

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 2023-2024 EXECUTIVE BUDGET
6 ON HEALTH

7
8 Hearing Room B
9 Legislative Office Building
10 Albany, New York

11
12 February 28, 2023
13 10:02 a.m.

14 PRESIDING:

15 Senator Liz Krueger
16 Chair, Senate Finance Committee

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

19 PRESENT:

20 Senator Patrick M. Gallivan
21 Senate Finance Committee (Acting RM)

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

24 Senator Gustavo Rivera
25 Chair, Senate Committee on Health

26 Assemblywoman Amy Paulin
27 Chair, Assembly Health Committee

28 Assemblyman David I. Weprin
29 Chair, Assembly Committee on Insurance

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3 PRESENT: (Continued)

4 Senator John C. Liu

5 Assemblyman Khaleel M. Anderson

6 Assemblyman Harry B. Bronson

7 Senator Brad Hoylman-Sigal

8 Assemblyman Edward C. Braunstein

9 Senator Rachel May

10 Assemblyman Phil Steck

11 Assemblywoman Marjorie Byrnes

12 Senator Pamela Helming

13 Assemblyman John T. McDonald III

14 Assemblywoman Linda B. Rosenthal

15 Assemblywoman Jessica González-Rojas

16 Assemblyman Jake Ashby

17 Assemblywoman Michaelle C. Solages

18 Assemblyman Jarett Gandolfo

19 Assemblyman Josh Jensen

20 Senator Julia Salazar

21 Assemblymember Alex Bores

22 Assemblywoman Jen Lunsford

23 Senator Lea Webb

24 Assemblyman Jake Blumencranz

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3 PRESENT: (Continued)

4 Senator George M. Borrello

5 Assemblywoman Nikki Lucas

6 Senator Kevin Thomas

7 Assemblywoman Dr. Anna R. Kelles

8 Senator Samra G. Brouk

9 Assemblyman Nader J. Sayegh

10 Senator Nathalia Fernandez

11 Assemblywoman Jo Anne Simon

12 Senator Zellnor Myrie

13 Assemblywoman Gina L. Sillitti

14 Senator Steven D. Rhoads

15 Assemblyman Scott Gray

16 Assemblyman Philip A. Palmesano

17 Senator James Sanders Jr.

18 Senator Michelle Hinchey

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1 CHAIRWOMAN KRUEGER: Let's get
2 started. If everybody would take their seats
3 or stop private conversations and take them
4 outside. Thank you.

5 (Mic off.) Good morning, and welcome
6 to snowy Albany (inaudible). I'm Liz
7 Krueger, the finance chair of the Senate, and
8 I'm joined this morning by my Assembly
9 partner, the chair of the Assembly Ways and
10 Means Committee, Helene Weinstein.

11 These are joint hearings. Today is
12 the 11th of 13 hearings conducted by the --

13 (Mic turned on.)

14 CHAIRWOMAN KRUEGER: Damn, sorry.

15 (Laughter.)

16 CHAIRWOMAN KRUEGER: Let's try again.
17 There you go. Hi. Forget the "damn."

18 I think you probably already know, I'm
19 Liz Krueger, this is Helene Weinstein --
20 Finance, Ways and Means.

21 This is the 11th of 13 hearings
22 conducted by the joint fiscal committees of
23 the Legislature regarding the Governor's
24 proposed budget for the state fiscal year

1 '23-'24. These hearings are conducted
2 pursuant to the New York State Constitution
3 and Legislative Law.

4 Today the Senate Finance Committee and
5 Assembly Ways and Means Committee will hear
6 testimony concerning the Governor's proposed
7 budget for the Department of Health, the
8 Department of Financial Services, and
9 Medicaid.

10 Following each testimony there will be
11 some time for questions from the chairs of
12 the fiscal committees and other legislators
13 from the relevant committees.

14 I will now introduce members from the
15 Senate, and Assemblymember Helene Weinstein
16 will introduce members from the Assembly.
17 And usually the ranker is Tom O'Mara, but
18 today we have a special guest, the ranker of
19 Health, Senator Gallivan, who will be playing
20 the role of ranker for all the issues today,
21 thank you.

22 And just to introduce the members of
23 my conference first, I am joined by Senator
24 Gustavo Rivera, the chair of Health; Senator

1 Webb, sitting on the Assembly side down here.
2 She likes it down there. Senator May,
3 Senator Liu, Senator Myrie and Senator Brouk.
4 And some other Senators may show up as the
5 hearing continues.

6 I'll hand it to Helene first.

7 CHAIRWOMAN WEINSTEIN: So for the
8 Assembly we have the chair of our Health
9 Committee, Assemblywoman Paulin. And we have
10 colleagues Assemblyman Bores, Assemblyman
11 Braunstein, Assemblyman Bronson,
12 Assemblywoman Lunsford, Assemblyman McDonald,
13 and Assemblyman Steck. And we probably will
14 have some others joining us.

15 Mr. Ra, would you like to introduce
16 your colleagues?

17 ASSEMBLYMAN RA: Sure.

18 Good morning, everybody. We are
19 joined by Assemblyman Jensen, the ranking
20 member on the Health Committee, as well as
21 Assemblymembers Gandolfo, Byrnes and
22 Blumencranz.

23 CHAIRWOMAN WEINSTEIN: Senate.

24 CHAIRWOMAN KRUEGER: And, sorry,

1 Senator Gallivan will introduce his members.

2 SENATOR GALLIVAN: We are also joined
3 by Senator Helming and Senator Ashby.

4 CHAIRWOMAN KRUEGER: So before we get
5 started --

6 SENATOR GALLIVAN: Hold on, I'm sorry.
7 And Senator Rhoads, of the grand entrance.

8 CHAIRWOMAN KRUEGER: So before we get
9 started with our first panel, I want to go
10 over some of the basic rules for our budget
11 hearings.

12 Governmental witnesses get 10 minutes
13 each. Nongovernmental witnesses get three
14 minutes each. All right, and so we'll just
15 go -- since there are three of you testifying
16 on this panel, we will let you go, what, 10,
17 10, 10, and then we will start questioning.

18 For legislators to ask questions of
19 witnesses: Chairs Weinstein and Krueger and
20 relevant committee chairs get 10 minutes to
21 ask questions and a second round of three
22 minutes. Rankers get five minutes, no second
23 rounds. All other members get three minutes,
24 no second rounds.

1 It's especially important for
2 legislators to listen. When you ask a
3 question, that three minutes, five minutes,
4 or 10 minutes includes the amount of time the
5 panel has to answer your question. So please
6 don't do Helene and my least favorite
7 activity. When you have three minutes on the
8 clock, don't ask a 2 minute and 45 second
9 question and then assume somebody's going to
10 be able to answer you.

11 Same thing if you have five minutes or
12 10 minutes. Think about leaving time for the
13 answer.

14 Now, if the answer is actually too
15 long or technical for you to answer in the
16 amount of time given -- that's whether you're
17 a government rep or an advocate or community
18 member -- you can always get back to us in
19 writing. And we might say that to you,
20 Please get us the answer in writing. And if
21 you give it to -- send it to Helene and
22 myself, we will make sure all members of the
23 committees get the answers.

24 So no matter who asks the question, if

1 you're following up in writing, get it to the
2 two of us and we'll make sure everyone is
3 getting those answers, which are very
4 helpful.

5 Nongovernmental witnesses, again, get
6 three minutes. And the members only have
7 three minutes, whether you're a member of the
8 committee, a ranker, or a chair.

9 The clocks are in obvious places.
10 Yesterday they weren't working so well.
11 Today they seem to be back. So you will hear
12 a sound and see a yellow light when you have
13 one minute left. So don't panic, just
14 realize you only have a minute left, so think
15 through speeding up what you're saying to us
16 or how you're answering.

17 We have a gavel. We don't use it,
18 really. We think about using it. And we
19 still haven't decided whether we use it on
20 the person or the table. So I'm urging you,
21 don't test us.

22 (Laughter.)

23 CHAIRWOMAN KRUEGER: I keep saying
24 that in public. This is going to come back

1 to haunt me, isn't it? Maybe. Maybe.

2 So we have as our first panel of
3 guests James McDonald, acting commissioner of
4 the New York State Department of Health; Amir
5 Bassiri, Medicaid director, also with the
6 New York State Department of Health. The
7 acting commissioner is testifying; the
8 Medicaid director is here to answer questions
9 but doesn't have separate testimony.

10 And then we have Adrienne Harris,
11 superintendent of the New York State
12 Department of Financial Services. And just
13 to clarify, while DFS has many different
14 responsibilities and many different concerns
15 that the Legislature has, she's only here
16 today to deal with issues of health
17 insurance, not -- while I personally love to
18 bend her ear about cryptocurrency, I will not
19 be doing that today in today's hearing. It's
20 just about health and her role in health
21 insurance.

22 And with that I'm going to ask
23 Acting Commissioner McDonald to speak first,
24 please.

1 ACTING COMMISSIONER McDONALD: So good
2 morning, Chairpersons Krueger, Weinstein,
3 Rivera, and Paulin. It's great to be here
4 this morning. And I also want to greet the
5 members of the Senate and Assembly health and
6 fiscal committees.

