginning with the passage of the
7 2020 budget, DFS commenced investigations
8 into significant prescription drug cost
9 spikes. And just last week I announced the
10 conclusion of one of several investigations
11 underway. DFS uncovered reporting errors by
12 a manufacturer that led to publication of
13 incorrect drug price information. Our
14 investigation confirmed that no consumers
15 were harmed, and secured commitments from the
16 manufacturer to implement greater internal
17 controls.

18 Looking ahead, I'm thrilled that the
19 Legislature and Governor Hochul worked
20 together in enacting legislation giving DFS
21 the authority to regulate pharmacy benefit
22 managers, or PBMs, which are key
23 intermediaries in the prescription drug
24 supply chain.

1 To implement this landmark
2 legislation, the Executive Budget supports
3 the creation of a new Pharmacy Benefits
4 Bureau within DFS. The bureau is responsible
5 for registering and licensing PBMs and
6 establishing standards of conduct for this
7 industry. I'm excited to say that my team
8 has already begun outreach to interested
9 parties and is working quickly to staff the
10 bureau, which will monitor PBM practices and
11 review complaints of misconduct.

12 Finally, I'd like to say a word about
13 women's health. While the 49th anniversary
14 of Roe v. Wade was celebrated last month, the
15 future of this historic decision is under
16 threat. Nevertheless, within our authority,
17 I'm honored to acknowledge that New York
18 leads the nation in protecting women's health
19 choices. In line with New York's
20 trailblazing initiatives, Governor Hochul has
21 proposed codifying in statute a DFS
22 regulation that guarantees insurance coverage
23 for abortion services without cost-sharing.
24 This is an important step in protecting

1 women's reproductive rights.

2 These are some of the critical
3 healthcare initiatives included in
4 Governor Hochul's agenda that DFS is proud to
5 help advance in close collaboration with the
6 Legislature. I also look forward to working
7 with all government and community
8 stakeholders on other important initiatives
9 that will promote economic growth and create
10 a more fair, inclusive, and sustainable
11 financial system.

12 I think DFS can best serve New Yorkers
13 by working closely and collaboratively with
14 all of you. I enjoyed meeting many of you
15 during the last few months, and I look
16 forward to the conversations we will have
17 throughout this budget process.

18 And I'm now happy to take your
19 questions.

20 CHAIRWOMAN KRUEGER: Thank you very
21 much, Adrienne. Appreciate your being here
22 with us.

23 And I must correct myself on a major
24 faux pas. The chair of the Insurance

1 Committee in the Senate is Neil Breslin. I
2 apparently said Dick Gottfried. The rumor
3 that Dick Gottfried is leaving the Assembly
4 to join the Senate is false. Neil Breslin
5 will be continuing to be the chair of
6 Insurance and will be the first person up,
7 with 10 minutes to ask questions.

8 Neil?

9 SENATOR RIVERA: You're muted, Neil.
10 You're muted.

11 CHAIRWOMAN KRUEGER: Can you unmute,
12 Neil? There you go.

13 SENATOR BRESLIN: Thank you very much,
14 Chairman. And I assumed, when you made the
15 faux pas, that you were correct, because Dick
16 Gottfried's been around for 35 years, and
17 I've been waiting for him to take over the
18 Senate as well.

19 (Laughter.)

20 SENATOR BRESLIN: So I'm sure that
21 we're all going to miss Dick Gottfried in the
22 coming years.

23 But I'd first of all like to thank
24 you, Chairman, thank the Governor, and thank

1 the new superintendent of insurance,
2 Superintendent Harris. It's a long-awaited
3 change and a very refreshing one. Not only
4 did you start by getting out of the gate
5 early, you've started with a gallop. And
6 we're all very appreciative.

7 And one of the last things you
8 mentioned was the PBM bill. And many of you
9 know that I've been waiting for the PBM bill
10 to become law for several years. And it was
11 a joint effort with -- obviously with my two
12 dear friends in the Senate and my dear
13 friends in the Assembly, Dick Gottfried and
14 Kevin Cahill.

15 So I'd like to ask you first, can you
16 give us an idea of whether you think that
17 \$5 million is sufficient to start regulating
18 PBMs.

19 DFS SUPERINTENDENT HARRIS: Thank you
20 so much, Senator. And you're absolutely
21 right, this has been a long time coming, so
22 I'm thrilled that we have this legislation
23 now and now DFS has this authority.

24 I think \$5 million will get us started

1 in staffing the bureau and hitting these
2 initial deadlines that we have, in accordance
3 with the legislation, including registering
4 the PBMs for June and starting our first
5 annual report to the Legislature.

6 I suspect that as time goes on and
7 we're registering the PBMs and then we move,
8 you know, down the line toward our next
9 deadline of licensure and we get into more
10 investigations and more enforcement, it may
11 in fact require more money. As a
12 commissioner I will rarely say no to more
13 resources. But I think that is enough to
14 have us start building, building the bureau
15 and start registering these entities.

16 SENATOR BRESLIN: Right. I know we
17 all expect periodic reviews of where we're
18 at, because I'm anxious to see where all the
19 money went and I'm also anxious to see the
20 progress. I think it's an important step
21 forward.

22 And I'm only going to ask you a couple
23 of questions. That's one of them.

24 On telehealth, which I've been

1 actually involved in for over 15 years at the
2 national level, what do you see in New York
3 State in terms of the policing of telehealth
4 in the short term, and if you see any
5 pitfalls in executing a policy for telehealth
6 in the state.

7 DFS SUPERINTENDENT HARRIS: Yeah, I
8 think it's an incredibly important trend that
9 we saw accelerated. It might have taken us a
10 decade to get to this level of usage in
11 telehealth were it not for the pandemic. And
12 so we've been forced to catch up and adjust
13 to this new normal, and I think it's a
14 wonderful reason why the Governor has put
15 these new proposals in her budget.

16 So now that we are here, I think
17 telehealth is here to stay. So we're
18 requiring that insurers have network adequacy
19 for telehealth just like they do for
20 in-person providers. So they have to have an
21 adequate network. And if a patient can't get
22 the provider they need in their network for
23 telehealth and they have to go out of
24 network, the insurers will be required to

1 cover that at in-network costs.

2 The insurers have to provide
3 up-to-date directories so that patients and
4 New Yorkers can see which providers provide
5 telehealth services.

6 And now we have the proposal for
7 payment parity, which I think will
8 incentivize providers to provide telehealth
9 services for patients where it makes sense to
10 do so. And I think that's incredibly
11 important when we think about mental health
12 and substance use disorder, that patients
13 have the ability to partake in those services
14 from the privacy of their own homes and can
15 do so and have that payment parity and
16 coverage parity for those services. Because
17 especially with the pandemic, we've seen what
18 a continuing issue mental health and
19 substance use disorder are.

20 SENATOR BRESLIN: Okay. And I'd
21 mention not only mental health and substance
22 abuse but people in areas that haven't been
23 able to see their physician. And I think
24 it's going to go a long way to -- for

1 equality for medical care. And the pandemic
2 has shown one thing, that we don't have
3 equality in medical care. Hopefully that
4 will change significantly in the months and
5 years to come.

6 So that's all I have now. I'll be
7 pestering you over the next couple of years.
8 And I just look forward to -- I think there's
9 going to be a relationship with the
10 Legislature with the Department of Financial
11 Services that we haven't seen in years, and
12 we all should be appreciative of it. And I
13 know as I look at my dear friend Senator
14 Rivera, he's shaking his head yes, and I know
15 Kevin Cahill is shaking his head as well.

16 So with that, I'll give back the
17 microphone.

18 CHAIRWOMAN KRUEGER: Thank you.
19 Assembly.

20 CHAIRWOMAN WEINSTEIN: And we will
21 call on Assemblyman Cahill, the chair of our
22 Insurance Committee.

23 ASSEMBLYMAN CAHILL: Thank you,
24 Chair Weinstein and Chair Krueger.

1 And welcome, Superintendent, for our
2 first official public visit, but certainly
3 not the first time we've communicated.

4 Let me just begin -- because it is
5 very important and quite frankly
6 unprecedented in your office -- echoing the
7 strong words of praise that my colleague
8 Senator Breslin just offered. Your office
9 has been so transparent, so available, so
10 willing to discuss important insurance
11 issues -- in just a few months you have
12 transformed the way that the New York State
13 Legislature can deal with important insurance
14 issues. And I thank you for that and I look
15 forward to a long and deep engagement on many
16 of these issues.

17 I was very happy to read your
18 testimony, particularly regarding the many
19 aspects that the department is engaged with
20 on behalf of Governor Hochul to expand
21 healthcare options. I wanted to start by
22 just talking about one specific area that has
23 just been so difficult to deal with, and that
24 is in the area of mental health. The

1 pandemic has really taken a huge toll. And I
2 want to know what the department is doing to
3 ensure that our insurance companies are
4 honoring and complying with mental health
5 parity requirements.

6 DFS SUPERINTENDENT HARRIS:
7 Absolutely. Thank you, Assemblyman. It's
8 been wonderful to get to know you and your
9 colleagues, and I too look forward to a long
10 and prosperous working relationship.

11 We have a number of authorities here
12 at DFS when it comes to mental health and
13 substance use disorder. First, insurers are
14 required to file reports with us every two
15 years outlining their compliance with mental
16 health and substance use disorder parity
17 requirements, and those reports are made
18 public on the DFS website so that anybody in
19 the public can examine for themselves those
20 insurers and their compliance with those
21 laws.

22 We also have the ability to do
23 targeted exams. So where we hear word,
24 either from legislators or through our

1 complaint system that there may be violations
2 of those laws, we have the ability to do
3 targeted exams of those insurers to ensure
4 their compliance.

5 And finally, we have the ability to
6 bring enforcement actions where those
7 insurers are not in compliance with the law,
8 and indeed I've done so already. I brought
9 an action against three insurers where they
10 were not in compliance with mental health
11 parity requirements. And I think one of the
12 things that often goes underappreciated about
13 our enforcement capabilities here at DFS is
14 not only do we have the ability to assess
15 penalties, to punish bad behavior -- which I
16 did in those cases -- we also have the
17 ability to require remediation of a company
18 so that they must also do better going
19 forward and we can outline in a lot of detail
20 what we expect from them going forward.

21 And in the case of the enforcement
22 actions I recently brought, we were able to
23 get remediation for New Yorkers and put money
24 back in their pockets. And I think it's an

1 incredibly important thing that we were able
2 to do in that instance.

3 ASSEMBLYMAN CAHILL: Well, I agree it
4 is one of the issues that many of my
5 colleagues still bring to us when they find
6 out that in their own communities that mental
7 health services are being denied by insurance
8 companies and that they have to go through an
9 appeals process before they can actually get
10 those needed and oftentimes emergency
11 services.

12 So I applaud you for the good work
13 there and assure you, you will be hearing
14 from me and from my colleagues whenever we
15 think that there's a need to even double down
16 on that enforcement.

17 Let's move on to some of the other
18 health issues, and then I want to also --
19 time permitting -- discuss a few others. If
20 we don't get to them now, I'll have to use my
21 second three minutes.

22 The Governor has included a mandate
23 that insurance companies cover pregnancy
24 termination services. Do you believe that

1 that will increase the cost of insurance? Do
2 you believe that it will have a fiscal impact
3 on the state? And most importantly, how do
4 you view it in terms of the federal mandate
5 that we not expand benefits under the
6 Affordable Care Act without assuming the cost
7 at the state level?

8 DFS SUPERINTENDENT HARRIS: For the
9 Governor's proposal, effectively what she has
10 proposed is that we take what is already in
11 law in New York, which is that abortion
12 services must be covered by insurers, and
13 proposed that we strengthen that protection
14 and codify it in statute.

15 So in effect, it's not an expansion of
16 these rights, but it's codifying it given the
17 threat that these rights are under around the
18 nation, and I think in light of the
19 49th anniversary of Roe. So this is really
20 the Governor's proposal to strengthen these
21 protections on behalf of women.

22 ASSEMBLYMAN CAHILL: I want to move on
23 to telehealth.

24 I am not sure that I share the

1 enthusiasm with my colleague Mr. Breslin,
2 Senator Breslin on exact equal payment for
3 telehealth visits and in-person visits. But
4 like him, we have been working on this issue,
5 as you have, on a national level with the
6 national associations that we are engaged
7 with.

8 In the area of telehealth, is there
9 any concern -- and other than the network
10 adequacy laws that were cited in your
11 testimony -- to assure that telehealth
12 reimbursement will not cause a diminishment
13 of community-based services?

14 DFS SUPERINTENDENT HARRIS: I think
15 the thing to think about when we really --
16 other than network adequacy, to make sure
17 that people have ready access to telehealth,
18 in some ways falls outside of the DFS
19 purview, which is making sure people have
20 access to good broadband. Right?

21 In order to access good telehealth
22 services you need a strong internet
23 connection, and for too many people in urban
24 and in rural settings, they don't have that

1 strong broadband. So it's incredibly
2 important that we've got the infrastructure
3 bill that the federal government just passed,
4 and Governor Hochul has a number of other
5 wonderful proposals, including a 30 -- I
6 think it's a \$30 a month program for
7 broadband access.

8 So that really is sort of the other
9 barrier that's going to require a
10 whole-of-government approach to remedy.

11 ASSEMBLYMAN CAHILL: It's come to my
12 attention that several people who sought
13 in-person healthcare, particularly in-person
14 healthcare for small children, babies, during
15 the pandemic were relegated to telehealth
16 visits instead of in-person visits, even
17 though the folks responsible for those babies
18 didn't believe that a telehealth visit was
19 the appropriate venue. And that remains a
20 concern, and I will bring that up and
21 continue to discuss it with you as we move
22 forward.

23 We do have legislation that would
24 consider parity. I think there is a means of

1 getting to an end here that is successful
2 that will assure access to healthcare for
3 everyone.

4 The next aspect that I wanted to
5 discuss was medical malpractice insurance and
6 the proposal by the Governor to bridge two
7 budget cycles for the payment of the annual
8 excess medical malpractice claim.

9 Is there a risk here that we will be
10 causing providers to have to front-load their
11 payments and thereby making it possible that
12 we will be constricting healthcare in
13 New York State? Or have provisions been made
14 to address that issue?

15 DFS SUPERINTENDENT HARRIS: I think,
16 sir, it's a well-founded concern. We don't
17 want to be overburdening providers,
18 especially in underserved areas that already
19 are cash-strapped. We want to make sure that
20 that program is providing the proper
21 incentive, in fact, for people to be serving
22 those areas, for providers to be serving
23 those areas.

24 So I think it's a question that we

1 should be working on as part of the one-house
2 budgets and working collectively on to make
3 sure that those providers do in fact have the
4 incentive to be serving underserved
5 populations.

6 ASSEMBLYMAN CAHILL: Thank you.

7 I have two more questions that I want
8 to discuss with you, and I may only get to
9 introduce one of them. But the first is
10 about the startup of the PBM regulation and
11 the addition of 57 new staff in your office.

12 And the second one I'll just give you
13 a heads-up, because I think this is going to
14 be reserved for my -- when I come back. The
15 Governor's proposal on commuter vans. It's
16 an \$11 million proposal. There are
17 300 commuter vans in New York State -- in
18 New York City, primarily. My quick math says
19 that's \$37,000 per van. That sounds like a
20 pretty hefty state subsidy. But we'll come
21 back to that.

22 Let's discuss the 57 new staff members
23 and what that's all about, and also the
24 \$5 million appropriation for PBM regulation.

1 Is that an ongoing 5 million, or is that what
2 it's going to cost to regulate PBMs? And
3 where do we expect to get the money to do so?

4 DFS SUPERINTENDENT HARRIS:

5 Absolutely. Thank you, sir.

6 So the 57 is for additional head count
7 in DFS agency-wide. And of course a subset
8 of that will go to the new PBM bureau that
9 I'm so happy we now have the ability to stand
10 up. But that number of 57 FTE is for
11 agency-wide needs that we have here at DFS so
12 we can best regulate the financial services
13 industry.

14 And then as you know, sir, much of DFS
15 or all of DFS is funded, as I noted, through
16 assessments on industry. So this \$5 million
17 that is appropriated will be to get things
18 rolling for PBMs. And then I think that
19 we'll see as that authority -- as we move
20 from registration to licensing, as we kick
21 off more investigations, as we start to bring
22 enforcement actions, if we need to revisit
23 that number.

24 ASSEMBLYMAN CAHILL: Well, thank you.

1 that. I really didn't.

2 Senator Rachel May.

3 SENATOR MAY: Thank you, Madam Chair.

4 And greetings, Commissioner.

5 I wanted to start off with a question
6 about the \$750,000 in the budget to establish
7 the Financial Exploitation Protection Program
8 for older New Yorkers. We also just passed
9 my bill to add identity theft to the
10 definition of elder abuse. What do you see
11 as the timeline for getting that program
12 underway, and how many people do you think it
13 will support?

14 DFS SUPERINTENDENT HARRIS: Yeah,
15 thank you for that. It's an incredibly
16 important issue, making sure we can protect
17 our seniors, and we have a number of ways we
18 do that here at DFS. Certainly through
19 financial fraud and enforcement is one way.
20 But that shows up where, when we get
21 complaints or it's part of our targeted
22 investigations and targeted exams, we uncover
23 that elders have been defrauded of their
24 retirement savings or of their nest egg.

1 And so we are already doing a lot of
2 that work, but I think the additional monies
3 will help support our data collection efforts
4 and education that we can provide to elders
5 in New York. And we're working very, very
6 closely with the State Office for the Aging
7 on these new programmatic features I think we
8 can offer, including the bill-pay and other
9 things.

10 SENATOR MAY: Okay, great, thank you.

11 And then turning to health insurance,
12 so like many of my colleagues I support a
13 single-payer health system, but for now we've
14 got I guess 96 health insurance companies
15 that you regulate. The last annual report
16 was in 2019. I hope there's a new one about
17 to come out. But all it lists is the premium
18 amounts that they raise. And I'm wondering
19 if you analyze somewhere and can provide
20 information on how much profit they're
21 taking, indicators of success like actual
22 health and wellness of their customers or
23 health disparities among different
24 demographic groups, is that -- do you do that

1 kind of due diligence with these companies?

2 DFS SUPERINTENDENT HARRIS: We work
3 very closely with DOH, as they're really the
4 experts on care providing and the providers.

5 When it comes to the insurers, we do
6 set the rates here at DFS. And I will tell
7 you two things, or a number of things. One,
8 the rate increases for 2020 and 2021 were the
9 lowest since 2010. But they're nonetheless
10 increases, of course. And what I will tell
11 you is we work incredibly hard to balance
12 rate increases with the safety and soundness
13 of the institutions. Because of course one
14 of the best consumer protections that we can
15 offer is to make sure that there's money at
16 the end of the line when people are filing
17 claims. But for health insurers --

18 SENATOR MAY: Okay. Sorry, I'm just
19 going to break in and say one other thing
20 that I want to mention, which are the
21 Municipal Cooperative Health Consortia.
22 Governor Cuomo directed DFS to publish
23 guidance to make it easier to create these
24 consortia back in 2018. I'm wondering if

1 that's been done.

2 I know I'm running out of time, but if
3 you can get back to me about that, that would
4 be great. Because I think they save a lot of
5 money for municipalities and school boards.

6 DFS SUPERINTENDENT HARRIS: Happy to
7 come back to you on that.

8 SENATOR MAY: Thanks.

9 CHAIRWOMAN KRUEGER: She will come
10 back to you on that. Thank you, Senator May.

11 Next, Assemblywoman.

12 CHAIRWOMAN WEINSTEIN: Yes. We
13 have -- Assemblyman Gottfried has a question.

14 ASSEMBLYMAN GOTTFRIED: Yes, thank
15 you.

16 Superintendent, the budget language
17 calls for health plans to have an adequate
18 network of telehealth providers. A concern
19 is that a health plan might have a separate
20 network of telehealth providers, perhaps, you
21 know, a company that is doing it on the
22 cheap. And the question is, should consumers
23 have the right to go to their own doctor or
24 other provider who is in-network who provides

1 telehealth services?

2 In other words, do providers who are
3 already in-network, should they have a right
4 to be in-network for telehealth?

5 DFS SUPERINTENDENT HARRIS: Yes. And
6 I'll make sure I don't get over my skis, but
7 I believe as a provider if you're in a
8 network, you can choose your delivery
9 mechanism, including choosing the platform
10 over which you choose to deliver telehealth.

11 So I will make sure we come back to
12 you on any data about separate networks. But
13 I know that providers do have the option to
14 provide care in-person, where appropriate, or
15 over telehealth.

16 And we're working very closely with
17 DOH and others to make sure people can access
18 the platforms they need to provide
19 telehealth, and those platforms often provide
20 training for providers. So much now -- I
21 mean, with the pandemic, people have become
22 very accustomed to virtual life, as we all
23 have. But the platforms that service those
24 providers will often provide training for

1 them so they know how to use them and connect
2 with patients that way.

3 And they also understand how to weave
4 in compliance with HIPAA. So we make sure
5 that those platforms work closely with DOH
6 and others to make sure those platforms are
7 secure and that patients don't have to worry
8 about compromise of their medical information
9 because they've chosen to engage with
10 providers via telehealth versus in-person.

11 ASSEMBLYMAN GOTTFRIED: Okay, thank
12 you very much. That's it.

13 DFS SUPERINTENDENT HARRIS: Thank you.

14 CHAIRWOMAN WEINSTEIN: Back to the
15 Senate.

16 CHAIRWOMAN KRUEGER: Thank you very
17 much.

18 Senator Gustavo Rivera.

19 SENATOR RIVERA: Hello. Thank you,
20 Madam Chair.

21 And hello, Commissioner --
22 Superintendent, apologies. I always forget.
23 Superintendent, not commissioner.

24 I have three things. Number one, on

1 telehealth, since there are different areas
2 of law where telehealth is included, it is
3 both in Insurance Law and in Public Health
4 Law. I want a little bit of clarity on the
5 Governor's proposal, since there's like -- it
6 seems that certainly as it relates to OMH and
7 OASAS, they have the -- they would be at the
8 discretion -- it's at the discretion of those
9 agencies while there's things that are under
10 Insurance Law. So I want a little -- I'm
11 very supportive of it, I have a bill that
12 actually would do exactly this. And it would
13 go a little bit farther, but, you know, we'll
14 get to that now.

15 But what exactly does the proposal do,
16 particularly in relation to those two things?

17 DFS SUPERINTENDENT HARRIS: Yeah, so I
18 will -- when it comes to DFS, our
19 responsibility is to make sure that the
20 network of telehealth providers is adequate,
21 that there is payment parity, and that
22 providers are being reimbursed at the same
23 rate as they would for in-person provision of
24 services.

1 And so I don't -- I'm happy to work
2 more with you to understand sort of what the
3 overlap is and in fact where there may be
4 contradictions so we can make sure that those
5 are worked out appropriately.

6 SENATOR RIVERA: Particularly since --
7 a quick clarification, Madam Chair. Do I
8 have only three minutes? Okay, because Dick
9 got 10. But I'll be quick.

10 CHAIRWOMAN WEINSTEIN: No, that -- you
11 should stop the clock. It was a mistake, and
12 Dick actually only used two and a half
13 minutes.

14 SENATOR RIVERA: Okay. So we will dig
15 into that deeper later, then, because there's
16 another one that I absolutely -- you can
17 start the clock again. This one definitely I
18 want to talk about.

19 As you might be familiar, we passed a
20 bill related to the opioid settlement fund,
21 right, last year. And we're in the -- and
22 that relates to legal action that the
23 Attorney General takes, and the money goes
24 there. However, as I understand it, you

1 folks have the ability to, in your own
2 agency, to follow your own -- to do your own
3 legal processes and to get your own
4 settlements.

5 So could you tell us a little bit
6 about -- I mean, if you're familiar with the
7 opioid settlement fund, the goal of it was to
8 make sure that the money is used strictly for
9 treatment, for harm reduction, for recovery.
10 Can you tell us about the commitments that
11 you might be willing to make publicly related
12 to whatever funds you're able to get so that
13 it's used for those purposes as well? Even
14 though you're not, you know, statutorily
15 required to do so.

16 DFS SUPERINTENDENT HARRIS:
17 Absolutely. And I will say, you know, we
18 brought our own opioids action under the
19 guise of insurance fraud, right, where that
20 was the case. So it's slightly different
21 legal claims, as you know, from the AG.

22 Typically funds from our enforcement
23 actions go to the General Fund. And DFS,
24 since its inception, has contributed, because

1 of enforcement, about \$11 billion to the
2 General Fund. So -- and as I said at the
3 top, we're funded through assessments from
4 industry and then we contribute, through
5 enforcement actions, back to the
6 General Fund.

7 And we'll have to come back to you on
8 our opioid settlement money, whether it
9 becomes part of the AG's fund or if it, like
10 other enforcement money, goes to the
11 General Fund. But we'll get the
12 clarification for you.

13 SENATOR RIVERA: Let's make sure to
14 follow up on that.

15 And then I'll ask you offline about
16 the No Surprises Act. I've got a couple of
17 questions on it, but I'll ask you offline.

18 Thank you. Thank you, Madam Chair,
19 and thank you, Superintendent.

20 CHAIRWOMAN KRUEGER: Thank you.

21 Back to the Assembly.

22 CHAIRWOMAN WEINSTEIN: We now have
23 actually a number of Assemblywomen who have
24 questions. And we'll start first with

1 Assemblywoman Hunter.

2 ASSEMBLYWOMAN HUNTER: Good afternoon.
3 Thank you, Chair Weinstein.

4 And congratulations on your
5 confirmation, Superintendent Harris. I look
6 forward to working with you.

7 I have a few questions. One, we have
8 a significant antiquated insurance delivery
9 process here in New York State. Many people
10 think that it needs to be in-person and there
11 are brick-and-mortar places for people to get
12 insurance. And wanted to know, what is your
13 department going to do to help younger people
14 be involved in getting financially literate?
15 And a lot of transactions younger people want
16 to do on the phone, which is not necessarily
17 eligible in some of the insurance products
18 that are available.

19 And then also wanted to ask -- I know
20 I had a conversation with someone from your
21 office relative to -- a very wonderful
22 conversation relative to insurance and
23 climate. And just wanted to see what further
24 steps are you going to be taking focusing on

1 communities that have been impacted by
2 natural disasters like the increased
3 flooding, fires? And what we can do to make
4 sure that ratepayers who are not affected in
5 some of these coastal areas aren't paying the
6 burden of the increased rates?

7 Thank you.

8 DFS SUPERINTENDENT HARRIS:

9 Absolutely. Thank you.

10 In terms of getting insurance over the
11 phone, I'd love to come back to you and get
12 more specifics. But what I will tell you is
13 that whether insurance can be bought over the
14 phone, through an app, online, in person, all
15 the same rules apply regardless of the
16 delivery mechanism. And to your point,
17 consumers, New Yorkers should have the
18 ability to choose how they want to get their
19 services. And the same is true for banking,
20 which I know is not our topic here today, but
21 whether people want to do that on their
22 computer, on their phone, in person, all the
23 regulations should be equally -- are equally
24 as stringent and apply to those providers

1 regardless of that delivery mechanism.

2 But certainly if you have a
3 constituent who's having trouble securing
4 insurance in some way, we're happy to work
5 with your office to run that to ground,
6 either through our consumer assistance unit
7 or more directly if that's helpful.

8 On climate --

9 ASSEMBLYWOMAN HUNTER: I guess the
10 issue I guess really rounds out to financial
11 literacy and working to get younger people
12 more versed in financial literacy. But the
13 climate question.

14 DFS SUPERINTENDENT HARRIS: Yeah, the
15 climate question.

16 And just very, very quickly, we now
17 have as part of the Executive Budget a funded
18 SOFIE office, a State Office for Financial
19 Inclusion and Empowerment. So that's going
20 to be a great vehicle for financial literacy
21 and education.

22 On climate, as you know, one of the
23 first things I did when I came into DFS was
24 to stand up a standalone climate division,

1 the first of its kind in the nation. I went
2 out to Queens, I went to Westchester and
3 toured areas that were hit by Ida. My team
4 has been in conversations with folks in
5 Ulster County, the county execs, other local
6 officials around the snowstorm up there, as
7 we anticipate some claims coming there.

8 But there's a lot we can do and -- I'm
9 cognizant of the time, but there's a lot we
10 can do around climate to make sure
11 particularly those communities that are
12 disproportionately impacted by climate change
13 are well protected.

14 We do have a good set of briefings
15 here at DFS on flood in particular that we're
16 happy to walk you or any of your colleagues
17 through at any time.

18 CHAIRWOMAN KRUEGER: Okay, the
19 Assembly's done. I'm going to jump to the
20 Senate. Senator Diane Savino.

21 SENATOR SAVINO: Thank you,
22 Senator Krueger. Good to see you,
23 Superintendent.

24 I want to talk to you about an issue

1 that you have now inherited from the previous
2 superintendent. It's an issue I started
3 working on a few years ago, and the previous
4 governor adopted it through the budget
5 process. And usually when that happens, it
6 doesn't actually get done the way we
7 originally intended. It's the expansion of
8 IVF coverage for all New Yorkers. And what
9 happened was the bill or the program that was
10 adopted was that you had to be -- you had to
11 attempt to get pregnant through the
12 traditional process for up to six months
13 before you were determined to -- you just
14 jumped around there -- before you were
15 determined to be infertile and before you
16 would be eligible for IVF coverage.

17 As a result of that restriction,
18 though -- and we also extended fertility
19 preservation for those who might be suffering
20 from a debilitating disease that would impact
21 their fertility.

22 So that was a wonderful thing, but we
23 left out certain groups of people,
24 particularly the LGBT community, because of

1 course they don't engage in traditional ways
2 of getting pregnant. We also don't cover
3 things like patients who might have a genetic
4 mutation which would make them not want to
5 reproduce their own genetic material.

6 And so we've requested, I believe from
7 your office, a clarification -- maybe an
8 amendment through the regulations -- to
9 expand this really important coverage so that
10 all New Yorkers have real access to IVF
11 coverage. So I'm not sure if you've had an
12 opportunity to look at that. And if you
13 haven't, please do so and get back to me.
14 But if you can share any insight on it, I
15 would really appreciate it.

16 DFS SUPERINTENDENT HARRIS: Sure,
17 happy to. And good to see you again as well.

18 For infertility coverage generally,
19 everybody is eligible for coverage on day
20 one, and principles of non-discrimination
21 apply here as they do in other areas of
22 insurance law. So a same-sex couple is
23 eligible on day one for infertility coverage.

24 For IVF, as I'm sure you know, we have

1 IVF coverage for large-group plans, for
2 small-group plans and self-funded plans,
3 right. There's the issue of the state fiscal
4 or the essential health benefits which have
5 to go through CMS on the federal level. But
6 for large-group plans, IVF coverage is
7 included.

8 On the other things you mentioned, I'm
9 happy to run those to ground with the team
10 and make sure we're circling back very
11 quickly.

12 SENATOR SAVINO: Because under the
13 statute that we adopted, I think it was the
14 budget in 20 -- it might have been 2019, the
15 language that was in there was though that
16 the individual, in order to trigger the
17 coverage for in vitro fertilization coverage,
18 you had to attempt to get pregnant through
19 traditional methods for at least six months
20 before you would be eligible for this.

21 So obviously that does leave certain
22 people out. And again, it also doesn't
23 address the issue of people who don't want to
24 reproduce their own genetic material because

1 of genetic mutations.

2 So again, if you could find out and
3 get back to me, I would really appreciate
4 that. Thank you.

5 DFS SUPERINTENDENT HARRIS: Of course.

6 CHAIRWOMAN KRUEGER: Thank you very
7 much, Diane Savino.

8 Assembly?

9 CHAIRWOMAN WEINSTEIN: Yes, we go now
10 to Assemblywoman Hyndman.

11 ASSEMBLYWOMAN HYNDMAN: Thank you,
12 Chair Weinstein. And congratulations,
13 Superintendent. The box has changed --
14 congratulations, Superintendent.

15 I'm really pleased to see in the
16 budget the commuter van stabilization pilot
17 program. I'm just muting myself on another
18 Zoom, sorry. And as you know, because we --
19 I've been dealing with your office before you
20 got there, you know, through the chair of the
21 Insurance Committee in the Assembly and his
22 good work, we were able to -- the process had
23 started before with trying to help the
24 commuter vans, and then the pandemic hits,

1 and now we are faced with commuter vans who
2 are unable to operate because they're unable
3 to get back what they lost.

4 So we're happy to see this
5 \$11 million. And has there been any more
6 talk about how the commuter vans would apply
7 for this money once it's passed, hopefully in
8 both houses, how it gets to the actual
9 commuter van operators?

10 DFS SUPERINTENDENT HARRIS: Yeah,
11 absolutely. Thank you so much. This is an
12 incredibly important transportation issue.
13 Insurance is obviously a big part of this
14 issue. But it's an issue that's been around
15 for many, many decades with the commuter vans
16 worsened, as you noted, by the pandemic.

17 The fund is meant to subsidize --
18 (Zoom interruption.)

19 CHAIRWOMAN KRUEGER: I'm sorry, off --

20 ASSEMBLYWOMAN HYNDMAN: Brad, mute
21 your --

22 CHAIRWOMAN KRUEGER: Thank you.

23 DFS SUPERINTENDENT HARRIS: The fund
24 is meant to help do a couple of things,

1 including subsidize insurance costs for these
2 vans, and also to provide for additional
3 safety features in the vans. Because we know
4 when they have accidents, unfortunately, they
5 tend to be very terrible accidents. So
6 they're meant to help provide additional
7 safety features -- cameras, seat belts,
8 things like that that we see in other sort of
9 mass transit vehicles.

10 The program will be a five-year pilot
11 program, and at the end of it we'll have a
12 study that takes a real look back over the
13 decades of this issue. As I said, it has
14 been an issue around, as I understand it,
15 from the nineties. And ESD will be
16 responsible, working closely with us at DFS,
17 DOT, MTA, TLC, the Legislature and others.

18 So we think about the criteria for
19 designing this program because we want to
20 make sure, of course, that it's the legal
21 operators that have access to this program
22 and it's not so many of the illegal vans that
23 are currently operating. So there's a lot of
24 work to do I think to design the parameters

1 of this program. But I'm incredibly grateful
2 for the engagement we've had on this issue,
3 given the importance of the topic.

4 ASSEMBLYWOMAN HYNDMAN: And thank you.

5 In my remaining time I would just like
6 to follow up with Member Hunter's questions
7 when it comes to young people and accessing
8 insurance and financial education. I just
9 wanted to plus-one that and follow up with
10 your office on that.

11 Thank you, Chair Weinstein.

12 DFS SUPERINTENDENT HARRIS: We look
13 forward to standing up SOFIE as a part of
14 this budget so that we have that opportunity
15 to provide education to New Yorkers.

16 ASSEMBLYWOMAN HYNDMAN: Thank you.

17 CHAIRWOMAN WEINSTEIN: Back to the
18 Senate. Thank you, Assemblywoman.

19 CHAIRWOMAN KRUEGER: Thank you.

20 Senator Cleare.

21 SENATOR CLEARE: Yes, congratulations,
22 Superintendent. It is great to see you.

23 I just have some questions related to
24 telehealth. You kind of brushed on this

1 earlier, and there would be training provided
2 for providers. But does it cover training
3 for patients as well as does it cover the
4 cost of broadband and/or of the device? I'm
5 not sure -- I don't understand the totality
6 of it. But I'm just concerned about it
7 covering the broadband, the device cost and
8 the training cost.

9 DFS SUPERINTENDENT HARRIS: Yeah,
10 absolutely. So typically what happens is the
11 telehealth provider -- so think about the
12 Zoom for physicians -- will provide training
13 to the providers on how to use the portal.
14 But I think your concern about making sure
15 then that consumers and patients know how to
16 use it is incredibly well founded.

17 So I don't know that that's part of
18 the proposal, but it's something I look
19 forward to working with you on, and we can
20 obviously come back to you with more detail
21 on it.

22 In terms of broadband coverage, the
23 Governor has proposed this \$30 a month
24 program on broadband. Which doesn't fall

1 into DFS purview, but we're happy to provide
2 your office with more details and work with
3 ESD and others, who I believe are responsible
4 for that.

5 But there is a much broader, as you
6 indicate, problem around broadband access.
7 Telehealth and tele-education, right, are
8 only as good as the broadband networks, and
9 this is an issue not just in urban areas of
10 the state but certainly in rural areas of the
11 state as well.

12 SENATOR CLEARE: Thank you.

13 CHAIRWOMAN WEINSTEIN: We go to
14 Assemblywoman González-Rojas.

15 CHAIRWOMAN KRUEGER: Thank you.

16 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Can you
17 hear me? Okay, great. If you can just set
18 the clock -- great.

19 Thank you, Superintendent, for being
20 here. In the Executive's proposal I was so
21 excited to see language related to the
22 amended Insurance Law that it requires
23 private insurance plans to cover abortion
24 services -- you shared this in your

1 testimony -- without cost-sharing. I
2 introduced legislation on this last year, so
3 again, thrilled to see it in the budget.

4 However, there is language that allows
5 the superintendent to grant an exemption if
6 it affects federal funds that are not
7 included in the budget language. So I've
8 done a lot of federal work on reproductive
9 justice, and it sounds really similar to the
10 Weldon Amendment, which the U.S. Health and
11 Human Services can refuse to enforce -- has
12 refused to enforce because it creates
13 barriers to abortion care.

14 So I would ask, would the Executive be
15 willing to remove this language? Because
16 it's really important to ensure, you know,
17 coverage without this barrier presented.

18 DFS SUPERINTENDENT HARRIS: Yeah,
19 absolutely. I think -- happy to work with
20 you and collaborate with your office and your
21 colleagues as part of the one-house
22 proposals, and of course take this back to
23 the Executive as well.

24 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Great.

1 DFS SUPERINTENDENT HARRIS: I will
2 note, as you know, there is the very limited
3 religious employer exemption. But just so
4 that folks know, and I'm sure you know this,
5 for employees for religious employers, they
6 are able to get riders to their insurance
7 coverage so that they also get coverage for
8 abortion services with no cost-sharing.

9 And it's currently the topic of
10 litigation, so I won't say too much more, but
11 just so that folks understand that that is
12 also available for employees of religious
13 employers.

14 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Yeah,
15 I'm familiar with that through the national
16 work, so thank you for mentioning it.

17 I do want to clarify, does this remove
18 the medically necessary language that would
19 sort of give a reason for, you know, having
20 an abortion? Because that's something my
21 bill would remove.

22 DFS SUPERINTENDENT HARRIS: Yeah, as I
23 understand it, all -- the medically necessary
24 is not narrowing, in that it's applicable

1 throughout insurance coverage. Right?

2 There's always sort of a clinical review.

3 But happy to engage with you more on
4 that so we understand the technical
5 definitions there. But all healthcare
6 provision is subject to this review by
7 insurers. But I think you're concerned that
8 we make sure that people don't use it to
9 unnecessarily and unfairly narrow the
10 protection. It's very important.

11 ASSEMBLYWOMAN GONZÁLEZ-ROJAS:

12 Exactly. We don't want to sort of leave that
13 up to insurers to determine what is and what
14 is not medically necessary for a person who
15 is pregnant.

16 So, all right. Thank you so much.

17 DFS SUPERINTENDENT HARRIS: Thank you.

18 CHAIRWOMAN WEINSTEIN: Back to the
19 Senate.

20 CHAIRWOMAN KRUEGER: Thank you very
21 much.

22 Senator Kaminsky.

23 SENATOR KAMINSKY: Hi, Superintendent,
24 how are you?

1 DFS SUPERINTENDENT HARRIS: I'm well.
2 How are you?

3 SENATOR KAMINSKY: Good, thank you.

4 A question for you about
5 cryptocurrency. I'm hoping you can tell us
6 how you --

7 CHAIRWOMAN KRUEGER: I'm sorry, Todd,
8 this only is about the insurance questions
9 today, not the financial side of DFS.

10 SENATOR KAMINSKY: I understand. Then
11 I will switch to my other question. Thank
12 you, Chair Krueger.

13 CHAIRWOMAN KRUEGER: Thank you so
14 much.

15 SENATOR KAMINSKY: We have been
16 working for a while on the issue of parity
17 for mental health services. DFS has
18 undertaken a study by statute. Yet I'm still
19 hearing from practitioners and parents that
20 it's taking months just to get an
21 appointment if you have an adolescent with
22 mental health needs. We're hearing that it's
23 still better to receive Medicare than --
24 sorry, than private insurance, it's just too

1 many people don't have it.

2 There's just a significant gap in
3 mental health coverage, and especially with
4 parents of adolescents who find themselves in
5 trouble and needing help. They are not
6 finding this to be a consumer-friendly
7 market, and we could use some help.

8 DFS SUPERINTENDENT HARRIS: Happy to
9 work with your office on any particulars and
10 make sure that we're running those to ground
11 on behalf of your constituents.

12 And on the issue more broadly, it is a
13 network adequacy question. So where insurers
14 are in violation of network adequacy, we can
15 investigate that and look to make that better
16 for all New Yorkers. So thank you for
17 raising that.

18 And happy to circle back with you
19 offline on crypto questions.

20 SENATOR KAMINSKY: Okay, we'll do
21 that. Thank you so much.

22 DFS SUPERINTENDENT HARRIS: Thank you.

23 CHAIRWOMAN KRUEGER: Thank you.

24 Assembly.

1 CHAIRWOMAN WEINSTEIN: Thank you.

2 We go to Assemblywoman Reyes.

3 ASSEMBLYWOMAN REYES: Thank you,
4 Helene. Thank you, Superintendent Harris.

5 I actually only have a question on the
6 financial side of it, and it's one question,
7 if I'm allowed to get it in.

8 CHAIRWOMAN WEINSTEIN: If it relates
9 to health.

10 ASSEMBLYWOMAN REYES: It does not.

11 CHAIRWOMAN WEINSTEIN: No. No, so
12 you'll -- we can do that offline, along with
13 the --

14 DFS SUPERINTENDENT HARRIS: I'm happy
15 to reach out offline.

16 ASSEMBLYWOMAN REYES: Okay, will do.
17 Thank you.

18 CHAIRWOMAN KRUEGER: Sorry.

19 CHAIRWOMAN WEINSTEIN: Okay. Well, we
20 still have more.

21 CHAIRWOMAN KRUEGER: Keep going.

22 CHAIRWOMAN WEINSTEIN: Assemblywoman
23 Niou.

24 ASSEMBLYWOMAN NIOU: Thank you so

1 much.

2 So just to clarify for everyone, since
3 we seem to have multiple questions on this,
4 the abortion statute that -- that's putting
5 in statute what is already a DFS regulation
6 mandating abortion coverage without
7 cost-sharing, right?

8 DFS SUPERINTENDENT HARRIS: Correct.

9 ASSEMBLYWOMAN NIOU: And that was done
10 in 2017, so it's a new mandate, just making
11 it a statute.

12 DFS SUPERINTENDENT HARRIS: Yes. It's
13 solidifying the protection in statute.

14 ASSEMBLYWOMAN NIOU: And before the
15 regulation, DFS required abortion coverage in
16 model policies?

17 DFS SUPERINTENDENT HARRIS: I'd have
18 to double-check, but I believe that's the
19 case.

20 ASSEMBLYWOMAN NIOU: So I just wanted
21 to clarify, because we were going a little
22 bit in circles so I wanted to make sure that
23 folks understood that. And it's not new,
24 it's just to put it back into statute and

1 that's all.

2 So thank you, Liz.

3 And I just wanted to follow-up a
4 little bit on Senator May's question, because
5 I thought it was really good, about consumer
6 protections during this time. Because right
7 now we are seeing like, you know, so many
8 different folks are being taken advantage of
9 in our communities, and this is something
10 that we have seen over and over and over
11 again.

12 And so what are some of the key issues
13 in insurance for I guess the resource
14 allocations and for our consumer protections?
15 But also, like, wanted to see if you were
16 supportive of the UDAAP update, which is part
17 of the Consumer and Small Business Protection
18 Act that we are actually trying to push
19 through in both houses. And I also think
20 that that's like something that I think, you
21 know, is very important right now because we
22 are seeing that people can't make ends meet.

23 DFS SUPERINTENDENT HARRIS: Yeah,
24 absolutely. No, I think you're absolutely

1 right. There were so many inequities,
2 disparities that have long existed and that
3 were exacerbated by the pandemic, and people
4 like to act like the pandemic made those
5 things brand-new when in fact, right, there's
6 a lot of these things that have been existing
7 for far too long.

8 So we have a number of things under
9 our purview at DFS to help address those
10 things. I think, you know, we talked quite a
11 bit during my confirmation hearings about
12 UDAAP and some of the ways that that could be
13 helpful in helping DFS bring some of its
14 enforcement action, where there are bad
15 behaviors that fall just sort of outside of
16 our authority and where UDAAP --

17 ASSEMBLYWOMAN NIOU: Like the Attorney
18 General's office would be really great in
19 being able to bring those to the fore.

20 (Overtalk.)

21 DFS SUPERINTENDENT HARRIS: So we're
22 always happy to provide technical assistance
23 on any bills. I think UDAAP authority
24 generally will be a good thing for DFS and

1 for New Yorkers.

2 ASSEMBLYWOMAN NIOU: Great. Thank you
3 so much. I appreciate your answer on that
4 because I think that, you know, that's
5 something that's really key. You know, and
6 this is kind of hovering on both ends, on the
7 financial part and on the insurance part.
8 But like I know that this is something that's
9 really important, especially when it comes to
10 insurance and when it comes to healthcare.

11 So also, you know, funding the
12 New York CDFI Fund, we've seen, you know,
13 folks really like are --

14 CHAIRWOMAN WEINSTEIN: Ahhh, you are
15 veering away from health there --

16 ASSEMBLYWOMAN NIOU: No, it's not
17 veering away from health. And you're taking
18 my time.

19 (Laughter; inaudible overtalk.)

20 DFS SUPERINTENDENT HARRIS: I'm always
21 happy to circle back and talk about CDFIs.

22 (Laughter.)

23 DFS SUPERINTENDENT HARRIS: Happy to
24 talk about CDFIs offline and the CDFI Fund

1 and the things we've done and plan to do.

2 ASSEMBLYWOMAN NIOU: Okay. And I
3 think that the other thing is also our
4 constituents are being really hit hard,
5 especially seniors, on the rent-a-bank
6 schemes. So what is DFS's -- what is DFS
7 doing about ending those and those licensing
8 that are evading those New York licensing?

9 CHAIRWOMAN WEINSTEIN: Unh, unh, unh.

10 ASSEMBLYWOMAN NIOU: This is like
11 really, really -- this is tied in.
12 Seriously.

13 CHAIRWOMAN WEINSTEIN: Right, okay.
14 Let's see how we get this answer related to
15 health.

16 DFS SUPERINTENDENT HARRIS: Wow, this
17 is going to be a challenge to sort of tie
18 this to health.

19 So I think usury laws should be -- the
20 state usury laws should be enforced and
21 leveraging a charter from another state
22 should not get anybody around state usury
23 laws or other consumer protections. And
24 where there's a corollary in health

1 insurance, I think, you know, we should be
2 enforcing New York laws as well.

3 CHAIRWOMAN WEINSTEIN: Very good.

4 DFS SUPERINTENDENT HARRIS: Happy to
5 talk more offline about --

6 ASSEMBLYWOMAN NIOU: I'm happy to talk
7 to you about it offline. I just wanted to --
8 I mean, I felt like it was very important to
9 connect it because our seniors are getting
10 ripped off.

11 (Overtalk.)

12 CHAIRWOMAN KRUEGER: You should have
13 just said not ripping off seniors leaves them
14 more money for healthcare and moved on.

15 (Laughter.)

16 ASSEMBLYWOMAN NIOU: Okay, thank you.
17 Thank you, Senator.

18 CHAIRWOMAN KRUEGER: Thank you. Where
19 are we?

20 CHAIRWOMAN WEINSTEIN: Back to the
21 Senate.

22 CHAIRWOMAN KRUEGER: Senator
23 Gounardes. Are you there, Senator Gounardes?
24 You were a second ago. I see your picture

1 but not you.

2 All right, we're going to go on to
3 Senator Liu, and we'll see if we can come
4 back to Senator Gounardes.

5 SENATOR LIU: Madam Chair, can I ask
6 about CDFIs?

7 CHAIRWOMAN KRUEGER: No.

8 SENATOR LIU: Can I ask about commuter
9 van insurance?

10 CHAIRWOMAN KRUEGER: About what?

11 SENATOR LIU: Commuter van insurance.

12 CHAIRWOMAN KRUEGER: No, let's stick
13 with healthcare insurance.

14 SENATOR LIU: I mean, these are
15 potentially issues of mental health.

16 CHAIRWOMAN KRUEGER: You could take a
17 stab at it, but I'll let Helene shoot you
18 down.

19 SENATOR LIU: Let me just congratulate
20 the superintendent on her confirmation and
21 look forward to talking about a lot of
22 insurance-related issues with you, since I'm
23 barred by our chairs from asking
24 insurance-related questions today.

1 DFS SUPERINTENDENT HARRIS: I look
2 forward to that as well.

3 CHAIRWOMAN KRUEGER: This was
4 three-way agreed with the Governor's office,
5 I'm just telling you. Okay. Sorry, please
6 answer, Adrienne.

7 SENATOR LIU: It's not for me to break
8 agreements.

9 DFS SUPERINTENDENT HARRIS: I look
10 forward to working with you as well, sir, on
11 a host of issues. And I know you have great
12 expertise in the area, so I look forward to
13 leveraging that on behalf of New Yorkers.

14 CHAIRWOMAN KRUEGER: Are there other
15 questions, John?

16 SENATOR LIU: I do, I have a lot of
17 other questions. I don't know if you and
18 Helene will consider them health-related, but
19 can I ask them?

20 CHAIRWOMAN KRUEGER: No. No. If you
21 know they're not health-related, no.

22 (Laughter.)

23 CHAIRWOMAN KRUEGER: But you know
24 what, as you've just heard from several of

1 your colleagues, this superintendent is
2 extremely easy to get ahold of and will be --
3 she's going to shake her head yes, she'll be
4 happy to talk about these with you offline.
5 I have her confirmation. We're all watching
6 her head shake.

7 DFS SUPERINTENDENT HARRIS: Yes.

8 SENATOR LIU: I can hardly wait.

9 CHAIRWOMAN KRUEGER: And I'm going to
10 hand it back to the Assembly.

11 CHAIRWOMAN WEINSTEIN: We only have
12 Assemblyman Cahill for his -- are you
13 finished, then, Senator?

14 CHAIRWOMAN KRUEGER: No, we have
15 Senator Gounardes, who's re-arrived, and
16 myself --

17 CHAIRWOMAN WEINSTEIN: Okay, so
18 Assemblyman Cahill for his second round,
19 three minutes.

20 ASSEMBLYMAN CAHILL: Thank you very
21 much. I'm sorry I was distracted with
22 another piece of business.

23 Superintendent, let me find you on
24 this Brady Bunch screen here. I mentioned in

1 my first round that I wanted to discuss with
2 you the commuter van issue. We know that
3 there has been an extremely difficult problem
4 with commuter vans in certain parts
5 particularly of New York City. So --

6 CHAIRWOMAN WEINSTEIN: Kevin? I'm
7 sorry, because we've been limiting the
8 questions just to health insurance. Even
9 though I share your concerns about commuter
10 vans, this isn't the proper forum for that
11 discussion, unfortunately.

12 ASSEMBLYMAN CAHILL: Madam Chair,
13 traditionally the only opportunity we have to
14 discuss anything with the Department of
15 Financial Services is the -- is this hearing.
16 And this is an important issue. And quite
17 frankly, it does have health ramifications,
18 because if people can't get around --

19 CHAIRWOMAN WEINSTEIN: Well, then, you
20 know, if people can't get to their healthcare
21 appointments because of commuter vans, why
22 don't you figure a way to say that.

23 ASSEMBLYMAN CAHILL: Superintendent,
24 I'm asking you about the way people get to

1 healthcare in their communities because of
2 commuter vans. So if we can discuss helping
3 to keep that industry moving.

4 I know that the Governor has proposed
5 an \$11 million program. That seems like a
6 very, very substantial amount of money for
7 the 300 vans that would be involved. My
8 first question on that subject is, would it
9 also help people in other parts of the state
10 in terms of other means of transportation
11 where there are transportation deserts that
12 would prevent them from accessing healthcare?

13 DFS SUPERINTENDENT HARRIS: I've got
14 to tread very carefully here. But so the
15 program is designed for -- at least as it's
16 proposed in the Executive Budget -- for the
17 commuter vans, so that people may get access
18 and transportation to their healthcare
19 providers, mental health providers and other
20 things, should they choose to do that
21 in-person versus via telehealth.

22 It is -- the number we proposed is for
23 the first year of a five-year program, and it
24 was determined calculating what AIPSO, a

1 national organization, told us was the
2 premium required to cover the
3 higher-than-average losses, loss ratio
4 presented by the commuter vans, and what the
5 commuter vans were previously paying to an
6 insurer that has since become insolvent.

7 So it was designed to cover that delta
8 and to make the insurance more affordable for
9 these incredibly important transportation
10 options, as well as to provide some monies to
11 increase safety and security in the vans.

12 And then as part of this -- and I
13 believe this will show up as part of the
14 30-day amendments, we will also then do a
15 study at the end of the five-year pilot to
16 look back over the many, many years that this
17 has been an issue and to provide transparency
18 to the Legislature and other stakeholders.

19 ASSEMBLYMAN CAHILL: Thank you,
20 Superintendent. I have to conclude here, but
21 I will follow up with you in a different
22 forum where we are allowed to talk about this
23 in all contexts. Thank you, everybody.

24 CHAIRWOMAN WEINSTEIN: Perhaps the

1 Insurance chairs would like to host a
2 hearing.

3 ASSEMBLYMAN CAHILL: Possibly.

4 CHAIRWOMAN WEINSTEIN: What a novel
5 idea.

6 (Laughter.)

7 CHAIRWOMAN KRUEGER: What a great
8 idea. To the Senate.

9 DFS SUPERINTENDENT HARRIS: I think --
10 and we actually have, I should put in a plug,
11 we I think actually have a meeting coming up,
12 so I'll make sure that everybody who's
13 interested has the invite to that where it
14 will be the chamber, DFS, AIPSO and others,
15 to talk about this issue.

16 CHAIRWOMAN WEINSTEIN: To the Senate.

17 CHAIRWOMAN KRUEGER: Thank you.

18 We've been visited again by
19 Senator Gounardes.

20 SENATOR GOUNARDES: Thank you,
21 Senator Krueger. And I apologize, I missed
22 the roll call before.

23 Hello, Commissioner, good to see you
24 again -- Superintendent, rather.

1 My question is bankruptcies across
2 this country, one of the leading drivers of
3 bankruptcies are unaffordable healthcare
4 costs. And that's true everywhere in the
5 country; it's especially true here in
6 New York as well. And we know from lots and
7 lots of data that one of the significant
8 drivers of escalating healthcare costs are
9 the skyrocketing costs and the inconsistent
10 costs of hospital care. I know we've talked
11 a little bit about it at this hearing, the
12 wildly fluctuating amounts of costs
13 attributed to hospitalizations for similar
14 outcomes.

15 So my question to you, as DFS
16 commissioner, you know, there's been a lot of
17 study and data to show that a lot of the
18 drivers of these costs are linked to
19 anti-competitive contract provisions between
20 insurance companies and hospital networks.
21 Now, using your jurisdiction over the
22 insurance industry, I'd really be curious to
23 know if you've taken a look at the problem of
24 skyrocketing hospitalization costs and

1 healthcare costs as it relates to the use of
2 anti-competitive and anti-consumer
3 contracting provisions that you have
4 jurisdiction over.

5 DFS SUPERINTENDENT HARRIS:

6 Absolutely. Thank you so much, Senator, for
7 that question.

8 So DFS does not have jurisdiction over
9 the contract negotiations between hospitals
10 and insurance companies. We have in the past
11 used our convening authority to help keep the
12 parties at the table when they might
13 otherwise walk away, but that really is an
14 exercise of our soft powers and not our
15 statutory authorities.

16 I will tell you we -- in other
17 contexts, especially when we think about
18 mergers and acquisitions or change of control
19 in the insurance industry, including with
20 health insurers, we have rigorous criteria
21 that we use to assess those acquisitions or
22 those changes of control, including the best
23 interest of patients or policyholders. And I
24 have used that provision of law to make sure

1 that community stakeholders were included at
2 the table to voice their concerns to the
3 parties engaged in the transaction.

4 And so far during my tenure we've had
5 great success leveraging that prong of the
6 law to bring community stakeholders to the
7 table, including securing many community
8 benefit agreements -- in contexts that we can
9 discuss offline and not here -- but also in
10 the insurance context, where we were able to
11 incorporate commitments around consumer
12 protections on data sharing and other things.

13 As you're alluding to, healthcare
14 costs -- of course we've talked about the
15 cost of prescription drug prices and our new
16 PBM authorities, which I think will help keep
17 those prices low, or lower. And of course I
18 think the issue of antitrust is an incredibly
19 important one here, and if the Legislature
20 looks to put forward an antitrust bill, we're
21 happy to provide technical assistance where
22 it touches on our authorities.

23 SENATOR GOUNARDES: Thank you.

24 CHAIRWOMAN KRUEGER: Thank you.

1 Assembly.

2 CHAIRWOMAN WEINSTEIN: We have
3 Assemblyman Anderson.

4 (Pause.)

5 CHAIRWOMAN WEINSTEIN: Khaleel, I saw
6 your hand is up. Are you here with us?
7 Going once, going twice, and three times --
8 it is back to the Senate.

9 CHAIRWOMAN KRUEGER: All right, thank
10 you. I believe I'm the last Senator --

11 SENATOR HOYLMAN: I have a question,
12 Senator.

13 CHAIRWOMAN KRUEGER: Oh, excuse me.
14 Then I will allow Senator Hoylman to go
15 first, please.

16 SENATOR HOYLMAN: Thank you. Thank
17 you, Senator. Thank you, Chair, I appreciate
18 it.

19 Good afternoon, Superintendent. I
20 wanted to ask you a question -- this is from
21 personal experience -- about
22 neuropsychological evaluations for children.
23 You may or may not know that when a parent
24 seeks a neuropsychological evaluation,

1 generally speaking it's only covered if it is
2 considered medical in nature. So head trauma
3 or some other physical evidence is required.

4 But if a parent is concerned, for
5 example, as my husband and I were, that our
6 child might be dyslexic, we are not covered
7 for such an evaluation. And what the real
8 sticking point is is that these evaluations
9 cost upwards of \$7,000 to \$10,000.

10 Any assessment on how we can move the
11 needle on coverage for so many parents who
12 are desperate to have their child evaluated
13 but yet can't afford to get into the doctor's
14 office because of the lack of coverage from
15 insurance?

16 DFS SUPERINTENDENT HARRIS: Yeah,
17 thank you. It's an incredibly important
18 issue. I think like you, I have some
19 personal experience with this, including a --
20 and I won't take up too much time, but
21 including a very close personal friend who
22 didn't get diagnosed until he was well into
23 adulthood because his parents could never
24 afford the evaluation.

1 So it's not something I'm well versed
2 in, but happy to dig into it and come back to
3 you and partner on some solutions here.

4 SENATOR HOYLMAN: I would love that.
5 Thank you so much.

6 DFS SUPERINTENDENT HARRIS: Thank you.

7 CHAIRWOMAN KRUEGER: Thank you.

8 Should we look for Assemblymember
9 Anderson again?

10 CHAIRWOMAN WEINSTEIN: We'll give him
11 one more chance.

12 Assemblyman Anderson. There he is.

13 ASSEMBLYMAN ANDERSON: Thank you.

14 Sorry about that. Sorry about that,
15 Chairwoman.

16 CHAIRWOMAN WEINSTEIN: No problem.

17 ASSEMBLYMAN ANDERSON: Can you hear
18 me?

19 CHAIRWOMAN KRUEGER: Yes.

20 CHAIRWOMAN WEINSTEIN: Yes, we can.

21 ASSEMBLYMAN ANDERSON: Okay. Thank
22 you so much, Superintendent, for being here.
23 Congratulations on your new role. I think
24 you're a first, so congratulations on being

1 the first African-American woman in the role,
2 in the position.

3 So I had two questions, and I will try
4 to be brief. I know that the Governor
5 included a pilot program to help address the
6 insurance issues that many of our commuter
7 vans are facing across the state. And so I
8 wanted to just get a sense of what your
9 commitment is to help in ensuring that, one,
10 that program is successful, but two, we make
11 sure that it achieves its objectives and its
12 goals, and that's to help keep insurance
13 rates down for commuter vans. Because as we
14 know, much of our state -- much of the city
15 as well -- are transit deserts. So I wanted
16 to get a question answered on that first.

17 And I know we're not doing banking,
18 but just throwing it out there, I'm big on
19 public banks and I hope that you take a
20 position on it.

21 DFS SUPERINTENDENT HARRIS: Thank you
22 so much. I'm incredibly gratified that we've
23 got this program now on commuter vans because
24 they are so important for helping New Yorkers

1 get to their healthcare providers, among
2 other things.

3 And so we've got \$11 million in the
4 current budget for the first year of a
5 five-year program. And at the end of that
6 five years -- and again, I believe it will
7 show up in the 30-day amendments -- that
8 we'll do a study to look back over the many,
9 many years, because this has been an issue
10 for so long, to add some transparency to the
11 issue, to the history of rate increases.

12 We also have a briefing coming up for
13 electeds -- so if you haven't received the
14 notice for that, we'll make sure you get
15 it -- on this issue. But we're going to be
16 very keen to work with ESD, DOT, TLC, MTA,
17 the Legislature to make sure that this
18 program is designed well and can benefit this
19 incredibly important transportation option.

20 ASSEMBLYMAN ANDERSON: Thank you,
21 Superintendent. And I have one more
22 question, since I have some time. I never do
23 this, Chairwoman.

24 But in terms of mold and asbestos, I

1 know that Chairman Cahill had a piece of
2 legislation -- or we have a piece of
3 legislation that would allow for rental
4 insurance to cover remediation. Do you have
5 a position on that?

6 DFS SUPERINTENDENT HARRIS: Happy to
7 work with you and your colleagues and have
8 the department provide technical assistance
9 on a bill that's an incredibly important
10 issue, especially for underserved communities
11 that I know are disproportionately impacted
12 by mold and asbestos in the home.

13 ASSEMBLYMAN ANDERSON: And
14 Superintendent, I know it's not a budgetary
15 issue, but certainly I just want to hear your
16 commitment to it should it become one,
17 because I think it's really pertinent and
18 important. People who have mold and asbestos
19 in their unit, if we're paying all this money
20 towards insurance companies, that it should
21 be covered and remediation should be part of
22 the coverage.

23 CHAIRWOMAN WEINSTEIN: Assemblyman
24 Anderson, so as the commissioner -- as the

1 superintendent, rather, mentioned, there will
2 be some follow-up meetings to discuss
3 non-health insurance issues.

4 ASSEMBLYMAN ANDERSON: Thank you so
5 much, Chairwoman. Thank you, Superintendent.
6 Congratulations again.

7 DFS SUPERINTENDENT HARRIS: Thank you.

8 CHAIRWOMAN WEINSTEIN: Back to the
9 Senate.

10 CHAIRWOMAN KRUEGER: Thank you.

11 Although I was going to give him that;
12 remediation of mold is actually a health
13 issue, just for the record.

14 (Overtalk.)

15 CHAIRWOMAN WEINSTEIN: That's why I
16 let the first part go, but then you were
17 moving on.

18 (Laughter.)

19 DFS SUPERINTENDENT HARRIS: Happy to
20 chat more about it.

21 CHAIRWOMAN KRUEGER: Okay, thank you,
22 Superintendent.

23 Senator Gounardes brought up the issue
24 of, you know, now we have 95, 96 percent of

1 New Yorkers covered by insurance, but it's
2 not always clear that what insurance is
3 paying actually can be affordable by people
4 and get them the healthcare they need. And
5 my concern is parallel to that same story.
6 We in theory have these networks, and we have
7 the Marketplace where you can take a look and
8 try to figure out the right one if you have
9 options. And then you discover none of the
10 doctors really are taking new patients, even
11 though they're listed on the Marketplace. Or
12 they didn't even know they were listed as a
13 member of that network, and they're not
14 taking you.

15 And so I know there's cross-authority
16 between Health and DFS, but I feel like the
17 constituents get dropped through the cracks
18 of being told they've bought an insurance
19 plan or provided an insurance plan by their
20 employer, they believe that they're in X
21 network and can get Y doctors -- except they
22 can't. And is there a role that DFS can be
23 playing more aggressively to make sure if
24 they say this doctor is in the network,

1 you're supposed to be able to get an
2 appointment with them before you die?

3 DFS SUPERINTENDENT HARRIS: Yes. So
4 one of the things I've done is we've proposed
5 a regulation that required -- and this speaks
6 to part of your issue but not all of it, so
7 I'll make sure to address all of it. But
8 part of this issue is for insurer directory
9 misinformation.

10 And we've proposed a regulation that
11 would hold consumers harmless if the
12 directory says the provider is in-network and
13 in fact they're out-of-network, and to hold
14 the consumer harmless for that
15 misinformation. And we'll be looking to
16 adopt that regulation after the SAPA process.

17 That does not solve what you've
18 highlighted, right, when you have a doctor or
19 provider who's not taking more patients. And
20 that goes to the network adequacy
21 requirements, and I think also to a broader
22 shortage of healthcare professionals, not
23 just in New York but nationwide, that's going
24 to require a whole-of-government approach to

1 remedy, especially when it comes to general
2 practice physicians and providers in
3 low-income areas.

4 CHAIRWOMAN KRUEGER: And I think it
5 goes both directions between the insurance
6 companies and the hospitals. So I'm very
7 pleased that the Governor put in her budget a
8 bill that I had to require that cancer
9 centers be allowed into networks for people
10 who are on the Marketplace. Because we
11 learned that the best cancer centers in
12 New York State, even though they were willing
13 to get paid exactly what other insurance was
14 paying and other hospitals were receiving,
15 that they weren't getting allowed to be in
16 any network on the Marketplace. Which seemed
17 to me to be crazy.

18 So the Governor did address that in
19 her budget. But I really do think -- that's
20 why I think it's dual DOH and DFS, because
21 the storylines fly in both directions.

22 DFS SUPERINTENDENT HARRIS: Yes.

23 CHAIRWOMAN KRUEGER: Related to
24 that -- I think we did talk about this at

1 forward to working with you and others around
2 cancer care.

3 On long-term care, as you note, it's a
4 longstanding and national issue. We just
5 over last weekend and this weekend we're
6 meeting with the National Association of
7 Insurance Commissioners, and this topic took
8 up hours of conversation. You're absolutely
9 right, for the old closed books of business,
10 right, the policies that people bought
11 20 years ago that they're now looking to
12 bring claims on, they're faced with this
13 terrible choice of increased rates or
14 decrease in service, despite the fact that
15 they've been paying into these policies for
16 decades.

17 We at DFS do a lot of work to try and
18 balance the rate increases with keeping these
19 insurers solvent, as you noted, so that there
20 is money at the end of the line to pay claims
21 when people look to have those claims paid.

22 But for the newer books, the newer
23 policies -- and people are in fact buying
24 them, they're just -- they're much better

1 priced because people now have more
2 experience with the cost of claims and
3 long-term care. But for the existing
4 policies, I know the Governor has signed into
5 law a number of bills put forward by the
6 Legislature to help address this issue, but
7 there's certainly more work to be done there
8 to protect seniors.

9 CHAIRWOMAN KRUEGER: Thank you. And
10 thank you for your work on behalf of the
11 state. And I believe that -- unless I see a
12 new hand pop up -- the Senate is done.

13 CHAIRWOMAN WEINSTEIN: We actually do
14 have an Assemblymember.

15 CHAIRWOMAN KRUEGER: Okay. Assembly.

16 CHAIRWOMAN WEINSTEIN: Assemblyman
17 Jensen. And we will close the line at this
18 point after him.

19 ASSEMBLYMAN JENSEN: Thank you very
20 much, Chairwoman, for allowing me to sneak in
21 at the tail end.

22 Superintendent, continuing care
23 retirement communities are subject to both
24 DOH and DFS oversight, and this sometimes

1 leads to cumbersome and lengthy
2 administrative processes and reviews that
3 have kind of slowed the ability to secure
4 this refinancing or otherwise be responsive
5 to a changing economic environment.

6 Is there anything that DFS can do to
7 help assist the continuing care retirement
8 communities with streamlining this process
9 and making it more efficient?

10 DFS SUPERINTENDENT HARRIS: Yeah,
11 absolutely. I'll tell you, we are
12 responsible for the financial safety and
13 soundness of the CCRCs, while DOH is
14 responsible for the provision of care inside
15 those facilities. We do a lot of things: We
16 help them restructure debt, we help them find
17 operational efficiencies. When it's
18 appropriate for them to have new residents
19 and new revenue, we assist with that, of
20 course making sure that consumers have the
21 appropriate disclosures about the financial
22 state of the CCRCs.

23 But there's always room for
24 improvement whenever you're talking about

1 across divisional jurisdiction, and there's
2 always room for improvement there. And I
3 know, you know, Dr. Bassett and I have
4 already developed a wonderful working
5 relationship. So I think if there are other
6 things that we can continue doing to
7 streamline these processes, working with you
8 and your colleagues, we're absolutely happy
9 to do so.

10 ASSEMBLYMAN JENSEN: Thank you very
11 much, Superintendent. And thank you, Chair.

12 CHAIRWOMAN WEINSTEIN: Thank you.

13 CHAIRWOMAN KRUEGER: Thank you. Any
14 other Assemblymembers, Helene?

15 CHAIRWOMAN WEINSTEIN: No, that is it.
16 I just think we have Assemblywoman Hyndman's
17 hand is up in error.

18 CHAIRWOMAN KRUEGER: Got it.

19 All right. Then with that,
20 Superintendent Harris, we're going to thank
21 you for your work on behalf of the State of
22 New York, your time with us today. And
23 clearly we all want to talk to you about
24 everything else DFS does, and maybe we'll

1 just do some giant multi-committee hearing
2 with just you.

3 So thank you again very much.

4 DFS SUPERINTENDENT HARRIS: Thank you
5 all. Have a good one.

6 CHAIRWOMAN KRUEGER: I'm next going to
7 call up the New York State Office of Medicaid
8 Inspector General, Acting Inspector General
9 Frank Walsh, Jr.

10 Hello, Mr. Walsh. You have up to
11 10 minutes to summarize your testimony, which
12 we all have, and then we will ask you a few
13 questions.

14 ACTING MEDICAID IG WALSH: Fantastic.
15 And I hope to beat the clock.

16 Good afternoon, Chairperson Krueger,
17 Chairperson Weinstein, distinguished members
18 of the Senate Finance and Assembly Ways and
19 Means Committees, and Health Committee Chairs
20 Senator Rivera and Assemblyperson Gottfried.
21 I appreciate this opportunity to share with
22 you the activities and initiatives of the
23 Office of the Medicaid Inspector General --
24 my first since joining the agency last year.