7 My name is Dr. Jim McDonald. I thank
8 you for the opportunity to testify on behalf
9 of Governor Hochul's FY --

10 CHAIRWOMAN KRUEGER: Can you pull the
11 mic a little closer? I'm sorry.

12 ACTING COMMISSIONER McDONALD: I'd be
13 happy to pull it closer.

14 CHAIRWOMAN KRUEGER: Thank you. Some
15 of them work better than others.

16 ACTING COMMISSIONER McDONALD: Thank
17 you. You know, and really we're going to be
18 talking about the health and well-being of
19 all New Yorkers. And joining me today is
20 Megan Baldwin, the acting executive deputy
21 commissioner, and Amir Bassiri, our Medicaid
22 director.

23 You know, by the way, today marks my
24 ninth week on the job as acting health

1 commissioner. Before joining the Department
2 of Health in July of '22 as the medical
3 director of the Office of Public Health, I
4 spent the last 10 years at the Rhode Island
5 Department of Health in various leadership
6 roles, the last one being the interim
7 director of health, which is analogous to
8 being the commissioner of health here in
9 New York.

10 Just by way of training, I'm
11 board-certified in pediatrics. I'm also
12 board-certified in general preventive
13 medicine and public health.

14 I did want to take a moment just to
15 thank Dr. Mary Bassett. And, you know, quite
16 frankly it's an honor to follow in her
17 footsteps here. You know, she really laid a
18 very important groundwork for the department,
19 and it's work that we must continue to do to
20 rebuild the department, and also just to
21 continue to place health equity at the center
22 of everything we do at the New York State
23 Department of Health.

24 You know, to that end, I am proud that

1 last year the department created the Office
2 of Health Equity and Human Rights. This
3 office defines the overarching vision,
4 framework and strategy to achieve a diverse,
5 equitable and inclusive department, with the
6 goal of eliminating disparities and advancing
7 health equity to improve the health and
8 wellness of all New Yorkers. This office is
9 staffed by over 600 individuals across
10 multidisciplinary teams, and is essential to
11 advancing New York State's Health Equity
12 Impact Assessment, the Transgender Wellness
13 Equity Fund, and ending preventable
14 epidemics, including HIV, hepatitis C and
15 congenital syphilis.

16 The FY '24 Executive Budget is a
17 blueprint for better health in New York. Not
18 only does it continue to build on the current
19 fiscal year's historic healthcare
20 investments, but its emphasis on public
21 health infrastructure aligns with the
22 department's focus on health equity. This
23 budget allows us to envision a stronger
24 health system for all New Yorkers that can

1 meet the challenges of the future while
2 continuing to address persistent health
3 disparities.

4 To create a healthier future and
5 eliminate health disparities, we must make it
6 easier for people to access primary care.
7 This includes closing the gap on the
8 uninsured, addressing medical debt, and
9 forging pathways to connect New Yorkers with
10 primary care providers. New York enacted
11 several important coverage expansions in the
12 FY '23 budget, including expanding Medicaid
13 eligibility for all adults, eliminating
14 Child Health Plus premiums, and covering
15 mental health benefits. Together, these
16 coverage expansions account for \$100 million
17 of new investments and will help hundreds of
18 thousands of New Yorkers.

19 The Department of Health is also
20 seeking federal waiver approval to expand
21 Essential Plan coverage to additional
22 low-income individuals, increasing our
23 eligibility to 250 percent of the federal
24 poverty level.

1 Expanding insurance coverage dovetails
2 with our emphasis on connecting more
3 New Yorkers to primary care providers.
4 Governor Hochul has proposed investments in
5 interventions that will ease the way for the
6 underserved to access care. This includes
7 increasing Medicaid reimbursement rates for
8 primary care through an annual benchmarking
9 of Medicaid's physician fee schedule to
10 80 percent of Medicare's rate; an increase to
11 the nurse practitioner fee schedule; as well
12 as reimbursement for primary care providers
13 for administering adverse childhood
14 experiences, or ACEs, screening.

15 In addition, the Medicaid program will
16 increase rates for school-based health
17 centers by 10 percent.

18 The FY '24 Executive Budget also
19 includes various investments to enhance
20 emergency medical services statewide. It
21 provides \$7.6 million in increased funding
22 for EMS resources, developing an EMS
23 recruitment and retention program,
24 contracting with EMS agencies for disaster

1 response readiness, and expanded educational
2 and mental health programs.

3 Capital equipment resources will be
4 provided to enhance statewide availability of
5 ambulances in areas that need EMS support.
6 The budget also provides innovative delivery
7 models to help reduce pressures of the
8 healthcare system, provide patients with more
9 options to receive care, and bring more
10 medical care into the community.

11 Additionally, the budget invests over
12 \$18 million to increase ambulance provider
13 rates for more complex trips, to further
14 expand access to EMS services across the
15 state.

16 I'm pleased to report that since
17 creating the Office of Aging and Long-Term
18 Care six months ago, the team has undertaken
19 a great deal of work to support a mission of
20 fostering policy, programs and services that
21 meet the needs of aging and disabled
22 New Yorkers. This includes the creation of
23 Governor Hochul's Master Plan for Aging, in
24 partnership with other agencies, that will

1 lay the foundation for building safe, livable
2 communities for aging New Yorkers.

3 The Executive Budget further supports
4 our drive to create a sustainable aging and
5 long-term care system that rewards quality,
6 increases long-term care provider
7 transparency, creates a pathway for caregiver
8 opportunity and flexibility and, most
9 importantly, ensures access to aging services
10 and quality long-term care, while working to
11 eliminate health disparities.

12 Turning to maternal health, racial
13 disparities remain a significant and deeply
14 troubling problem, with Black women about
15 four times more likely than white women to
16 die from pregnancy-related complications. To
17 address this gap and ensure that pregnancy
18 and childbirth is safe for all New Yorkers,
19 Medicaid coverage for doula services will be
20 expanded for all pregnant, birthing and
21 postpartum Medicaid-enrolled individuals
22 through 12 months postpartum.

23 To protect our children from the harms
24 of lead exposure, Governor Hochul is

1 proposing a program to drastically reduce the
2 risk of lead exposure in rental properties,
3 as each year nearly 7,000 children in
4 New York are diagnosed with dangerously
5 elevated blood lead levels.

6 Governor Hochul's proposal to ban the
7 sale of flavored tobacco products, including
8 menthol, would be a huge step forward for
9 public health. Flavors make it easier for
10 people to start smoking, and harder to quit.
11 Tobacco companies have hooked millions of
12 Black and Hispanic New Yorkers on their
13 deadly products. The Governor's proposal,
14 which focuses enforcement entirely on
15 retailers, not individuals, will protect our
16 children, save lives, and address
17 longstanding racial inequity.

18 Finally, as we enter a transitional
19 phase in our COVID response, it is
20 appropriate to highlight the critical role
21 that our internationally renowned
22 Wadsworth Labs have played. Recognizing the
23 national significance of Wadsworth,
24 Governor Hochul included a total of

1 \$1.7 billion in her 2023-'24 Executive Budget
2 to build a new, state-of-the-art public
3 health research laboratory in Albany. The
4 additional \$967 million, building on top of
5 the \$750 million previously earmarked, will
6 allow the five separate sites of the
7 Wadsworth Center to be consolidated within
8 one, at the eastern edge of the Harriman
9 Office Campus, making it easier to coordinate
10 the work of these great labs.

11 In closing, I want to thank the chairs
12 for inviting me to testify. I look forward
13 to working with you to improve the health and
14 well-being of all New Yorkers. Your
15 partnership is important to me -- and it's
16 essential so we can help ensure your
17 constituents are well-served.

18 Thank you, and I do look forward to
19 answering your questions.

20 CHAIRWOMAN KRUEGER: Thank you very
21 much, Commissioner.

22 And now Supervisor Harris --
23 Superintendent. Wait, which are you?

24 DFS SUPERINTENDENT HARRIS:

1 Superintendent.

2 CHAIRWOMAN KRUEGER: Thank you.

3 DFS SUPERINTENDENT HARRIS: Thank you.

4 Good morning. I would like to thank
5 Chairs Krueger and Weinstein, Weprin, Rivera
6 and Paulin, ranking members and all members,
7 for inviting me to testify alongside my
8 esteemed colleagues from the Department of
9 Health.

10 My name is Adrienne Harris, and I am
11 privileged to have the opportunity to present
12 today's testimony as the superintendent of
13 the Department of Financial Services. DFS's
14 mission is to build an equitable,
15 transparent, and resilient financial system
16 that benefits individuals and supports
17 businesses. Through engagement, data-driven
18 regulation and policy, and operational
19 excellence, the department and its employees
20 are responsible for empowering consumers and
21 protecting them from financial harm; ensuring
22 the health of the entities we regulate;
23 driving economic growth in New York through
24 responsible innovation; and preserving the

1 stability of the global financial system.

2 The department regulates the
3 activities of approximately 3,000 banking,
4 insurance, virtual currency, and other
5 financial institutions, with assets totaling
6 more than \$9 trillion. DFS provides an
7 average of nearly \$1 billion to the state and
8 New Yorkers every year through restitution to
9 consumers and healthcare providers, penalties
10 paid to the State General Fund, and DFS
11 assessment revenue reappropriated to other
12 state entities. The department's operating
13 expenses are assessed upon our regulated
14 entities and are not a cost to New York
15 taxpayers.

16 I continue to believe that responsible
17 market growth and consumer protection are
18 mutually supporting concepts and not
19 competing concerns. A healthy market grows
20 when consumers have confidence in the
21 products offered and the providers offering
22 them. I look forward to continuing to work
23 with Governor Hochul, the Legislature, sister
24 agencies, and other important stakeholders to

1 advance policies that support access to
2 quality financial services for all
3 New Yorkers.

4 It has been 17 months since I joined
5 the department, and I am endlessly proud of
6 what we have accomplished. In this time, DFS
7 has proposed amendments to New York's
8 cybersecurity regulation; issued
9 nation-leading virtual currency guidance on
10 stablecoins, insolvency, insider trading, and
11 blockchain analytics; managed the
12 national-security impacts of the war in
13 Ukraine; finalized a disclosure regulation
14 for small business lenders, and much more.

15 More broadly, DFS has expanded its
16 focus on kitchen-table issues, taking a more
17 proactive approach to protecting consumers by
18 implementing new laws, promulgating new
19 regulations, issuing regulatory guidance, and
20 returning money directly to New Yorkers in
21 the form of restitution.

22 Instead of accepting an outdated
23 methodology for check-cashing fees that
24 granted annual automatic fee increases, the

1 team created a new, data-driven fee structure
2 that considers consumer needs. Instead of
3 acquiescing to historic limitations on what
4 could be done on overdraft fees, the team at
5 DFS issued nation-leading guidance
6 prohibiting unfair and deceptive practices.
7 Instead of viewing climate risk as a
8 self-contained issue, the team made sure that
9 our proposed banking climate guidance did not
10 have unintended consequences for New Yorkers
11 who are already disproportionately impacted
12 by climate change. And instead of accepting
13 the longstanding belief that health equity
14 should be tackled exclusively by public
15 health plans, the department issued a request
16 for data from commercial health insurers to
17 help address health inequities. These are
18 just a few examples of how the department is
19 taking proactive steps to create better
20 outcomes for New Yorkers.

21 In the unfortunate circumstance where
22 we find, through examinations and
23 investigations, that a company has harmed
24 New Yorkers, we do everything in our power to

1 make consumers whole. To that end, in 2022
2 the department returned more than
3 \$151 million to New Yorkers in restitution --
4 more than double the year prior. This is a
5 clear reminder to New Yorkers that their
6 government is working for them.

7 In addition to the team's tremendous
8 policy and regulatory work, we are working
9 within DFS to rebuild the department around
10 what I call the "three P's" -- policy,
11 process, and people.

12 When it comes to policy, we have
13 adopted a data-driven approach to
14 policymaking, rather than one based on
15 ideology. The department is engaging more
16 than ever with all stakeholders in order to
17 make decisions that will positively impact
18 New Yorkers.

19 When it comes to process, it is
20 critically important to me that we strive for
21 operational excellence at DFS, ensuring that
22 decision-making is efficient, transparent,
23 and fair. We have created an operations
24 Division and hired the department's

1 first-ever chief technology officer to build
2 systems and implement technology required to
3 regulate the fast-moving markets we oversee.

4 Lastly, I could not be prouder of the
5 people that make up this agency. None of the
6 work at DFS is possible without this
7 dedicated team that continues to produce
8 amazing work, especially given the level of
9 staffing and support available.

10 Since the merger of the Banking and
11 Insurance departments in 2011, DFS has been
12 staffed at a skeletal level and denied the
13 funding needed to respond to a changing
14 marketplace. Due to the invaluable support
15 of the Governor and Legislature, the FY '23
16 budget fully funded the department for the
17 first time in its history, allowing the
18 agency to hire staff that had been needed for
19 years. Since January 2022 we have hired
20 194 new staff and promoted 194 team members,
21 making progress against our five-year
22 strategic plan.

23 Continuing to hire top talent at a
24 rapid pace is a high priority for FY '24. In

1 the past year, market turbulence has affected
2 a number of entities that DFS regulates, and
3 in each instance DFS staff have worked around
4 the clock to manage risk and ensure that
5 New York markets and consumers are protected.

6 Even with the department's recent
7 hiring success, however, historic failures to
8 maintain adequate staffing levels, combined
9 with ongoing attrition -- including attrition
10 to federal financial regulators who pay, on
11 average, 30-50 percent more -- requires us to
12 continue this important work of hiring in
13 order to fully execute our growing mission.

14 I remain fully confident that with the
15 requisite resources, DFS can cement its role
16 as a preeminent and globally-respected
17 regulator, and New York's place as the
18 financial capital of the world.

19 As I said last year, I think DFS can
20 best serve New Yorkers by working closely and
21 collaboratively with all of you. I look
22 forward to today's hearing and the work we
23 will continue throughout this budget process
24 and into the future. And I'm happy to take

1 your questions.

2 CHAIRWOMAN KRUEGER: Thank you very
3 much.

4 I know we've been joined by
5 Senator Hinchey.

6 Any other Republican Senators? Nope.
7 Any Assemblymembers?

8 CHAIRWOMAN WEINSTEIN: Yes. We've
9 been joined by Assemblyman Weprin, chair of
10 our Insurance Committee; Assemblywoman
11 Kelles; Assemblyman Sayegh; Assemblywoman
12 Simon.

13 CHAIRWOMAN KRUEGER: And our first
14 questioner will be Senator Myrie, three
15 minutes.

16 SENATOR MYRIE: Thank you,
17 Madam Chair.

18 Thank you, Superintendent. Good to
19 see you. And thank you, Acting Commissioner
20 and the staff that have joined --

21 (Interruption by protesters.)

22 CHAIRWOMAN KRUEGER: Folks, we're
23 asking you to --

24 (Continued interruption.)

1 CHAIRWOMAN KRUEGER: Okay, folks,
2 we're going to ask you to please take your
3 protest outside.

4 (Continued interruption; mic cut.)

5 CHAIRWOMAN KRUEGER: -- that you'll
6 just sign up to testify, because I think
7 everybody here today is trying to address the
8 same issues. So we're going to ask everyone
9 who's protesting to please either go back to
10 your seats and listen or leave the room. And
11 I have to ask the four or five gentlemen who
12 have sat down in front to please remove
13 themselves before the Sergeant-at-Arms need
14 to, and we don't want to go down that road.

15 And again, I don't believe you
16 actually asked to testify, so we didn't
17 refuse you the right to testify. So please
18 respect everybody who is here hoping to get
19 their turn to testify.

20 (Protestor interruption.)

21 CHAIRWOMAN KRUEGER: I know. And you
22 came the other week, you're like their --

23 (Protestor interruption.)

24 CHAIRWOMAN KRUEGER: Thank you. Thank

1 you. We're asking you to go now.

2 (Continued interruption.)

3 CHAIRWOMAN KRUEGER: Okay, thank you.

4 Thank you. Thank you. And actually it turns
5 out you said you're Housing Works, right? So
6 they did sign up to testify, so let them know
7 they don't have a time later either. Okay?
8 There's no more time for Housing Works after
9 this protest today. You've already used up
10 their time. Thank you.

11 (Protestor: "That can't happen.")

12 CHAIRWOMAN KRUEGER: That can be,
13 actually, because I run the Finance Committee
14 today. So please, everybody, excuse
15 yourselves now or take your seats and listen
16 to the other people who are here as well to
17 testify on many issues you care about and we
18 all care about.

19 (Continued interruption.)

20 CHAIRWOMAN KRUEGER: Thank you. Okay,
21 can you --

22 (Continued interruption.)

23 CHAIRWOMAN KRUEGER: Thank you. Thank
24 you.

1 (Continued interruption.) Okay,
2 folks -- (gaveling). We're going to take a
3 recess until the protest is over. Thank you
4 for your patience.

5 (Half-hour recess taken.)

6 CHAIRWOMAN KRUEGER: Okay. Hello
7 again, everyone. We're going to -- oh, good,
8 we're back on air and I'm back on microphone.
9 And sorry for the inconvenience for those of
10 you who know you're now going to wait even
11 longer before you can testify today.

12 But to go back to where we were, I
13 believe Senator Myrie was going to be the
14 first questioner.

15 SENATOR MYRIE: Thank you,
16 Madam Chair. Democracy at work, right?

17 Acting Commissioner, I was born in a
18 safety-net hospital. I represent four
19 safety-net hospitals in the heart of Central
20 Brooklyn serving predominantly Black and
21 brown patients. And in this budget the
22 Governor has given our safety-net hospitals
23 nothing. Historically our safety-net
24 hospitals struggle. They serve the neediest

1 patients. We don't have a commercial insured
2 pool. It's a Medicaid-insured pool. They
3 are struggling with their finances. And the
4 state, on a perennial basis, simply offers
5 them one-time shots.

6 My only question is, What are we doing
7 for our safety-net hospitals? Why is there
8 nothing in the budget for them? We need
9 structural reform, not a one-time shot. And
10 I'm curious as to why we have to make this
11 case every single year, whereas hospitals and
12 other institutions in predominantly white and
13 more affluent neighborhoods don't have to
14 make that case.

15 ACTING COMMISSIONER McDONALD: So
16 safety-net hospitals are very important to
17 the Governor and to myself and the Department
18 of Health. And, you know, agree with you
19 that, you know, we need our safety-net
20 hospitals; there's no debating that.

21 I think there actually is quite a bit
22 in the budget for safety-net hospitals,
23 though. Let me walk through a couple of
24 those points, and then I'll go to Medicaid

1 Director Bassiri to hit some of those points
2 as well.

3 But, you know, we did do the
4 Statewide III awards. In fact, \$200 million
5 just went out Monday. We have \$1.6 billion
6 in Statewide for -- that's coming out this
7 year as well. There's another billion coming
8 in Statewide V.

9 You know, I do think there's other
10 things here as well, you know, for rural
11 hospitals, which are affected by this as
12 well. We do have the direct payment
13 templates, which is about a billion dollars.
14 We have the VAPAP program and Vital Access
15 Provider grants. The 5 percent increase in
16 Medicaid is the largest increase we've had in
17 20 years.