1 The COVID-19 pandemic, as we all
2 recognize, continues to pose significant
3 challenges and impact the healthcare delivery
4 system in profound ways. In response, OMIG
5 has effectively adapted to the rapidly
6 changing environment by implementing new
7 processes, performing ongoing outreach to the
8 Medicaid provider community and stakeholders,
9 and executing solutions that serve a vital
10 dual purpose -- to protect the integrity of
11 the Medicaid program while not unnecessarily
12 limiting healthcare access.

13 Over the past year, as it did
14 throughout 2020, OMIG continued to work
15 closely with individual providers,
16 associations, and other stakeholders to gain
17 critical insights into the current
18 environment and used this knowledge to inform
19 agency practices with respect to audit
20 activity, investigative efforts, and
21 compliance initiatives.

22 From the onset of the pandemic in 2020
23 and continuing into 2021, OMIG pivoted its
24 activities to a remote setting to protect the

1 health and safety of OMIG staff, the provider
2 community, and Medicaid recipients, and was
3 flexible in giving providers necessary
4 additional time to respond to requests.
5 Additionally, to enable providers to address
6 critical emergent issues, OMIG temporarily
7 paused non-urgent audit activities in regions
8 where positivity rates were a cause for
9 concern.

10 Since then, in accordance with state
11 and federal guidance, the agency has
12 significantly increased its on-site oversight
13 activities and fieldwork while promoting
14 safety, addressing the concerns of healthcare
15 providers, and continuously monitoring the
16 progression of the public health emergency.

17 Further, in 2021, in response to
18 requests from providers concerning financial
19 hardship, OMIG developed and implemented an
20 enhanced financial hardship process that
21 affords providers the opportunity to apply
22 for relief in the event an OMIG audit may
23 pose a financial hardship to the
24 organization. More information on this

1 process is available on OMIG's website.

2 As a result of OMIG's efforts
3 throughout the public health emergency, and
4 despite the temporary interruption of certain
5 activities, the agency continued to deliver
6 impressive results to New Yorkers in 2021.
7 Preliminary results indicate total cost
8 savings and recoveries exceeded \$3.1 billion,
9 an increase of more than \$152 million, or
10 5 percent, over the prior year -- without
11 unnecessarily impacting providers or the
12 availability of critical health care services
13 and supports.

14 In addition, OMIG also received over
15 3,600 allegations of Medicaid fraud;
16 completed more than 2,900 investigations;
17 referred nearly 800 cases to other state
18 oversight agencies -- including nearly 200 to
19 the Attorney General's Medicaid Fraud Control
20 Unit, MFCU; finalized more than 1,200 audits;
21 and received 33 applications for relief due
22 to financial hardship.

23 These and other details are still
24 being reviewed and finalized and will be

1 reported in OMIG's 2021 Annual Report, which,
2 by statute, will be released by October 1,
3 2022.

4 While these measures of our
5 performance are very positive, it is
6 important to stress, again, that they would
7 not be possible without OMIG's comprehensive
8 efforts throughout the pandemic to strengthen
9 relationships and communications with
10 Medicaid providers and the introduction of
11 collaborative process improvements that will
12 support our efforts over the long term.

13 I am extremely proud that the
14 dedicated team at OMIG, in the midst of the
15 extraordinary challenges posed by the COVID
16 crisis, delivered on our pledge to ensure
17 Medicaid beneficiaries' access to the state's
18 high-quality healthcare delivery system, and
19 at the same time combat fraud, waste, and
20 inefficiency, which benefits all New Yorkers.
21 In doing so, we're continuing to set the
22 national standard for ensuring access,
23 controlling costs and, in partnership with
24 law enforcement, holding wrongdoers

1 accountable.

2 Thank you, and I'm pleased to address
3 any questions you may have.

4 CHAIRWOMAN KRUEGER: Thank you very
5 much. You were very succinct with your
6 presentation.

7 Do I see any hands up? Because I have
8 a couple of questions. So while others are
9 thinking about theirs, then maybe I'll start
10 off if you don't mind, Mr. Walsh.

11 During COVID there were some changes
12 in rules involving what they call MAGI
13 Medicaid for people basically under 65 with
14 expanded benefits. But my understanding is
15 during the COVID crisis, when people turned
16 65, we allowed them to stay on MAGI Medicaid,
17 but now they will need to be transitioning to
18 Medicare or possibly traditional Medicaid
19 with Medicare.

20 Is there any reason we should be
21 concerned that these people are going to get
22 caught up somehow in being perceived as
23 committing fraud? Because they don't even
24 understand what all these systems mean. And

1 I'm not sure I do understand what the letters
2 mean.

3 ACTING MEDICAID IG WALSH: I'm
4 familiar with the letters, which I believe is
5 modified adjusted gross income.

6 And, you know, what I would say is --

7 CHAIRWOMAN KRUEGER: People were
8 changed without even realizing it.

9 ACTING MEDICAID IG WALSH: What I
10 would say in that regard -- I mean, I think
11 that is something that, you know, the
12 Department of Health has close oversight of,
13 and we would work with them in understanding
14 that. And I'm happy to work with them and
15 get an answer to your question.

16 (Pause.)

17 UNIDENTIFIED PARTICIPANT: Senator
18 Krueger, can you hear me?

19 SENATOR RIVERA: I think we might have
20 lost her. I think she's frozen.

21 Yeah, Helene, I think that Liz is
22 frozen -- oh. Liz, we just lost her.

23 Helene? Chair Weinstein? Chair
24 Weinstein.

1 UNIDENTIFIED PARTICIPANT: Take over,
2 Gustavo.

3 SENATOR RIVERA: So I guess I'm
4 running this now. And actually, was there an
5 Assemblyperson waiting to ask questions? If
6 not, I have actually something for the
7 inspector general. So I guess I'll just go
8 ahead.

9 Inspector General, how are you?

10 (To moderator) A quick three minutes
11 on there for me, if you could. And save
12 eight for Liz when she comes back.

13 Okay, so Inspector General -- so
14 Inspector, there's an institution that
15 approached my office with an issue where -- I
16 know that the way you audit -- sometimes your
17 audits are -- they use randomized data for
18 reviews and you extrapolate based on that,
19 which makes sense, because it can save -- I
20 guess you can save some money on some of the
21 investigation.

22 But there's a provider in particular,
23 I'm not going to mention who, but it's a
24 provider that had -- there was like a

1 selection of information like that actually
2 was a small error, but because it was --
3 because you extrapolated, your agency
4 extrapolated from that data, it actually
5 meant not only a large penalty but a large
6 penalty that actually forced them to close
7 that program.

8 So certainly I can understand the
9 necessity of doing stuff like this to save
10 money, but the question I have for you is, is
11 there any internal process that you folks
12 have for instances like that where, you
13 know -- because certainly there's -- I'm sure
14 that you can agree that a small mistake is
15 different than -- that a small error is
16 different than malicious intent. And that
17 when you're issuing -- you know, when you're
18 doing your investigation and you're issuing
19 your -- you know, the penalties, et cetera,
20 that you take that into account.

21 So could you tell us a little bit
22 about any internal processes that you might
23 have to check when such a thing happens?

24 ACTING MEDICAID IG WALSH: Sure.

1 So I appreciate the concern, and very
2 familiar with concerns with regard to the use
3 of extrapolation. But I think it's -- it's a
4 technique that's commonly misunderstood.

5 But to get to your specific question,
6 you know, our internal processes are intended
7 to try and reach a collaborative decision,
8 recognizing that we're enforcing the rules
9 and regulations of the Medicaid program that,
10 you know, have been developed as we have
11 interpreted them and the Department of Health
12 and other state Medicaid agencies are sort of
13 implementing them. So the requirements that
14 we're holding providers to are ones that were
15 set for the program.

16 The other point that I would make with
17 regard to extrapolation is it's not an intent
18 to deliver a specific result, it is actually
19 an intent to be able to conduct these audits
20 in an administratively sensitive way. The
21 use of a randomized sample is a way that's
22 commonly used to avoid the administrative
23 burden of having to look at many more records
24 as we go through the process.

1 So while we --

2 SENATOR RIVERA: I only have 50
3 seconds, so let's do this. Let's actually
4 follow up offline, only because I'd want to
5 kind of dig deeper into this particular
6 situation. I just want to make sure it's not
7 like a thing that's happened a lot, because
8 some of these programs are valuable and I
9 wouldn't want them to be closed because of a
10 small error that's made that then turns into
11 a large penalty that forces them to close
12 things.

13 ACTING MEDICAID IG WALSH: We would be
14 happy to follow up, Senator.

15 SENATOR RIVERA: Thank you, sir.

16 Oh, see, the chairwoman is back.

17 CHAIRWOMAN KRUEGER: Thank you,
18 everyone. I apologize. Suddenly everyone
19 froze, and I realized it was me that froze
20 and I had to reboot.

21 Assemblymember, do you have any other
22 questions?

23 CHAIRWOMAN WEINSTEIN: Yes, we
24 actually do have -- Assemblyman McDonald has

1 a question.

2 CHAIRWOMAN KRUEGER: Okay.

3 Unmute.

4 ASSEMBLYMAN McDONALD: Thank you.

5 Thank you. And Frank, thanks for being here.

6 Actually, I want to follow up where
7 Senator Rivera was going, and it may not be
8 the same entity but it's the same problem.
9 And as you know, I am no longer a licensed
10 provider with the state, so I don't really
11 have any conflicts in having this discussion,
12 but I've been through the process in the
13 past.

14 And, you know, to the Senator's
15 point -- and I think this is where I'd like
16 to know a little bit more about it -- there
17 are providers out there, particularly in
18 areas of mental health and substance use,
19 that are really doing really God's work.
20 It's not easy by any stretch of the
21 imagination.

22 And at the same token, they will be
23 making -- they do make -- technical errors.
24 But through the extrapolation process, it

1 does get to be unwieldy. And I guess it's a
2 catch-22 because, you know, in talking to a
3 variety of different statewide organizations,
4 we do have providers -- I'm not talking about
5 pharmacy, just to be clear, because you know
6 that's my background -- but other nonprofit
7 providers of behavioral health that are
8 really on the forefront of going out of
9 business because the extrapolation method
10 does run things to a much higher degree.

11 And I just think it's a concern. I
12 can tell you, being through this process
13 before, it was painful. I mean, the State of
14 New York wanted \$2 million for everything
15 that was actually backed up with factual
16 information and signed affidavits by patients
17 and providers, and the agency's own rules
18 prevented this happening. And, you know,
19 life moved on, people got through it.

20 But I just worry about a lot of these
21 nonprofits that are in areas providing
22 services where nobody else would dare go.
23 And I just don't know if there's a process to
24 review that. I know that going through the

1 whole process, the draft process, there's a
2 place to appeal, but at some point you're up
3 against it.

4 ACTING MEDICAID IG WALSH: No, I
5 appreciate that. I appreciate the comments.

6 And, you know, the one thing that I
7 would sort of say is that, you know, we're
8 here trying to, you know, improve the
9 integrity of the Medicaid program or protect
10 the integrity of the Medicaid program, but a
11 key focus is sort of making sure that, you
12 know, we maintain access to the high-quality
13 healthcare services and healthcare providers
14 that are out there. We're not out there to
15 try and target anyone.

16 But I'm happy to follow up with you
17 and any of the other members with regard to
18 our practices and, you know, how we can be
19 more open about that process and provide
20 opportunities for, you know, collaborative
21 discussion as we progress through our
22 activities.

23 ASSEMBLYMAN McDONALD: Thank you,
24 Frank.

1 CHAIRWOMAN WEINSTEIN: Back to the
2 Senate. There are no other Assemblymembers.

3 CHAIRWOMAN KRUEGER: Thank you.

4 Then I'm just going to follow up with
5 the second question I had for you before I
6 got frozen out, Frank. I think it's a little
7 bit of a variation.

8 So I read a story recently about a
9 not-for-profit healthcare provider getting a
10 very large penalty because they were billing
11 Medicaid for multiple services on one visit.
12 And so it struck me that, oh, yes, that's
13 illegal. But I know I have heard over the
14 years that, say, in hospital settings
15 somebody comes in and they have multiple
16 services provided even by different units
17 within that hospital, but it's all the same
18 visit. And I believe that they do bill
19 multiple times, and I never questioned that
20 that was a problem.

21 But are there different rules if
22 you're a hospital versus another kind of
23 healthcare provider for multiple billings of
24 Medicaid for multiple services on one visit?

1 ACTING MEDICAID IG WALSH: And I
2 believe the answer to that question, Senator,
3 is yes.

4 You know, we have -- we have a
5 wonderful Medicaid program, probably, you
6 know, tops in -- on many lists. You know,
7 but understanding sort of the specific
8 details and the facts behind the individual
9 instances, I've learned, has been something
10 that is really important in these
11 conversations.

12 And, you know, happy to take any
13 concerns that you have either, you know, in
14 your office or on behalf of your constituents
15 and really dig down into kind of what those
16 particular factual instances are, and can
17 provide a better answer.

18 CHAIRWOMAN KRUEGER: All right. Maybe
19 I will follow up. They weren't a
20 constituent, it was just an article I was
21 reading that made me think about how this
22 actually works in today's world. Because we
23 all recognize, I think, that we're paying
24 extremely low rates per service within

1 Medicaid, and we've even had serious
2 discussions about why won't doctors take
3 Medicaid patients, because it pays so little.

4 But if we're setting up a system where
5 we're sort of creating multiple barriers to
6 people accessing the benefit we think we
7 provide them, I think it's at least worthy of
8 more discussion. But we won't do it here
9 today. So thank you very much.

10 And if nobody else is raising their
11 hand, I'm actually going to excuse you and
12 thank you for your service to the State of
13 New York and move on to the next panel.

14 ACTING MEDICAID IG WALSH: Thank you.

15 CHAIRWOMAN KRUEGER: No hands? Nobody
16 waved at me that they must speak?

17 So thank you very much for your
18 service. Go back to your job. Thank you.

19 ACTING MEDICAID IG WALSH: Thank you.

20 CHAIRWOMAN KRUEGER: All right, we are
21 now moving off of the government section of a
22 hearing to the organizations who have asked
23 to testify before us on the state budget.

24 And they will be called up in panels.

1 Each person on the panel will get three
2 minutes to testify. This is like speed
3 dating, if you haven't been watching our
4 other hearings. So you will each get three
5 minutes to summarize your testimony even
6 though you've given us sometimes very lengthy
7 testimony. Then legislators get to ask the
8 panel questions. So a legislator also only
9 gets three minutes to address their questions
10 to the entire panel. So it's speed dating in
11 both directions.

12 But again, I want to emphasize
13 everyone has access to the full testimony and
14 the contact information of the testifiers, so
15 my colleagues, I guarantee you if you call up
16 anyone who testifies and say "I'd like to
17 have a follow-up discussion with you about
18 what you were talking about," they will be
19 happy to do so. They volunteered to come
20 here and testify.

21 And unfortunately we had to turn away
22 more people than we could accept because I
23 knew it would be 3 o'clock before we started
24 this part of the hearing, and there's only so

1 many hours in the day.

2 So with that, I will call Panel A. I
3 will read the names and organizations once,
4 and then we'll just go from one, two, three,
5 four, five, six. So the Greater New York
6 Hospital Association, Ken Raske, president;
7 the Healthcare Association of New York State,
8 Bea Grause, president; the Greater New York
9 Health Care Facilities Association, Michael
10 Balboni, executive director; the New York
11 State Health Facilities Association --
12 different group, similar name -- Carl Pucci,
13 CFO; and the United New York Ambulance
14 Network, Jeff Call, chairman.

15 So we'll start with Ken Raske. Good
16 afternoon.

17 MR. RASKE: Thank you very much,
18 Madam Chairman and your colleagues on the
19 panel.

20 The opportunity this afternoon is
21 special for me to address the budget. It's
22 an extraordinary budget that this
23 administration has put forward. The Governor
24 has done an incredible job in putting

1 exclamation points on issues that the
2 healthcare community has faced, particularly
3 in the last couple of years, which have
4 been -- to say the least -- traumatic.

5 And I want to thank the administration
6 for doing such a superb job and trying to
7 nail down those issues which are
8 extraordinary to this healthcare community.
9 Let me focus on a couple of points, though.

10 The first one is the efforts to assist
11 in putting together our workforce and
12 reinforcing it with bonuses and support.
13 That idea is superb, it's a hundred percent
14 supported by all the hospitals that I
15 represent. And it is an idea that's been a
16 long time coming. So we would ask for due
17 consideration by the Legislature to actually
18 enact those bonuses that are being proposed
19 by the executive branch. And during this
20 period of time we will try to iron out any of
21 the questions that have come up earlier in
22 your hearing.

23 And then to a couple of issues that
24 are of utmost importance: The lack of a

1 trend factor and the administration
2 recognizing some degree of relief there,
3 1 percent, and elimination of the 1.5 percent
4 deduct that has taken place. Those are very
5 important points, and we support them. We
6 think it could be enhanced, however.

7 And then one of the ideas of
8 enhancements would be to tie it into some
9 additional funding for mental health
10 services. Earlier I think it was Senator
11 Savino was talking about some of the problems
12 here. And there is no question that we need
13 to do more about mental health services.

14 The next area is safety net hospitals,
15 and that too has been the subject of many of
16 the -- your colleagues on the panel today
17 that have brought this issue up, safety net
18 hospitals in their communities. Those
19 safety-net hospitals need assistance. The
20 budget helps, but I would like to see
21 enhancements for those safety-net hospitals,
22 hospitals such as One Brooklyn, Maimonides in
23 Brooklyn, and Medisys, and in the Bronx with
24 Montefiore as well. These are important

1 institutions for the fabric of New York, and
2 their colleagues that I couldn't have time to
3 mention. But those are areas that I would
4 ask due consideration by this august
5 legislative body for additional investments.

6 Madam Chairman, I've stayed within my
7 three minutes, I hope.

8 CHAIRWOMAN KRUEGER: Thank you very
9 much, Ken.

10 Next, Bea Grause.

11 MS. GRAUSE: Thank you. Good
12 afternoon, Chair Krueger, Weinstein, Rivera,
13 Gottfried and committee members. Thank you
14 very much.

15 And I appreciate everything that my
16 colleague Ken has said, and we are in a great
17 deal of concurrence with a lot of his
18 comments.

19 I wanted to take everyone back to the
20 topic that's really been underlying today's
21 discussion, in that we're now approaching the
22 third year of COVID-19. And the reality that
23 our healthcare workers on the front lines,
24 hospitals, health systems and post-acute care

1 providers are still struggling with this
2 pandemic to this very day. Without federal
3 support, our hospitals and health systems
4 collectively would have reported a negative
5 10 percent operating margin in 2020. And
6 thanks to federal support, that margin was
7 still negative 1.4 percent, the worst in two
8 decades.

9 Someone recently pointed out that
10 hospitals ended 2020 in the black, but that
11 was the goal of federal support and what we
12 all should hope for, as this funding helped
13 to preserve access to care for New Yorkers.

14 Unfortunately, the pandemic did not
15 end in 2020. The federal provider relief
16 funding has run dry, with no funding left to
17 help hospitals recover from Delta, Omicron or
18 any future wave. And so with that as a
19 backdrop, I wanted to return to the state
20 with our urgent requests.

21 The first one, as Ken mentioned, is
22 workforce. Providers in New York and across
23 the nation are facing a staffing crisis. The
24 Executive Budget includes several investments

1 and policy actions that would begin to
2 address these very real workforce challenges
3 in both the short and long term. We have to
4 take action now. I urge you to include in
5 the final budget measures that would begin to
6 provide immediate relief by recognizing
7 providers from other states and allowing
8 professionals to practice at the top of their
9 training or license.

10 HANYS also encourages the Legislature
11 to address equity and operational challenges
12 in the Executive proposal to provide bonuses
13 to frontline healthcare workers.

14 The second is Medicaid. While the
15 state has expanded eligibility for Medicaid
16 and increased covered services, which we
17 greatly appreciate, provider reimbursement
18 has remained flat. Medicaid reimburses
19 hospitals just 61 cents for every dollar of
20 care provided.

21 I urge the Legislature to go
22 significantly further than the Executive
23 Budget by restoring a meaningful and
24 persistent Medicaid trend factor to hospital

1 and nursing home payment rates on a
2 go-forward basis. Proposals regarding
3 Medicaid payment rates and supportive funding
4 must benefit all of New York's hospitals and
5 health systems statewide.

6 The third is infrastructure. Through
7 prior capital funding the state has
8 recognized the tremendous importance of
9 modernizing and transforming New York's
10 healthcare system. HANYS urges the
11 Legislature to support the proposed
12 healthcare capital funding included in the
13 Executive Budget.

14 We are also very grateful to Governor
15 Hochul for advancing proposals in this
16 surplus budget year in all of these areas,
17 and we urge the Legislature to build upon
18 them. We hope that you will continue to make
19 meaningful, sustained investments that
20 address both the acute challenges caused by
21 COVID-19 and the chronic challenges our
22 healthcare system has faced for years, such
23 as workforce shortages.

24 I encourage you to review the summary

1 document that's included with my written
2 testimony, and that includes HANYS's position
3 on the major healthcare proposals in the
4 budget such as telehealth, payment parity,
5 and access to coverage.

6 Thank you for your continued
7 partnership, and I look forward to hearing
8 your questions.

9 CHAIRWOMAN KRUEGER: Thank you, Bea.

10 Next, the Greater New York Health Care
11 Facilities Association.

12 MR. BALBONI: Good afternoon, Madam
13 Chairwoman and my colleagues -- I'm sorry,
14 some of my former colleagues. And I really
15 enjoyed all of the colloquy that you had
16 beforehand. And I think that these Zoom
17 formats are actually really good in listening
18 to a lot of comments back and forth.

19 So let me just begin by saying what a
20 difference a year makes. You know, the
21 entire perspective of long-term healthcare
22 has changed, and it's done so because,
23 frankly, Kathy Hochul has set the table. And
24 it's so important to recognize that the

1 budget she put out there, in our estimation,
2 is the best budget in 14 years. Obviously we
3 support it. We ask you to support it as
4 well.

5 But I want to touch upon one point.
6 This is an opportunity, I think all of you
7 recognize it, to reset healthcare in the
8 State of New York. Thanks to the federal
9 support, the funding that you have available
10 to you now has allowed a lot of the
11 reinvestments at a time when we didn't have
12 investments. I mean, just think about it --
13 for 14 years there was no such trend factor,
14 cost-of-living increase, nothing for the
15 long-term-care industry.

16 And so what's happened is we now all
17 talk about the fact that there is not
18 staffing. But the truth of the matter is we
19 had staffing problems for nursing homes way
20 before the pandemic. This is because the
21 nature of work is changing. The perspectives
22 of our workforce are changing. And in that
23 14-year period what you had was -- when you
24 had the original minimum wage versus the

1 starting salaries for a certified nurse
2 assistant, that delta was dramatically closed
3 over the 14 years.

4 And so when we talk about investing in
5 the workforce and getting people to decide,
6 you know, I'm not going to work in retail,
7 I'm going to work in healthcare, we've lost a
8 lot of that mission, that message. And then
9 came the pandemic where you had so much loss
10 in the homes and you had story after story
11 detailing all the deaths. You know, how
12 could you possibly want to go work in that
13 industry? And we've got to build back, for
14 the industry, and convince people that this
15 is really meaningful, important work.

16 And so the other thing that most of
17 you may not know about is that we have done a
18 collective bargaining agreement for 230 of
19 the nursing homes in the metropolitan area.
20 We have provided the largest increase in
21 benefits that we have in the history of this
22 industry.

23 Now, on top of that, you have a \$3,000
24 bonus for workforce. And there are

1 statements by the Governor in her proposal
2 that talk about the need to provide
3 educational opportunities, to get people to
4 actually invest in the education for
5 themselves -- and we'll invest in them.
6 These types of steps -- increased wages,
7 increased opportunity -- are absolutely
8 essential.

9 The last quick point is this. We
10 missed our moment when we should have seen
11 long-term care as nodes of surveillance
12 information for disease states. We should
13 reexamine that and try to do a better bridge
14 between the information on the ground in
15 nursing homes and the state.

16 Thank you very much, Madam Chairwoman.

17 CHAIRWOMAN KRUEGER: Thank you very
18 much.

19 Next, the New York State Health
20 Facilities Association, Carl Pucci.

21 MR. PUCCI: Yes, good afternoon, Madam
22 Chairman.

23 My name is Carl Pucci. I'm the chief
24 financial officer of NYSHFA|NYSCAL, whose

1 members and their 90,000 employees serve
2 70,000 residents in over 450 not-for-profit,
3 for-profit and government facilities.

4 As has been mentioned, the past
5 history of Medicaid cuts over the last
6 15 years has created a large Medicaid
7 shortfall at almost \$55 a day, the difference
8 between the rate and the cost of care. The
9 current per diem average of \$246 would be
10 equivalent to \$10.25 per hour for 24 hours of
11 skilled care -- below the state minimum wage.

12 Last year's FMAP increases to the
13 state were not passed on to long-term-care
14 providers. In fact, as is documented, the
15 previous administration cut Medicaid revenue
16 1.5 percent during the height of COVID. We
17 certainly support the restoration of this
18 cut, as well as the 1 percent increase to the
19 Medicaid rate. After 14 years without a
20 trend increase, our long-term-care sector
21 having been seen, in our view, as an expense
22 to the state, this budget now recognizes our
23 sector as an investment.

24 The Medicaid rate add-on should be

1 increased to allow our providers to compete
2 in the labor market with the retail and food
3 service sectors.

4 With the current significant staffing
5 crisis as declared in the statewide
6 emergency, the 3.5 minimum staffing mandate
7 will be almost impossible to attain. In
8 addition, based on pre-COVID 2019 cost report
9 data, the 70/40 staffing requirement will
10 cost providers an additional \$500 million in
11 expenses, and that could only increase during
12 2020.

13 We do support the proposed 70/40
14 technical amendments. However, they are not
15 enough to reverse the negative impact of this
16 law. We support the \$3,000 worker bonus and
17 the COLA increase and the inclusion of our
18 adult care and assisted living providers in
19 these provisions.

20 We strongly support the authorization
21 of certified medication aides to administer
22 routine meds, as this represents a career
23 ladder for the profession. We support the
24 Nurses Across New York loan repayment program

1 and recommend the language be more
2 long-term-care specific. And finally, we
3 support joining the Interstate Medical
4 Licensure Compact, which should be less
5 complicated in structure to increase
6 efficiencies and reduce nurse's wait times.

7 In conclusion, New York must invest in
8 its skilled nursing and assisted living
9 providers and implement measures to improve
10 and retain our long-term-care workforce.
11 NYSHFA|NYSCAL will continue to work with the
12 Governor's office, the Legislature and other
13 constituencies to continue delivery of
14 high-quality, cost-effective long-term care
15 for residents in New York that we serve.

16 Thank you.

17 CHAIRWOMAN KRUEGER: Thank you very
18 much.

19 And the last on our panel, Jeff Call,
20 chairman of the United New York Ambulance
21 Network.

22 MR. CALL: Good afternoon and thank
23 you, Madam Chairwoman. I also want to thank
24 Chairpersons Gottfried, Weinstein and Rivera,

1 as well as all esteemed members of the
2 Legislature for our opportunity to testify
3 today on the state budget.

4 I'd like to take a quick moment to
5 thank Chairperson Gottfried for his tireless
6 lifetime of advocacy for the entire
7 healthcare community.

8 As chairman of the United New York
9 Ambulance Network and general manager of
10 Guilfoyle Ambulance, I represent more than
11 40 commercial not-for-profit ambulance
12 providers across the state, from Long Island
13 to Watertown, Albany to Buffalo, and
14 everywhere in between.

15 Throughout the pandemic, our members
16 have played a vital role in public health and
17 safety services. EMS providers all over the
18 state continue to work on the frontlines of
19 the pandemic, bringing COVID care,
20 screenings, vaccinations to the residents of
21 New York State, all while continuing to
22 answer the traditional EMS calls and
23 continuing to do our work every day, as well
24 as keep ourselves healthy.

1 UNYAN members answer over 47 percent
2 of all emergency calls and 78 percent of all
3 non-emergency calls, according to New York
4 State documents. Our industry continues to
5 struggle with being severely underfunded and
6 short-staffed, like most other healthcare
7 industries. We are grateful for the
8 Governor's \$10 million investment proposal
9 and hope the state will take the necessary
10 steps to include the ambulance industry in
11 this revitalization plan.

12 The \$6 million budget allocation for
13 EMS training has remained the same for over
14 23 years, since 1999. We're asking the
15 Legislature to double the budget for EMS
16 training to \$12 million to ensure the EMS
17 system is prepared for the future.

18 Part F of the Executive proposal --
19 although UNYAN agrees that portions of the
20 Public Health Law need to be modernized, many
21 of the proposals in Part F seek to remove
22 input and consideration of the State EMS
23 Council and leave decision-making power with
24 the Department of Health and the

1 commissioner. Local experts' input is
2 needed.

3 We feel Part F should be removed and
4 these changes fully thought out with the
5 input of SEMSCO and industry stakeholders,
6 and the details of these changes should be
7 fully vetted outside the context of this
8 budget.

9 Most importantly, we present to you
10 that a provider assessment could generate
11 additional Medicaid funding for
12 non-governmental EMS providers at no cost to
13 the state. DOH will use provider-supplied
14 dollars to increase the federal funding
15 coming into the state. These new funds will
16 support Medicaid rates for EMS providers.
17 Increased reimbursement can be used to
18 improve our EMS system capabilities, improve
19 equipment, improve wages, and provide
20 training for EMTs and paramedics. We're
21 asking the Legislature to include language in
22 the budget to create this ambulance
23 assessment program.

24 UNYAN represents an overwhelmingly

1 cost-effective option for ambulance services
2 in New York. Our workforce is in desperate
3 need of financial support and improvement in
4 order to continue this fight. It is
5 imperative that our members receive the
6 critical resources needed to continue doing
7 their jobs safely and effectively.

8 We at UNYAN are committed to working
9 with our state resources to find solutions
10 and continue to serve as the front door to
11 healthcare in New York State, with our
12 partners. Thank you, and I appreciate your
13 support and I appreciate your time today.

14 CHAIRWOMAN KRUEGER: Thank you very
15 much.

16 I'm going to first look to the chair
17 of the Health Committee for the Senate,
18 Gustavo Rivera.

19 SENATOR RIVERA: Thank you. Thank
20 you, Madam Chair.

21 Hey, folks. A quick thing.

22 First of all, the gentleman that just
23 was speaking, Mr. Call, so you saw the
24 reforms that the Governor's proposing around

1 EMS. Right? You talked about some of the
2 issues there. What is your general feeling
3 about that proposal? Because it's a very
4 extensive proposal, and I'm kind of still --
5 still have not taken a position on whether I
6 support it or not.

7 MR. CALL: So which part are you --
8 are you talking about Part F, the changes in
9 Part F or --

10 SENATOR RIVERA: That's a good
11 question. What part is it? Hold on, buddy.

12 MR. CALL: So Part F has multiple
13 changes, and a lot of them deal with
14 rewriting Article 30 Public Health Law.

15 SENATOR RIVERA: I think that you're
16 probably right, it's -- no, no. No, I think
17 you're probably right. Damn, I should have
18 had that. I should have had that readily
19 available. I don't remember the part. But
20 it's basically a re -- it's like a
21 redefinition of emergency medical services.
22 It's a whole host of reforms related to EMS.

23 MR. CALL: We love the redefinition.
24 It takes us out of the transportation

1 industry and puts us into a healthcare
2 setting. It includes a lot of the other
3 things that we've been doing for years, they
4 just haven't been included in our
5 description.

6 As far as rewriting Article 30, our
7 concern with that is we feel that shouldn't
8 be done. Article 30 is regulated by SEMSCO,
9 State EMS Council, and we think that they as
10 well as us should have a hand in rewriting
11 the laws.

12 SENATOR RIVERA: By the way, you are
13 correct, it is Part F. Since I only have a
14 minute and 30, I'll ask the rest, though
15 thank you for that.

16 To the rest of the folks, there's
17 also -- there's a bunch of managed care
18 reforms that are being proposed by the
19 Governor. I am also still on the fence about
20 them, because I'm trying to understand
21 exactly what the purpose of it is. You
22 probably saw the questioning that we did of
23 the commissioner and the Medicaid -- the
24 Medicaid dude a little bit before.

1 So do you have anything, either
2 Greater New York, Balboni, Bea? Do you have
3 anything? What are your general thoughts
4 about it? Anybody.

5 MR. RASKE: Well, Chairman Rivera --
6 this is Ken here -- we are taking a really
7 hard look at some of these reforms,
8 particularly on the managed long-term-care
9 side, since a number of the nursing home
10 members have those. And they created a
11 dialogue already with the executive branch as
12 to what are the ultimate goals here. And at
13 this point, we're still trying to sort that
14 out.

15 I will sit down with all those members
16 and try to ferret out exactly what those
17 goals of the state are and how those
18 institutions can achieve those goals. So for
19 me, Senator, it's a work in progress at this
20 point. That's an as-clear-as-I-can-get
21 answer.

22 SENATOR RIVERA: Am I to guess it's
23 still for the both of you as well?

24 MS. GRAUSE: Senator, yeah. I mean, I

1 think Brett's comment about it's really a
2 tension between consumers and cost
3 containment. And so I think, as Ken said,
4 there are a lot of different provisions that
5 we are looking through and would be happy to
6 talk with you about it. But it's --

7 SENATOR RIVERA: Gotcha.

8 MS. GRAUSE: -- there are a lot of --
9 there's a lot to wade through.

10 SENATOR RIVERA: We will catch up
11 offline. Thank you. Thank you, Madam Chair.

12 CHAIRWOMAN KRUEGER: Okay, thank you.
13 Assembly?

14 CHAIRWOMAN WEINSTEIN: We have two
15 Assemblymembers. We'll start with
16 Assemblymember Bichotte Hermelyn.

17 ASSEMBLYWOMAN BICHOTTE HERMELYN:
18 Hello to the panel. Thank you so much for
19 being here and testifying.

20 As you know, recent analysis shows
21 that one of the priciest hospitals in
22 New York also has one of the largest charity
23 care deficits in the country. In fact, the
24 private hospital systems have been doing less

1 and less charity care over the past years.
2 And given these facts, just want to say that
3 we need to invest more in our public health
4 system that is doing the bulk of the charity
5 work.

6 And as you know, improving health
7 outcomes for women, particularly women of
8 color who are having a baby, is a key concern
9 for many of us. One vital part of this issue
10 is making sure that care is affordable. So
11 how much does your hospital charge for state
12 employee healthcare, for example? What is
13 the average charge for childbirth through a
14 vaginal delivery? What is the cost relative
15 to Medicare for the same procedures? And do
16 you think we should provide taxpayer relief
17 for hospitals if you are not or do not
18 overcharge to the state for employee care?

19 MS. GRAUSE: Assemblywoman, this is
20 Bea Grause from the Healthcare Association of
21 New York State. We don't represent any
22 particular hospital, we represent almost all
23 of the hospitals across the state. They're
24 all not-for-profit. I'd be happy to come in

1 and speak with you about many of the
2 charitable efforts that hospitals undergo,
3 above and beyond providing charity care.

4 So, you know, there are -- it is a
5 complex issue, and I think hospitals work
6 every day to maintain a margin while serving
7 their communities. But there are many, many
8 issues involved, and I'd be happy to speak
9 with you about that.

10 MR. RASKE: And Bea, I would only add
11 to the great questions that were asked by the
12 Assemblymember the fact that we are totally
13 supportive at Greater New York Hospital
14 Association on the safety net hospitals,
15 which are the ones that provide a
16 concentration in their respective communities
17 of charitable care.

18 And their well-being is important to
19 me, and their well-being is important to the
20 entire economic structure of New York. So
21 it's for that reason we are going to bat in
22 this legislative arena for them as much as we
23 are. So I want you to know that your
24 concerns are shared not only by me but a lot

1 of your colleagues in the field as well.