18 And, you know, I think there's other
19 things as well, you know, quite frankly, we
20 need to do to help reduce costs for
21 hospitals. One of the things I've heard from
22 every hospital administration is they need to
23 be able to be predict costs, and staffing is
24 a big issue for them.

1 So I think there's some things we're
2 doing with -- you know, for nursing staffing,
3 in other words, traveling nursing, to help
4 control costs and get some transparency in
5 that space. We're doing some things with
6 Certificate of Need reform which will help
7 some hospitals as well.

8 And I think we're doing some things
9 with scope of practice as well. You know,
10 scope of practice, to me, there's some modest
11 changes in this budget that I think will help
12 all the hospitals, including safety-net
13 hospitals.

14 And, you know, just to be clear, there
15 has been a 286 percent increase, you know, in
16 funding of hospitals, safety-net hospitals,
17 since FY '20. The \$700 million from last
18 year was a one-time deal -- and I'm sorry, I
19 used up all the time.

20 CHAIRWOMAN KRUEGER: Thank you.

21 Assembly. First testifier?

22 ASSEMBLYWOMAN PAULIN: Thank you. And
23 no, I'm not Helene Weinstein.

24 (Laughter.)

1 ASSEMBLYWOMAN PAULIN: My first
2 question relates to COVID-19. The Department
3 of Health and Human Services is planning for
4 the public health emergency at the federal
5 level to expire at the end of May -- or
6 middle of May. What is the expectation at
7 the state level in terms of, you know, when
8 do you anticipate the expiration of the
9 executive order, including the scope issues?
10 And I just wondered if you would comment
11 about the department's readiness relating to
12 the end of the emergency.

13 ACTING COMMISSIONER McDONALD: Yes, so
14 the end of the emergency being declared by
15 the federal government is May 11, 2023.
16 Important to note that the PREP Act continues
17 till October 1, 2024.

18 I think when you differentiate the
19 ending of the federal emergency, the national
20 emergency, from biologically and
21 epidemiologically what's going to happen.
22 Because just because May 11th is going to
23 come and go, it doesn't mean the pandemic is
24 gone. Because the pandemic is still going to

1 be around perhaps another year or two. You
2 know, I think what we've seen is because of
3 the vaccine, because of treatment, because of
4 prevention strategies, we've learned to live
5 with this. You know, which -- that's an
6 important thing. We have learned to live
7 with it.

8 Is the department prepared for the
9 next pandemic? Yes, we are. You know, we've
10 lost a lot of people, but quite frankly we
11 have a lot of resilient people who've stayed
12 with us.

13 ASSEMBLYWOMAN PAULIN: I just wonder,
14 you know, do you then expect that the
15 executive order would continue? Because it's
16 the Governor --

17 ACTING COMMISSIONER McDONALD: So the
18 only executive order left that I'm aware of
19 is Executive Order 4, which is about
20 healthcare staffing. And it's on healthcare
21 staffing, it is not connected to the pandemic
22 directly. So that will continue, quite
23 frankly, I hope not very long. If we get the
24 scope of practice changes through and if we

1 get the EMS budget changes through, we may
2 not need Executive Order 4 anymore, quite
3 frankly. But what we're hearing from
4 hospitals and nursing homes and from EMS
5 providers right now is they still need
6 Executive Order 4. So we would love nothing
7 more than to move beyond that.

8 ASSEMBLYWOMAN PAULIN: Thank you.

9 Next question relates to workforce
10 issues. You know, we -- workforce issues are
11 hitting all sectors of the healthcare
12 community. And I wondered, you know, what
13 approaches that the department is going to be
14 using to address them. And, you know, will
15 it depend or will it be different in
16 different regions of the state?

17 ACTING COMMISSIONER McDONALD: Yeah,
18 so -- are you asking mostly about how the
19 Department of Health's going to address its
20 own workforce? Or workforce throughout --
21 healthcare throughout the state? Because
22 they're slightly different.

23 ASSEMBLYWOMAN PAULIN: You know --

24 ACTING COMMISSIONER McDONALD: We

1 could do both.

2 ASSEMBLYWOMAN PAULIN: Yes. I mean,
3 you could address both. But really primarily
4 nursing shortages, EMS workers, home care
5 aides. You know, the gamut.

6 ACTING COMMISSIONER McDONALD: Yeah,
7 the gamut. Let's do the gamut.

8 So yeah, there is the \$3 an hour
9 increase for home care workers -- \$2 last
10 year, \$1 this year. You know, home care
11 workers increasing 32.9 percent since '17,
12 the fastest-growing area of healthcare,
13 period.

14 You know, for nursing, there is money
15 in this budget for nurses. There's not just
16 loan repayment money, but there's other
17 training money. There's loan repayment for
18 physicians as well.

19 You know, when it comes to increasing
20 healthcare workers, one of the things we have
21 to be very candid about is they just need
22 time to actually be developed and trained.

23 You know, I'm a little concerned about
24 our nursing pipeline, quite honestly, about,

1 you know, we need to be able to train more
2 nurses, but we need nursing faculty to do
3 that. There's only so much of that that the
4 Department of Health controls. I think the
5 scope of practice changes would help. I
6 think interstate licensure compacts, though,
7 are important.

8 The nursing interstate licensure
9 compact is a lot like the driver's license
10 compact that New York State is part of, where
11 you and I can drive to any state in the
12 country. But could you imagine if we were
13 to, with our New York State driver's license,
14 go to Florida and be told we need the Florida
15 driver's license. That's what we do with the
16 nurses right now.

17 For the physician compact it's
18 different. But it will definitely help the
19 workforce as well.

20 I know Medicaid Director Bassiri has
21 some issues here as well. He can give you
22 some more specifics.

23 MEDICAID DIRECTOR BASSIRI: Thank you,
24 Commissioner. And thank you for the

1 question, Assemblymember Paulin.

2 We -- you know, in last year's budget
3 the Governor did enact a \$20 billion
4 investment in healthcare and in workforce.
5 It did include the healthcare workforce bonus
6 program in this last year.

7 ASSEMBLYWOMAN PAULIN: Except this
8 year, you know, with the indexing to minimum
9 wage, we're effectively taking it away.

10 MEDICAID DIRECTOR BASSIRI: No.
11 That -- this is a bonus payment that has been
12 made to workers through the pandemic --

13 ASSEMBLYWOMAN PAULIN: Oh, the bonus
14 payment, yes.

15 MEDICAID DIRECTOR BASSIRI: -- that we
16 spent about \$1.5 billion, state investment,
17 to about 600,000 workers in this year. That
18 program will extend for another year.

19 We also have an 1115 waiver that we're
20 pursuing for the Medicaid program. And in
21 that waiver we have \$1.5 billion allocated
22 for workforce that will address what you're
23 referring to with region-specific training
24 and professionals that need to be developed.

1 ASSEMBLYWOMAN PAULIN: So maybe you
2 can comment or, you know, any of the -- I
3 guess the people on the right, my right, you
4 know, on the issue of -- you know, the issue
5 of indexing the minimum wage and then
6 therefore phasing out the -- or the, in
7 effect, taking away the increase for home
8 care workers.

9 MEDICAID DIRECTOR BASSIRI: So
10 understand that the index does not include
11 home care workers at this time. However, we
12 did implement a \$3 increase for home care
13 workers last year, as Commissioner McDonald
14 said: \$2 last year, \$1 in -- coming in
15 October. So it doesn't make sense to index
16 at this time because the increase that we've
17 put in place is significantly higher than
18 what that index would be.

19 ASSEMBLYWOMAN PAULIN: So would you
20 anticipate indexing in the future?

21 MEDICAID DIRECTOR BASSIRI: I think
22 that discussion is certainly something that
23 we'll be willing to have. Based on our
24 analysis, that would not occur until at least

1 2029, 2030.

2 ASSEMBLYWOMAN PAULIN: So, okay, on to
3 a new subject, because I want to get a few
4 more, you know, questions in. Hospital
5 funding. Can you address or tell us, you
6 know, the five hospitals that will take the
7 largest cut in the decrease in the Indigent
8 Care Pool money? And can you assure the
9 Legislature, you know, related to Senator
10 Myrie's question of the safety-net hospitals,
11 that we're not going to see many hospitals go
12 out of business?

13 MEDICAID DIRECTOR BASSIRI: Yes, I can
14 take that one.

15 So the first question on the Indigent
16 Care Pool, the reduction will only be to
17 hospitals that do not meet the average
18 government payer mix requirement, which is
19 78 percent. So if you don't have 78 percent
20 Medicaid plus Medicare payer mix, you would
21 be subject to the reduction.

22 We actually applied this same
23 methodology of a reduction in 2020. And it's
24 the same hospitals that would be impacted by

1 that. And they are not safety-net hospitals.
2 Those hospitals are protected from the
3 reduction.

4 ASSEMBLYWOMAN PAULIN: I assume we'll
5 get a list eventually.

6 MEDICAID DIRECTOR BASSIRI: You
7 absolutely will.

8 With respect to the safety-net
9 question, as Dr. McDonald shared earlier, we
10 have been investing in safety-net hospitals
11 through a cadre of different programs. We've
12 been maximizing the federal revenue that we
13 can get match on so that we get as much
14 support as possible to those hospitals.