2 So I'll be talking with you, as Bea
3 will, about those other matters, but I wanted
4 to be clear. We are very much concerned
5 about safety net hospitals.

6 ASSEMBLYWOMAN BICHOTTE HERMELYN:
7 Thank you very much. That's very important.

8 CHAIRWOMAN WEINSTEIN: We have another
9 Assemblymember if you don't have a Senator.
10 Senator Krueger, you are still muted.

11 CHAIRWOMAN KRUEGER: I'm sorry, I was
12 saying that we have one more Senator, myself,
13 and then we'll head back to you.

14 CHAIRWOMAN WEINSTEIN: Go ahead.

15 CHAIRWOMAN KRUEGER: Thank you.
16 Just also a huge question, but
17 quickly, I think mostly for Ken and Bea.

18 So we're living in a world where the
19 hospitals are sort of the chains, the store
20 chains, and more and more doctors are not
21 having freestanding practices, they are
22 hospital doctors and they sort of, you know,
23 are within your control, although you'll
24 disagree with me, but I'll just say that now.

1 So how do we get more doctors to do
2 primary care, preventive care, gerontological
3 care, quality OB-GYN care, all the fields we
4 are talking about not having enough doctors
5 in that are actually incredibly
6 cost-efficient if we can get doctors to do
7 this, but aren't necessarily
8 revenue-generating for the hospitals or even
9 particularly high paying. You know, it's
10 sort of -- for years you might have said,
11 well, it's not really the hospital that
12 decides that. But I've decided it sort of
13 is, because there's nobody who's a doctor, at
14 least in Manhattan, who's not really a
15 hospital doctor by now. It may be different
16 in different parts of the state.

17 MS. GRAUSE: Yes, Senator, I think,
18 you know, as the saying goes, if you want a
19 service to exist, the payment has to cover
20 the cost of the services. Which is why the
21 Medicaid -- increasing the Medicaid trend
22 factor is so very important. That will help.

23 There's not just -- there's not one
24 solution. And I think every market is

1 unique, and I'm sure, as Ken realizes, you
2 know, New York City is very, very different
3 than the Mid-Hudson or Rochester or Buffalo.
4 So there are a lot of market differences, and
5 there are changes in independent
6 practitioners both ways currently.

7 Again, I think there are many, many
8 different factors. But I think having
9 sufficient reimbursement, sufficient support
10 for special populations such as the elderly,
11 mental health populations, is really
12 important depending on the unique aspects of
13 the community.

14 MR. RASKE: I think I would add, Bea,
15 the Senator's observation for Manhattan is
16 absolutely correct, but as you move outside
17 of Manhattan into the other boroughs and
18 beyond, into the Hudson Valley and
19 Long Island -- there's really two phenomena
20 going on. One is gravitational pull to
21 hospital-based activities, and the other one
22 is independent. And this, Senator, is really
23 important, where you have a cluster of
24 physicians on an independent basis who then

1 turn around and negotiate with hospitals for
2 the respective services.

3 But your point, fundamental point
4 about a concentration on either camp, if you
5 would to call it that, is accurate. And
6 Bea's point about the fact that there is
7 under-reimbursement for those primary care
8 activities is absolutely accurate and a
9 fundamental driving force involved here.

10 CHAIRWOMAN KRUEGER: So again, my time
11 is up. But if one looks at the state budget
12 and health budget as trying to incentivize
13 certain kinds of quality healthcare that we
14 know we're short of, you know, I'm very
15 interested in exploring how we change the
16 rules of the road to get those outcomes that
17 we all agree we need.

18 MR. RASKE: Absolutely.

19 CHAIRWOMAN KRUEGER: And I'm hearing
20 you that it may be a different answer in
21 certain boroughs of New York City than in
22 upstate New York or in Long Island, where I
23 also think there's chain power, so to speak.

24 MR. RASKE: Right.

1 CHAIRWOMAN KRUEGER: So thank you --

2 MS. GRAUSE: It -- yeah, it's a
3 journey. And there are a lot -- again,
4 there's no one solution.

5 CHAIRWOMAN KRUEGER: Correct.

6 MS. GRAUSE: Solutions over time.

7 CHAIRWOMAN KRUEGER: Correct.

8 Assemblywoman.

9 CHAIRWOMAN WEINSTEIN: Yes, we have
10 two Assemblymembers, so I will call them in
11 order.

12 First, Assemblyman Jensen.

13 ASSEMBLYMAN JENSEN: Thank you,
14 Madam Chair.

15 I know Bea and Mike touched on this a
16 little bit in their testimony, but is the
17 proposed trend factor going to be enough to
18 support the increase in wages over time?

19 And sort of coupled with that idea,
20 while the Governor proposed restoring the
21 misguided Medicaid cut, is the lack of
22 sufficient reimbursement in long-term care,
23 along with other mandates and restrictions
24 that were put in place last year -- is there

1 going to be enough support from the state to
2 address a lot of the issues that you're
3 facing when it comes to long-term care,
4 dwindling census numbers, more restrictions
5 on day-to-day operations?

6 MS. GRAUSE: Under the current budget,
7 no, I would say. We need more funding,
8 absolutely. Because those -- in the nursing
9 home -- we have nursing home patients who are
10 backed up in hospitals because the nursing
11 homes are not able to expand and provide
12 additional services.

13 So go ahead, Michael.

14 MR. BALBONI: So it's a good -- and
15 thank you, Bea. It is good news, bad news.
16 The good news is that we haven't had any kind
17 of trend factor for 14 years. But the CPI is
18 well over 6 percent. And so when you take a
19 look at the costs, especially the ancillary
20 costs like PPE and the different types of
21 stresses that the financial system has set --
22 and as you correctly point out, the census is
23 historically low right now, and what we're
24 trying to do is attract a workforce.

1 So, you know, there are two types of
2 staffing issues, right? One is the surge
3 staffing, which frankly we don't do well in
4 the state at all, but then there's the
5 long-term development of staff, which needs
6 that long-term investment.

7 And so, you know, if we had our
8 druthers, we'd certainly -- again, we love
9 the Governor doing the 1.6 percent; that's a
10 great message in terms of continuing
11 investment. But if it could go up more, then
12 we could do more over time.

13 ASSEMBLYMAN JENSEN: So kind of
14 jumping off that, when we're looking at
15 staffing shortages, you know, for the
16 long-term-care facilities that you represent,
17 are they struggling to compete with the
18 hospital and larger health systems to try to
19 recruit staff just because of the nature of
20 the work in a long-term-care setting?

21 MR. BALBONI: So I would always say
22 this -- and Bea, I hope that you agree with
23 this. You know, it's always been a challenge
24 to get people to come out of school and work

1 in nursing homes. Why? Because they don't
2 do TV shows about nursing homes. They do it
3 about hospitals, because that's where the
4 action is.

5 The greatest challenge right now to
6 attracting people is Amazon. You know, the
7 retail stores that are paying much more than
8 the CNA starting rates, especially when you
9 get into upstate communities. So this is a
10 continuous, competitive market that we've got
11 to do the investment to get people in.

12 MS. GRAUSE: You know --

13 ASSEMBLYMAN JENSEN: Well, I think --
14 oh. Go ahead, I was going to make a joke,
15 Bea, but --

16 MS. GRAUSE: Well, sorry, sorry to
17 interrupt your joke. But, you know, I've
18 worked as a nurse in both a nursing home and
19 a hospital, and I would say that the skill
20 sets overlap, so there certainly is some
21 competition. But, you know, working in a
22 nursing home isn't for everyone; working in a
23 hospital isn't for everyone. I think you
24 have that reality.

1 ASSEMBLYMAN JENSEN: I was going to
2 say maybe when we question somebody from the
3 film tax credit, we can maybe make a
4 requirement that they have to film some sort
5 of nursing home long-term-care show in
6 New York State, so --

7 MS. GRAUSE: There you go.

8 ASSEMBLYMAN JENSEN: Thank you. Thank
9 you, Chairs. And thank you to the witnesses.

10 CHAIRWOMAN WEINSTEIN: Thank you.
11 We go to Assemblyman Abinanti.

12 ASSEMBLYMAN ABINANTI: Thank you,
13 Madam Chair. Thank you to all of you for
14 being here today.

15 I asked the question earlier that I'm
16 going to ask again. It's a follow-up of what
17 Senator Krueger was talking about: How do we
18 get more people to deal with special
19 populations? As the chair of the Committee
20 on People with Disabilities, I am very, very
21 concerned about the lack of expertise by
22 doctors in dealing with people with these
23 special challenges. I know with kids -- I
24 have a 22-year-old son, and there are many of

1 his peers who are still using pediatricians
2 because there don't seem to be doctors who
3 deal with adults who know how to deal with
4 people with autism and what their needs are,
5 how to interpret what they're saying,
6 et cetera. So still using pediatricians
7 because there seem to be a few more
8 pediatricians around who know how to deal
9 with kids with autism and other developmental
10 disabilities.

11 So what efforts do we do? What do we
12 do to train doctors, to train nurses, to
13 train other healthcare professionals, train
14 dentists, to get them out there and let them
15 understand this population? Or even just get
16 people who are specialists in this?

17 And secondly, how do we get hospitals
18 to be more accommodating? I understand from
19 an economic point of view it is not
20 necessarily a winning situation. But many of
21 the people with disabilities who just need a
22 simple dentistry procedure need to go into
23 the hospitals where they can get sedation,
24 just for a simple examination of their teeth.

1 And yet the hospitals more and more
2 are backing away from allowing their -- their
3 what do you call it, operating rooms to be
4 used. There was a time when there were a lot
5 more hospitals that would allow dentists to
6 come in and use their operating rooms. Now
7 we're finding that there's a shortage, a
8 significant shortage.

9 So as Senator Krueger said, you know,
10 you guys are kind of a driving force. What
11 do we do?

12 MS. GRAUSE: I guess I would say
13 funding and coordination. HANYS recently
14 released a report on complex case discharges
15 that contained a number of suggestions on how
16 to coordinate and address care for those with
17 complicated mental and physical challenges.

18 But it's reimbursement and
19 coordination with both public agencies as
20 well as private providers, and the families
21 and the patients.

22 ASSEMBLYMAN ABINANTI: What about
23 training? How do we get a --

24 (Overtalk.)

1 MR. RASKE: It's an excellent
2 question, sir. You know, and frankly I'm not
3 smart enough to answer it. But I do know
4 people that are. So I would think -- and I
5 would offer this to you because the chairman
6 indicated we could talk offline, but it's
7 welcome with all the members, your
8 colleagues, as well. I would put together a
9 number of these institutions which currently
10 provide these kinds of services and ask those
11 serious questions about what can be done.

12 You know, we represent a whole host of
13 institutions which represent special needs
14 populations and of course a lot of rehab. I
15 believe you're from Westchester, sir, so you
16 know that. And I'm a Westchester resident as
17 well. You know, we have some really
18 outstanding facilities there. Bring them
19 together and we will do that under our
20 auspice, welcome you and your colleagues'
21 participation, and try to find out, how can
22 we get more of these services involved. It's
23 a great question, and I'll do it.

24 ASSEMBLYMAN ABINANTI: I'll take you

1 up on your offer. Thank you very much.

2 MR. RASKE: Yes, sir, you do that,
3 because I'm -- it's real.

4 ASSEMBLYMAN ABINANTI: And could you
5 please send me that report, Bea? If you
6 wouldn't mind sending that report.

7 MS. GRAUSE: Yes, I will.

8 And Ken, we can work on that together.
9 That's definitely something we've spent some
10 time on.

11 MR. RASKE: Absolutely, Bea, as
12 always. No question.

13 MS. GRAUSE: Yeah, look forward to it.

14 ASSEMBLYMAN ABINANTI: Thank you.
15 Thank you, Madam Chair.

16 CHAIRWOMAN KRUEGER: Helene, I see
17 another hand for you.

18 CHAIRWOMAN WEINSTEIN: Yes,
19 Assemblywoman Niou.

20 ASSEMBLYWOMAN NIOU: Thank you so much
21 for waiting for so long. And thank you,
22 Chairwomen.

23 I just wanted to ask, you know, the
24 proposed increase to Medicaid rates that you

1 had mentioned only brings us back to funding
2 levels before the 2018 cut and does not
3 account for this year's inflation increase.
4 What type of increase would it take to fully
5 fund our health services, in your opinion?
6 Mr. Raske.

7 MR. RASKE: You know, there was parts
8 of your question that broke up, and I'm
9 sorry. Could you repeat it? If the 1
10 percent is not enough?

11 ASSEMBLYWOMAN NIOU: I just said
12 that -- yeah, you mentioned that the proposed
13 increase to Medicaid rates only brings us
14 back to one level --

15 MR. RASKE: Yeah, okay. Forgive me,
16 it was my hearing problem here.

17 The issue for us is the adequacy of
18 the rate itself in relationship to the costs
19 that we're experiencing. You can measure
20 those in a lot of different ways -- CPI,
21 Consumer Price Index; component parts of the
22 CPI. But those aren't always a good measure
23 of the kinds of costs that we're
24 experiencing.

1 But I would offer the following. Any
2 kind of input price measure will show that it
3 will be significantly higher than 1 percent,
4 any which one you pick. CPI's at 7 percent.
5 Thursday the CPI's coming out, people expect
6 it to be 7.6 percent. So that gives you an
7 idea of what consumers are experiencing.
8 Hospitals will have some variation on that.
9 But you pick any one, and I'm for it, because
10 that will be closer --

11 ASSEMBLYWOMAN NIOU: Our consumers are
12 experiencing, for example, different rates
13 of -- different costs for the same treatment
14 at different places. Right? And they're
15 also wondering, you know, like what that
16 means, how is that calculated. Is there no
17 cap or is there no, you know, framing of like
18 what those costs might be? And then in New
19 York City providers are -- many providers are
20 not in-network, right, so we see that a lot
21 happening. And, you know, the hospital
22 requires you get the MRI or the x-ray at the
23 hospital, and then the independent companies,
24 you know, they have, you know, their cost --

1 MR. RASKE: Absolutely.

2 MS. GRAUSE: A lot of the consumer
3 confusion around prices and costs really can
4 be addressed by the payer. Because really
5 the variables there are the consumer's
6 insurance and what is covered and what are
7 the copays and deductibles. And they can
8 actually contact their insurer and talk to
9 them about what it is that they want to have
10 and where --

11 ASSEMBLYWOMAN NIOU: Most people are
12 not that sophisticated about it, though. You
13 know? Like I just received what the cost is
14 in my statement, and then I pay a copay, but
15 I don't really go in and question the cost.
16 But it costs my insurance and it also costs
17 me eventually, right? And I think like that
18 is something that people should be
19 questioning, and it's not really like --

20 MR. RASKE: The thing that Bea is
21 getting at --

22 MS. GRAUSE: There's no easy answer on
23 a piece of paper.

24 Sorry, Ken, go ahead.

1 MR. RASKE: And what you're saying
2 basically is lookit, whatever insurance that
3 you have -- state insurance, obviously --
4 that entity will negotiate with hospitals.
5 Those prices that they negotiate will vary
6 among those hospitals. It will vary because
7 of bargaining power that the payer has, it
8 will vary because of capital structures of
9 the hospitals, and it will vary because of
10 perceived or real qualitative differences
11 among the hospitals themselves.

12 So all of that is baked into your
13 insurer is the one that's negotiating those
14 different prices, which is much different
15 than what people would pay if you just
16 directly paid out of pocket. And that in
17 itself is an issue. But your payer, your
18 provider, your insurer, is the one that
19 negotiates those deals with each of those
20 hospitals.

21 CHAIRWOMAN WEINSTEIN: Thank you.
22 Thank you, Ken.

23 Senator Krueger, we send it back to
24 you.

1 CHAIRWOMAN KRUEGER: Thank you very
2 much. And I want to thank the panelists all
3 for being with us today. And we will no
4 doubt be following up with you, but I think
5 we are all very optimistic that this was a
6 much better budget for healthcare than many
7 of us have seen in many a year.

8 (Inaudible agreement.)

9 CHAIRWOMAN KRUEGER: With that, I'm
10 going to invite you to remove yourselves from
11 the screens.

12 And I'm going to call up Panel B:
13 New York Health Plan Association, Eric
14 Linzer, president; Community Health Care
15 Association of New York State, Rose Duhan,
16 president; Primary Care Development
17 Corporation, Louise Cohen, CEO; and the
18 New York Health Foundation -- oh, I'm sorry,
19 David Sandman had to excuse himself today, so
20 just the three for this panel. We still have
21 his testimony in your packets.

22 All right, we'll start with Eric
23 Linzer. Good afternoon.

24 MR. LINZER: Good afternoon,

1 Madam Chair, and good afternoon to the rest
2 of the members of the committee. I'm
3 Eric Linzer, president and CEO of the
4 New York Health Plan association. We
5 represent 29 health plans that provide
6 coverage to 8 million New Yorkers.

7 I appreciate the opportunity to offer
8 comments today. I'm going to focus on three
9 specific areas. First, our opposition to
10 Part P of the Governor's budget; second, our
11 support for the coverage expansion proposals
12 that were included, but also the importance
13 of going beyond those items; and third, a
14 request for funding for unanticipated costs
15 related to COVID.

16 As has been discussed earlier today,
17 Part P would direct the Department of Health
18 to reduce the number of health plans in the
19 Medicaid program to no fewer than two and no
20 more than five in each region, with an
21 effective date of October 1, 2023.
22 Eliminating health plans from the Medicaid
23 program will take options away from more than
24 5.5 million New Yorkers who rely on their

1 health plans for their care.

2 These are individuals who often have
3 multiple health conditions that require
4 coordination of numerous services that
5 include both fiscal and mental health, as
6 well as help coordinating social services
7 such as housing, employment, education and
8 food services. By reducing the number of
9 plans available in the Medicaid program, it
10 will take choices away from patients and will
11 disrupt their relationships with their
12 providers.

13 It's been talked a lot earlier today
14 about the complexity related to this. I
15 think one point to keep in mind here is that
16 this will have significant {inaudible},
17 particularly the fact that at the time that
18 this procurement will be moving forward, the
19 state is expected to recertify eligibility
20 for more than 7 million New Yorkers on
21 Medicaid. So, you know, there will be
22 significant challenges for patients,
23 providers and the rest of the marketplace.
24 We would urge the Legislature to reject this

1 proposal.

2 With regard to coverage expansion, we
3 support the proposals in Parts Q, S and U
4 around the Essential Plan, extending
5 postpartum coverage in Medicaid and
6 eliminating the \$9 monthly premium in the
7 CHP program. But we would also encourage you
8 to go further than that by providing a
9 state-funded insurance option for uninsured
10 low-income immigrants. A large portion of
11 these individuals are not allowed to enroll
12 in federally funded coverage options because
13 of their status. New York in many instances
14 already provides coverage to some of these
15 individuals. Establishing a state-funded
16 program to provide coverage to these
17 individuals would be an important step in
18 furthering the state's goal of universal
19 coverage of New York.

20 And then finally with regard to COVID
21 costs, you know, the cost of -- particularly
22 the cost of testing through 2020 and 2021 was
23 not factored into the commercial premium
24 rates. The federal requirement around

1 over-the-counter testing, you know, has added
2 additional costs which likewise are not
3 incorporated into the current year's rates.
4 These costs are substantial. We would urge
5 the Legislature to consider providing a fund
6 to help support and offset these
7 unanticipated costs for health plans because
8 of the importance of testing.

9 Thank you for the opportunity to offer
10 comments, and I look forward to answering
11 your questions.

12 CHAIRWOMAN KRUEGER: Thank you very
13 much.

14 Next up, the Community Health Care
15 Association of New York State.

16 MS. DUHAN: Good afternoon. I'm Rose
17 Duhan, president and CEO of the Community
18 Health Care Association of New York State.

19 As many of you know, CHCANYS is the
20 primary care association for New York's
21 70 federally qualified health centers, or
22 community health centers, which serve about
23 2.1 million New Yorkers at over 800 sites
24 throughout the state.

1 Thank you to all of the legislators
2 and to the chairs for your perseverance
3 during this very long day of testimony. I'm
4 going to just highlight our budget
5 priorities.

6 First, expanding the Governor's
7 telehealth initiative to ensure Medicaid
8 payment parity among all remote visit types,
9 regardless of location. CHCANYS was pleased
10 to see the Governor recognized the importance
11 of remote healthcare visit options and
12 endorsed establishment of a Medicaid pathway
13 for payment regardless of modality. But the
14 budget language as written may not address
15 the technology limitations of patients in
16 both rural and urban areas, and could create
17 barriers to creative solutions to address
18 workforce challenges, especially in the area
19 of behavioral health services, where pandemic
20 flexibilities have led to increased patient
21 engagement and served as a competitive
22 recruitment tool for employers.

23 We ask the Legislature to advance
24 clear language that will direct DOH to create

1 regulations that establish full payment
2 parity in Medicaid, regardless of modality or
3 patient or provider location.

4 Second, we ask you to enact policies
5 to expand the capacity of the depleted
6 healthcare workforce -- specifically,
7 certifying medical assistants and allowing
8 them to perform vaccinations. In 48 other
9 states, certified medical assistants provide
10 injections and administer vaccines under the
11 supervision of doctors, nurse practitioners
12 or physician assistants. We are facing a
13 massive provider shortage, as you've heard
14 throughout the day, and recognizing medical
15 assistants and allowing them to vaccinate is
16 a step New York can take to advance ongoing
17 efforts to address COVID-19 and would allow
18 nurses and other healthcare workforce to
19 perform more complex tasks that are needed
20 and for which they are trained.

21 Third, we ask you to repeal the
22 pharmacy benefit carveout. We are extremely
23 grateful for legislative action last year to
24 delay the implementation of the pharmacy

1 benefit carveout from the Medicaid managed
2 care program until April 1, 2023. We thank
3 you for sharing our concerns about the
4 catastrophic impact on safety net providers
5 this carveout will have.

6 The community health centers cannot
7 wait until 2023 to resolve this issue.
8 Uncertainty over the future of the 340B
9 program undermines the safety net community's
10 long-term financial stability. CHCANYS
11 respectfully requests that the Senate and
12 Assembly fully repeal the pharmacy benefit
13 carveout this year. We stand ready to
14 explore alternatives to this policy
15 initiative.

16 Finally, we ask you to establish a
17 \$7 million COVID equity pool to protect
18 community health centers from rate
19 disruptions.

20 As required by federal law, community
21 health centers and rural health clinics have
22 cost-based reimbursements which are adjusted
23 annually. The Department of Health has
24 determined that rate adjustments should not

1 be made based on visits conducted during the
2 2020 calendar year due to the unprecedented
3 nature of the pandemic. We strongly support
4 this action.

5 But a group of small community health
6 centers that serve populations that can least
7 afford to lose primary care providers will
8 face the loss. We request that the
9 Legislature provide funding to these safety
10 net providers by creating a \$7 million health
11 center COVID equity pool.

12 Please refer to our written testimony
13 for more information on the listed policies
14 for which we're advocating. I welcome your
15 questions.

16 CHAIRWOMAN KRUEGER: Thank you very
17 much.

18 And the last panelist, Primary Care
19 Development Corporation, Louise Cohen.

20 MS. COHEN: Good afternoon, Chairs
21 Weinstein and Krueger. And I also want to
22 give a shout-out to Dick Gottfried for his
23 leadership and his championship of primary
24 care for these many years.

1 My name is Louise Cohen, and I'm the
2 CEO of the Primary Care Development
3 Corporation, which is a New York-based
4 not-for-profit and a Community Development
5 Financial Institution, a CDFI, that is
6 certified by the U.S. Treasury. Our mission
7 is to create healthier and more equitable
8 communities by building, expanding and
9 strengthening access to quality primary care,
10 which we believe is essentially the
11 load-bearing beam of the healthcare system.

12 We know that primary care saves lives,
13 improves community health, and is central to
14 health equity. And we know that hospitals,
15 federally qualified health centers, and
16 independent practices are all part of the
17 primary care ecosystem. And we know that
18 people who have primary care are more likely
19 to live longer and healthier lives. And in
20 fact one of the central stories of the
21 pandemic has been that communities with less
22 access to primary care before the pandemic
23 had higher rates of sickness and death during
24 the pandemic, and they're most likely to be

1 poor Black and brown communities. So primary
2 care is a key pillar of equity.

3 We're concerned. We believe that
4 there's a lot in this budget to celebrate and
5 to appreciate, but it could be strengthened
6 with a prioritization of primary care. You
7 know, today in New York State primary care
8 gets about 5 to 7 cents on the healthcare
9 dollar, which is one key measure of access,
10 quality and equity. And national and
11 international experts really believe that
12 primary care should be about 12 to 14 percent
13 of healthcare spending.

14 One way to address this inequity is to
15 follow the lead of about 11 other states
16 around the country who have looked at their
17 own state spending and recommended a
18 significant increase over time, using a
19 variety of mechanisms such as reimbursement,
20 incentive payments and other value-based
21 approaches. And these efforts have reduced
22 preventable emergency room visits and
23 hospitalizations and demonstrably reduced
24 total cost of care.

1 With regard to infrastructure, we
2 support the capital -- the healthcare
3 transformation dollars.

4 We also administer a New York State
5 Community Healthcare Revolving Capital Fund,
6 which was created by the Legislature in 2017,
7 and we've provided affordable financing to
8 Article 28, 31 and 32 providers. The
9 original program limited this to facility
10 financing. We ask the Legislature to amend
11 this to include some things like debt
12 restructuring, which is very important. And
13 we also ask the Legislature to replenish
14 these funds to infuse new funds into that
15 fund.

16 We also ask you, as Rose did, to
17 repeal the 340B pharmacy carveout. We lend
18 to many 340B entities, and what we know is
19 340B has been a critical component of their
20 financial stability, which impacts their
21 ability to borrow money from other lenders,
22 including CDFIs. So we think that this will
23 be a critically important way to maintain the
24 stability of the 340B entities.

1 And so with Governor Hochul's historic
2 \$10 billion investment in healthcare, we
3 think there are ways and opportunities to
4 increase equity, especially through promoting
5 primary care.

6 Thank you for your time.

7 CHAIRWOMAN KRUEGER: Thank you.

8 And I'm just looking -- I do not see a
9 Senate hand up. Just checking. And so I'm
10 passing it back to the Assembly for first
11 round.

12 CHAIRWOMAN WEINSTEIN: Assemblyman Ra.

13 ASSEMBLYMAN RA: Thank you, Chair.

14 Eric, I want to go back to Part P and
15 your concerns with that. Starting with, you
16 know, what's the ultimate impact on Medicaid
17 patients from this?

18 MR. LINZER: So, you know, as I'd
19 mentioned, the proposal talks about reducing
20 the number of plans in the market to no fewer
21 than two but no more than five. In some
22 areas of the state that is going to mean that
23 there would be the elimination of some plans
24 from the Medicaid program.

1 What this means for patients is that
2 if their plan is eliminated and removed from
3 the program, they're going to be forced to
4 move to another plan, which could then
5 affect -- you know, have disruptions in their
6 relationships with their providers. It's
7 going to raise continuity of care concerns,
8 as these individuals -- many of whom, as I'd
9 mentioned, in need of a number of services,
10 support services -- would then have to be
11 transitioned from their old plan to their new
12 plan. So this has significant implications
13 for disrupting care for patients.

14 ASSEMBLYMAN RA: So I assume, then,
15 you know, for providers as well. You know,
16 if you're -- now the plan is not part of the
17 program, that's going to have that impact on
18 the patient of having to find a new provider.

19 MR. LINZER: It's certainly going to
20 have repercussions for providers as well,
21 particularly those that, say, for example,
22 are engaged in value-based payment
23 arrangements with the plan or those that may
24 have, you know, longstanding relationships

1 with their patients who, if they're forced to
2 move, it does create a number of issues
3 there.

4 I think the other piece is -- you
5 know, I don't want to underscore -- or I
6 can't overstate enough what we think is the
7 complexity in all of this. You know, when
8 we've looked at this and seen what's gone on
9 in other states, these are -- you know, this
10 is a time-consuming appearance process, it
11 creates a lot of concern and potential
12 disruption in the marketplace for patients
13 and for providers. And for a state like
14 New York, that as I mentioned in my testimony
15 will be recertifying Medicaid coverage for
16 7 million New Yorkers at around the same time
17 this procurement is taking place, it's going
18 to have a lot of unnecessary disruption for
19 some of our most vulnerable New Yorkers.

20 ASSEMBLYMAN RA: And lastly I know you
21 mentioned, you know, what other states have
22 done. So is there a way to meet the goals of
23 what this is trying to accomplish without
24 doing something that may be so disruptive?

1 MR. LINZER: We think that the state
2 already has, you know, existing authority
3 through the contracts with the plans to make,
4 you know, the changes that they're looking to
5 do without having to go through a disruptive
6 procurement process.

7 You know, they can define
8 expectations, they can set quality standards,
9 they can identify and direct community
10 investments that they wish plans to be
11 making. So there's sufficient authority to
12 be able to do, you know, what the state's
13 looking to without having to go through, you
14 know, a process that ultimately is going to
15 create an awful lot of disruption for the
16 entire marketplace, but most importantly for
17 patients.

18 ASSEMBLYMAN RA: Thank you.

19 CHAIRWOMAN KRUEGER: Thank you.

20 I don't see a Senator's hand up, so
21 I'm handing it back to you, Helene.

22 CHAIRWOMAN WEINSTEIN: So the only
23 other questioner we have is
24 Assemblywoman Miller.

1 ASSEMBLYWOMAN MILLER: Yes, thank you.

2 My question is for Eric as well. I
3 don't know if you had heard my earlier
4 question of the Health commissioner and the
5 director of Medicaid. It was regarding
6 private-duty nursing in the home care
7 environment.

8 Can you tell me or do you know what is
9 the current practice? Can insurers contract
10 directly with a private-duty nurse if a
11 family's unable to secure nursing through an
12 agency?

13 MR. LINZER: You know, Assemblymember,
14 I think they can. But we certainly would
15 want to go back and double-check that. And
16 we'd be happy to come back to you and your
17 staff to sort of provide any additional
18 context on that issue for you.

19 ASSEMBLYWOMAN MILLER: Great, thank
20 you. I would really appreciate it. Just,
21 you know, if it's already something that is
22 common practice, I'd be thrilled and like to
23 be able to offer that as maybe a potential
24 solution to myself and others. But if not,

1 if it's something that we can look into.

2 Thank you. I really appreciate it.

3 CHAIRWOMAN KRUEGER: All right. I do
4 not see any other hands up. Helene?

5 CHAIRWOMAN WEINSTEIN: No, I do not
6 either.

7 SENATOR RIVERA: I think Khaleel put
8 his name in the chat. I don't know if you --

9 CHAIRWOMAN KRUEGER: I don't see him
10 in his box.

11 CHAIRWOMAN WEINSTEIN: And I've asked
12 him if he wants to ask a question, so I think
13 it may have just been that he was arriving at
14 the hearing again. He didn't respond to
15 wanting to ask a question, so we will go to
16 Senator Krueger.

17 CHAIRWOMAN KRUEGER: All right. Then
18 I want to thank the three testifiers for
19 joining us today. And again, I know that
20 your testimony is much more detailed than the
21 three minutes we gave you, and no doubt
22 people will have follow-up. Thank you.

23 MULTIPLE PANELISTS: Thank you.

24 CHAIRWOMAN KRUEGER: The next panel,

1 of labor: SEIU 1199, Helen Schaub, director
2 of policy and legislation; 32BJ SEIU,
3 Manny Pastreich, secretary treasurer; and the
4 New York State Nurses Association, Pat Kane,
5 executive director.

6 All right, we'll just start with
7 Helen.

8 MS. SCHAUB: Thank you so much. Good
9 afternoon, everyone, and thank you so, so
10 much for sticking through the whole day. I
11 know there's been a lot of discussion about a
12 lot of important issues, so we really
13 appreciate that.

14 You know, I want to start out by
15 saying something that I said at the hearing
16 specifically on the healthcare workforce,
17 which is healthcare workers are really not
18 okay. I think people know the toll that the
19 last two years have taken. We're really
20 trapped in this kind of vicious cycle of
21 understaffing, where people can't do their
22 jobs. They're not leaving because they can't
23 handle their jobs, they're leaving because
24 they can't handle not being able to do their

1 jobs -- not being able to give the kind of
2 care that they want to give.

3 And then as people leave, the people
4 that are left are in the same situation or
5 worse situation.

6 So we do really appreciate the focus
7 on the healthcare workforce. We think it is
8 crucial not only for workers themselves but
9 to deliver the kind of care that needs to be
10 delivered. The workforce investments are
11 particularly important. Some of them take a
12 couple of years, but we have to start them
13 now if we're going to not be in the same
14 situation in a year or two.

15 We appreciate the bonuses. If the
16 bonuses are in the final budget, we'd like to
17 make sure that they do go to all vital
18 members of the healthcare team. Saying that
19 because you're cleaning a COVID patient's
20 room or delivering their meal is not included
21 while other kinds of care is we think is not
22 appropriate and really doesn't recognize all
23 of the vital roles of the folks in the care
24 team.

1 A lot of people have talked about the
2 surpluses, which are really driven by
3 Medicaid and the federal higher matching
4 percentage. We want to make sure that there
5 are real investments to address the kind of
6 crises that people have been talking about --
7 psychiatric care, the safety net hospitals.

8 We are focusing on two in particular.
9 As I mentioned, the safety net hospitals, we
10 need higher rates and we need more dedicated
11 funding. Five hundred million dollars, in
12 addition to the billion that has been set
13 aside, we think, in the transformation pool
14 is crucial.

15 And then, of course, Fair Pay for Home
16 Care, which we really appreciate all the
17 advocacy from members of the Legislature. A
18 bonus is not the same thing, as many of you
19 have pointed out. You pay your back rent and
20 you're still in the same deficit situation.
21 You're not going to take a job that you can't
22 afford to take just because you might get a
23 couple of hundred dollars in six months.

24 We need to, you know, just make sure

1 everybody understands it's not true, as was
2 said earlier, that bonuses are easier to
3 administer. That's not a reason to do them.
4 If you put a statutory wage, the money will
5 get to the workers. And that's been true
6 before, and the state needs to make sure the
7 money flows to the employers. But it's not
8 true that it's easier to administer a bonus
9 than it is to administer a wage increase.

10 And just in my last couple of minutes,
11 we did flag in our -- couple of seconds, we
12 did flag in our testimony we do have real
13 concerns about the impact on quality of care
14 in nursing homes with the certified med tech
15 proposal. We think there's much better ways
16 to create career pathways for CNAs and
17 deliver the care that needs to be delivered.

18 So thank you so much for having me
19 today.

20 CHAIRWOMAN KRUEGER: Thank you very
21 much.

22 And our next testifier is 32BJ.

23 MR. PASTREICH: Great, thank you for
24 having me today. It's a real honor, and I'm

1 honored to give this presentation along with
2 1199 and New York Nurses Association. You
3 know, the frontline work that they do is so
4 appreciated by all of our members.

5 So the focus of what I'm going to talk
6 about today is sort of the impact of high
7 hospital prices on the budget.

8 With a little bit of background, you
9 know, 32BJ, as most of you know, we are
10 essential workers in our own way. We were
11 the ones taking care of the buildings as
12 everyone sort of ran back to those
13 residential buildings, taking care of the
14 office buildings during the last two years,
15 and the ones working through COVID. And it's
16 not that healthcare isn't an important issue
17 all the time, but it was especially important
18 these last years.

19 And our union has had a real focus on
20 ensuring that our members have access to the
21 high-quality healthcare, to the institutions
22 where the 1199 and Nurses Association members
23 work, and at an affordable price that they
24 can -- that works for them as middle class,

1 but the middle class that are stretched every
2 single day living in New York.