15 They're complicated programs, but we
16 are committed to ensuring that the distressed
17 hospitals get the funding they need. We
18 believe the \$2 billion that we're allocating
19 for them is sufficient. It does not include
20 the 5 percent rate increase that we're
21 implementing, nor does it include investments
22 in the Essential Plan for inpatient and
23 outpatient --

24 ASSEMBLYWOMAN PAULIN: So you believe

1 that the hospitals, we won't have -- we won't
2 suffer from closures as a result of the
3 planning by the department in this budget.

4 MEDICAID DIRECTOR BASSIRI: We are not
5 expecting any closures.

6 ASSEMBLYWOMAN PAULIN: 340B. I
7 hesitate to bring it up. Many of the 340B
8 entities will be taking a major hit if we
9 enact the Executive Budget. And the funding
10 for Neighborhood Health Centers in particular
11 is a year-to-year budget add. Shouldn't the
12 funding be guaranteed in the future instead
13 of this method? And, you know, compounding
14 the problem for Neighborhood Health Centers,
15 they haven't been rebased in a long time.
16 you know, is that a consideration going
17 forward?

18 MEDICAID DIRECTOR BASSIRI: So I'll
19 hold on the rebasing because there's only a
20 minute left. I do want to answer your
21 question on the safety net.

22 The proposal that we have to keep the
23 health centers whole is a permanent proposal.
24 It is putting in a new methodology into our

1 state plan amendment, which is the agreement
2 we have with the federal government as to
3 what they'll pay for and what we pay for in
4 the Medicaid program. It's how the rest of
5 their reimbursement is established.

6 So we are making a permanent
7 investment, and we are reinvesting every
8 single dollar that the health centers have
9 stated they need, directly back to them in
10 such a way that we believe they're actually
11 going to get a benefit and they are not going
12 to be taking a cut.

13 ASSEMBLYWOMAN PAULIN: So, you know,
14 I'll give up my last 30 seconds because I
15 don't know that I'll squeeze in another
16 question in time, because I get to come back
17 for a second round.

18 So with that, Senate.

19 CHAIRWOMAN KRUEGER: Thank you. And
20 you only get three minutes on your second
21 round. Sorry, Amy.

22 The next Senator is Senator Brouk.

23 SENATOR BROUK: Can you hear me okay?

24 ACTING COMMISSIONER McDONALD: Yes.

1 SENATOR BROUK: Oh, good, I got a good
2 one. Okay, thank you so much, and thanks for
3 your patience today as we're starting a
4 little bit later.

5 Acting Commissioner, you mentioned
6 doula care in your oral and written
7 testimony, and I think it's crucial that we
8 talk about this issue. You know, we're
9 sitting here in the United States, where you
10 might imagine it is the safest place to have
11 a child; in fact, it is not. It is actually
12 the worst place in the developing world where
13 you would want to have a child, based on
14 maternal mortality rates.

15 When we look at New York State, we
16 rank 25th in maternal mortality compared to,
17 you know, other states. When we look at
18 places like New York City, Black women are
19 nine times more likely to die in childbirth.
20 Statewide, we are three to four times more
21 likely to die in childbirth. And one of the
22 reasons why doulas are so important is
23 because that is a way that we combat that
24 statistic. We essentially can save babies'

1 lives and their mothers' lives by making sure
2 that everyone has access to a doula.

3 For anyone who doesn't know --
4 someone -- it's a nonclinician who offers
5 informational, emotional, and physical
6 support prenatal, during the birthing
7 process, and postpartum.

8 So let's dig into the proposal that
9 you brought to us today from the Executive
10 Budget. You say that in this
11 Executive Budget, doula care would be
12 Medicaid-reimbursable, is that correct?

13 ACTING COMMISSIONER McDONALD: Yes.

14 SENATOR BROUK: Okay. And what are
15 the rates for that Medicaid reimbursement?

16 ACTING COMMISSIONER McDONALD: It's
17 going to go to \$1500.

18 SENATOR BROUK: Fifteen hundred
19 dollars. And what does that include?

20 ACTING COMMISSIONER McDONALD: It's
21 the doula care for the entire pregnancy and
22 the postpartum period.

23 You know, it was \$600; we had that
24 pilot in Erie County and Kings County.

1 {Unintelligible} and nobody set up from Kings
2 County, but we had about 50 doulas in Erie
3 County. So this is a pretty substantial
4 increase.

5 You know, one of the things I saw when
6 I looked at the perinatal hearings that
7 Chair Gottfried and Chair Paulin hosted
8 November 30th of 2021 was several doulas
9 testified, you know, they made really clear
10 how important this was not just culturally,
11 but how they save lives. And I totally agree
12 with you. I mean, there's a fair amount of
13 research that talks about the importance of
14 doulas just saving lives.

15 And, you know, quite frankly, birth
16 needs to be a celestial experience in
17 New York.

18 SENATOR BROUK: Couldn't agree more.

19 ACTING COMMISSIONER McDONALD: One of
20 the things I pulled out of the perinatal
21 hearing is, it isn't.

22 And, you know, I just got back; I've
23 been away for a long time. But quite frankly
24 we need to improve not just birth outcomes,

1 which are very important to me, but just
2 birth, period. Because one of the things I
3 pulled out of the perinatal hearings was
4 women felt controlled, they didn't feel
5 respected, they didn't feel like they were
6 able to make the decisions they need to make.
7 That just shouldn't be the case.

8 And so --

9 SENATOR BROUK: A hundred percent
10 agree with you.

11 ACTING COMMISSIONER McDONALD: And so
12 I think a doula is a great idea.

13 SENATOR BROUK: Thank you. I'm going
14 to take a few more seconds because I think
15 you're absolutely right, and you took the
16 words right out of my mouth. This can save
17 lives, we see decreases in cesarean rates, we
18 see decreases in length of labor.

19 The thing I want to urge you to
20 continue to consider, though, is making sure
21 that this is getting implemented as quickly
22 as possible, and that you do consider higher
23 rates. Because we do know that the \$1900
24 rate is much closer to an equitable

1 reimbursement rate. Thank you.

2 ACTING COMMISSIONER McDONALD: Thank
3 you for your feedback.

4 CHAIRWOMAN KRUEGER: Thank you.
5 Assembly. (Pause.)

6 ASSEMBLYWOMAN PAULIN: Oh, sorry, I'm
7 not used to being in this role.

8 Assemblyman David Weprin, who has
9 10 minutes.

10 ASSEMBLYMAN WEPRIN: Thank you,
11 Madam Chair. I'm going to direct my question
12 to the commissioner of the Department of
13 Financial Services, Superintendent Harris.

14 Superintendent Harris, long-term-care
15 insurance premium rates have increased beyond
16 what most New Yorkers can afford. These
17 significant increases threaten to force these
18 policyholders to cancel their policies that
19 they have dutifully paid into for many years.
20 What is the Department of Financial Services
21 doing to ensure that long-term-care premiums
22 stay affordable to policyholders?

23 DFS SUPERINTENDENT HARRIS:
24 Absolutely. Thank you so much, Assemblyman,

1 for that question.

2 As you know, you and I have talked
3 about long-term care on a couple of
4 occasions. At the department, we are tasked
5 with balancing rate increases and the impact
6 on consumers with the safety and soundness of
7 the institutions that we regulate. It's
8 important that they have the money, that they
9 can pay claims when they become due. But
10 long-term care is a national problem. Just
11 as we are seeing the rates increasing in
12 New York, we see that all over the country,
13 and consumers faced with this terrible
14 decision of paying increased rates or
15 accepting a decline in benefits.

16 So there's a couple of things that we
17 have done and are doing at the Department of
18 Financial Services. First, I have directed
19 the team to do a historical lookback, both in
20 New York and around the country, to examine
21 the poor assumptions that have been made by
22 regulators and industry in the past that led
23 to poor pricing.

24 Many of these books of business suffer

1 from poor assumptions where people did not
2 understand that people were going to live
3 longer, they didn't understand what was going
4 to happen to the cost of healthcare, they
5 made bad assumptions about how people were
6 going to get rid of policies and how long
7 they would keep them. And again, this was
8 something we saw nationwide.

9 But in my view, regulators and
10 industry around the country -- including here
11 in New York, unfortunately -- did not adjust
12 the data quickly enough once they knew those
13 assumptions were no good. And so I've
14 directed the team to do a lookback and do an
15 examination so that we can put some sunlight
16 on this issue and hopefully make better
17 decisions going forward.

18 The other thing that we're doing, as
19 you know, is the Governor has put a health
20 guarantee fund in the Executive Budget.
21 New York is the only state in the country
22 without a healthcare guarantee fund. And
23 this is important with respect to long-term
24 care because right now in New York, if you

1 have a constituent who buys a long-term-care
2 policy through a life insurance company, we
3 have a life guarantee fund. And if that
4 company become insolvent, your constituent
5 has the protection of that fund should that
6 company become insolvent.

7 If that constituent were to buy the
8 same policy through a healthcare insurer and
9 that health insurer became insolvent, that
10 constituent would have no protection. And to
11 me, that's not a good public policy outcome.

12 So right now in New York is we're the
13 only state without a healthcare guarantee
14 fund. Obviously we work very hard at the
15 department to make sure that entities remain
16 safe and sound. But in the event that they
17 don't or in the event -- we have a live
18 example now where another state has moved to
19 put a long-term-care company into
20 liquidation, essentially forcing our hand
21 here in New York. We want that fund in place
22 to protect consumers.

23 ASSEMBLYMAN WEPRIN: Without
24 disclosing any confidential information, is

1 there a fear in New York potentially of a
2 company going insolvent?

3 DFS SUPERINTENDENT HARRIS: So we have
4 one company where we've filed for
5 rehabilitation last week. This was a company
6 where the parent company is a
7 Pennsylvania-based company. Pennsylvania
8 moved to liquidate their company in 2017.
9 Frankly, I think New York could have acted
10 faster in liquidating or moving to
11 rehabilitate the New York subsidiary. But
12 we've moved it to rehabilitation now, and it
13 will be up to the court how the
14 rehabilitation or liquidation schedule moves
15 forward.

16 That company has over 600 New Yorkers
17 who are either paying for their policies --
18 there's about 70 New Yorkers who are
19 currently on claim. And should the court
20 move the company to liquidation before
21 there's a health guarantee fund in place here
22 in New York, those 70 New Yorker who are
23 currently on claim would be forced to find
24 care elsewhere. They'd literally be taken

1 out of their long-term-care facilities,
2 losing the investment they have.

3 For those policyholders who are not
4 currently on claim but have been paying in
5 for decades and decades, they would
6 effectively lose that investment. So that's
7 why it's incredibly important that we have
8 the health guarantee fund here in place in
9 New York just like 49 other states do.

10 ASSEMBLYMAN WEPRIN: Okay. In the
11 event a long-term-care underwriter becomes
12 insolvent, what is the purpose of splitting
13 assessments equally between health and life
14 insurers when the latter write a majority of
15 the LTC policies?

16 DFS SUPERINTENDENT HARRIS: The
17 proposal that the Governor's put forward in
18 the budget is based on the National
19 Association of Insurance Commissioners model
20 law. It is very close to what we see in
21 every other state in the nation. Having a
22 joint fund, a joint health and life guarantee
23 fund, is what we see in that model. It's
24 something that insurers are used to complying

1 with in 49 other states. And it prevents the
2 state from having to stand up a completely
3 separate administrative apparatus.

4 ASSEMBLYMAN WEPRIN: Is DFS concerned
5 that this proposal could force the health
6 insurance industry to subsidize long-term
7 care policies of insolvent life insurers?

8 DFS SUPERINTENDENT HARRIS: Not at
9 all, sir. In fact, to be clear, the
10 guarantee funds support consumers. So they
11 are not a bailout for companies. They are
12 meant to support those consumers when a
13 health insurance company becomes insolvent.
14 The assessments are levied only in the event
15 of an insolvency. They are levied
16 proportionally to the amount of premiums that
17 the companies write in the state. And again,
18 this is something that insurers are used to
19 complying with in every other state in the
20 nation. So this should not be hard for them
21 to administer or comply with.

22 ASSEMBLYMAN WEPRIN: Okay, thank you.
23 I'm going to now turn to drug pricing.

24 Prescription drug prices have

1 increased significantly in recent years,
2 increasing costs to consumers and the
3 healthcare system at large. What accounts
4 for these dramatic increases?

5 DFS SUPERINTENDENT HARRIS: Thank you
6 so much for that question.

7 As you know, we have, thanks to the
8 Legislature and the Governor, the ability to
9 oversee pharmacy benefit managers now at DFS.
10 We've built up an incredible team and we have
11 registered all PBMs in the state. But
12 there's still more work to do because the
13 single biggest contributing cost to
14 healthcare is the increase in prescription
15 drug prices.

16 So what you see in the Governor's
17 proposal is a five-part plan where we are
18 requiring drug manufacturers to disclose
19 ahead of time price increases to the state so
20 that it helps policyholders make better
21 choices when it comes to their healthcare.

22 We're also requiring, where the
23 federal government has not acted, that
24 pay-for-delay agreements are disclosed to the

1 department as well.

2 And then the proposal includes the
3 provision for oversight of a number of
4 entities along the prescription drug supply
5 chain, including PSAOs, rebate aggregators,
6 and switch companies. All of these are meant
7 to add transparency along the prescription
8 drug supply chain and hopefully help keep
9 costs down for consumers.

10 ASSEMBLYMAN WEPRIN: Okay. And how
11 does the Drug Accountability Board make drugs
12 more affordable?

13 DFS SUPERINTENDENT HARRIS: The Drug
14 Accountability Board is a wonderful tool we
15 have at DFS where it permits us to
16 investigate price spikes of 50 percent or
17 more in one year. Obviously most price
18 increases aren't that dramatic, which is why
19 the disclosure provision in the Governor's
20 proposal is so important.

21 But that -- the Drug Accountability
22 Board, which includes your colleague
23 Assemblymember McDonald, investigates those
24 drug price spikes. We've concluded one

1 investigation to date where we found that
2 essentially there was no price increase, but
3 there were controls that were not up to par
4 at the company, and we've now remediated
5 those. But we have several investigations
6 currently underway as well.

7 ASSEMBLYMAN WEPRIN: Okay. How would
8 HMH Part Y -- you referred to it briefly, the
9 Prescription Drug Price and Supply Chain
10 Transparency Act of 2023 -- how would that
11 contribute to these efforts?

12 DFS SUPERINTENDENT HARRIS: Again, it
13 adds transparency. And I want to be mindful
14 of my time because there are a lot of
15 components to that. But certainly I
16 mentioned the Drug Accountability Board has
17 the ability to investigate large price
18 spikes.

19 But often what we see is the majority
20 of price increases are much smaller price
21 spikes. So having manufacturers disclose
22 those price increases in advance and
23 incentivize them to disclose those price
24 increases with as much time as possible is

1 going to be an important factor for us in
2 help keeping prescription drug prices low.

3 And again, having pay-for-delay
4 agreements disclosed and adding oversight to
5 PSAOs, rebate aggregators, and switch
6 companies -- all of which add costs and
7 margin along the prescription drug supply
8 chain -- will help us bring transparency to a
9 very opaque market.

10 ASSEMBLYMAN WEPRIN: Okay. And my
11 time is running out of my 10 minutes. But
12 there's a similar bill in Oregon -- are you
13 following that? -- requiring advance
14 notification of drug prices in Oregon. And
15 that's currently being challenged legally.

16 Does DFS have concerns regarding the
17 potential for litigation on the disclosure
18 and notification requirements included in
19 your proposal? Or in our proposal.

20 DFS SUPERINTENDENT HARRIS: I am happy
21 to respond to that in writing.

22 ASSEMBLYMAN WEPRIN: Okay.

23 CHAIRWOMAN KRUEGER: Maybe you should
24 come back to us in writing about that.

1 DFS SUPERINTENDENT HARRIS: Yes,
2 absolutely, happy to do so. Thank you.

3 CHAIRWOMAN KRUEGER: Thank you.

4 ASSEMBLYMAN WEPRIN: Thank you,
5 Superintendent. Thank you, Madam Chair.

6 CHAIRWOMAN KRUEGER: So we've been
7 joined by several additional Senators since
8 last we named names. So Senator Salazar,
9 Senator Sanders, Senator Hoylman-Sigal.

10 Do you have a list of additional
11 Assemblymembers?

12 ASSEMBLYWOMAN PAULIN: I do. We've
13 been joined by 4 González-Rojas, Rosenthal,
14 Anderson, Sillitti, and Solages.

15 CHAIRWOMAN KRUEGER: Great, thank you.

16 And people will notice that a number
17 of seats are no longer really available, so
18 just a new rule of the hearings this year:
19 The two chairs at the far ends, either side
20 in the front row, they're designed that if
21 somebody else needs to ask a question and
22 they don't have a microphone, then whoever's
23 sitting there needs to get up for them so
24 they can use that seat.

1 their Oneonta DOH, they were told that they
2 would have to wait over a year to even get a
3 response. Is that an appropriate amount of
4 time for them to wait?

5 ACTING COMMISSIONER McDONALD: Well,
6 no, it's not. So, I mean, this is the first
7 I'm learning about this situation, though.
8 And I'm happy to be helpful.

9 In other words, I really don't know
10 about the staffing challenges there. I've
11 met every local health department. But if
12 you want to work with me offline, I can help
13 out.

14 SENATOR HINCHEY: I will. I mean,
15 we -- my office has talked with the Oneonta
16 department at length, and it is -- doesn't
17 seem to be getting any better. And of course
18 I don't see any solutions in the budget for
19 staffing, et cetera. So thank you, we will
20 --

21 ACTING COMMISSIONER McDONALD: I mean,
22 we do have -- just to add this. Like we do
23 have the strengthening public health
24 workforce grant coming, which is here. But

1 it's not part of the state budget, it's
2 federal money, just so you know. This comes
3 from the Centers for Disease Control and
4 Prevention. It's \$107 million, a five-year
5 grant, but we get all the money up front.

6 Each local health department's getting
7 at least \$200,000, and then there's a
8 multiple they get for population. So there
9 might be help there, but this is where I'm
10 happy to work offline, I really am.

11 SENATOR HINCHEY: Great, thank you.
12 This is something that we need to solve. Of
13 course they are then tasked with all of the
14 businesses and parks, fairgrounds,
15 everything -- which for a tourism community,
16 that is everything they have. And so it's a
17 major issue.

18 So happy to work with you. Thank you.
19 We'll follow up, and I think they'll need
20 some additional funding.

21 Secondly, New York State -- changing
22 gears a little bit, New York State ranks last
23 in hospice and palliative care. And this is
24 something that's incredibly personal to me

1 and something that, you know, I believe all
2 New Yorkers need to know more about.

3 I thank the Governor for signing our
4 bill to raise awareness with a public
5 information campaign. However, she did veto
6 our bill to set up a director of hospice and
7 palliative care.