3 And what we looked at when we looked
4 at the data -- and our fund has sort of
5 unique access to the data of how much
6 hospitals charge -- we've seen, number one,
7 healthcare inflation of the hospitals going
8 up so much that if it had gone up as regular
9 inflation over the past 10 years, our members
10 would have \$5,000 in their pockets more if
11 all that excess inflation went to their
12 wages. Which is really how bargaining works.

13 And if hospitals charged our fund the
14 same that they charge the government for
15 Medicare -- same hospitals, same doctors,
16 same procedure -- our members would have
17 another \$10,000 in their pockets. And, you
18 know, that \$15,000 would make a huge
19 difference for those workers.

20 In essence, the hospitals are charging
21 three times the rate of Medicare to our fund,
22 and we fully believe that they're charging
23 the same rate to state workers, city workers
24 and other private-sector workers across

1 New York State.

2 And I just want to say that there's no
3 sign -- and New York State itself has done
4 studies to show this -- that price and
5 quality are related. So while many of these
6 large institutions like New York Presbyterian
7 are charging high prices, many of them
8 don't -- can't back that up with quality
9 care. There's many low-priced and
10 medium-priced hospitals with high-quality
11 care, and there's many high-priced hospitals
12 with low-quality care.

13 And what's important to us is these
14 high-priced hospitals threaten our wages. As
15 we go into bargaining for the 32,000
16 residential workers in New York City, at the
17 heart of the matter will be how much money
18 goes to healthcare and how much money goes to
19 wages. And we need to put more money in our
20 members' pockets.

21 So as I finish up, I just want to say
22 that, you know, our suggestions are that the
23 state really use its purchasing power to spur
24 change. You know, the budget that

1 New Yorkers -- this impacts New Yorkers'
2 budgets, and we think there's well over a
3 billion dollars to be saved. And we really
4 suggest the state audit the institutions to
5 see what money is going where, audit the
6 amount that these hospitals are charging.

7 So I wish I had more time, but I know
8 you all have had a long day, so I will turn
9 it over to the next panelist.

10 CHAIRWOMAN KRUEGER: Thank you very
11 much. And the next panelist is the New York
12 State Nurses Association.

13 MS. KANE: Thank you. Good afternoon.

14 I'm Pat Kane, executive director of
15 the New York State Nurses Association and a
16 nurse with 30 years of hospital experience.
17 I want to say, on behalf of 40,000 NYSNA
18 members, I want to thank the chairs and
19 members for inviting us to share our views on
20 the budget today.

21 First, it's really refreshing that for
22 the first time in many years we're not here
23 fighting against budget cuts to healthcare.
24 We applaud the initiatives to expand health

1 coverage, including expanded services and
2 eligibility for Medicaid, CHP and the
3 Essential Plan, raising the Medicaid cap, and
4 increasing funding and reimbursements to
5 providers.

6 We do support reining in the
7 proliferation of managed-care plans,
8 requiring applicants to meet broader local
9 health needs, and including public hospitals
10 in their networks.

11 We do have concerns, however, that the
12 scope of some of the budget proposals falls
13 short at this critical moment. First, we do
14 need to do more to end racial and social
15 disparities in healthcare. We cannot ignore
16 a two-tiered system in which some hospitals
17 are flush with cash while our public and
18 private safety net hospitals are barely kept
19 afloat.

20 The budget proposes to increase
21 funding for safety net hospitals by
22 450 million to 700 million, but sadly, this
23 is not enough. These hospitals do require
24 bolder action to allow them to care for our

1 most vulnerable New Yorkers.

2 Second, we need to do more to address
3 hospital staffing right now. The current
4 situation is really unsustainable. We do
5 support the goal of increasing the workforce
6 by 20 percent over the next five years, which
7 translates into at least 16,000 additional
8 nurses. Our hospitals cannot meet
9 surge-and-flex demands or even safe care
10 standards when they don't have enough nurses.

11 Our healthcare workers have faced such
12 traumatizing conditions over the past two
13 years, many are feeling ignored and abandoned
14 by agencies charged with protecting them and
15 their patients from harm. We've seen too
16 many leave entirely while others are taking
17 temporary traveler jobs because they offer
18 much better working conditions.

19 So to fix staffing shortages, we have
20 to stop the exodus of nurses, we have to try
21 to win others back, and make nursing the
22 attractive and fulfilling profession that it
23 does deserve to be. And this requires fixing
24 the retention bonus to cover all healthcare

1 workers, expanding tuition support and
2 nursing school capacity beyond the 3 million
3 budgeted for the Nurses Across New York
4 program, fully enacting all of the provisions
5 of the Nurse Practitioner Modernization Act,
6 creating a dedicated fund for hospitals to
7 achieve safe staffing levels, and provide
8 competitive wages and benefits.

9 And lastly, we have to reject the
10 quick fix proposals that will really lower
11 practice standards, including shifting
12 oversight of the professions to the DOH,
13 joining the Interstate Licensure Compact,
14 expanding the scope of EMS practice, and
15 allowing non-nurses to dispense medications
16 in nursing homes.

17 In conclusion, we must increase
18 funding to keep hospitals open and to ensure
19 that there are enough nurses and other staff
20 to provide the care our patients need and to
21 mentor those just entering the workforce. If
22 we don't make these bold investments in
23 healthcare that we need right now, we know
24 our state and our people will pay dearly for

1 years to come.

2 Our positions are covered in more
3 detail in our written testimony, and I can
4 respond to any questions. Thank you so much.

5 CHAIRWOMAN KRUEGER: Thank you,
6 everyone.

7 I see Senator Gustavo Rivera, our
8 Health chair, with his hand up.

9 SENATOR RIVERA: Hello, folks. Thank
10 you so much for joining us.

11 Okay, since I only have three minutes,
12 Pat, I'll start with you. So I figure that
13 you folks have a strong opinion on the whole
14 scope of practice issue and switching from
15 SED to DOH. Could you tell us what the
16 position of the union is on that proposal?

17 MS. KANE: Sure. I mean, I think, you
18 know, Gustavo, is if it's not broke, don't
19 fix it, right? I mean, the SED, we worked
20 with them for many years. They really are
21 the professional -- where our professional
22 standards of practice, a lot of that comes
23 from.

24 You know, DOH, that's a whole

1 different -- that's a whole different animal,
2 right? There's a lot of influence from the
3 industry, right, and the Public Health
4 Planning Council, and we really think that
5 the practice issues and industry issues need
6 to be kept separate. We think that's worked
7 for us very well over the years. It's kept
8 our standard of practice high. We are held
9 to a higher standard than oftentimes the DOH
10 is able to enforce.

11 SENATOR RIVERA: Gotcha.

12 Helen, from 1199's perspective, do you
13 folks have an opinion on the scope of
14 practice issue?

15 MS. SCHAUB: I mean, as I mentioned --
16 and we certainly are the same with NYSNA on
17 the question of certified medication aides in
18 nursing homes. We think the better strategy
19 there is to help grow more licensed practical
20 nurses who do the work in nursing homes, by
21 creating a real career pathway for CNAs
22 rather than paying them a couple of dollars
23 more.

24 And we know that more nurses in

1 nursing homes is very --

2 (Zoom interruption.)

3 MS. SCHAUB: -- important for the
4 higher quality of care, and that --

5 SENATOR RIVERA: Come on, Helene, come
6 on.

7 CHAIRWOMAN WEINSTEIN: Sorry.

8 MS. SCHAUB: -- by allowing medication
9 aides will lead particularly for-profit
10 nursing homes to reduce the number of nurses.

11 It's not necessarily that somebody
12 can't hand out prepackaged meds, but that a
13 nurse, when she's doing that, is also
14 interacting with the resident, getting a
15 sense of how the resident is doing, able to
16 respond to other clinical needs. And we need
17 more nurses in nursing homes, not less.

18 SENATOR RIVERA: Gotcha. I want to
19 give you the rest of the time so that you can
20 dig a little deeper. You said that today
21 Brett was wrong about what he said regarding
22 bonuses and regarding how money can and
23 should go -- could you give us a little bit
24 more on that, on why you think he is wrong?

1 MS. SCHAUB: Sure. I mean, we -- when
2 we've raised the minimum wage before, or when
3 we set the statutory wage and wage parity,
4 the law says you have to pay X amount. That
5 means that the employers have to pay X
6 amount. That's a very efficient, clear way
7 of ensuring that that money gets to the
8 workers.

9 The kind of back-and-forth that he was
10 referring to is really about how the
11 employer -- the state and the plans pay the
12 employers, not how the money gets to the
13 workers. And we think that there are more
14 efficient ways to make sure that the money
15 gets passed through to the employers so that
16 they can afford to do what they're legally
17 obligated to do.

18 For example, by setting a labor rate,
19 it's very clear if you pay somebody \$20 an
20 hour or \$22 an hour, you know how much it
21 costs to do that. Right? You know what the
22 FICA is, et cetera. You can say the labor
23 component of the rate to the employer has to
24 be at least equal to X to cover this cost.

1 SENATOR RIVERA: Gotcha.

2 MS. SCHAUB: And so the idea that, you
3 know, employers submitting lists to the state
4 and then having to pay that bonus money out
5 is more efficient than saying "Every employer
6 has to pay X," is just not true.

7 SENATOR RIVERA: Okay, thank you.
8 Thank you, Madam Chair.

9 CHAIRWOMAN KRUEGER: Thank you.
10 Assembly?

11 CHAIRWOMAN WEINSTEIN: We do not have
12 anyone. We just want to thank the witnesses
13 on behalf of the work their members do for
14 our constituents.

15 CHAIRWOMAN KRUEGER: I agree. I want
16 to thank you all. And, you know, I'm going
17 to wish you an easier year coming up, but no
18 guarantees. So thank you, thank you.

19 Our next panel will be Panel D, for
20 people who are following along. Let's see,
21 one second. We're going to start with the
22 Medical Society of the State of New York,
23 Joseph Sellers, president; the United States
24 Department of Defense -- you'll understand

1 why he's here when he testifies --
2 Christopher Arnold, Northeast Region liaison;
3 The Nurse Practitioner Association New York
4 State, Stephen Ferrara, executive director;
5 the New York State Society of Physician
6 Assistants, Jonathan Baker, president; the
7 Associated Medical Schools of New York,
8 Jo Weiderhorn, president; and the Hospice and
9 Palliative Care association of New York
10 State, Jeanne Chirico, president.

11 So we're just going to go down the six
12 of you first, thank you, starting with the
13 Medical Society of New York State.

14 DR. SELLERS: Thank you. I am Dr. Joe
15 Sellers, an internist pediatrician and the
16 physician executive at the Bassett Medical
17 Group in Cooperstown, New York, and I am the
18 president of the Medical Society of the State
19 of New York. I thank you for inviting me
20 today.

21 Our submitted written testimony
22 expresses support for many items in the
23 Executive Budget, but there are some that do
24 raise concerns as well.

1 With so many in our healthcare system
2 exhausted after two grueling years of
3 responding to the pandemic, often putting our
4 lives and our health at risk to address
5 patient needs, we welcome various things in
6 the budget that support the healthcare
7 infrastructure and the healthcare workforce.

8 Specifically, MSSNY supports the
9 increased funding for the Doctors Across
10 New York loan repayment program as an
11 investment in the future of our healthcare
12 system, particularly when our young
13 physicians are leaving medical and residency
14 with hundreds of thousands of dollars in
15 student loan debt.

16 Likewise, telehealth parity as
17 proposed by Governor Hochul is an important
18 investment to ensure our patients,
19 particularly those with chronic conditions,
20 have access to needed care and options to
21 maintain regular contact with their
22 physicians when various circumstances may
23 limit their ability to leave their homes due
24 to limited mobility, transportation options,

1 or the risk of COVID transmission.

2 MSSNY also supports the positive
3 initiatives to help our patients who earn too
4 much to qualify for Medicaid to be able to
5 enroll in comprehensive state health
6 insurance programs, including expanding the
7 income eligibility limits for the Essential
8 Plan, expanding the time frame for postpartum
9 coverage, and eliminating premiums for CHP
10 eligibility for children in low-income
11 families. MSSNY also supports the proposed
12 increase in Medicaid payments as a start in
13 the right direction.

14 MSSNY also supports budget proposals
15 that address health insurance obstacles to
16 coverage and payment, including limiting
17 credentialing delays and reducing excessive
18 and unnecessary medical record requests. But
19 we further support insurance reforms not
20 included in the budget such as limits on
21 excessive preauthorization requirements and
22 improved network adequacy. We thank the
23 superintendent of DFS for mentioning that.

24 First, we ask the Legislature, though,

1 to reject the Governor's proposal to cut the
2 Excess Medical Liability Insurance Program.
3 It will foist hundreds of thousands of
4 dollars of new costs on physicians who are
5 already struggling to recover from the
6 economic hardship of the pandemic. We thank
7 Assemblymember Cahill for bringing that up
8 earlier.

9 But we are concerned about the budget
10 proposals related to pharmacists and other
11 care providers that would create silos in
12 healthcare delivery and away from a
13 physician-led team model. We urge you to
14 protect the Medicaid prescriber prevails
15 protection.

16 And finally, we support the proposal
17 in the Education & Labor Budget to place some
18 initial limits on restrictive employment
19 covenants, but it needs to go further to
20 address highly restrictive covenants that
21 help systems require employee physicians
22 which can negatively impact patient
23 continuity of care if a physician leaves
24 employment.

1 Our written testimony has other items
2 that are just as important to us in the
3 budget. We thank you for giving us this
4 opportunity.

5 CHAIRWOMAN WEINSTEIN: Thank you.

6 If we can go to Christopher Arnold
7 now.

8 MR. ARNOLD: Thank you, Madam Chair,
9 Madam Cochair. The Department of Defense is
10 grateful for the opportunity to support the
11 policy changes proposed in the Executive
12 Budget HMM Part B to enact the Interstate
13 Medical Licensure Compact and the Nurse
14 Licensure Compact, which address licensing
15 issues affecting our uniformed service
16 members and their families.

17 I am Christopher Arnold, the Northeast
18 Region liaison at the United States
19 Department of Defense-State Liaison Office,
20 operating under the direction of the
21 Undersecretary of Defense for Personnel and
22 Readiness. I am also an Army combat veteran
23 and son of a practicing New York registered
24 nurse of 53 years, and I thank you for the

1 opportunity to address you today.

2 Licensure issues for both service
3 members and their spouses have been a top
4 concern for the department for over a decade,
5 and the Secretary of Defense recently made
6 taking care of families the fourth line of
7 effort in our national defense strategy. The
8 First Lady, Dr. Biden, has called military
9 spouse licensure a national security
10 imperative, key to both military readiness
11 and retention. Pre-pandemic research showed
12 that unemployment rates for licensed military
13 spouses ranged as high as 28 percent. The
14 secretaries of the military departments have
15 made the importance of military spouse
16 licensure explicitly clear as they consider
17 the availability of license reciprocity when
18 evaluating future basing or mission
19 alternatives.

20 The fiscal year 2020 National Defense
21 Authorization Act requires the military
22 departments to consider the quality of
23 healthcare near bases, whether reciprocity of
24 professional licenses is available for

1 military families, and produce annual
2 scorecards evaluating license portability.
3 The Air Force's approved strategic basing
4 criteria assesses things such as membership
5 in the Nurse Licensure Compact, and future
6 Air Force basing decisions will be made with
7 a consistent framework to ensure optimal
8 conditions for service members and their
9 families.

10 The NLC allows an active-duty service
11 member or their spouse to designate a home
12 state where the individual has a current
13 license in good standing. This state then
14 serves as the individual's home state for as
15 long as the service member is on active duty,
16 while adhering to the laws, rules and scope
17 of practice in New York.

18 This is significant for the military
19 community in that along with active-duty
20 military spouses receiving the benefit of
21 compacts, active-duty members, members of the
22 Reserve component, Reserve component spouses,
23 transitioning service members and other
24 veterans benefit from the mobility provided

1 through compacts, as New Yorkers serving
2 around the country will have their multistate
3 license recognized when transitioning in and
4 out of 39 other states.

5 Congress provided the department with
6 authority to enter into a competitive
7 agreement with the Council of State
8 Governments to provide grants to professions
9 to develop compact law to be approved by
10 states, and I'm glad we have Chairman Rivera,
11 our CSG East health policy chair, here with
12 us today.

13 In addition to supporting the drafting
14 of model compacts for the professions,
15 federal law requires DOD to support them by
16 developing database systems to make the
17 compacts more efficient and operational,
18 allowing states to share information about
19 practitioners using the compact provisions to
20 work in the member states.

21 The department encourages states to
22 engage in immediate actions to fully
23 implement their laws and make them
24 accessible; near-term actions to obtain a

1 baseline of getting a spouse a license within
2 30 days; and long-term solutions for instant
3 reciprocity through compacts. How fast these
4 actions and solutions can be approved and
5 implemented is up to the states.

6 As always, as liaison to the
7 Northeast, I stand ready to answer whatever
8 questions you may have.

9 CHAIRWOMAN WEINSTEIN: Thank you.

10 We go now to The Nurse Practitioner
11 Association New York State.

12 DR. FERRARA: Hi. I'm Dr. Stephen
13 Ferrara, nurse practitioner and the executive
14 director of The Nurse Practitioner
15 Association, the organization representing
16 more than 25,000 NPs throughout New York
17 State. The NPA appreciates the Legislature's
18 longstanding support and the opportunity to
19 testify regarding Governor Hochul's Health
20 Article 7 bill today.

21 In New York, NPs gained legal scope of
22 practice with full prescribing authority more
23 than 30 years ago. NPs possess a license and
24 experience as an RN, then obtain additional

1 certification as an NP upon completion of a
2 master's or doctoral degree. To quote the
3 State Ed Department, the law does not require
4 a physician to supervise a nurse practitioner
5 or cosign any documents, and holds them
6 independently responsible for the care
7 provided.

8 Prior to 2014, however, all NPs were
9 statutorily required to maintain contracts
10 with physicians as a condition of practice.
11 These written agreements proved to be a
12 costly artificial barrier to accessing
13 healthcare services that had no positive
14 impact on healthcare outcomes. As a result,
15 as part of the 2014 budget negotiations, the
16 NP Modernization Act was enacted. This
17 reform eliminated the written agreement for
18 NPs who completed 3600 hours of practice, but
19 required them to maintain collaborative
20 relationships, another administrative
21 function without patient benefit.

22 The Legislature insisted on including
23 a study, report and sunset. That sunset date
24 is now June 30th of 2022.

1 Ultimately, SED and DOH jointly
2 concluded that the law was achieving its
3 purpose without any indication of adverse
4 impact on quality of care and should be made
5 permanent.

6 The COVID pandemic has bolstered the
7 justification for updating the modernization
8 act. NPs have been on the front lines
9 throughout this pandemic and, as a result of
10 still-in-effect executive orders, have been
11 able to do so without maintaining written
12 agreements or mandated relationships. The
13 suspension of these requirements over the
14 last two years has made it evident that the
15 administrative burdens provide no clinical
16 benefit.

17 The NPA is encouraged that Governor
18 Hochul's Health Article 7 bill calls for
19 eliminating statutory collaboration
20 requirements. We support making the law
21 permanent and eliminating the unnecessary
22 burden placed on NPs who have completed
23 3600 hours of practice. However, the
24 language needs to be clarified so that the

1 standard applies regardless of the healthcare
2 services provided or the setting in which it
3 is delivered.

4 The chairs of the legislative
5 healthcare committees, and many of your
6 colleagues, have made it clear that they
7 fully understand the role of NPs by
8 sponsoring A1535 and S3056A. These similarly
9 track the budget proposal but specifically
10 eliminate any statutorily mandated
11 collaborative relationship for all NPs with
12 greater than 3600 hours of experience.

13 The NPA supports the implementation of
14 integrated team-based approaches to
15 healthcare delivery that are centered on
16 patient needs. As the National Academy of
17 medicine explains, this is a systems approach
18 to care and not a licensure construct.
19 Preventing clinicians to practice at the top
20 of their education, as Commissioner Bassett
21 just stated, without unnecessary statutory
22 mandates, needlessly reduces the flexibility
23 and capacity of the workforce. NPs will
24 always continue to collaborate with other

1 health professions.

2 It is imperative that either through
3 Chairs Gottfried and Rivera's bills or a
4 modified version of the Governor's proposed
5 language, New York join the 24 other states
6 that afford NPs full practice authority.
7 Multiple and robust peer-reviewed clinical
8 studies exist and consistently prove the
9 high-quality care provided by NPs.

10 Let us remember that psychiatric nurse
11 practitioners are also providing much-needed
12 access to mental health services.

13 The NPA respectfully requests that the
14 Legislature work with the Executive as part
15 of this budget process to allow NPs to
16 practice at the top of their license without
17 unnecessary statutory mandates. Thank you.

18 CHAIRWOMAN WEINSTEIN: Thank you.

19 We move on to the New York State
20 Society of Physician Assistants.

21 MR. BAKER: Hi. Good afternoon. And
22 thank you to the Senate and Assembly chairs
23 and committees here today for holding this
24 hearing.

1 My name is Jonathan Baker, and I'm the
2 president of the New York State Society of
3 PAs.

4 As the New York healthcare workforce
5 shortage inevitably worsens over the coming
6 years, it is essential that PAs are included
7 in the state budget as part of the healthcare
8 workforce solution. PAs are healthcare
9 providers trained in the medical model, based
10 on physician training. We are nationally
11 certified, licensed by the state, and
12 overseen by the State Board for Medicine. We
13 provide preventive health services, diagnose
14 illness, develop and manage treatment plans,
15 prescribe medications, and often serve as
16 primary care providers.

17 Our education, scope and training
18 allow flexibility to care for patients of
19 every age, in every discipline, and in every
20 medical setting across every region of
21 New York State.

22 For the past two years, under
23 Executive Orders 202 and 4, the nearly
24 20,000 PAs licensed in New York State have

1 been able to care for our patients without
2 the requirement for physician supervision.
3 This has allowed PAs to practice to the
4 fullest extent of our scope and training
5 while working with the healthcare team,
6 including our physician colleagues. Our
7 unique medical training, skill set and
8 flexibility allow us to fill critical
9 workforce gaps and prepared us to provide
10 essential care on the front lines of the
11 COVID-19 pandemic.

12 PAs proved critical in establishing
13 and managing emergency care triage tents,
14 staffing safety net hospitals, critical care
15 access, hospital emergency rooms and ICUs,
16 vaccination and testing efforts, telemedicine
17 implementation, and everything in between.
18 During this nearly two-year de facto
19 demonstration project, we are not aware of
20 any PA who has worked outside of their scope
21 or any untoward patient events.

22 A review of the data from the National
23 Practitioner Data Bank for the last six years
24 shows that there's no change in the number of

1 reports processed against PAs for the time
2 period the executive orders have been in
3 place.

4 Included in my written testimony is a
5 number of peer-reviewed journal articles
6 showing that PAs provide care with similar
7 outcomes to physicians at significantly
8 decreased healthcare costs. PAs expand
9 access to care for New Yorkers with a special
10 focus on underserved populations, including
11 immigrants, LGBTQ+ and rural populations.

12 Several states have permanently
13 removed the supervision requirement for PAs,
14 while others have legislation pending.

15 New York's 28 PA programs are
16 educating the future of our healthcare
17 workforce. By allowing PAs to practice at
18 the top of our license, we ensure that we are
19 not exporting some of New York's most
20 valuable resources, our PAs.

21 Additionally, any loan repayment
22 programs included in the budget should be
23 extended to PAs as well.

24 The New York State Society of PAs

1 requests that the State Budget include
2 language to codify the executive orders as it
3 pertains to PAs, effectively removing
4 administrative barriers, which will allow PAs
5 to continue to meet the many and diverse
6 healthcare needs of our patients.

7 Thank you.

8 CHAIRWOMAN WEINSTEIN: Thank you.

9 We now go to Associated Medical
10 Schools of New York.

11 There you go, Jo.

12 MS. WIEDERHORN: Okay, sorry.

13 I'm Jo Wiederhorn, and I'm the
14 president of the Associated Medical Schools
15 of New York. I want to thank all of you for
16 allowing me to testify today.

17 Normally I come before this body and
18 I'm either asking for more money or I am
19 asking you to please put the money back in
20 the budget for our programs that have been
21 taken away. Today I am not. Today I am here
22 to thank you, thank you for your continued
23 support.

24 I think you'll see, in the addendums

1 that I've provided, our medical school
2 enrollment is now over 21 percent
3 underrepresented minority students in the
4 entering class, and over 18 percent in the
5 total aggregate of medical students. This
6 has come a long way since we first started
7 these programs. But we still say we have a
8 long way to go, and we know we have a long
9 way to go.

10 In the Executive Budget the Governor
11 basically doubled our budget. We now -- they
12 have now put in \$2.44 million for us to
13 expand our programs. We certainly can use
14 these funds. We have programs across the
15 state that are looking to advance their
16 diversity programs.

17 So my request to you all is to please
18 keep the \$2.44 million in the budget and have
19 it be in the enacted budget.

20 I also wanted to speak briefly about
21 our scholarship program. The scholarship
22 program is a legislative add-on. Last year
23 we received \$550,000 to provide scholarships
24 to medical students who will then make a

1 want to say this is a real problem because
2 our stem cell researchers are being contacted
3 by California, that just put \$5.5 billion
4 into their stem cell program. And we
5 certainly have the chance of a brain drain
6 out of New York.

7 So thank you.

8 CHAIRWOMAN WEINSTEIN: Thank you.

9 And our last member of this panel,
10 Hospice and Palliative Care Association of
11 New York State.

12 MS. CHIRICO: Hello. And thank you
13 for allowing me to present today. I thank
14 the chairs, and I thank all the members who
15 are here and still on the line. I've learned
16 an incredible amount already today.

17 And I appreciate the Governor's budget
18 where our association believes there are many
19 opportunities to support people with serious
20 illness. But without your help, with the
21 one-house bills and budget clarifications,
22 hospices will once again be left out of the
23 resources that New York offers.

24 There are opportunities within the

1 budget to debate the use of the funds, and
2 there are things that we might agree with or
3 disagree with. But I hope that we can all
4 see that when it comes to hospice, there is
5 no debate. We are all going to die at some
6 point. We all are going to lose a loved one
7 in our lifetime. And I hope that if you have
8 lost a loved one, that you have had an
9 opportunity to experience the benefits of
10 hospice services.

11 But unfortunately, you may be in the
12 minority of people if you have, because
13 New York is failing its constituents in
14 helping them to access hospice services.
15 New York is last in the nation in its hospice
16 utilization. Only about 25 percent of the
17 Medicare beneficiaries in New York State
18 access hospice services at the end of their
19 life, which is what puts us last in the
20 nation.

21 There are a variety of reasons for
22 this, but our association believes that there
23 are opportunities within this budget to show
24 your commitment and dedication to people with

1 serious illness by aligning some of these
2 items with the needs of our people who are
3 seriously ill.

4 For example, within the Department of
5 Health, helping us to create a position
6 dedicated to hospice and palliative care
7 services.

8 Working on a state campaign for
9 advanced care planning to assure that all
10 New Yorkers, not just people who receive
11 Medicaid, but all New Yorkers understand
12 their rights and that they have an
13 opportunity to choose the care that they
14 prefer at the end of their life.

15 So a statewide advanced care planning
16 campaign that coincides as well with
17 healthcare registry for advanced directives
18 that include the MOLST form. Right now the
19 MOLST e-registry is being housed by a third
20 party out of their community service. It is
21 not under the New York State Department of
22 Health, it is nowhere under the guise of
23 New York State. And we request that this
24 change and that the Legislature help us

1 change that and make that happen through
2 budgetary alignment.

3 So thank you for allowing me to be
4 here. And I believe you'll see in our
5 written testimony expanded explanation of all
6 these things. But we ask for your help to
7 support the seriously ill in New York.

8 Thank you.

9 CHAIRWOMAN WEINSTEIN: Thank you.

10 Is Assemblyman Byrne here? I know he
11 had raised his hand to ask a question.

12 ASSEMBLYMAN RA: I think we lost him.

13 CHAIRWOMAN WEINSTEIN: If not, so then
14 Mr. Ra.

15 ASSEMBLYMAN RA: Thank you, Chair.

16 I just had a question for Mr. Arnold.

17 So thank you for your testimony. I
18 originally saw the witness list and I wasn't
19 sure, and then read your testimony and
20 obviously you talked about an issue which I
21 think is very important. I'm just curious
22 how the compacts relate to the state's
23 current authority to independently set its
24 own standards for education, training and

1 licensure.

2 MR. ARNOLD: Thank you for the
3 question, Assemblyman.

4 A nurse licensure compact does not set
5 standards for nursing education, training or
6 licensure. The NLC contains 11 licensure
7 requirements that all states must meet before
8 obtaining a multistate license. These
9 licensure requirements are contained in the
10 legislation and cannot be changed by the
11 interstate commission.

12 All standards for a single state
13 license, nursing education, nursing practice
14 and discipline remain at the state level. I
15 cover 11 states. Every state perceives their
16 state has the highest standards, yet they are
17 more alike than different. The bolstered
18 commonality of the NLC's multistate license
19 mirrors or exceeds New York in-state
20 licensure requirements that applicants
21 graduate from an accredited nursing program,
22 pass the national council licensure
23 examination, and undergo a state and federal
24 fingerprint and criminal background check.

1 The best evidence that we have about
2 the quality benefits of licensure relate to
3 occupations that tend to have more harmonized
4 standards across states. Where we do not
5 have any strong evidence, however, is to
6 suggest that the type of license recognition
7 in the NLC is associated with worse quality
8 or worse care outcomes.

9 This type of well-designed licensure
10 regime can enhance public safety while
11 expanding healthcare access in historically
12 underserved communities.

13 ASSEMBLYMAN RA: And you mentioned
14 towards the end about this national
15 background database. Could you just talk a
16 little bit more about that?

17 MR. ARNOLD: Certainly. Congress
18 required the department to enter into a
19 competitive agreement with the Council of
20 State Governments and their National Center
21 for Interstate Compacts, and provided
22 \$5 million in grants to select professions to
23 develop model compact legislation addressing
24 license portability affecting transitioning

1 military spouses along with other
2 practitioners in the profession.

3 The current effort is a collaboration
4 between the federal government, state
5 governments, nongovernmental organizations
6 representing professionals and state
7 licensing boards. And through this effort,
8 all practitioners will have greater mobility
9 while sustaining the focus on assuring public
10 safety.

11 For example, in 2015 the previous
12 enhanced NLC, which included standard
13 licensure requirements among NLC states to
14 guarantee that bedside nurses follow the same
15 licensing guidelines, was amended to include
16 additional safeguards such as the mandatory
17 FBI and state police background checks and
18 fingerprinting. Such changes required states
19 which were members of the prior compact to
20 pass new enabling legislation to practice
21 under the amended compact. We perceive that
22 the ongoing effort to develop these databases
23 will further enhance public safety.

24 And while, for example, executive

1 orders to suspend licensure requirements
2 could be used during a time of emergency,
3 that would create a system where unvetted
4 nurses would be practicing. Whereas all
5 nurses who practice under a compact license
6 have been background-checked and are free of
7 any current disciplinary actions.

8 ASSEMBLYMAN RA: Great, thank you.

9 CHAIRWOMAN KRUEGER: Thank you very
10 much.

11 Hi. I was listening, I was just
12 taking a short lunch break while all of you
13 were testifying.

14 Rachel May has her hand up.

15 SENATOR MAY: I do, thank you.

16 And this is directed to the Medical
17 Society and the Medical Schools. As chair of
18 the Aging Committee, I've gained an enormous
19 respect for geriatricians and for the field
20 of geriatrics, and I understand that it's not
21 a top priority for a lot of people in medical
22 school.

23 So I have a bill to make geriatricians
24 dual-eligible for the physician loan

1 repayment program and the physician practice
2 support program, but I would love your
3 thoughts on other ways that we can
4 incentivize people to go into this really
5 important and fascinating field.

6 DR. SELLERS: Let me let Jo go first.

7 MS. WIEDERHORN: I was going to say
8 let me let Joe go first.

9 (Laughter.)

10 MS. WIEDERHORN: Well, thank you.

11 I think there are a number of ways
12 that gerontology can be sort of advanced in
13 medical school. I know a number of our
14 medical schools have programs where students
15 go with attending physicians and with faculty
16 to people's homes to provide them care in
17 their homes.

18 I think doing innovative programs like
19 that where students are actually brought in
20 and can help with care -- I think that that
21 is really, really important.

22 I think the idea of allowing people to
23 get both Doctors Across New York monies and
24 the physician repayment money, I think that's

1 a very good idea as well.

2 But I think really the key to getting
3 more people interested in going into
4 gerontology is their faculty advisors when
5 they're in medical school. I can't tell you
6 the number of students I talk to who say
7 that, you know, they're interested in going
8 into X or Y specialty because of their
9 faculty advisor.

10 So I think we need to look at what
11 programs are out there and see if they can be
12 replicated.

13 DR. SELLERS: Again, I would agree a
14 hundred percent with what Jo said.

15 You know, this is a great discussion
16 for us to have if we look at workforce issues
17 and for the various specialties in medicine
18 where there might be shortages of
19 practitioners and wanting to help people find
20 a great career like gerontology -- or my own
21 career. I'm an internist and a pediatrician;
22 I'm at the other end of the spectrum.

23 But the -- a lot of it is mentors,
24 role models, it's getting people out into --

1 You've provided very extensive testimony
2 today, and one thing that really stuck out to
3 me was your veterans mental health training
4 program. You know, so much of our
5 testimonies have been about -- and our
6 discussion has been about mental health. And
7 I love that you've been working with the
8 Joseph P. Dwyer Peer-to-Peer Program.

9 So I'm just wondering if you can
10 elaborate a little bit about the program and
11 tell us about the amount of funding that
12 you're looking for as well.

13 DR. SELLERS: Thank you for asking.

14 So we have been providing more and
15 more education to the physician community on
16 how to care for veterans. It turns out about
17 half of veterans get their care outside of
18 the VA system, but into the general community
19 of physician practitioners across the state.

20 And again, working at improving the
21 skills of physicians in providing care to
22 veterans with their specific needs. We've
23 had education programs looking at women
24 veterans, looking at veterans with substance

1 use, looking at veterans with mental health
2 care.

3 And we're asking to continue to renew
4 the grant support to our Medical Society to
5 continue this vital program.

6 SENATOR SERINO: And that's great. I
7 see how you mentioned how the suicides have
8 gone up. You know, we've all talked about
9 this too with everything since COVID. And so
10 this is great; I was really happy to read
11 about what you are doing, and I can't thank
12 you enough.

13 So thank you for talking to us about
14 it today.

15 DR. SELLERS: Thank you for bringing
16 it up, Senator.

17 SENATOR SERINO: Thank you.

18 CHAIRWOMAN KRUEGER: Thank you,
19 Senator Serino.

20 So I don't see other hands, so I'll
21 just jump in quickly, for our guest from
22 Hospice and Palliative Care Association,
23 Jeanne Chirico.

24 So Jeanne, I think I did my first sort

1 of town hall on palliative care and hospice
2 almost 18 years ago.

3 (Zoom interruption.)

4 CHAIRWOMAN KRUEGER: Oh, wait,
5 somebody -- Helene, press -- okay. Sorry.

6 I think about 18 years ago I did a
7 town hall, and nobody wanted to cosponsor
8 with me, and they all said, No one will come.
9 And it was standing room only. And ever
10 since, we have made it a big focus to work on
11 doing town halls and webinars on advanced
12 directives and on the value of hospice and
13 palliative care, and we get huge response.

14 So your point that New York is almost
15 last in the nation on people using these
16 services, I'm just fascinated. We're also
17 almost last in the nation on organ donation.
18 Do New Yorkers really just think we don't die
19 like everybody else? Do we hire a cultural
20 anthropologist to study this question for us?
21 I'm really sincere. I don't understand what
22 is it about us as New Yorkers that -- these
23 are incredible services. I had both of my
24 parents in hospice care, and it was

1 invaluable.

2 So help me understand why we're just
3 so different here in New York.

4 MS. CHIRICO: You know, I wish there
5 was one simple answer, because we would have
6 been jumping on that right away.

7 However, New York State, the way that
8 our system is set up is so hospital-centric.
9 This is coming from a person who's been a
10 provider for many years. It's very difficult
11 for patients and families to know that they
12 have the ability to make choices and ask
13 questions. And without really some in-depth
14 knowledge, the fact that you can choose your
15 care path and that it's not just an
16 acceptance of a direction given to you by a
17 specialist or another -- New York is so
18 blessed with a plethora of advanced medical
19 institutions and specialists that it's
20 sometimes -- there's always one more to try,
21 one more thing before anybody has the courage
22 to have the conversation that says, You know,
23 you don't have to try one more; there is
24 another alternative called hospice and

1 palliative care.

2 That's just one simple answer, but
3 it's a complex issue. And at this point we
4 don't have anyone at the helm helping to
5 drive the options for people with serious
6 illness. There's not a person or a
7 department or a division that we can turn to
8 to ask for help to help guide this
9 discussion.

10 CHAIRWOMAN KRUEGER: I want to thank
11 you and your members for their work, because
12 it is truly invaluable medical care that you
13 do offer, and I would like to work with you
14 as we move into the future on this.

15 Thank you.

16 MS. CHIRICO: Thank you, Chairwoman.

17 CHAIRWOMAN KRUEGER: Thank you. Are
18 there any other legislators with their hands
19 up for this panel?

20 CHAIRWOMAN WEINSTEIN: None in the
21 Assembly.

22 CHAIRWOMAN KRUEGER: Okay, I do not
23 see any in the Senate, so I'm going to thank
24 this panel of extraordinary professionals,

1 and thank you to all your members for all the
2 work they're doing for us every day of the
3 year.

4 And I'm going to call up Panel E, the
5 New York State Council for Community
6 Behavioral Healthcare, Lauri Cole,
7 executive director; Medicaid Matters
8 New York, Lara Kassel, coalition coordinator;
9 LeadingAge New York, Jim Clyne, president and
10 CEO; Center for Elder Law & Justice, Lindsay
11 Heckler, supervising attorney; Consumer
12 Reports, Chuck Bell, programs director; and
13 New York Caring Majority, Bobbie Sackman,
14 campaign leader.

15 So we'll just start going down with
16 the six of you, starting with the New York
17 Council for Community Behavioral Healthcare.

18 MS. COLE: Good afternoon. Can you
19 hear me okay?

20 CHAIRWOMAN KRUEGER: Yes.

21 MS. COLE: Okay, good.

22 My name is Lauri Cole, and I'm the
23 executive director of a statewide membership
24 association, the New York State Council. We

1 represent 107 mental health and substance use
2 disorder providers across New York State.

3 Thank you for permitting me the
4 opportunity to speak to you today. As you
5 know, so much of what goes on in mental
6 health and substance use care has an overlay
7 with Medicaid policy, and that's why I'm
8 grateful to be here today.

9 Last year I came to this committee and
10 I was kind of begging for help. Since
11 behavioral health services were carved into
12 Medicaid managed care in 2015, we have
13 watched and wondered what was happening to
14 the premium dollars that were paid to MCOs
15 that were put into the carve-in to manage
16 benefits. And only recently, within the last
17 two years, did we really take up the fight to
18 try and understand what was happening in
19 terms of overall MCO performance in our
20 Medicaid managed care carve-in.

21 And I came to this committee and I
22 asked for help in getting that performance
23 data. It took us 15 -- it took us 20 FOILs,
24 aggressive, aggressive advocacy, and the help

1 of both chairs of the health committees to
2 get to a point where we understood that
3 certain MCOs across the state in the
4 behavioral health carve-in were not meeting
5 expenditure targets that were required by
6 contract. And as such, the law requires that
7 when they don't meet expenditure targets,
8 that money, those funds that are essentially
9 overpayments to MCOs, are supposed to be
10 reinvested with OASAS and OMH. And we
11 realized that that was not happening.

12 And after 15 months of advocacy and
13 begging and pleading, we finally have
14 Part FF, which is a proposal in the Health &
15 Mental Hygiene budget that returns
16 \$111 million state share to OASAS and OMH as
17 a result of these overpayments that have now
18 been recouped from certain MCOs.

19 I tell you this story because we need
20 you to protect this proposal. I also would
21 ask that you do everything that you can to
22 enhance surveillance monitoring enforcement
23 by the state as it relates to our carve-in.
24 Our carve-in is the poster child for what is

1 wrong with a Medicaid managed carve-in with
2 MCOs that are not procured competitively.
3 And I just told you a story about
4 \$111 million, grossing to 222, \$111 million
5 that was not spent on actual care for clients
6 during a two-year period.

7 The competitive bid proposal will have
8 considerable positive impacts for consumers
9 of care. For one thing, there have been
10 150 citations issued by OMH, OASAS and DOH
11 against MCOs and health plans across the
12 state that have violated either state laws or
13 requirements in two main categories; that is,
14 compliance with federal and state parity laws
15 and also claims denials that were
16 inappropriate.

17 I have a long list of concerns that
18 are brought about by the transactions between
19 providers and MCOs who are not interested in
20 the best interests of the consumers that we
21 serve. It is clear to us that we need a
22 change, and the competitive bid proposal can
23 be that change. We are not concerned that
24 consumers will get lost in the shuffle. What

1 we are more concerned about is that
2 providers -- that health plans and MCOs that
3 don't pay timely and in full reduce access to
4 care across the state.

5 That is our concern, and that is
6 something to take up and to talk about.
7 Because every time a provider has to chase a
8 plan to get paid or be reimbursed, it is
9 essentially restricting access to care on
10 behalf of a provider that is fragile, that
11 has no reserves, that has very little margin
12 and cannot afford to increase care -- which
13 is what we've needed during the COVID
14 period -- but instead has to contract it
15 because they can't afford to do business with
16 MCOs that don't pay them.

17 So I see my time is up. I'm happy to
18 take questions. Please ask me questions
19 about either Part FF or Part P.

20 CHAIRWOMAN KRUEGER: (Muted.)

21 MS. COLE: I don't hear you.

22 MS. KASSEL: I believe I am next on
23 the witness list, so shall I go ahead? We
24 don't hear you, Senator Krueger.

1 CHAIRWOMAN KRUEGER: I'm so sorry.
2 I'm the one on mute. I was saying you were
3 on mute.

4 (Laughter.)

5 CHAIRWOMAN KRUEGER: Yes, please go,
6 Lara.

7 MS. KASSEL: Okay, thank you.

8 Thank you. Thank you for the
9 opportunity to testify today and for your
10 attention. Thanks also to your staff for
11 everything that they do during the budget
12 process.

13 I am aware that there are many
14 advocacy groups that signed up to testify and
15 submitted their testimony in time for the
16 deadline and they were not selected for the
17 hearing, and many more will submit written
18 testimony. I urge you to review all of their
19 testimony. The advocacy community is broad
20 and diverse and includes a wide variety of
21 perspectives that must be considered as you
22 consider the state budget.

23 Medicaid Matters is the statewide
24 coalition representing the interests of the

1 over 7 million people now served by
2 New York's Medicaid program, and the safety
3 net providers that serve them. Our members
4 are individuals enrolled in Medicaid, family
5 members, community-based organizations,
6 community-based providers, legal services
7 agencies, policy and advocacy organizations
8 and more.

9 We firmly believe the best way to go
10 about policy-making and budget-making is to
11 consider how policy changes and budget cuts
12 or investments impact on people and their
13 access to services. Our mission is to ensure
14 the interests of people are included,
15 understood, and met in all venues in which
16 Medicaid is debated in New York State.

17 New York's Medicaid program is a
18 strong, successful program. Is it perfect?
19 Of course not. That's why we do what we do
20 every day to advance the interests of people,
21 because it is often people who suffer the
22 negative consequences when Medicaid isn't
23 allowed to do what it was intended to do as a
24 safety net program that provides for people's

1 needs.

2 As it relates to this year's budget,
3 we agree with many of you and others who have
4 testified today that this is a great budget,
5 probably one of the best we've seen in a long
6 time. There are also many things that we are
7 concerned about in this budget that we urge
8 you to consider as you draft your one-house
9 budget bills and negotiate the final budget.

10 We are thrilled the Governor is
11 proposing to expand Medicaid income
12 eligibility for people with disabilities and
13 older adults and eliminating the asset test
14 for them. These are two pieces of a
15 three-part eligibility equity proposal that
16 Medicaid Matters and other advocacy groups
17 proposed last year. We need the third piece,
18 which is expansion of income eligibility in
19 the Medicare savings program to be included
20 in the final budget.

21 We applaud the Governor for expanding
22 the Essential Plan. Let's enact coverage for
23 all so that immigrants have access to
24 affordable insurance coverage no matter their

1 immigration status. We are glad the Governor
2 proposed to take up the federal option to
3 extend post-pregnancy coverage, but it
4 specifically excludes immigrants from the
5 coverage. We need the final budget to
6 include them. Please fix that.

7 So many of you and your colleagues
8 have raised the importance of support for
9 safety net hospitals. We need the
10 Legislature to consider including the
11 Indigent Care Pool bill in the final budget.
12 We support the Fair Pay for Home Care
13 campaign. And last but not least, let's
14 "scrap the cap," repeal the global Medicaid
15 cap.

16 Thank you very much.

17 CHAIRWOMAN KRUEGER: Thank you very
18 much.

19 Next we have LeadingAge New York.

20 MR. CLYNE: Hi, I'm Jim Clyne, the CEO
21 of LeadingAge New York. We represent over
22 400 not-for-profit and government
23 long-term-care providers, from nursing homes
24 to HUD housing.

1 I wanted to cover five areas and give
2 you a little context. The first is the
3 budget is a great start on the Medicaid side,
4 but a 1 percent increase is not nearly
5 enough. If the 14 years of COLAs had not
6 been repealed, the Medicaid rate for nursing
7 homes would be 31 percent higher. I don't
8 think you're going to do a 31 percent
9 increase, but certainly 1 percent across the
10 board is not nearly enough to make up for the
11 underfunding.

12 We support the Governor's initiative
13 on staffing and quality funding for nursing
14 homes. We think it's important to reward
15 good providers.

16 I just want to clarify the impact of
17 the budget on assisted living, which is a
18 little bit confusing, I think. There's an
19 Assisted Living Program, which is 14,000
20 beds, which is Medicaid-funded. That program
21 will benefit from whatever Medicaid increase
22 you do. But there are 37,000 other assisted
23 living beds out there that will receive no
24 assistance in this budget, nor have they

1 received any federal aid throughout the
2 pandemic. The state put enormous
3 requirements on these assisted living
4 providers as far as staff testing and PPE.
5 So we're asking for \$75 million to support
6 the assisted living programs, which really
7 have not benefited from any assistance and
8 will not benefit in this budget.

9 Next I'd like to cover the RFP for
10 Medicaid managed care. That will essentially
11 close the community-based not-for-profit
12 long-term-care programs who are currently
13 operating, primarily in New York City but in
14 other parts of the state also. So imagine a
15 year and a half from now you're going to have
16 100,000 to 150,000 elderly and disabled
17 people having to change their Medicaid plan.
18 If anybody remembers going through some of
19 the plans that have closed down on their own
20 and the mayhem that that created, the thought
21 of 100,000 to 150,000 elderly and disabled
22 people changing plans I think is an
23 extraordinarily bad idea. And that the goals
24 that the department is trying to reach could

1 be reached without going through this RFP
2 process.

3 The last two pieces. Med techs, we
4 strongly support that. The single biggest
5 thing you could do to help rural providers is
6 enact the med tech program. It's
7 extraordinarily difficult to recruit nurses
8 into rural areas, and med techs would really
9 be able to fill the gap. Not every person
10 wants to become an LPN, so the med tech is a
11 great stepping stone for CNAs.

12 And finally, we want to look at the
13 bonus program. We agree that it needs to
14 cover all providers -- all job classes. We
15 do think it's important when we have food
16 service workers and maintenance people be
17 included in the bonus pool. And again, the
18 assisted living program is not part of the
19 bonus pool, so on the same campus you could
20 have people who are working in the nursing
21 home getting a bonus but the people who are
22 working in assisted living, doing the same or
23 similar job, not getting a bonus. So we
24 really need to look at that.

1 Thank you. I appreciate the
2 opportunity to testify.

3 CHAIRWOMAN KRUEGER: Thank you very
4 much.

5 And our next testifier -- sorry, I
6 just have to move my page -- the Center for
7 Elder Law & Justice.

8 MS. HECKLER: Great. Thank you for
9 the opportunity to testify today.

10 My name is Lindsay Heckler, and I'm a
11 supervising attorney with the Center for
12 Elder Law & Justice. It is our mission to
13 improve the quality of life for older adults
14 and persons with disabilities through the
15 provision of free civil legal services,
16 primarily in Western New York. We are also
17 proud partners with the Region 15 Ombudsman
18 Program.

19 During the '20-'21 session, the
20 Legislature took various actions to address
21 the failures of the nursing home industry.
22 However, portions of the Executive Budget
23 directly undermine your actions. While our
24 written testimony provides our support and

1 recommendations for increasing access to care
2 in the community, such as fair pay, today we
3 focus on actions the Legislature must take to
4 ensure its efforts from '20-'21 are not
5 eroded.

6 First, we urge the Legislature to
7 reject the Executive's proposed changes to
8 the new minimum direct spending law and also
9 urge you to reject changes proposed by the
10 nursing home industry. This law ensures
11 operators are held accountable by requiring
12 funds are spent on resident care and
13 services, not excessive administrative
14 expenses, management contracts or related
15 party transactions.

16 Operators in recent litigation have
17 revealed excess resources yet failed to
18 demonstrate how they use these excesses in
19 resident care. One Buffalo operator, a
20 plaintiff in a lawsuit, for example, invested
21 in a really nice lobby but had consistently
22 failed to invest in staffing prior to the
23 pandemic. Most recently, they were cited for
24 immediate jeopardy for insufficient staffing.

1 Don't water down the law that requires
2 nursing homes change the way they do business
3 and prioritizes resident care.

4 Second, we urge the Legislature to
5 reject the Governor's proposal to establish
6 certification for memory care. Nursing homes
7 are mandated by federal law to meet the care
8 needs of residents living with dementia.
9 Establishing a new certification that would
10 allow facilities to advertise providing
11 memory care services undermines the federal
12 law and will further promote an inequitable
13 tiered system that already exists when it
14 shouldn't exist. The state must focus its
15 efforts on enforcement.

16 Third, we urge the Legislature to
17 directly support persons living in nursing
18 homes by increasing the personal needs
19 allowance from \$50 to at least 100, with
20 annual increases for cost of living. The
21 \$50, set back in 1981, is all a resident
22 whose care is paid for by Medicaid is allowed
23 to retain of their income. Fifty dollars is
24 all they have to buy personal items that

1 directly improve their quality of life --
2 beauty/barber services, clothing, internet,
3 books, as an example.

4 Increasing the allowance in the budget
5 to enable a person to retain more of their
6 income is a straightforward way the state can
7 directly improve the quality of life for
8 those living in nursing homes.

9 Lastly, invest \$20 million into the
10 Long Term Care Ombudsman Program. Ombudsmen
11 can play a significant role in raising the
12 level of care provided and ensure each
13 resident is treated with the dignity and
14 respect they deserve. However, the state's
15 severe underfunding is preventing the
16 Ombudsman Program from succeeding in its
17 role. State investment in the program is
18 needed, not another study.

19 Thank you for the opportunity to
20 testify today.

21 CHAIRWOMAN KRUEGER: Thank you very
22 much.

23 Next up is Chuck Bell, Consumer
24 Reports.

1 MR. BELL: Thank you, Madam Chairs and
2 members of the committee. I represent
3 Consumer Reports. We're a national nonprofit
4 member organization that works with truth,
5 transparency and fairness in the marketplace,
6 based in Yonkers, New York.

7 I wanted to briefly highlight two
8 issues that are important to consumers and
9 patients: The serious threat of
10 antibiotic-resistant superbugs, and ending
11 the scourge of unfair medical debt collection
12 practices.

13 With respect to antibiotic resistance,
14 the COVID-19 pandemic has brought home to all
15 of us how a previously unknown disease can
16 wreak havoc not just on our lives in
17 New York, but on human life all over the
18 world. And it underscores the importance of
19 prevention and early intervention.

20 With this in mind, Consumer Reports
21 urges New York State to increase its efforts
22 to address the growing threat to public
23 health that is posed by strains of antibiotic
24 resistant bacteria, also known as superbugs,

1 which are bacteria that are immune to
2 lifesaving antibiotics. The growth of
3 antibiotic resistant superbugs has been aptly
4 described as a slow-moving pandemic by the
5 Centers for Disease Control and the
6 Department of Health and Human Services. The
7 CDC currently estimates that
8 antibiotic-resistant bacteria are responsible
9 for at least 2.8 million infections in the
10 United States, and at least 35 deaths every
11 year -- and some experts believe those
12 numbers are much higher.

13 In addition, 661,000 Americans get sick
14 every year from eating food that is
15 contaminated with antibiotic-resistant
16 bacteria, and 24 percent of all
17 antibiotic-resistant infections come from
18 food and animals.

19 New York took an incredibly important
20 step last year when it passed a law requiring
21 every hospital and nursing home to establish
22 an antibiotic stewardship program. But since
23 two-thirds of all antibiotics that are sold
24 in this country are used for livestock

1 production, it's imperative from a public
2 health perspective to also address overuse
3 and misuse of antibiotics on farms and in
4 food production.

5 So we're urging the Department of
6 Health to open up an office of antibiotic
7 resistance control and also establish the
8 state antibiotic resistance control board,
9 consisting of heads of relevant state
10 departments, public members and stakeholders.
11 And we have goals that we'd like to see the
12 state establish for reducing the use of
13 medically important antibiotics in animals
14 and also reducing healthcare-acquired
15 infections.

16 With respect to debt collection, we're
17 pleased to join with the Community Service
18 Society and Healthcare for All New York in
19 calling for passage of three bills that would
20 help protect patients against unfair medical
21 debt collection practices. The bills are
22 listed in my testimony.

23 One would make it more easy for
24 patients to find out about financial

1 assistance programs by standardizing those
2 programs and increasing eligibility to
3 600 percent of the federal poverty level.

4 A second bill would prohibit hospitals
5 and medical providers from placing liens on
6 patients' homes or garnishing their wages to
7 recoup a medical debt judgment.

8 And the third bill would require
9 providers to notify patients ahead of time if
10 a provider adds facility fees onto the cost
11 of their visit, and to prohibit such fees for
12 preventive services.

13 So thank you so much for the
14 opportunity to testify, and I look forward to
15 working with you and responding to any
16 questions.

17 CHAIRWOMAN KRUEGER: Thank you very
18 much, Chuck.

19 Our next testifier is Bobbie Sackman,
20 New York Caring Majority campaign leader.

21 MS. SACKMAN: Thank you, Chairs and
22 members of the committees. My name is Bobbie
23 Sackman, campaign leader, New York Caring
24 Majority and Jews for Racial and Economic

1 Justice.

2 The New York Caring Majority brings
3 together organizations representing all of
4 the groups who have a stake in investing in
5 care work -- older adults, disabled
6 individuals, family caregivers, home care
7 workers and home care providers and agencies.
8 We represent urban, suburban and rural areas,
9 upstate, downstate, all over the state. And
10 the fact that all of us have come together on
11 this issue shows the breadth of support for
12 valuing home care work, not just with words
13 but sustainable wage increases.

14 I was formerly the director of public
15 policy for LiveOn NY for 28 years, and I can
16 say that fair pay would be the most
17 transformational change to home care we've
18 seen in decades.

19 I bring people with me as I speak
20 today -- Loretta Copeland, who's 81 years
21 old, lives in Harlem. She's supposed to get
22 five days a week of home care, gets one or
23 two. And she has fallen multiple times in
24 the bathtub, and that's not a good thing.

1 I bring Renee Christian of Buffalo,
2 who sleeps in a wheelchair night after night
3 after night. We know we will be successful
4 when nobody ever sleeps in a wheelchair
5 again.

6 I bring with me Maggie Orenstein,
7 who's been a family caregiver and lives in
8 Queens since she's 17 years old. And she's
9 still caring for her mom, who can't even get
10 all the care she needs to this day, and
11 Maggie's trying to earn a living.

12 I bring with me Mildred Gallery, a
13 home care worker from Long Island, who after
14 30 years -- 30 years as a home care worker --
15 continues to make minimum wage.

16 These are just a few stories.

17 So here it is in a nutshell. We're an
18 aging society. We have increasing people
19 with disabilities and illnesses, especially
20 since COVID. We have the largest shortage of
21 any state in the nation of home care workers.
22 Home care workers, a majority women of color
23 workforce, are receiving poverty-level wages,
24 which drives them away. Millions of family

1 caregivers in New York provide \$31 billion of
2 free care. They need help.

3 The CUNY labor study showed that Fair
4 Pay for Home Care would wipe out the home
5 care workforce shortage in less than five
6 years, bring 200,000 home care workers to the
7 field. We would see increased revenue
8 through these jobs and moving people off of
9 public assistance. Home care workers have
10 skills, medical skills. They decrease falls.
11 Toileting, bathing, transferring, ambulation.
12 Think of Loretta Copeland, who's fallen in
13 that bathtub.

14 They provide respiratory care, like to
15 Kendra Skalia, who testified last week at the
16 Human Services hearing. Kendra says that if
17 her ventilator alarm beeps and she has no
18 aide, she could suffocate. She can't adjust
19 it. She can't fix the -- when she needs to
20 cough, she could suffocate on phlegm. It's
21 all these things we don't even think about,
22 and they can cause disruptions and death.

23 Home care is hard work. People are
24 getting paid \$13.20 in 54 counties across the

1 state. The bonus is not the answer. I think
2 it is time that we could all agree to end
3 New York's policy of neglect and
4 poverty-level wages.

5 Thank you.

6 CHAIRWOMAN KRUEGER: Thank you very
7 much, Bobbie.

8 So a really diverse panel of lots of
9 different views. And I see Senator May's
10 hand up first.

11 SENATOR MAY: Yeah, thank you,
12 Madam Chair.

13 Thank you to everybody who testified.
14 Bobbie, those were great arguments and great
15 words, and thanks for bringing all those
16 people with you. It is -- it really is
17 crucial that we get a home care workforce
18 that is paid a living wage.

19 I did want to ask a question of
20 Lindsay about the Long Term Care Ombudsman
21 Program. You know, I've worked really hard
22 on the legislation last year, but we
23 definitely need that 20 million. I'm
24 wondering what your thoughts are about --

1 about how we will know if there is
2 communication, finally, going on between DOH
3 and the LTCOP -- the ombudsman and the LTCOP
4 program, because that was one of the things
5 that my legislation was designed to address,
6 so that the ombudsmen would know if the
7 complaints they had forwarded to DOH were
8 actually being acted on.

9 Is that something we will ever know?
10 Do you have thoughts about how we monitor the
11 success of that?

12 MS. HECKLER: Well, I think you'll
13 know by asking not only the state ombudsman
14 but the regional program coordinators, if
15 that direct line of communication is working.
16 So time will tell.

17 I can tell you with our partnership
18 with the regional program and working with
19 the ombudsman programs across the state, the
20 communication as it exists now is not there.

21 So that law is sorely needed, and time
22 will tell.

23 SENATOR MAY: Okay. And in terms of
24 the 20 million, do you think there are people

1 to be hired who will want to come forward and
2 do the work if we can have paid staff instead
3 of volunteers in those roles?

4 MS. HECKLER: I think there are.
5 There are many people who are already working
6 as ombudsmen who haven't had raises in many
7 years. There's also many people who work in
8 the social services industry who are
9 currently volunteer ombudsmen but aren't
10 taking that leap to become a staff ombudsman
11 because the salaries really aren't there.

12 So with that investment, you'll get
13 more staff ombudsmen, more complaints will be
14 resolved, and more systems-wide issues will
15 be brought before the Legislature.

16 SENATOR MAY: Great. Well, thank you
17 for your advocacy and for lifting up that
18 program, because it really is important.
19 It's something we sorely needed a couple of
20 years ago, and it's -- anything we can do to
21 beef it up I think is important.

22 MS. HECKLER: Thank you. Thanks.

23 CHAIRWOMAN KRUEGER: Thank you.

24 Assembly?

1 CHAIRWOMAN WEINSTEIN: We go to
2 Assemblyman Jensen.

3 ASSEMBLYMAN JENSEN: Thank you,
4 Madam Chair.

5 I want to direct my question to
6 Mr. Clyne. You talked in your remarks about
7 the restoration of the I believe 1.5 percent
8 Medicaid cut. And I know that LeadingAge
9 earlier this year called for larger cash --
10 capital injection. But when we have
11 70 percent of all long-term-care residents
12 covered by Medicaid funding, why is it so
13 critically important that we appropriately
14 reimburse nursing homes and long-term care
15 for the care that's actually being provided?

16 MR. CLYNE: Well, you can see right
17 now one of the problems has been the backup
18 of people who are nursing home eligible to
19 come into nursing homes. About 60 percent of
20 my members, on a recent poll we did, are
21 controlling their admissions because they
22 don't have the staff.

23 So it has a real-world effect on
24 people who shouldn't be in a hospital, they

1 should be in a nursing home where there are
2 programs tailored for them, where there are
3 recreation programs, where there is
4 socialization. You don't get that when
5 you're in a hospital.

6 I mean, hospitals do a great job at
7 being hospitals, but you are not going to
8 solve this problem by restoring a cut and
9 doing 1 percent across the board. There's
10 got to be more in order for us to be
11 competitive to hire and recruit and retain
12 the people that staff our facilities.

13 ASSEMBLYMAN JENSEN: So I know in my
14 community and in communities across the state
15 the Governor has deployed National Guard
16 medical units into facilities. Has that made
17 a discernible difference on the capacity for
18 care?

19 MR. CLYNE: It's great for the
20 facility that gets the National Guard. But
21 six National Guard people who are there
22 temporarily -- it's a big relief and can help
23 with the staff, but that's not going to make
24 a facility open up a unit that they've

1 closed. It's not going to make them make
2 20 beds available for more discharges. You
3 can't plan like that when you're going to
4 get, you know, six National Guard people for
5 a temporary period of time.

6 Again, the state covers more than
7 70 percent of the cost -- or the days. The
8 next biggest payer is Medicare. The
9 government funds nursing homes, and it's the
10 government's responsibility to pay for the
11 care that they'd like to see. So without a
12 substantial increase, it's just -- it's not
13 going to happen, and you're going to have
14 people, you know, staying in hospitals longer
15 than they should be.

16 ASSEMBLYMAN JENSEN: And for your
17 members, James, has there been any
18 reimbursement from the state for some of the
19 mandated items that your members have had to
20 purchase, whether it's been PPE, whether it's
21 been testing supplies, things of that nature?

22 MR. CLYNE: There's been no
23 reimbursement for it, no.

24 There was a cut in the middle of the

1 pandemic. The state has started sending out
2 more test kits lately, which has been
3 helpful. But again, we've gone almost two
4 years now with mandates on testing, PPE,
5 increased staffing to deal with the visitor
6 requirements. So it's just been enormous.
7 And federal government has provided some aid,
8 but it's only been about 40 percent of the
9 cost.

10 ASSEMBLYMAN JENSEN: Thank you, James.

11 And thank you, Madam Chairs.

12 CHAIRWOMAN KRUEGER: Thank you.

13 CHAIRWOMAN WEINSTEIN: Back to the
14 Senate.

15 CHAIRWOMAN KRUEGER: I'm looking for
16 Senate hands.

17 Gustavo, did you have -- oh, I'm
18 sorry, George Borrello.

19 SENATOR BORRELLO: Yes, thank you.

20 CHAIRWOMAN KRUEGER: Yes. Thank you,
21 Senator.

22 SENATOR BORRELLO: Thank you very
23 much. And first of all, I want to say thank
24 you to all of you for being such -- so

1 passionate about our senior citizens and all
2 that you've done to help them.

3 But I want to direct my question to
4 Mr. Clyne, and I want to specifically
5 dovetail off of a little bit of what
6 Assemblyman Jensen was talking about.

7 You know, I asked the question earlier
8 about the waste, fraud and abuse in our
9 non-emergency Medicaid transportation. And
10 the reason I bring it up is because, you
11 know, we're paying more to a taxi driver to
12 transport one person to a doctor's
13 appointment than we are for you to care for
14 our senior citizens in a nursing home, with
15 all the costs, all the administrative
16 costs -- the healthcare costs, everything
17 else. It's really egregious.

18 We identified this as a huge waste of
19 money, you know, more than two years ago.
20 And we've wasted millions more and done
21 nothing about it, unfortunately.

22 And my question to you is, as far as
23 reimbursements, even though we're giving you
24 a modest increase, where do we stand as far

1 as, you know, based on today's dollars which
2 are being reimbursed now? And how far back,
3 essentially, since you've actually had an
4 increase? How far behind are you?

5 MR. CLYNE: It's been 15 years --
6 14 years since we've had a COLA.

7 We had a 1.5 percent cut in the middle
8 of the pandemic. And an outside research
9 body did a study of the Medicaid rates across
10 the country, and New York comes in last when
11 you compare the revenue paid to the cost of
12 providing care. We are dead last.

13 It's expensive to run a nursing home,
14 obviously, in New York. It's expensive to
15 run downstate in particular, a unionized
16 workforce -- which is great, it can help, but
17 the state needs to pay for it. And that's
18 why you're seeing people backed up in
19 hospitals now. You can't get the workers.
20 We're not competitive in the marketplace.

21 SENATOR BORRELLO: Yeah. I mean, it's
22 really truly disgusting. You know, we talk
23 about how much we care about our senior
24 citizens in New York, but we haven't given a

1 COLA increase to care for them in 14 years.

2 I mean, so egregious.

3 And at the same time, as I mentioned
4 before, we're going to pay a taxi driver \$300
5 to take somebody to a doctor's appointment,
6 but we won't pay you 150 to care for a senior
7 citizen.

8 So that's really the point I wanted to
9 make. And we need a much larger increase.
10 You know, let's shut down all of these
11 ridiculous, wasteful programs that are just
12 political payoffs that our former governor
13 presented to these transportation brokers,
14 and let's direct all that funding, all that
15 funding to the care of our senior citizens.

16 So thank you for all you're doing.
17 Thank you.

18 CHAIRWOMAN KRUEGER: Other
19 Assemblymembers?

20 CHAIRWOMAN WEINSTEIN: Yes, we have
21 Assemblywoman Niou.

22 ASSEMBLYWOMAN NIOU: Hi.

23 So just wanted to quickly ask
24 Bobbie -- you know, one of the things that

1 you had mentioned about the bonus structure
2 rather than wage increases is very concerning
3 to all of us, as you heard throughout this
4 period of time. But, I mean, I wanted to
5 talk a little bit more about the
6 {unintelligible} limits benefits cliff that
7 could actually hurt so many workers. Could
8 you elaborate a little bit more on that?

9 MS. SACKMAN: Sure.

10 Well, about 57 percent of home care
11 workers across the state get various kinds of
12 public assistance -- Medicaid, food stamps,
13 Section 8.

14 ASSEMBLYWOMAN NIOU: Because we pay
15 them so little.

16 MS. SACKMAN: Exactly. It's a
17 scandal, in my humble opinion.

18 And so by giving a one-time bonus,
19 whatever that amount, it could push them over
20 what they call a benefits cliff, so you could
21 lose those public benefits. And then try to
22 get back on. Your whole life is disrupted,
23 you may have kids, this is your housing, your
24 food. And bonus is not the way to go. We

1 need sustainable wages.

2 And the money is there, and the money
3 should not be used for bonuses. It should be
4 used for sustainable -- just listen to the
5 depth of the problem. How could a bonus take
6 care of it?

7 ASSEMBLYWOMAN NIOU: Thank you.

8 And also, you know, we both agree,
9 like the 24-hour workday is, you know, not
10 right. Right? And if people are paid -- if
11 people are working 24 hours, they should be
12 paid for 24 hours. There should not be a
13 13-hour, you know, limit to what they're
14 paid, right?

15 MS. SACKMAN: No, of course. Look,
16 there's so many parts of the home care
17 industry, there are so many ways that home
18 care workers have been taken advantage of,
19 over decades. I mean, there's a long history
20 of this with domestic workers and women of
21 color, as we know.

22 ASSEMBLYWOMAN NIOU: It wasn't even
23 seen as work, right?

24 MS. SACKMAN: Exactly. It wasn't part

1 of the New Deal -- you know, it goes on and
2 on.

3 And so the 24-hour pay to 13 hours is
4 definitely a big problem we need to take care
5 of.

6 I would like to say that providing
7 sustainable and living wages for home care
8 workers is transformational. And that can
9 open up the whole industry to other benefits
10 like this back pay, this 13-hour. But that
11 we need to get people into the industry first
12 so nobody is sleeping in a wheelchair,
13 nobody's falling in their bathtub. I just
14 heard today about a woman during COVID who
15 is -- can't get out of the bed by herself,
16 lost her home care aide due to COVID. She
17 was in bed three days by herself.

18 ASSEMBLYWOMAN NIOU: That's
19 terrifying.

20 MS. SACKMAN: You can imagine what she
21 went through.

22 ASSEMBLYWOMAN NIOU: Terrifying.

23 I did want to ask Chuck Bell one
24 question before I ended my time. But I

1 wanted to ask about, you know, how the
2 consumer protection and -- Consumer and Small
3 Business Protection Act would help to prevent
4 fraudulent, you know, insurance and other
5 practices that have hurt so many people
6 around our state.

7 MR. BELL: Yeah, so thank you for
8 raising that.

9 So the general New York consumer
10 protection has not been updated since 1970.
11 And so there are many cases related to
12 healthcare, medical debt or fraudulent
13 healthcare remedies and so on that could be
14 prosecuted by our enforcement officials, by
15 the Attorney General or the DFS, but also by
16 individual citizens. Because many times
17 there's a small group of plaintiffs that
18 experience a particularly abusive medical
19 debt collection practice, and their frontline
20 defenders are often legal services attorneys.

21 So the Consumer and Small Business
22 Protection Act would be really super-helpful
23 for protecting against many of the practices
24 we're talking about.

1 Communities of color have twice as
2 much medical debt as white communities and
3 upstate we have communities in 16 counties
4 where about a quarter of residents have
5 medical debt on their credit reports. So
6 this is really, really super-common, and we
7 really hope that these kind of consumer
8 protections could be passed.

9 CHAIRWOMAN WEINSTEIN: Thank you.

10 Back to the Senate?

11 CHAIRWOMAN KRUEGER: Thank you.

12 Senator Sue Serino. I see her hand.

13 SENATOR SERINO: Thank you,
14 Chairwoman.

15 And, you know, this question is for
16 Jim. But Jim, I just want to say, lookit,
17 it's 5 o'clock and we're finally talking
18 about assisted living. And I just want to
19 say thank you so much for really highlighting
20 the big gap in funding for assisted living
21 too, because we know how many vulnerable
22 New Yorkers really depend on those services.

23 But I want to know, is it correct that
24 the assisted living workforce would not

1 qualify for the healthcare workers' bonuses
2 that are in the current budget proposal right
3 now?

4 MR. CLYNE: That's correct. That's
5 where some of the confusion comes in.

6 Again, there's a program called the
7 Assisted Living Program. That's
8 Medicaid-funded. That's 14,000 beds. But
9 there's 37,000 other seniors getting care in
10 assisted living that will not qualify for the
11 bonus.

12 And they also aren't going to get a
13 Medicaid rate increase because they're not
14 Medicaid providers, yet they've been subject
15 to all these mandates from the state -- some
16 which were smart and some which were probably
17 overkill. But the state really needs to do
18 something to invest in these assisted living
19 providers and the seniors that they're
20 serving.