8 And I want to know what are the plans
9 within DOH to strengthen this so that
10 New York is no longer last in this vital care
11 sector?

12 ACTING COMMISSIONER McDONALD: Yeah,
13 it saddens me that we might be last in
14 hospice, because quite frankly hospice is
15 very important. You know, when you think
16 about just the sacred experience of passing,
17 it's very important.

18 I don't know that in four seconds I
19 can give you a detailed answer. How about I
20 just get back to you on that one too, is that
21 okay?

22 SENATOR HINCHEY: Thank you.

23 CHAIRWOMAN KRUEGER: Thank you.

24 Assembly.

1 ASSEMBLYWOMAN PAULIN: Yes,
2 Assemblyman Jensen.

3 ASSEMBLYMAN JENSEN: Thank you very
4 much, Madam Chair.

5 I am going to direct my questions to
6 the DFS superintendent. But Commissioner
7 McDonald, I am going to follow up with you by
8 written correspondence. I'd love an
9 opportunity to follow up in person or via
10 written correspondence.

11 ACTING COMMISSIONER McDONALD: Yeah,
12 please. Love to.

13 ASSEMBLYMAN JENSEN: Superintendent, I
14 want to circle back to the health guarantee
15 fund that the insurance chairman talked
16 about. The proposed guarantee fund would
17 impose two new classes of taxes on health
18 plans, one for administrative costs and one
19 to carry out the powers and duties of this
20 association, based on 2 percent of premium
21 revenue.

22 Who would be responsible for paying
23 this new tax?

24 DFS SUPERINTENDENT HARRIS: Sir, I'm

1 not sure that that's part of the proposal,
2 but I'm happy to circle back to you on that.

3 As I noted previously, the assessments
4 are only levied if and when a company becomes
5 insolvent. They are levied in proportion to
6 the amount of premiums written by each
7 company, so that smaller insurers will bear
8 less of the assessment than the largest
9 insurers.

10 And the way those assessments are then
11 levied and the timing of the levying of the
12 assessments is left up to the association,
13 which is governed by industry
14 representatives.

15 But I'm happy to come back to you on
16 the tax and administrative issue.

17 ASSEMBLYMAN JENSEN: So whether
18 it's -- you call it a tax or call it an
19 assessment, the solvent insurers would be the
20 ones left picking up the cost for the
21 insolvent providers, correct?

22 DFS SUPERINTENDENT HARRIS: The
23 solvent insurers then do provide the consumer
24 protection for those New Yorkers who have

1 invested in their insurance and now are left
2 without their investment due to the insolvent
3 insurer.

4 And this is what we see in 49 other
5 states.

6 ASSEMBLYMAN JENSEN: Okay. Unlike
7 most other states, New York does have a large
8 number of in-state not-for-profit health
9 plans, especially in upstate, where I
10 represent. Given that many of our large
11 employers often self-insure and wouldn't be
12 subject to this tax, slash, assessment, would
13 these upstate small businesses and
14 individuals be more disproportionately
15 impacted by the 2 percent cost that would be
16 levied to cover any insolvency elsewhere in
17 the state?

18 DFS SUPERINTENDENT HARRIS: And again,
19 I want to -- I want to make sure I'm stating
20 that the assessment I think does not exceed
21 2 percent. So it is not a 2 percent
22 assessment. That is the cap.

23 And again, it's levied proportionally
24 due to size and premium written. And it is

1 up to the governing structure of the fund,
2 which is again industry-led, to decide on the
3 timing of the assessments and how they're
4 levied.

5 And it's the model that we see
6 throughout the country, everywhere but here
7 in New York.

8 ASSEMBLYMAN JENSEN: Okay. The
9 proposed budget includes a reauthorization of
10 HCRA and related taxes on healthcare and
11 health insurance. These fees, these taxes
12 would next year reach about \$6.4 billion,
13 adding to the cost of health insurance.

14 Given this increase, which is still
15 far out of sync with other states, do we
16 really need to insure -- partnered with the
17 oversight prerogatives of your department at
18 DFS, do we really need to institute this type
19 of guarantee fund, especially when we have
20 very few providers, coverage providers, that
21 are going insolvent?

22 DFS SUPERINTENDENT HARRIS:
23 Absolutely. This coverage -- or this fund,
24 this protection is necessary for New Yorkers.

1 New Yorkers are the only people in the
2 country that do not have the protection of a
3 health guarantee fund.

4 And again, as I mentioned, we have a
5 live case currently where the department has
6 filed for rehabilitation over 600 New Yorkers
7 who have invested for decades in their
8 long-term care, over 70 who are currently on
9 claim and will be forced out of their
10 long-term-care facilities, forced to try and
11 find other policies -- which I can tell you
12 they will not be able to do.

13 The average age of these constituents,
14 by the way, is 82 years old. So they will be
15 forced out of their long-term-care
16 facilities. If they are to qualify for
17 Medicaid, they'd have to spend down their
18 assets, potentially, to be able to do so. Or
19 they'd have to try and go out and find new
20 policies. And on the off chance that they
21 are able to find new policies, we're looking
22 at an exponential increase in costs to them,
23 despite the fact that they have invested for
24 decades and decades to have the benefit that

1 they are currently enjoying.

2 And again, we've got the situation now
3 where another state forced our hand by moving
4 the parent company into liquidation. Those
5 folks in Pennsylvania, just like consumers in
6 New Jersey and Connecticut and all of our
7 neighbors, have this protection -- and
8 New Yorkers do not. And I don't think it's a
9 good policy outcome for our constituents.

10 ASSEMBLYMAN JENSEN: So very quickly,
11 with the institution of this fund as well as
12 the other dramatic oversight that DFS has, do
13 you currently have enough staff to fulfill
14 all of the obligations that your department
15 is tasked with?

16 DFS SUPERINTENDENT HARRIS: We are
17 hiring and I'm happy to talk more about that
18 with you offline.

19 ASSEMBLYMAN JENSEN: All right. Thank
20 you, Superintendent.

21 DFS SUPERINTENDENT HARRIS: Thank you.

22 ASSEMBLYMAN JENSEN: Thank you,
23 Madam Chair.

24 CHAIRWOMAN KRUEGER: Thank you.

1 Senator Gallivan, ranker on Health,
2 for five minutes.

3 SENATOR GALLIVAN: Thank you,
4 Madam Chair.

5 First, we've also been joined by
6 Senator Borrello.

7 CHAIRWOMAN KRUEGER: And Senator
8 Nathalia Fernandez. Thank you.

9 SENATOR GALLIVAN: Do I get my
10 8 seconds back?

11 CHAIRWOMAN KRUEGER: Yes.

12 (Laughter.)

13 SENATOR GALLIVAN: Good morning.
14 Thank you all for your testimony. And thanks
15 for your graciousness, Madam Chair.

16 My first two questions are directed to
17 the Department of Health, whoever --
18 whichever you think is most appropriate to
19 answer, please. They have to do with funding
20 and programs.

21 The first one, last year the
22 Legislature appropriated \$800 million in the
23 budget for hospitals that were
24 disproportionately impacted by the pandemic,

1 by COVID-19, financially distressed because
2 of that. To my knowledge, none of that money
3 has gone out yet. And the concern is, how is
4 it distributed, how are the decisions made?
5 There's no metric that I know in statute that
6 would define that.

7 And my question -- the question would
8 be for that program, but also we have similar
9 concerns about the VAPAP program, the
10 Statewide Health Care Facility Transformation
11 Program. And I know an announcement on that
12 just went out in the last week or two. But
13 the process, the metrics for any of those
14 things, transparency related to it. Many of
15 us have made calls, only to hear: Well,
16 soon. Soon. Soon. Hospitals and nursing
17 homes make those calls.

18 So the question, can you shed some
19 light on the process and answer the question,
20 do you think that we need statutory language
21 that will define how these things are
22 distributed as opposed to going into the
23 Department of Health and waiting and waiting
24 and waiting, and in the meantime our

1 hospitals and nursing homes are hurting.

2 MEDICAID DIRECTOR BASSIRI: I can take
3 it.

4 ACTING COMMISSIONER McDONALD: Go
5 ahead.

6 MEDICAID DIRECTOR BASSIRI: So thank
7 you for the question, Senator.

8 There is a process. It is similar to
9 how we distribute funding for the VAPAP
10 program, which is a state-only Medicaid-
11 funded program. And it's based on a
12 case-by-case basis.

13 We work very closely with the
14 financially distressed hospitals and nursing
15 homes. We look at cash flows, we assess what
16 their fiscal needs are throughout the year
17 and prospectively, and based on their level
18 of need to ensure they have enough cash flow
19 and funding from the state, we determine what
20 amount of funding we provide on an
21 intermittent basis. It could be quarterly,
22 it could be every other month. But there is
23 a process, and it follows the process we've
24 used historically to support financially

1 distressed hospitals and nursing homes.

2 SENATOR GALLIVAN: Time, of course,
3 doesn't permit an extended conversation.
4 That's hopefully something that we can follow
5 up on.

6 MEDICAID DIRECTOR BASSIRI:
7 Absolutely.

8 SENATOR GALLIVAN: But I think I can
9 safely say that many of my colleagues have
10 concerns about the process and the ultimate
11 distribution and the fact that it takes so
12 long.

13 The intercept of \$625 million of FMAP,
14 it creates a big hole for counties, upstate
15 and New York City. How are counties going to
16 fill that gap?