21 SENATOR SERINO: Oh, absolutely. You
22 know, we're so glad to see the Fair Pay for
23 Home Care. It's been long overdue. We
24 really need to keep hitting that home.

1 Bobbie's been a big champion for this. But,
2 you know, bonuses are only temporary. We
3 need long-term support.

4 I have a question really for everybody
5 on the panel. And I was also -- Lindsay, I
6 was glad to see you spoke about enhancing the
7 EQUAL program. But do any of you -- anybody
8 can answer this question -- do you believe
9 that this budget does enough to combat elder
10 abuse?

11 MS. COLE: I guess I'll take it. I
12 think more can be done, and I would defer to
13 my colleague Sarah Duvall {ph}, who
14 supervises our elder abuse unit. But from
15 what I understand, the budget doesn't fully
16 fund the E-MDT program out of Lifespan, and
17 that impacts not only our work, but across
18 the state the E-MDTs, which is needed.

19 SENATOR SERINO: Yeah, that's a great
20 program. And we saw how well that works. So
21 disappointed in that too.

22 But I just want to say thank you to
23 everyone, you know, for all the good work
24 that you do. And nice to see everybody.

1 Thank you.

2 CHAIRWOMAN KRUEGER: Thank you, Sue

3 Serino.

4 Assemblymember.

5 CHAIRWOMAN WEINSTEIN: Assemblywoman

6 Byrnes.

7 ASSEMBLYWOMAN BYRNES: Thank you.

8 Thank you, Madam Chair. Appreciate the

9 opportunity.

10 My question is this. And I want to
11 preface it because I've had lengthy meetings
12 with the CEO of a nursing home in my area,
13 lengthy discussions about how the vaccine
14 mandate forced him to hire otherwise
15 qualified, excellent workers that were lost
16 just because of a mandate, that otherwise
17 were great employees.

18 And, you know, it's great, you know,
19 as Assemblyman Jensen said, that we have had
20 National Guardsmen showing up to help out a
21 little bit. But that's not nearly the number
22 of people that got lost because of the
23 mandate.

24 I'm just wondering, what role if any

1 has your organization played in making any
2 efforts to try to either preserve these
3 individuals' jobs or to try to get them back
4 into the workforce? Clearly we have a
5 shortage of healthcare workers. We have
6 healthcare workers qualified that are sitting
7 on the sidelines and would love to come back
8 to work.

9 I'm just wondering, sir, what role
10 your organization is going to play.

11 MR. CLYNE: Yeah, our members did a
12 tremendous amount of education. We support
13 the vaccination of the workforce, but thought
14 that the state needed to do more to help us
15 to convince people to stay in the workforce
16 and get the vaccine.

17 And we're seeing the same problem with
18 the booster now, again. We support it, but
19 without more resources to help induce people
20 to stay, it's going to be very difficult.
21 We're going to lose more workers. And in the
22 meantime, we're going to be, you know, in the
23 middle of this budget discussion with no new
24 resources.

1 ASSEMBLYWOMAN BYRNES: So actually the
2 situation you anticipate is going to get
3 worse, not better.

4 MR. CLYNE: Yeah, I just did a poll
5 again on Monday of nursing homes that were on
6 an all-member call, and 60-some-odd percent
7 of them said that they were going to be, you
8 know, controlling admissions or closing
9 units --

10 ASSEMBLYWOMAN BYRNES: Right, that's
11 what --

12 MR. CLYNE: -- because of the booster.

13 And again, don't get me wrong, the
14 booster works. People should get it. But
15 when you have a reluctant population, you
16 need more than just put a mandate on. You
17 need to provide some inducements.

18 ASSEMBLYWOMAN BYRNES: Right. Would
19 you support a test or -- rather than a
20 mandate, a requirement of testing in order to
21 ensure the health of individuals that are
22 working in the nursing homes, so like
23 schoolteachers?

24 MR. CLYNE: Yeah, I mean, a test-out

1 could work if you had the proper PPE, if you
2 had N95 masks, which are now easier to get.
3 So that wasn't really a viable option early
4 on.

5 ASSEMBLYWOMAN BYRNES: But it is now.

6 MR. CLYNE: But it's something we'd be
7 willing to look at.

8 The other thing that's important is
9 what's the community spread in a given area.
10 So that's the biggest driver of what happens
11 in our facilities, is what's going on in the
12 community.

13 ASSEMBLYWOMAN BYRNES: But at this
14 point it might be a viable option, correct?

15 MR. CLYNE: We would certainly look at
16 it.

17 ASSEMBLYWOMAN BYRNES: Thank you.

18 CHAIRWOMAN WEINSTEIN: Back to the
19 Senate. I think we are finished in the
20 Assembly.

21 CHAIRWOMAN KRUEGER: I also think we
22 are finished in the Senate. I don't -- oh,
23 Cordell Cleare. Excuse me, Senator Cleare.

24 SENATOR CLEARE: I'm sorry. Just from

1 the last conversation, I just didn't hear
2 what the speaker just said related to -- what
3 more than the mandate are you recommending?
4 You were just saying you have to do more than
5 just put a mandate out --

6 MR. CLYNE: We called for a Medicaid
7 increase. We wrote a letter to the Governor
8 in November asking to do a Medicaid rate
9 increase in order to deal with the
10 understaffing in nursing homes.

11 And it's something that could have
12 been done earlier, we didn't have to wait.
13 Now we're going to wait till, you know, April
14 1 to see what happens. I mean, if you want
15 to impact -- you folks are 70 percent of the
16 payments. You know, the money's got to come
17 from somewhere. We can't shift it somewhere
18 else. The government is 90 percent of the
19 payments.

20 And if you're serious about doing it,
21 we need to do something now to try and
22 compete in the marketplace. Because there
23 are two places we're going to get people.
24 We're going to get people who aren't employed

1 right now because of various reasons. One is
2 we don't pay enough to get them to come in.
3 And two, we need to be able to compete
4 against other employers.

5 SENATOR CLEARE: Thank you. And let
6 me just say I definitely support more pay.
7 My mother was a domestic worker. She might
8 as well have been working for nothing. And
9 she spent her life raising other people and
10 taking care of other people and sometimes
11 neglecting her own family, unintentionally.

12 So I am 100 percent for fair pay.

13 MR. CLYNE: And we need it across
14 long-term care, too. We really need it from
15 everywhere. We don't need to have workers
16 from one place going to another place because
17 the pay is better there. We need to lift all
18 boats.

19 SENATOR CLEARE: Everybody, got you.
20 Thank you.

21 CHAIRWOMAN KRUEGER: Anyone else?

22 CHAIRWOMAN WEINSTEIN: No one else.

23 CHAIRWOMAN KRUEGER: All right. Then
24 I'm going to excuse this panel. Thank you

1 all very much for your work and for coming to
2 testify before us today. And I know none of
3 you got all the attention you wished because
4 that's the way these things roll.

5 I'm moving on to the next panel: The
6 New York Immigration Coalition, Seongeun
7 Chun, director of health policy; Feeding
8 New York State, Dan Egan, executive director;
9 New York Association of County Health
10 Officials, Dr. Indu Gupta, president;
11 New York State Public Health Association,
12 Denise Tahara, president; New York State
13 Association of Health Care Providers,
14 Kathy Febraio, president and CEO.

15 Let's start with New York Immigration
16 Coalition.

17 MS. CHUN: Thank you. My name is
18 Seongeun Chun, and I'm the director of health
19 policy at the New York Immigration Coalition.
20 Thank you to Chair Rivera and Chair Gottfried
21 and the members of the Senate and Assembly
22 Health Committees for convening this very
23 important hearing.

24 I am here to demand that Governor

1 Hochul and our state leadership prioritize
2 immigrant coverage and put Coverage for All
3 in this year's budget. Governor Hochul's
4 failure to include health coverage for
5 immigrant New Yorkers in her first budget as
6 Governor is not only shortsighted, it is
7 literally a death sentence for many immigrant
8 New Yorkers, many of whom are serving as the
9 first line of defense in our state's ongoing
10 battle against COVID-19.

11 We have been watching our community
12 members die during this pandemic because they
13 didn't have access to health coverage. If
14 Coverage for All had been implemented, we
15 would have saved thousands of lives that were
16 lost. Our state leadership has blood on
17 their hands because these individuals would
18 be alive today had the right decision been
19 made.

20 To call immigrants essential is not
21 enough. Governor Hochul and the Legislature
22 must back up their words with action by
23 including Coverage for All in this year's
24 budget. It is hypocritical and cruel of

1 Governor Hochul to talk about health equity
2 when hundreds of thousands of undocumented
3 immigrants do not have health coverage during
4 a global pandemic.

5 We are also shamefully trailing
6 behind other states, including California,
7 Minnesota and Illinois, who have established
8 state-only funded programs for certain groups
9 of immigrants.

10 The Coverage for All proposal is
11 represented in Assembly Bill A880A and Senate
12 Bill S1572A. Governor Hochul and the
13 Legislature must pass this bill, along with a
14 commensurate budget allocation, immediately.

15 The cost of this coverage would be
16 345 million to create a state-funded
17 Essential Plan for all New Yorkers up to
18 200 percent of the federal poverty level who
19 are currently excluded because of their
20 immigration status. We estimate that 46,000
21 of them would enroll annually when the
22 program is fully implemented.

23 We hear all the time that the price
24 tag of Coverage for All is too great. But it

1 isn't the funding that is lacking, it is the
2 Governor's and the Legislature's political
3 will that is lacking. I ask each of you, how
4 much money would you spend to save the life
5 of someone you love?

6 We don't know if there will be another
7 variant or another pandemic, but we can save
8 lives now. By including Coverage for All in
9 the budget, Governor Hochul and our
10 legislators can protect our essential workers
11 and community members who are the most
12 vulnerable and undocumented. Too many of our
13 community members have already paid the price
14 for our leadership's negligence.

15 Thank you for the opportunity to
16 testify today.

17 CHAIRWOMAN KRUEGER: Thank you very
18 much.

19 Our next testifier, Dan Egan, Feeding
20 New York State.

21 MR. EGAN: Thank you, everyone. My
22 name is Dan Egan. I'm the executive director
23 of Feeding New York State. Feeding New York
24 State is the association of Feeding America

1 food banks in New York State. Our members
2 provide food to over 5,000 member agencies in
3 every part of the state.

4 I want to begin by saying thank you to
5 our champions in the Legislature, in both
6 houses, who have done so much to help the
7 most vulnerable New Yorkers for so many
8 years, and especially the last two years of
9 the pandemic, which has exposed and deepened
10 the terrible problem of hunger in New York
11 State.

12 It didn't create this problem. The
13 economic crisis we're in now worsened a
14 problem we already had. Prior to the
15 pandemic, 2.2 million New Yorkers were
16 hungry. During the pandemic, that number has
17 risen to over 3 million. We continue to
18 distribute food at nearly the same rate as
19 during the worst days of the crisis, and we
20 expect to be doing that for the next several
21 years. Previous recessions have taken years
22 to recover from, and we have no reason to
23 believe that this one will be any different.

24 We don't have time today to talk about

1 why people are hungry, but we do need to get
2 to that root cause conversation sooner rather
3 than later.

4 We all know there's too many people in
5 New York who are hungry. What you may not
6 know is that we have all the food we need to
7 provide them every missing meal. In New York
8 we throw out more food than we need to
9 entirely solve this problem. Our 10-member
10 food banks distributed about 270 million
11 pounds of food per year prior to the
12 pandemic. Since the pandemic, we're
13 distributing 470 million pounds.

14 But food alone is not the solution.
15 We need the tools to transport, store and
16 distribute that food. I want to tell you a
17 quick story. Last month, during the month of
18 January 2022, we distributed over 30 million
19 pounds of food. However, we were offered
20 donations of another 1.3 million pounds that
21 we were not able to take. We couldn't
22 transport it, so that food was lost. We are
23 wasting billions of pounds every year: It
24 goes into landfills or it's left unharvested

1 or we can't pick it up.

2 How do we solve that problem? We're
3 asking you for four things. Number one,
4 HPNAP, the Department of Health's Hunger
5 Prevention and Nutrition Assistance Program,
6 must be protected and enhanced. We're
7 grateful for the support over the years of
8 HPNAP, but HPNAP is critical because it funds
9 our operations, paying for staff, rent, fuel
10 and other things that aren't glamorous but
11 are essential to getting food to people.

12 It's unconscionable that HPNAP funding
13 has remained flat for over five years while a
14 crisis swirled all around us. We're asking
15 for a HPNAP increase to 54 million from the
16 current 35 million. This is critically
17 needed to ensure that operational resources
18 at food banks and food pantries keep pace
19 with need.

20 With respect to Nourish New York,
21 we're grateful that the Legislature
22 established Nourish New York as a program.
23 There's \$50 million budgeted for that in the
24 Executive Budget. We're asking for

1 85 million. Over 4,000 farms have received
2 income from this program, and millions of
3 meals have been provided.

4 Third, capital funding. As the
5 charity food system has nearly doubled its
6 productivity in the last two years, its staff
7 and equipment have been pushed hard. We are
8 putting the pedal to the metal with every
9 piece of equipment we have. It is critical
10 that we replenish that. We're asking for a
11 food bank capital fund of \$10 million to get
12 that work started.

13 Finally, we ask you to continue
14 support for the DEC Food Donation and Food
15 Scraps Law, which just passed last year and
16 took effect this past month. In the last
17 four months we've secured over 240,000 pounds
18 of donated food from 39 new donors. That's a
19 terrific success. Additional DEC funding for
20 that program to continue and expand that
21 work, especially food transportation funding,
22 is needed for the long term.

23 CHAIRWOMAN KRUEGER: I've got to cut
24 you off now, Dan, I'm sorry. I let you go

1 on.

2 MR. EGAN: Thank you so much.

3 CHAIRWOMAN KRUEGER: Thank you.

4 Next we have the New York Association
5 of County Health Officials, Dr. Indu Gupta.

6 DR. GUPTA: Thank you.

7 Assemblymember Gottfried, Senator
8 Rivera, Assemblymember Weinstein,
9 Senator Krueger and esteemed committee
10 members, I am honored to have this
11 opportunity to present the state budget
12 priorities of New York's 58 local health
13 departments to all of you.

14 My name is Dr. Indu Gupta. I am
15 commissioner of health of Onondaga County and
16 currently serving as president of the
17 New York State Association of County Health
18 Officials, in short known as NYSACHO.

19 So entering this budget session in
20 Year 2 of the ongoing COVID-19 pandemic, I
21 see an early promise of renewed energy and
22 significant opportunities for public health.

23 We truly appreciate the Governor's
24 proposed budget, which will provide an

1 overdue increase to Article 6 state aid
2 funding and help our state better prepare for
3 any future public health emergencies. At the
4 same time, it will allow us to do our core
5 public health work to protect the health of
6 our communities. We ask for your support to
7 keep this proposal in the final budget
8 negotiation.

9 We also respectfully urge you to make
10 bold new funding and additions to support the
11 ability of local health departments to
12 protect the health of all New York residents
13 via prevention and population-based
14 strategies. This year NYSACHO has proposed
15 the Public Health Reinvestment in Emergency
16 Pandemic Adaptability, Readiness And
17 Efficiency Act, known as the PREPARE Act,
18 several provisions of which still need to be
19 included in the final budget agreement.

20 Our request for your consideration is
21 detailed in the submitted written testimony.
22 Briefly, our requests include the following.

23 Number one, reinvest in our children's
24 health. As you know, lead poisoning

1 prevention is one of the most critical
2 responsibilities local health departments
3 have under public health law. The holistic
4 approach of wraparound services provided by
5 the local health department staff provides
6 the strong foundation needed to reduce and
7 eliminate future childhood lead exposure.

8 In 2019, the state lowered the
9 actionable elevated blood level from 10 to
10 5 micrograms per deciliter. And though it's
11 very sound, it was not fully funded, leaving
12 a big gap to be absorbed by the localities.
13 So we are respectfully asking your support to
14 reinvest in our children's health by fully
15 funding the Lead Poisoning Prevention Program
16 led by the local health departments by
17 increasing appropriations by \$30.3 million.

18 Number two, resume state reimbursement
19 for 50 percent of pathology and toxicology
20 services provided by the county medical
21 examiners. Many of them are housed under
22 local health departments.

23 Number three, restore New York City's
24 Article 6 state aid funding from 20 percent

1 to 36 percent.

2 Number four, amend the proposed
3 Executive Budget to allow local health
4 departments to submit 100 percent of their
5 county fringe benefit reimbursement by
6 removing the cap below 50 percent. We
7 respectfully ask you to invest public health
8 infrastructure and programming as outlined in
9 the PREPARE Act.

10 Thank you for your leadership and
11 support for public health and your
12 partnership in protecting and improving the
13 health of New Yorkers. I'll be happy to
14 answer any questions.

15 CHAIRWOMAN KRUEGER: Thank you very
16 much.

17 The New York State Public Health
18 Association.

19 MS. TAHARA: Thank you,
20 Madam Chairwomen and all of the esteemed
21 committee members in both houses for holding
22 this 2022 Joint Budget Hearing on Health.

23 As president of the New York State
24 Public Health Association, NYSPHA, and on

1 behalf of the board of directors and our
2 membership, it's an honor to provide this
3 testimony.

4 Our mission is to improve the public's
5 health through advocacy, education,
6 networking and professional development. I'm
7 speaking to request that you increase support
8 for public health programs and infrastructure
9 to improve the health of our communities and
10 to address health disparities in New York
11 State.

12 The COVID-19 pandemic has amplified
13 preexisting dire health and health behavior
14 inequities in the population, the impact of
15 which falls disproportionately on Black,
16 Latinx, Asian and Indigenous New Yorkers, as
17 well as those living in poverty in rural
18 areas.

19 These populations were already
20 experiencing significant health disparities
21 that only have been further exposed and
22 worsened by the COVID-19 pandemic.
23 Structural and institutional racism has been
24 a public health crisis for generations, only

1 to be exacerbated by this pandemic.

2 To promote health equity and public
3 health preparedness for this and future
4 pandemics, New York's public health
5 infrastructure needs significant support. To
6 maintain core public health services and
7 address these emerging threats, NYSPHA
8 supports the New York State Association of
9 County Health Officials proposals contained
10 in the PREPARE Act. We are pleased that two
11 components -- increasing the base grant on
12 the county health departments in Article 6,
13 and making fringe benefits eligible for
14 reimbursement -- were included. The
15 Legislature should accept these proposals
16 and, in addition, all those outlined by
17 Dr. Gupta.

18 Every day, 10,000 people turn 65 in
19 the United States, and that has caused an
20 increasing number of vacancies due to
21 retirements in our healthcare workforce,
22 while simultaneously we have difficulty
23 recruiting young professionals to fill these
24 openings. NYSPHA supports the Executive

1 Budget proposal to address these workforce
2 shortages.

3 NYSPHA also supports a comprehensive
4 series of tobacco control proposals. Tobacco
5 use remains the single largest cause of
6 premature disease and death among
7 New Yorkers. There are no new tobacco
8 control initiatives in the Executive Budget
9 proposal.

10 NYSPHA recommends the Legislature
11 first increase funding for the Department of
12 Health Tobacco Control Program by a third, to
13 \$52 million, as a down payment towards the
14 CDC recommended level of \$203 million.

15 Increase the excise tax on cigarettes
16 by a dollar per pack. This tax has remained
17 static for the last 10 years. Raising the
18 cigarette tax is one of the most effective
19 tobacco prevention control strategies,
20 particularly in preventing smoking in youth,
21 who are very price-sensitive. New York State
22 should also raise the tax on other tobacco
23 products, including e-cigarettes and cigars,
24 to provide tax parity with cigarettes.

1 We urge you to use this extraordinary
2 moment to use the budget process to adopt the
3 Executive Budget's public health proposal, as
4 well as those outlined in my testimony today
5 and detailed in my written comments.

6 Thank you, and I'm available for
7 questions and follow-up discussion.

8 CHAIRWOMAN KRUEGER: Thank you very
9 much, Denise.

10 And last on this panel, New York State
11 Association of Health Care Providers,
12 Kathy Febraio.

13 MS. FEBRAIO: On behalf of the
14 New York State Association of Health Care
15 Providers, representing home care agencies
16 across New York State, we thank you for the
17 opportunity to testify on the Executive
18 Budget proposal.

19 HCP asks you to consider the home care
20 industry's needs as it provides safe,
21 economical care in the face of a pandemic,
22 state policy changes, and a challenging
23 financial outlook. The home care sector in
24 New York employs hundreds of thousands of

1 direct care workers. Longstanding workforce
2 shortages are now critical. With some home
3 care agencies losing as much as 30 percent of
4 their caregivers in the last two years,
5 patients go without services, putting them at
6 risk of institutionalization or worse.

7 Governor Hochul stated that personal
8 care is one of the services groups where
9 employment is down over 15 percent, yet her
10 budget proposal ignores these workers. The
11 Governor's substantial healthcare investment
12 makes no mention of home care outside the
13 proposed workforce bonuses. Home care
14 workers will not even receive a cost of
15 living increase.

16 One-time bonuses do not solve the
17 problem. A wage increase based on a
18 1 percent Medicaid rate increase does not
19 compete with the retail or restaurant sector.
20 We need you to support the Fair Pay for Home
21 Care Workers Act because doing so helps lift
22 Black and brown women out of poverty, helps
23 low-income families caring for loved ones at
24 home to stay in the workforce. It helps

1 delay or shorten costly nursing home and
2 hospital admissions and helps reduce Medicaid
3 expenditures across all sectors of the
4 healthcare spectrum. And it recognizes that
5 home care worker wages and adequate
6 reimbursement rates for their employers are
7 inextricably linked and inseparable.

8 To this end, we ask that you include
9 language from the Fair Pay for Home Care Act
10 in your one-house budget bills.

11 We ask for a repeal of the LHCSA RFP
12 that will cause upheaval in our sector and
13 limit access to services at a time when the
14 demand for home care is growing. The LHCSA
15 RFP and now a proposed MLTC RFP will shrink
16 the industry and concentrate power into the
17 hands of a very few players. Contract
18 negotiations will suffer, and New Yorkers
19 will have little choice over who is providing
20 care in their own homes. We ask you to
21 repeal the LHCSA RFP.

22 There are additional requests in our
23 written testimony; I won't go through them
24 now. But our members are proud of the work

1 they and their essential caregivers do for
2 their frail, aging and disabled citizens.
3 Their good work is at risk. Without home
4 care services, hospitals overflow, families
5 are overburdened, and New Yorkers languish,
6 decline or face placement in institutional
7 settings. Home care and those who depend on
8 it cannot, should not and will not be
9 overlooked.

10 I look forward to answering your
11 questions.

12 CHAIRWOMAN KRUEGER: Thank you very
13 much.

14 I am looking for hands. I see Senator
15 Rachel May's hand.

16 SENATOR MAY: Yes, thank you,
17 Madam Chair.

18 Kathy, I just wanted to follow up.
19 Thank you for your testimony.

20 And do you think, if we are able to
21 get the fair pay bill into the budget, would
22 that -- would people come into the field?
23 Would you be able to hire people?

24 MS. FEBRAIO: Absolutely. I mean,

1 it's amazing to me that so much of the
2 workforce has been able to stay throughout
3 this pandemic. But if we're able to give
4 them a living wage, we would be overwhelmed,
5 I think, with interest.

6 It's a wonderful profession. People
7 love to care for others -- very rewarding --
8 and we think this is a sustainable answer for
9 this workforce.

10 SENATOR MAY: And there are estimates
11 of the payoff of having full employment in
12 that field in terms of people being able to
13 stay in the workforce who are leaving jobs to
14 care for their loved ones and people being
15 able to stay out of nursing homes and the
16 workers themselves being able to lift
17 themselves out of poverty and off of public
18 assistance.

19 Do you -- does that ring true for you
20 in your experience of this sector?

21 MS. FEBRAIO: Oh, it absolutely does.
22 You know, it is just a tough -- if you can't
23 get off of public benefits while you're
24 working, it's just an uphill struggle your

1 whole life. And it's incredible that we are
2 sitting here today talking throughout the day
3 on how -- you know, the pros and cons of
4 getting people off of Medicaid by paying them
5 a living wage. I think it's just what needs
6 to be done.

7 And our providers need to be able to
8 hire a workforce that -- we spend so much
9 time replacing people that leave so quickly,
10 it's unsustainable. And it's not fair to
11 patients, and it's not fair to their
12 families.

13 SENATOR MAY: Okay, thank you.

14 MS. FEBRAIO: And we want to thank you
15 for all of your help and support in crafting
16 that act. It's incredible and very
17 beneficial.

18 SENATOR MAY: Thank you.

19 Dr. Gupta, I want to say hi and nice
20 to see you.

21 I wanted to ask you about something
22 we -- I have a bill called the SIGH Act,
23 which is about Schools Impacted by Gross
24 Highways, and it has to do with Dr. King

1 School in Syracuse that is so close to I-81,
2 but in general the idea of not locating
3 schools that close to highways.

4 Is this the kind of public health
5 issue that's on your radar, and do you think
6 that those sorts of issues need to be part of
7 the public health debate?

8 DR. GUPTA: So public health basically
9 is the foundation for the prevention, right?
10 So what you are suggesting at this point, if
11 the highways are close to where people live,
12 all the noise and all the pollution which
13 goes around with the car traffic and
14 everything, it can exacerbate their asthma,
15 it -- it's not the ideal way to do that.

16 So we at the local health departments
17 are not directly involved with the
18 environmental impact assessments. Usually
19 the state does work in those ones. But
20 certainly as a local health commissioner,
21 that will be very much in trust for the
22 prevention agenda for us for the long term,
23 that everyone should have opportunity to
24 achieve the best possible health by creating

1 a safe environment. And how do you create a
2 safe environment? By having good policies in
3 which it will protect them.

4 So those are really I think very
5 interesting points, and they should be part
6 of the ongoing conversation with the state
7 and with you.

8 SENATOR MAY: Okay. Thank you so
9 much.

10 DR. GUPTA: Thank you.

11 CHAIRWOMAN KRUEGER: Thank you.

12 I don't think I see any other hands
13 up. I do just want to point out to Dan Egan,
14 my old friend, with my background in food and
15 nutrition -- don't feel that you're alone,
16 but the other people testifying on your
17 topics came to the Agriculture Committee
18 budget hearing. And you hadn't signed up
19 then, so we wanted to make sure to put you
20 on.

21 And yes, you're right if you point out
22 the funding comes through the Health
23 Department for nutrition. But it is sort of
24 the dual realities of making sure New Yorkers

1 eat and that we're providing the funding
2 that's needed to help the not-for-profit
3 sector and the farm sector coordinate to not
4 waste food and get it to New Yorkers who need
5 it.

6 So I wanted to just sort of highlight
7 that and thank you for that during this
8 hearing today.

9 MR. EGAN: Thank you, Chairwoman.

10 CHAIRWOMAN KRUEGER: Thank you.

11 And with that, I think I am going to
12 excuse this panel. Thank you all very much
13 for your testimony today.

14 Gustavo, did you want to say something
15 or you were just thumbs-upping?

16 SENATOR RIVERA: I'll just say it
17 verbally. I'm very much a fan of all the
18 work that these folks do in all their
19 different ways, and thank you for being part
20 of this today.

21 CHAIRWOMAN KRUEGER: Thank you. Thank
22 you, Senator Rivera.

23 MULTIPLE PANELISTS: Thank you.

24 CHAIRWOMAN KRUEGER: All right, our

1 next panel, we'll start with the Pharmacists
2 Society of the State of New York, Karl
3 Williams, president; the Community Pharmacy
4 Association of New York State, Mike Duteau,
5 president; the Home Care Association of
6 New York State, Al Cardillo, president and
7 CEO; the Empire State Association of Assisted
8 Living, Lisa Newcomb, executive director;
9 PHI, Hannah Diamond, state policy advocacy
10 specialist; Consumer Directed Personal
11 Assistance Association of New York State,
12 Bryan O'Malley, executive director; and
13 Agencies for Children's Therapy Services,
14 Steven Sanders, executive director.

15 And every year when we put together
16 these panels, afterwards I say: Oh, wait,
17 No. 32 really should have been on this panel;
18 No. 39 really could have been on the earlier
19 panel. But never mind, because I can't fix
20 it now.

21 So welcome to you all, and thank you
22 for being here. And let's just start with
23 Pharmacists Society of the State of New York.

24 MR. WILLIAMS: Thank you for the

1 opportunity to discuss this remarkable budget
2 proposal. It's my privilege to testify as
3 the president of the Pharmacists Society of
4 the State of New York, a 140-year-old
5 statewide organization representing the
6 interests of approximately 25,000 pharmacists
7 who practice in a variety of settings, most
8 in community pharmacy.

9 The Executive Budget proposal contains
10 five pharmacy-related provisions to discuss.
11 However, notably and distressingly absent is
12 the language that's included in Assembly Bill
13 9165 and Senate Bill 7909, which requires
14 Medicaid managed care plans to reimburse
15 community pharmacies in an amount equal to
16 the fee-for-service rate.

17 The bill's predecessor passed both
18 houses unanimously in 2021 but was vetoed by
19 the Governor, who indicated in her veto
20 message that this matter should be addressed
21 in the budget. We're calling on the
22 Legislature to do exactly that and take this
23 up in the budget.

24 Specifically, in this budget, I want

1 to voice our support for Part C, which would
2 permit pharmacists to continue to do
3 CLIA-waived testing; Part G, which would
4 transfer oversight of licensed healthcare
5 professionals from the State Education
6 Department to the Department of Health; and
7 Part I, the Medicaid rate increase, which we
8 would add that as we are responsible for both
9 product and service, that this should be
10 applied to both of those.

11 We would oppose Part BB, elimination
12 of prescriber prevails, and allowing that
13 relationship to be unimpeded. And we'd also
14 oppose Part HH, which would require
15 pharmacies to stock a 30-day supply of opioid
16 overdose reversal medication, although we'd
17 welcome the opportunity to discuss that in
18 more detail.

19 In Part C, the society strongly
20 supports Governor Hochul's proposal to expand
21 licensed pharmacists' scope of practice to
22 perform CLIA-waived tests. This is a crucial
23 infrastructure issue. The Governor enabled
24 pharmacist testing under emergency powers at

1 the height of the pandemic, and this is now
2 supported only by the grace of the federal
3 PREP Act Declaration Amendments. Pharmacists
4 are clearly competent to provide this care.
5 Pharmacies built out capacity to address the
6 public health emergency and continue to do
7 so. Competence and capacity will remain
8 after the pandemic subsides, and this should
9 not be lost. Let's embody this in New York
10 State legislation through the Governor's
11 proposal in the budget.

12 PSSNY pledges to continue to work with
13 members of the Legislature, administrative
14 officials, and other stakeholders to develop
15 and provide progressive policies that promote
16 healthy communities, in which local
17 pharmacies are integral and will thrive. Our
18 members need relief to remain viable, and we
19 need the fee-for-service parity law.

20 Thank you, and I look forward to
21 taking questions and appreciate your time
22 tonight.

23 CHAIRWOMAN KRUEGER: Thank you very
24 much.

1 Next, the Community Pharmacy
2 Association of New York.

3 MR. DUTEAU: Thank you, Chairs and
4 other distinguished members of the committee.
5 My name is Mike Duteau. I'm a pharmacist and
6 president of the Community Pharmacy
7 Association of New York, and we represent
8 pharmacies of all types and sizes in every
9 county across New York.

10 I would like to thank you for your
11 leadership and strong past support of local
12 pharmacies.

13 Pharmacists have played an essential
14 role in the state's response to the COVID-19
15 pandemic. Pharmacies have remained open,
16 providing access to COVID-19 testing and
17 vaccinations, while still ensuring patient
18 access to their medications and other
19 important pharmacy care.

20 We support three provisions that we
21 consider to be top priorities related to the
22 2022-'23 state budget.

23 Number one, we support better patient
24 access to pharmacy care in Medicaid. Despite

1 our continued and expanded efforts to care
2 for patients, we continue to be reimbursed at
3 or below our costs by PBMs in Medicaid
4 managed care. Because of this, we strongly
5 support the shift of the Medicaid pharmacy
6 benefit from managed care to fee-for-service
7 so the state once again administers this
8 program.

9 And as previously stated by my
10 colleague Karl, there was a delay in last
11 year's budget for two years. However, the
12 Senate and Assembly did recognize the impact
13 of this decision, and they unanimously passed
14 legislation at the end of last year to help
15 resolve these issues, most notably requiring
16 health plans to reimburse pharmacies at the
17 state fee-for-service rate. Also prohibiting
18 restrictive PBM networks while allowing
19 pharmacies to deliver and mail medications
20 when requested. Also, importantly, it
21 ensured 340B entities were not negatively
22 impacted.

23 In late December, this legislation was
24 vetoed, and the Governor stated it should be

1 considered in the context of state budget
2 negotiations. We are very pleased to see
3 that the vetoed legislation has been
4 reintroduced by Senator Skoufis and
5 Assemblyman Gottfried, and we respectfully
6 ask that these protections be included in the
7 Assembly budget and the Senate budget this
8 year, as well as the final budget.

9 Secondly, we support expanded access
10 to CLIA-waived testing. The current law
11 allows pharmacies to administer CLIA-waived
12 tests under a medical director. While this
13 has been successful in practice, this
14 requirement greatly limits the number of
15 pharmacies able to offer this critical
16 service.

17 During the pandemic, New York
18 pharmacists were given the authority by
19 executive order to serve as their own LSL
20 directors and to order and administer these
21 tests. Given our extensive training and
22 experience, pharmacists are well prepared to
23 order and administer these tests while
24 clearly communicating results to physicians

1 and other healthcare providers.

2 Finally, we support the restoration of
3 across-the-board Medicaid cuts and inclusion
4 of the 1 percent increase. Pharmacies, like
5 other providers, have been subject to
6 across-the-board cuts -- 1 percent in 2019,
7 1.5 in 2020. We're very pleased to see the
8 Executive Budget announcement that restores
9 these cuts as well as includes a 1 percent.
10 Between the cuts and PBM reimbursement, it
11 greatly impacts our ability to continue to
12 provide critical care.

13 We respectfully urge your support for
14 ensuring these pharmacies, like other
15 providers under Medicaid, are eligible for
16 this rate increase in the final state budget.

17 Thank you for your consideration and
18 your time.

19 CHAIRWOMAN KRUEGER: Thank you very
20 much.

21 The Home Care Association of New York
22 State. (Pause.) Hello? The Home Care
23 Association of New York State is not with us?

24 MR. CARDILLO: No, I'm here.

1 CHAIRWOMAN KRUEGER: Oh, okay, hello.

2 MR. CARDILLO: I think I was muted.

3 I'm sorry, Senator.

4 CHAIRWOMAN KRUEGER: Okay.

5 MR. CARDILLO: So again, thank you,

6 Senators, thank you, Assemblymembers, for

7 this opportunity to testify today to the

8 committee.

9 HCA is the -- I'm Al Cardillo. I'm
10 the president and CEO of the Home Care
11 Association of New York State. HCA is the
12 statewide association representative of
13 certified home health agencies under Medicare
14 and Medicaid, state-licensed home care
15 agencies, managed long-term-care plans,
16 hospices, long-term home healthcare programs.
17 We have fiscal intermediaries and waiver
18 programs. Basically, the full alignment of
19 community services.

20 We are very appreciative and positive
21 on the steps that the Executive has taken in
22 proposing this, the first budget in probably
23 15 years, that starts without very deep
24 Medicaid cuts. And we look to support many

1 of the positive investments that the budget
2 would make into the system.

3 However, if what we really want to do
4 is address the underlying needs in the
5 system, this budget really has to at least
6 start with making some very critical
7 structural improvements in the way home care
8 is supported and funded.

9 Ordinarily we come to you with many
10 asks. Today I want to start by offering you
11 a comprehensive solution that the Home Care
12 Association has put forward. This
13 legislation is called the New York Home Care
14 First Act -- A9148, that's been introduced by
15 Assemblyman Gottfried, and we have it before
16 Senator Rivera for his consideration for
17 introduction.

18 This legislation ensures, among a
19 number of comprehensive steps, a first-option
20 alternative to institutionalization: New
21 funding for home care workforce compensation,
22 recruitment, retention and related supports.
23 It ensures calculation of reasonable and
24 necessary funding and rates for home care

1 providers. It coordinates the state's
2 overall home care policy so that one set of
3 policies that supports the system is not
4 undone by another set which contradicts the
5 system.

6 It requires the Department of Health
7 to include home care in critical policies of
8 prevention, primary care, public health,
9 capital support and workforce support where
10 it is often omitted.

11 It also establishes and maintains a
12 comprehensive public education program to
13 assist consumers with accessing the system,
14 addresses home telehealth needs, and it
15 explores the expansion of home care insurance
16 and other coverages outside of Medicaid.

17 Beyond that, there are issues within
18 the Governor's budget that we're very
19 concerned about. One relates to the expanded
20 FMAP program where the Department of Health
21 has taken the Legislature's appropriation
22 last year and made it available to just
23 25 percent of the entire home care system.
24 In that, that means it's excluding 75 percent

1 of the providers that serve constituents.

2 We're also very concerned about the
3 proposed permanent procurement for managed
4 long-term-care plans. The RFO for licensed
5 agencies that Kathy spoke about earlier, the
6 RFO for fiscal intermediaries, and the
7 residual effects of the independent assessor,
8 which the Legislature approved pre-pandemic
9 in 2021, hasn't been implemented but will
10 compete with the direct recruitment of nurses
11 from home care agencies into a duplicative
12 mechanism for assessment.

13 And I know I've concluded with my
14 time, Senator and members. We have attached
15 to our letter of testimony a full list of our
16 recommendations related to the Governor's
17 budget. And I hope you will all consider and
18 sponsor the New York Home Care First Act.

19 CHAIRWOMAN KRUEGER: Thank you. Thank
20 you very much, Al.

21 Next, the Empire State Association of
22 Assisted Living, Lisa Newcomb.

23 MS. NEWCOMB: Thank you all for
24 sticking it out with the last panel.

1 ESAAL represents 325 New York State
2 Department of Health licensed adult care
3 facilities, assisted living residences, and
4 the Medicaid-funded Assisted Living Program
5 serving 31,000 seniors.

6 Seniors pay for assisted living with
7 either their own private funds, their
8 pensions, Social Security or, for those that
9 are indigent, they rely entirely on a fixed
10 supplemental security income, SSI, and
11 sometimes a Medicaid add-on from the Assisted
12 Living Program.

13 The average age is in the late
14 eighties. They need assistance with
15 activities of daily living. Unlike other
16 healthcare sectors, the state has not
17 provided ACFs with any financial relief to
18 offset pandemic costs, and federal government
19 support has been just a fraction, a mere
20 fraction of relief provided to hospitals and
21 nursing homes.

22 Yet ACFs, we're often treated
23 similarly to nursing homes when it came to
24 very costly regulatory requirements such as

1 weekly testing of staff. Some of our members
2 have five and six-figure bills that they owe
3 to their laboratories. Since the beginning
4 of the pandemic, 18 adult care facilities
5 have closed.

6 Year after year, ACFs have been
7 virtually ignored in the budget. We're
8 always being told there's no money. This
9 year there is money, and funds must be
10 dedicated specifically to ACFs. We
11 respectfully ask for the following:
12 \$75 million in pandemic relief funding
13 dedicated specifically to ACFs for all ACFs,
14 who have suffered significant revenue loss
15 and exorbitant costs.

16 Capital dollars. Fifty million in
17 statewide Healthcare Transformation Program
18 funding is in there now -- thank you -- for
19 nursing homes. And ACFs, we request that 20
20 of the 50 be dedicated specifically to ACFs.
21 From the 750 million in non-competitive
22 grants, a dedicated amount earmarked
23 specifically to ACFs.

24 There's also up to 50 million in the

1 budget for residential and community-based
2 alternatives to nursing home care. ACFs
3 should be specifically noted as eligible.

4 SSI increase. For \$42 a day, serving
5 indigent seniors, providing housing, all
6 meals, 24-hour general supervision,
7 assistance with ADLs, medication assistance,
8 et cetera. It is just not sustainable
9 anymore for \$42. We ask for an increase of
10 at least \$10 to \$15 a day.

11 ALP rates. The Medicaid-funded ALPs
12 serve nursing-home-eligible seniors at less
13 than half the cost of the nursing home. ALP
14 reimbursement is still based on 2002 rates,
15 which ignore the huge increase in costs. The
16 methodology for calculating the ALP rates
17 should be revised, and the rates should be
18 increased.

19 Let me clear up the question, with my
20 remaining time, that was asked about the
21 Assisted Living Program and whether staff
22 were eligible for the bonuses. Only some of
23 the staff working in the Assisted Living
24 Program are eligible. It is the

1 Medicaid-funded services, so the home care
2 staff, the aides and the nurses would be
3 eligible. The rest of the staff, the
4 dietary, would not.

5 And then for all of the remaining
6 adult care facilities that don't have any --
7 that don't provide Medicaid services,
8 although they may be providing services to
9 Medicaid residents, they are not entitled to
10 any bonus at this point, and that needs to be
11 rectified.

12 Thank you.

13 CHAIRWOMAN KRUEGER: Thank you.

14 Next, PHI, Hannah Diamond.

15 MS. DIAMOND: Thank you for the
16 opportunity to comment on the fiscal year
17 2023 Executive Budget for New York State. My
18 name is Hannah Diamond. I am the state
19 policy advocacy specialist for PHI, a
20 national nonprofit organization based in the
21 Bronx that partners with policymakers,
22 payers, providers, workers and other
23 advocates to transform elder care and
24 disability services by promoting quality

1 direct care jobs as the foundation for
2 quality care.

3 In New York State nearly 550,000
4 direct care workers, including nursing
5 assistants, home health aides and personal
6 care aides, provide care to older adults and
7 people with disabilities. Immediate action
8 is needed to support the current direct care
9 workforce and to recruit new job candidates
10 to this sector -- which, according to PHI's
11 research, will incur 1.1 million job openings
12 between 2018 and 2028.

13 PHI's primary recommendation is to
14 raise wages for direct care workers. As a
15 result of low wages and limited annual
16 earnings, direct care workers experience
17 tremendous economic instability. Nearly
18 50 percent of direct care workers in New York
19 live in or near poverty.

20 While PHI commends Part D of the
21 Executive Budget for acknowledging eligible
22 healthcare workers, including direct care
23 workers, for their service during the
24 pandemic in the form of bonuses, these

1 the Article 7 language to ensure that
2 healthcare bonuses will not count towards a
3 worker's eligibility for public assistance.
4 With nearly 50 percent of direct care workers
5 receiving public assistance, this
6 clarification is important to ensure that
7 workers actually benefit from the bonuses.

8 And I want to also highlight the
9 importance of offering career advancement
10 opportunities to workers. We applaud the
11 creation of two new offices, the Office of
12 Healthcare Workforce Innovation and the
13 Office of Workforce and Economic Development,
14 and we encourage these offices to work
15 together to develop targeted strategies to
16 meet the current and projected needs of the
17 direct care workforce.

18 We also agree with the Executive
19 Budget's proposal for the creation of an
20 advanced role, the Certified Medication Aide
21 role for CNAs. However, we're concerned with
22 the lack of funding for this position, and we
23 urge the Legislature to fully fund the costs
24 of implementing this position, which include

1 training, supervision and wage increases that
2 reflect the additional level of
3 responsibility.

4 Thank you so much for your time and
5 consideration.

6 CHAIRWOMAN KRUEGER: Thank you very
7 much.

8 Next up we have the Consumer Directed
9 Personal Assistance Association of New York
10 State, Bryan O'Malley.

11 MR. O'MALLEY: Good evening. And
12 thank you for the opportunity to be here.

13 My name is Bryan O'Malley, and I'm the
14 executive director of the Consumer Directed
15 Personal Assistance Association of New York
16 State. We work to build and strengthen CDPA
17 for the consumers who use it and the fiscal
18 intermediaries who administer it.

19 Fifteen years ago, home care workers
20 often made about 162 percent of the minimum
21 wage. Today, home care is a minimum wage job
22 and upstate, home care workers make
23 88 percent of the \$15 fast food minimum wage.
24 This has been driven by the Medicaid global

1 cap, which is why it must be repealed.

2 Artificially capping the growth of
3 Medicaid has disproportionately harmed aging
4 and disabled New Yorkers. As the state
5 rapidly ages, enrollment in Medicaid
6 long-term care has grown, and the only way to
7 meet this cap has been to cut home care and
8 CDPA, which has had the obvious effect of
9 depressing wages.

10 But whether or not we repeal the
11 global cap, home care worker wages must be
12 raised by passing Fair Pay for Home Care,
13 which enjoys a bipartisan majority of support
14 in both houses. Bonuses are not sufficient.
15 Early surveys of our memberships indicate
16 that almost 15 percent of workers will not
17 receive any bonus because they average less
18 than 20 hours per week.

19 Many who do get a bonus will face
20 benefit cliffs. For instance, a family of
21 three working full-time as a home care aide
22 would see their SNAP eligibility end for the
23 year upstate.

24 Further, bonuses do not create the

1 lasting economic benefits Fair Pay for Home
2 Care does -- economic benefits that generate
3 increased revenue and savings that more than
4 pay for the costs associated with the rates.

5 The home care shortage also impacts
6 the budget in other areas. A proposal to
7 align Medicaid for those who need long-term
8 care and those who do not, the MAGI and
9 un-MAGI population, will add tens of
10 thousands needing long-term care to Medicaid
11 rolls.

12 The budget also claims 110.5 million
13 in savings by expanding the Essential Plan to
14 those making 250 percent of poverty and
15 including long-term care in that benefit
16 package, thereby diverting folks from
17 Medicaid. Without addressing our workforce
18 shortage, though, these expansions only
19 increase eligibility for programs people will
20 not be able to actually use.

21 The Essential Plan savings will not
22 materialize, which will put more pressure on
23 the global cap. Home care in particular,
24 CDPA, will be blamed, and instead of raising

1 wages, the cycle will begin anew and we will
2 be facing cuts instead of the investment we
3 desperately need.

4 Thank you very much for listening, and
5 I look forward to any questions.

6 CHAIRWOMAN KRUEGER: Thank you very
7 much.

8 And our final testifier on this panel,
9 Assemblymember Steven Sanders, Agencies for
10 Children's Therapy Services. Okay, he's no
11 longer an Assemblymember, but he was one of
12 mine when I started.

13 MR. SANDERS: Good evening, Chairwoman
14 Krueger, Chairwoman Weinstein, Chairman
15 Rivera, Chairman Cahill. I know you've been
16 waiting to hear from me because I am last
17 today, so I congratulate all of you for
18 waiting all this time to hear the last
19 person.

20 I am the executive director of
21 Agencies for Children's Therapy Services. My
22 association provides the majority of early
23 intervention services for toddlers age birth
24 to 3. For nearly two decades, the Early

1 Intervention Program has received virtually
2 no increase, no trend, no COLA, no nothing.
3 The Deficit Reduction Program cuts from
4 12 years ago of over 15 percent were never
5 restored. And this despite the fact that
6 during that period of time, new
7 non-reimbursable responsibilities were placed
8 on Early Intervention providers who serve
9 70,000 at-risk toddlers and their families.

10 The Early Intervention rates are less
11 today than they were in 2010, and less than
12 in neighboring states. The result is that
13 therapists are leaving the program in
14 alarming numbers. They're migrating to other
15 health or education-related service venues
16 where they can be compensated adequately for
17 their professional skills, which in many
18 cases require advanced academic degrees.

19 No one should be surprised that in the
20 past two years the Early Intervention Program
21 has lost nearly 2200 highly qualified
22 therapists -- 14 percent of the program.
23 That means fewer children are being served in
24 the manner and frequency they need and are

1 legally entitled to.

2 But there's good news. Last year,
3 under the leadership of a number of you on
4 this panel, including Senator Rivera and
5 Assemblyman Cahill, the Legislature passed a
6 law which will save the state and counties a
7 combined \$28 million a year in Early
8 Intervention costs by requiring commercial
9 insurance to finally pay their fair share.
10 The executive calculates the state share of
11 those savings to be \$15.4 million.

12 Those savings can and need to be
13 reinvested into the program to help
14 underwrite an 11 percent increase for those
15 agency providers and therapists. That is the
16 identical increase that the Governor has
17 promised the providers of preschool special
18 education programs.

19 So let me just say this in conclusion.
20 Preschool special education programs serve
21 the same population as Early Intervention
22 providers do -- same children, same services,
23 just a few months older than in Early
24 Intervention. So I urge you to finally right

1 this ship called Early Intervention. Tie the
2 rate increase to the same rate increase the
3 Governor has promised for preschool special
4 education -- who deserve that rate increase,
5 but Early Intervention providers deserve it
6 at least as much, if not more.

7 I thank you so much for all of your
8 time and all of your hard work.

9 CHAIRWOMAN KRUEGER: Thank you very
10 much, Steve.

11 And the first arm I saw up on the
12 Senate side was Senator Rachel May.

13 SENATOR MAY: Thank you. And thanks
14 to everybody who made it through the end of
15 the day. All your testimony is really
16 welcome.

17 This is for Bryan and maybe Hannah
18 too. But I wanted your response to what the
19 Medicaid director said this morning about how
20 bonuses were the best way to get the money
21 quickly to the workers.

22 MR. O'MALLEY: I think that we can
23 very easily get wages out quickly. If we set
24 a minimum wage, the speed with which those

1 wages go out is only determined by the
2 effective date of the law.

3 We need to make sure that the money is
4 going to the plans and that the plans are
5 getting it to providers, but that can be done
6 within the six-month vesting period that
7 bonuses would go out, and there's no reason
8 that by October 1st, when bonuses would be
9 starting, we could not be starting Fair Pay
10 for Home Care and paying people 22.50 on an
11 ongoing basis.

12 SENATOR MAY: And you both talked
13 about -- I think about how many home care
14 workers wouldn't qualify anyway or -- and we
15 heard testimony from a number of home care
16 workers who either got sick from the clients
17 that they visited and were out of the
18 workforce for quite a while, or who couldn't
19 get -- you know, if they had one client who
20 died or went into the hospital, they had a
21 big gap and didn't get another client for a
22 while.

23 So it seems like the requirements for
24 the number of hours they would work in order

1 to get the bonuses may be potentially
2 punishing them for things that were beyond
3 their control. Is that -- do you agree with
4 that or am I off base about that?

5 MR. O'MALLEY: I would think that --

6 MS. DIAMOND: I would basically --

7 MR. O'MALLEY: Go ahead, Hannah.

8 MS. DIAMOND: I'm sorry, Bryan. I
9 would just add that access to a consistent
10 schedule is very difficult for workers within
11 this field. And so absolutely, they might
12 wind up actually not receiving \$3,000 worth
13 of bonuses but much less because they weren't
14 able to access consistent work. And that's
15 very common.

16 MR. O'MALLEY: And I would echo that
17 and add that I think that would even be more
18 true within CDPA, where the worker's working
19 for one consumer or maybe two consumers,
20 instead of an agency, who can send them to
21 someone else. And so when that consumer goes
22 to a hospital, that person is out of work
23 until they get out.

24 And to the bonuses, you know, while

1 15 percent or so are not getting any bonuses,
2 we are also finding that on the flip side,
3 only about 25 percent or so, in early
4 indications, are getting that \$3,000. The
5 bulk are in a much lower range.

6 SENATOR MAY: Thank you very much.
7 Thanks for your hard work and for your
8 advocacy and for hanging in there all day
9 long. Take care.

10 MR. O'MALLEY: Thank you.

11 MS. DIAMOND: Thank you, Rachel.

12 CHAIRWOMAN KRUEGER: Next is
13 Assemblymember Ra. And I've just been asked
14 by Chair Weinstein to take over both roles
15 because apparently the Assembly is having a
16 conference, for those other Assemblymembers
17 who are here and maybe don't want to be here.

18 Sorry. Assemblymember Ra.

19 ASSEMBLYMAN RA: Thank you, Chair.

20 I just had a question for the
21 Community Pharmacists and the Pharmacists
22 Society regarding the mandate for the 30-day
23 supply of opioid antagonists and partial
24 agonists. If you can elaborate on, A, what

1 do the right thing for the communities that
2 we serve. We are good partners. We just
3 want to make sure that there's not undue
4 burden that creates the law of unintended
5 consequences.

6 So certainly can follow up afterwards
7 with how we think it can be best approached
8 and some pretty common-sense solutions.

9 ASSEMBLYMAN RA: I think that would be
10 great, as it's -- you know, we all know the
11 benefit of having access to it, the lives it
12 saves, certainly the -- you know, I know a
13 lot of people have made efforts to do
14 trainings and everything else, and that's
15 great. But I'm sure we can meet the goal
16 without, you know, imposing too large a
17 burden. So thank you, guys.

18 MR. DUTEAU: Yeah, I will just add,
19 just to get it out there, because it will be
20 an important part of the conversation, one of
21 the major sticking points is that -- the
22 wholesaler requirements with some of the
23 suspicious order monitoring and thresholds.

24 That's something we've been working

1 through very closely, again, with all the
2 stakeholders, and would be happy to engage
3 afterward to make sure we're all on the same
4 page.

5 ASSEMBLYMAN RA: Okay. Thank you.

6 CHAIRWOMAN KRUEGER: Thank you.

7 Senator Sue Serino.

8 SENATOR SERINO: Thank you,
9 Chairwoman.

10 And it's nice to see everybody today.
11 And Al, as always, you gave us a lot to think
12 about. You know, you really presented a
13 transformational plan for healthcare, and
14 it's really what we need after this pandemic.
15 And I look forward really to delving into the
16 details.

17 My question is for Lisa, though. You
18 know, we heard a little bit from Jim Clyne
19 about the gaps. And as you know, the
20 Legislature has advanced legislation in the
21 past to increase the SSI rate, including in
22 2017 when it was vetoed by the former
23 governor, citing it should be handled in the
24 context of the budget.

1 So given that in more than two decades
2 there's only been one increase to the SSI
3 rate, what do you think will happen if the
4 state continues to ignore this desperately
5 needed increase this budget cycle?

6 MS. NEWCOMB: Well, thank you,
7 Senator. And you have always been a great
8 champion for this worthy cause.

9 I guess I would just say I mentioned
10 during my testimony that since the pandemic
11 started, 18 facilities have closed. And
12 before that, I think it was -- on average, it
13 was about 10 to 12 per year. We have seen
14 acceleration, so I think we will see
15 continued closures.

16 And I think that, you know, I don't
17 know -- I don't know how they can sustain
18 themselves much longer. The ALP will help
19 offset, but that rate -- could help offset
20 some of it for those who have the Medicaid
21 program, but those rates are stuck in 2002 as
22 well. And they're not what -- the statute
23 requires that -- the rate to be 50 percent of
24 the nursing home rate, but that has eroded

1 over the years and we think it's somewhere
2 between -- now it's somewhere more like
3 35 percent of what the nursing home gets per
4 day.

5 So they're really in dire financial
6 straits right now, and we're hoping that this
7 is the year to make it right. Thank you.

8 SENATOR SERINO: I hope all of my
9 friends are listening. Because, you know,
10 I've been beating this drum for a long time.
11 Once again, our most vulnerable are an
12 afterthought.

13 So thank you for continuing the fight.
14 Al, it's good to see you. And I also just
15 want to say to Steven Sanders, you know, it's
16 a real shame that we don't do more for Early
17 Intervention, and I really appreciate your
18 testimony today. So thank you to everybody.
19 Thanks for hanging in there too.

20 MR. SANDERS: Thank you, Senator.

21 SENATOR SERINO: Thank you.

22 CHAIRWOMAN KRUEGER: Thank you.

23 Next is Assemblyman Tom Abinanti.

24 You're on mute, Tom.

1 ASSEMBLYMAN ABINANTI: There we go.
2 Thank you, Madam Chair. I've been in and
3 out, I've been trying to run back and forth
4 between conference and session and whatever,
5 and I want to thank all of the others who
6 stayed here during this whole thing, just
7 like you have thanked them.

8 I've got a couple of questions.
9 Number one, to the pharmacy guys. Do you
10 still have the ability to get things from the
11 local hospital if one of your people doesn't
12 have something? I know there was a time when
13 you could get resupplied by a transfer from
14 another pharmacy or from a local hospital or
15 something like that. Can you still do that?
16 Can you get these types of products if you
17 run low and resupply that way?

18 MR. WILLIAMS: Sure. There are some
19 limits on that. In terms of controlled
20 substances, there is a greater paperwork
21 burden. But that is -- that is possible. We
22 have to be aware of the wholesale regulations
23 in New York State. So --

24 ASSEMBLYMAN ABINANTI: Well, how much

1 of this stuff do you go through a day? I
2 mean, a 30-day supply, that's assuming that
3 you're going to have a large demand for this.
4 How much of a demand is there?

5 MR. WILLIAMS: It varies from place to
6 place. I think Mike would agree.

7 MR. DUTEAU: I would agree. And
8 again, if the demand is high, then typically
9 the participants have a wholesaler license to
10 be able to accomplish that.

11 ASSEMBLYMAN ABINANTI: Okay. Now, the
12 other question I have is we're talking here
13 about a bonus. What do we have to raise the
14 salaries to, to make them competitive? I
15 think we probably had some discussion about
16 that during the day.

17 But what's your opinion on this? You
18 know, I understand the problem with a bonus;
19 I understand the benefit of having a bonus.
20 But I think people want a consistent salary
21 to stay in the industry. So what do we have
22 to raise it to, to make it a competitive
23 salary?

24 CHAIRWOMAN KRUEGER: And you mean in

1 home care, Tom, right?

2 ASSEMBLYMAN ABINANTI: I'm sorry, yes,
3 in the home care. I'm not talking pharmacy
4 anymore, right.

5 MR. O'MALLEY: Assemblyman -- go
6 ahead, Al.

7 MR. CARDILLO: I would like to respond
8 to that. That question I think is exactly on
9 point. We have drafted legislation which has
10 been introduced in both houses for probably
11 the last four or five years to require a
12 competitive labor market analysis of exactly
13 what the thresholds are from recruitment and
14 compensation in home care and hospice
15 vis-a-vis what the competitive labor market
16 is.

17 I think the reason that that's so
18 important is because you've got competition
19 from within the health system -- so between
20 hospitals, home care, nursing homes -- but
21 also with other sectors, that really isn't
22 possible to measure by simply throwing a dart
23 at a board. Or saying let's increase things
24 \$4 or \$5.

1 We believe that we really need to
2 understand what is the competitive threshold
3 and then to have the recommendation for how
4 the funding methodologies are adjusted to
5 achieve that threshold.

6 I believe Assemblyman Bronson has the
7 bill in currently in the Assembly.

8 ASSEMBLYMAN ABINANTI: Let me just
9 press back one minute if I can.

10 How come you guys haven't done that?
11 Can't you do that yourselves just by doing
12 your own surveys? I've seen all kinds of
13 surveys. Why can't you give us a number to
14 tell us in the Legislature, hey, this is what
15 we -- this is our target?

16 CHAIRWOMAN KRUEGER: Tom, you need to
17 take that question offline since you've used
18 up your time. So I bet Al will be happy to
19 get you more information. Thank you.

20 ASSEMBLYMAN ABINANTI: Okay, good.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Senator Gustavo Rivera, do you have
23 your hand up? Suddenly you popped up in a
24 box.

1 SENATOR RIVERA: I've always been
2 here. But I believe that González-Rojas has
3 a question.

4 CHAIRWOMAN KRUEGER: Okay, I just want
5 to double-check there are no more Senators.

6 Cordell Cleare, did you have your hand
7 up? Or you're also just in a box right now?
8 You're good also.

9 Okay, then Assemblywoman
10 González-Rojas.

11 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Great,
12 thank you so much.

13 Bryan, I wonder if you can -- I
14 actually do want to give you space to answer
15 Tom's question, because I think it's an
16 important one. And I also want you to
17 elucidate the shortage that we're facing. I
18 understand that we have the largest home care
19 worker shortage in the country right now. So
20 if you could tell us more about what that
21 looks like right now and what that can mean
22 for future services as well as respond to
23 Tom's point about what type of competitive --
24 what would a competitive salary look like to

1 keep folks in the field and support the labor
2 shortage that we're facing.

3 MR. O'MALLEY: Sure. Thank you. And
4 I want to leave some space for Hannah,
5 because I know PHI has lots of great data on
6 the workforce too.

7 We will often cite Mercer just because
8 they are a national organization looking at
9 the overall healthcare workforce, and they've
10 identified that we're going to need 83,000
11 home care workers by 2025. Of that, they
12 anticipate that we'll be able to fill about
13 50,000 of those spots by that time period.
14 So, you know, that would leave us short
15 33,000 home care workers. And I think we are
16 all seeing that now.

17 And to the wage, I think this is one
18 area where we would definitely disagree with
19 Al. We would argue that we've studied this.
20 There was a study that was done in the budget
21 for North Country wages several years ago,
22 and we've not seen the results.

23 What we do know is when the wage was
24 162 percent of the minimum wage, when it was

1 higher, we didn't have problems recruiting
2 home care workers. And so if we pay people,
3 it is like Kathy Febraio said earlier:
4 Passing Fair Pay, moving to 150 percent will
5 absolutely solve this gap. And people will
6 join the workforce. And we know it because
7 we've seen it before.

8 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
9 you so much.

10 MS. DIAMOND: I would just love to
11 share. I shared a statistic. We have data
12 that shows that this workforce, over a
13 10-year period, is going to incur 1.1 million
14 job openings. That's both due to growth --
15 so increased demand for services -- but also
16 because workers are leaving these positions
17 for other opportunities.

18 And wages are a huge part of both
19 recruiting and retaining workers to meet the
20 anticipated demands that New York currently
21 has -- it's currently a crisis -- and it's
22 going to continue to have.

23 So I think to the discussion about
24 what is the right amount, we need to be

1 funding Fair Pay for Home Care now. And then
2 I would also welcome a stakeholder-informed
3 conversation with the Department of Health to
4 look at what is a competitive and livable
5 wage for workers across long-term care. But
6 it's not an or, it's an and. We need to be
7 addressing this immediately to address the
8 workforce crisis.

9 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
10 you, Hannah.

11 CHAIRWOMAN KRUEGER: Thank you. So I
12 need to just jump in and play devil's
13 advocate.

14 Is it not true that we have the
15 greatest shortage right now because since we
16 have the largest Medicaid-funded home care
17 program in the country, we had the largest
18 number of people eligible for these services?

19 MR. CARDILLO: Well, we do. One of
20 the things is is that New York has always
21 been the national leader in home care,
22 Medicaid home care but home care across the
23 board. And that's been the case really since
24 1977. And I think that is a factor.

1 However, many of New York's policies
2 have been specifically directed at having a
3 more targeted admission and service practice,
4 whether it's the payment of hospitals, the
5 payment of nursing homes and other sectors.
6 And with those kinds of policies, it drives
7 the demand in a much more substantial way
8 than you would see in other states, and I
9 think that's a major factor in what drives
10 then the need for services.

11 CHAIRWOMAN KRUEGER: Thank you.

12 MR. O'MALLEY: I think -- Senator, I
13 think that's also something we've always been
14 very proud of here in New York, right? We
15 take pride in our Medicaid program and the
16 fact that we do offer these services. We
17 don't want to be Texas or Mississippi, right?

18 And so yeah, we could just cut
19 services. We could say no one's getting
20 24-hour care, no one's getting live-in care,
21 no one's getting any of the -- but that's not
22 who we are as New Yorkers. And so if we want
23 to provide the home care benefits, we
24 actually have to make sure those benefits are

1 available.

2 CHAIRWOMAN KRUEGER: And I wasn't
3 trying to tie a judgment on that because I
4 don't disagree with you. I was just trying
5 to sort of get a numbers angle on it, because
6 in an earlier discussion I learned that
7 New Yorkers don't use hospice, and I think
8 that's a cultural issue. But I don't think
9 it's a cultural issue that we have such a
10 high shortage of home care workers; we just
11 have a very large program that's grown, and
12 because we pay so poorly and because of any
13 number of other issues, now we have the
14 largest shortage in the country. It's not a
15 cultural issue about us. So thank you.

16 And Gustavo Rivera does have his hand
17 up now.

18 SENATOR RIVERA: Yeah, I just wanted
19 to do something really quickly as a kind of
20 an exclamation point to the conversation that
21 we've been having for certainly all day, but
22 in the last five, 10 minutes.

23 I'm sure that you folks are aware as
24 you're seeing this budget -- and we've all

1 talked about how it's much better than the
2 ones that we've fought against in the past.
3 But there's one aspect of it that we haven't
4 actually talked about, and I forgot to ask
5 this morning to the commissioner, and that is
6 the fact -- certainly it's not a decision
7 that she makes, but it is a decision that the
8 Governor makes as far as how much money we
9 put into reserves.

10 As I understand, there's a \$9 billion
11 chunk that's going to be put into reserves.
12 And my -- what I wanted to ask this morning
13 is like if we can put 9 billion into
14 reserves, we can also put 7 billion into
15 reserves and have 2 billion to do other
16 things with, like what are some of the things
17 we're talking about here, which is a
18 long-term solution as far as -- not just a
19 Band-Aid.

20 So if anybody wanted to comment on the
21 fact that there are reserves that we have to
22 the tune of \$9 billion and still do the
23 things that we're talking about -- if anybody
24 wants to comment on that, I want to give you

1 an opportunity to do so.

2 MS. NEWCOMB: I guess I would just say
3 that we're asking for a tiny, tiny, tiny,
4 tiny portion of that, and then we would be
5 just fine with that, with a very small
6 portion. And so it's a matter of priorities.

7 SENATOR RIVERA: What would that small
8 portion be, ma'am?

9 MS. NEWCOMB: I mean, I'd have to do
10 the math in my -- you know. But I mean we're
11 asking for just, you know, a few hundred
12 million in between all the different
13 programs, a lot of which the Governor, you
14 know, has included, just to be part of them.
15 And then the SSI increase, obviously. So
16 that's a tiny fraction --

17 MR. SANDERS: May I just add to that
18 briefly, from the -- back to the Early
19 Intervention angle?

20 CHAIRWOMAN KRUEGER: Yes.

21 MR. SANDERS: The rate increase that
22 we are asking for and desperately need can
23 mostly be funded through the -- we don't have
24 to tap the reserves. It can come from the

1 savings that, Senator Rivera, you championed
2 last year, along with Dick Gottfried and
3 Amy Paulin and Senator Reichlin-Melnick and
4 Cahill, because we now have savings of nearly
5 \$30 million because commercial insurance is
6 now paying more their fair share by being
7 included under covered lives.

8 So we want to be taking those savings
9 from Early Intervention and reinvesting it
10 back into Early Intervention --

11 SENATOR RIVERA: Last 30 seconds.
12 Last 30 seconds. Ms. Diamond? Because I see
13 you with the hand up.

14 MS. DIAMOND: Thanks so much. Yes, I
15 was just going to say that these investments
16 that we're talking about require an initial
17 influx of funds that will pay dividends in
18 the future. So if we holistically address
19 job quality for workers, which is wages,
20 which is training, which is career
21 advancements, it's going to save the state
22 money in the future.

23 So it's -- the time is now to invest
24 this -- in the direct care workforce.

1 SENATOR RIVERA: Thank you,
2 Ms. Diamond. And thank you, Madam Chair.

3 MR. O'MALLEY: Plus one on Hannah.

4 CHAIRWOMAN KRUEGER: Thank you.

5 I think now we have completed the
6 questioning by the remaining legislators --

7 SENATOR RIVERA: Senator Cleare,
8 Senator Cleare.

9 CHAIRWOMAN KRUEGER: Cordell Cleare.
10 Yes, ma'am. Put your mic on.

11 SENATOR CLEARE: I only wanted to hear
12 what Assemblyman Sanders had to say. I
13 wanted him to finish if the --

14 CHAIRWOMAN KRUEGER: Steve, would you
15 please explain again how the covered life
16 changes --

17 (Overtalk.)

18 SENATOR CLEARE: Or just finish it for
19 us.

20 CHAIRWOMAN KRUEGER: -- got us some
21 money.

22 MR. SANDERS: And I'll do it very
23 quickly.

24 Forever, 20, 25 years, the entire

1 program -- more -- commercial insurance has
2 been paying only 2 percent of the total Early
3 Intervention cost. The rest comes from the
4 state and counties. They were contributing
5 \$12 million, a pittance.

6 Last year the Legislature passed and
7 the Governor signed legislation that requires
8 them to pay \$40 million. What that means --
9 in the covered lives program, Senator. What
10 that means is that there is a savings to the
11 state and counties of \$28 million that's
12 derived from the 12 million that commercial
13 insurance used to pay with the 40 million
14 that they're now paying. So the difference
15 is 28 million.

16 And that money shouldn't just go into
17 the General Fund, it ought to go -- it ought
18 to be reinvested into the Early Intervention
19 Program to support therapists and
20 professionals who haven't had a rate increase
21 in two decades.

22 SENATOR CLEARE: Thank you.

23 MR. SANDERS: Thanks for the question,
24 Senator.

1 CHAIRWOMAN KRUEGER: Thank you.

2 See, you were the last person, but you
3 got the last word also, Steve Sanders.

4 (Laughter.)

5 CHAIRWOMAN KRUEGER: And with that,
6 since I see no other hands waving at me, I'm
7 going -- John Liu, you've shown up to wave at
8 me. Do you need the last question before we
9 close this hearing?

10 SENATOR LIU: Madam Chair, I've been
11 with you this whole time just doing other
12 things as well, multitasking. But I --

13 SENATOR RIVERA: Want to ask about
14 crypto now? You can ask about crypto now.

15 CHAIRWOMAN KRUEGER: No (laughing).
16 Don't get him started, Gustavo.

17 Okay, so you were just turning your
18 screen on again for the closing moments. And
19 Rebecca Seawright, you were also just turning
20 your screen on for the closing moments, you
21 didn't want to wave your hand?

22 SENATOR LIU: We wanted you to know
23 that we are with you, Madam Chair.

24 CHAIRWOMAN KRUEGER: Thank you, sir.

1 SENATOR COMRIE: That's right, Madam
2 Chair, we're with you. We're with you.

3 CHAIRWOMAN KRUEGER: Thank you for the
4 moral support, everyone.

5 SENATOR LIU: You see, we're all with
6 you.

7 ASSEMBLYWOMAN SEAWRIGHT: We're all
8 with you, thank you.

9 CHAIRWOMAN KRUEGER: Thank you. Now
10 let's just get the budget done the way we all
11 want it to get done --

12 (Cross-talk.)

13 ASSEMBLYWOMAN SEAWRIGHT: We need a
14 song from Gustavo --

15 CHAIRWOMAN KRUEGER: All right, when
16 the hearing's finished, people can request
17 musical inter --

18 SENATOR RIVERA: (Singing.) Closing
19 time, you don't have to go home but you can't
20 stay here.

21 CHAIRWOMAN KRUEGER: A perfect closing
22 to our Health Budget Hearing for 2022. Thank
23 you all for participating, legislators and
24 testifiers. And tomorrow morning we will be

1 starting at 9:30 with our Local and Municipal
2 Government day. So go home, relax, don't get
3 too comfortable, come on back in the morning.

4 Thank you very, very much. Good
5 night, everybody.

6 (Whereupon, the budget hearing
7 concluded at 6:39 p.m.)

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