17 MEDICAID DIRECTOR BASSIRI: So I think
18 we all are aware that in 2015 we capped the
19 local share of the counties' Medicaid costs
20 at about 7.6 billion. Since that time, we
21 have grown the Medicaid program quite
22 significantly, saving the counties I think
23 \$38 billion since 2015.

24 We have also taken over more of the

1 Medicaid administration than had previously
2 been in place. You know, 83 percent of our
3 enrollees are currently enrolled through the
4 NY State of Health or will be redetermined
5 through the NY State of Health, meaning
6 there's less burden from Medicaid
7 administration for the counties to absorb.

8 And they have received the enhanced
9 federal funding that we've gotten since the
10 COVID pandemic. So we believe that the
11 countries have -- you know, they are getting
12 the funding they need. We have absorbed, in
13 the state, a significant portion of the
14 growth in Medicaid. It's a \$100 billion
15 program now. In 2015 I can promise you it
16 wasn't anywhere close to that.

17 A lot of that growth has been absorbed
18 by the state and not the counties, and we're
19 doing everything we can to reduce the burden
20 for them as we go through the unwind and
21 prospectively taking over all of Medicaid
22 administration.

23 So we do believe they can absorb it.
24 They have gotten other federal funding

1 outside of what the state has provided. And
2 we think they can absorb the reduction.

3 SENATOR GALLIVAN: All right, thanks.
4 Again, time doesn't permit an extended
5 conversation. But we are going to hear from
6 the counties later, so I would imagine there
7 will be additional discussion --

8 MEDICAID DIRECTOR BASSIRI:
9 Absolutely. And we are actively speaking
10 with the county executives and the local
11 commissioners.

12 SENATOR GALLIVAN: And Superintendent,
13 without -- with only 14 seconds left, I'll
14 follow up with questions with you later, if I
15 may.

16 DFS SUPERINTENDENT HARRIS: Wonderful,
17 thank you.

18 SENATOR GALLIVAN: Thank you all.

19 CHAIRWOMAN KRUEGER: Thank you.
20 Assembly.

21 ASSEMBLYWOMAN PAULIN: Assemblyman
22 John McDonald, for three minutes.

23 ASSEMBLYMAN McDONALD: Thank you.
24 First of all, Superintendent, just

1 want to say thank you. The approach in
2 regards to PBM regulation, the department's
3 doing a wonderful job of --

4 DFS SUPERINTENDENT HARRIS: Thank you.

5 ASSEMBLYMAN McDONALD: -- making sure
6 that everyone has an opportunity to
7 participate. And just want to recognize that
8 publicly.

9 My question is primarily for Amir in
10 regards to NYRx, the pharmacy carveout. And
11 I want to start off simply. Basically, the
12 state is going back to the way we used to
13 manage the drug benefit up until about
14 10 years ago, is that correct?

15 MEDICAID DIRECTOR BASSIRI: That is
16 correct.

17 ASSEMBLYMAN McDONALD: So basically
18 we're -- government is running its own drug
19 program. Basically we're taking out the
20 intermediaries, which is the pharmacy -- or
21 the health plans and the PBMs, correct?

22 MEDICAID DIRECTOR BASSIRI: A hundred
23 percent, yes. We are cutting out the PBMs
24 from the Medicaid pharmacy business.

1 ASSEMBLYMAN McDONALD: So how many
2 recipients do we have on Medicaid?

3 MEDICAID DIRECTOR BASSIRI: Right now
4 we have 7.8 million.

5 ASSEMBLYMAN McDONALD: And as you
6 know, there's a lot of sensitivity on my
7 part, yours and many others about the impact
8 on 340B entities. How many patients does
9 that involve?

10 MEDICAID DIRECTOR BASSIRI: In terms
11 of unique patients utilizing 340B or filing a
12 340B scrip, it's 250,000.

13 ASSEMBLYMAN McDONALD: Two hundred
14 fifty thousand out of 8 million.

15 MEDICAID DIRECTOR BASSIRI: Correct.

16 ASSEMBLYMAN McDONALD: And on the
17 340B component, we're only talking about
18 people who have straight Medicaid, not
19 hospital-administered services, not people on
20 Medicaid Part D, which is not something the
21 state picks up, correct?

22 MEDICAID DIRECTOR BASSIRI: That is
23 correct.

24 ASSEMBLYMAN McDONALD: So we're

1 talking about about 3 percent of the
2 population of the State of New York for
3 Medicaid recipients.

4 MEDICAID DIRECTOR BASSIRI: Yes.

5 ASSEMBLYMAN McDONALD: Okay. All
6 right. So I guess, interestingly enough, if
7 you were a fan of single-payer, wouldn't you
8 really want NYRx to go forward?

9 MEDICAID DIRECTOR BASSIRI:
10 Absolutely. That's exactly what it is, for
11 one benefit. But if we were to do
12 single-payer, that would be -- NYRx would be
13 what provided the pharmacy benefit for all
14 Medicaid members.

15 ASSEMBLYMAN McDONALD: The reason why
16 I ask this is that I hear -- I still practice
17 pharmacy regularly, so I hear from doctors,
18 nurse practitioners, PAs regularly about all
19 the formulary exclusions on these plans. And
20 I've seen it with HIV meds, I've seen it with
21 hep C meds, I've seen extensive prior
22 authorizations, I've seen diabetes meds --
23 50 percent of the time, there's prior
24 authorizations and delays in care.

1 What is NYRx going to be doing to
2 avoid that circumstance?

3 MEDICAID DIRECTOR BASSIRI: NYRx
4 covers 100 percent of FDA-approved drugs.
5 Every drug is covered. We do have a
6 preferred drug list, so instead of the 12 or
7 13 managed-care-plan formularies, we'll have
8 one. It's established. It's authorized by
9 the Drug Utilization Review Board.

10 But when we compare formularies by
11 therapeutic class, we see far better coverage
12 than is currently available in managed care
13 for those populations that use HIV,
14 diabetes -- the MCO coverage on their
15 formularies, on average, is 64 percent for
16 diabetes medications. It is 100 percent on
17 NYRx.

18 ASSEMBLYMAN McDONALD: Thank you.

19 MEDICAID DIRECTOR BASSIRI: Prior
20 authorizations approve 50 percent without any
21 prescriber intervention, 100 percent within
22 24 hours.

23 ASSEMBLYMAN McDONALD: Thank you.

24 CHAIRWOMAN KRUEGER: Thank you.

1 Senator May.

2 SENATOR MAY: Thank you.

3 Dr. McDonald, I want to ask a couple
4 of quick local questions and then I have a
5 bigger question for you.

6 So on local questions, I represent the
7 Owasco Lake Watershed. I met with your
8 environmental health team about finally
9 getting an answer for the watershed rules and
10 regulations that their association has put
11 together, and they promised me, in about
12 three months, an answer. Can you commit to
13 the timeline?

14 ACTING COMMISSIONER McDONALD: Yes.

15 SENATOR MAY: All right. Okay.

16 That's all I --

17 ACTING COMMISSIONER McDONALD: I'm
18 very familiar with what's going on in Lake
19 Owasco with the harmful algal blooms. Gary
20 Ginsburg and I talk more than you possibly
21 imagine about this. But yeah.

22 SENATOR MAY: Okay. Now my other
23 question, local question, is about the
24 Onondaga Nation. I represent the Onondaga

1 Nation. The state has binding treaty
2 obligations to multiple tribal nations and
3 has failed to fund their local health clinics
4 at a level that enables them to actually hire
5 doctors and nurses. So they've had to close
6 on a weekly basis, and people are going to
7 emergency rooms instead of getting primary
8 care.

9 So I wonder what the department's
10 commitment is to tribal health. Will you
11 support adding the funds for the Onondaga,
12 Tuscarora and Tonawanda clinics in the 30-day
13 amendments? And how are we going to meet
14 those treaty obligations?

15 ACTING COMMISSIONER McDONALD: Yeah,
16 so any health service clinics are very near
17 and dear to me. I actually worked in Chinle,
18 Arizona, for two years plus, in the heart of
19 the Navajo Nation. So I know the value of an
20 Indian health service clinic, not just
21 medically but culturally.

22 SENATOR MAY: Okay.

23 ACTING COMMISSIONER McDONALD: So I
24 just learned about this last night, by the

1 way, what's going on in Onondaga --

2 SENATOR MAY: Okay, so maybe we can
3 talk offline about it.

4 ACTING COMMISSIONER McDONALD: I'm
5 saddened by this. I'm deeply saddened by
6 this. I'm a friend. I will do what I can to
7 be helpful.

8 SENATOR MAY: Great. Wonderful. And
9 then my last question, as the lead sponsor of
10 Fair Pay for Home Care, I am deeply concerned
11 that the money isn't getting to the providers
12 so that they can then pay the home care
13 workers for the rise in minimum wage. DOH
14 keeps telling us it's a matter of negotiation
15 between the MLTC and the providers, but the
16 providers say there is no negotiating, they
17 just get a rate and are told take it or leave
18 it.

19 So is DOH going to do more oversight
20 on this? And can we have a talk about this
21 offline and really try to solve this problem?
22 We put a lot of money into increasing the
23 number of home care workers out there, and
24 it's having the opposite effect.

1 MEDICAID DIRECTOR BASSIRI: We can
2 certainly talk about this offline, Senator.

3 I will just say I think you can see
4 from the budget that we are not thrilled with
5 health plans, including managed long term
6 care plans. And by -- some of the other
7 actions that we're taking are intended to
8 ensure that any money we provide for home
9 care gets to the provider and ultimately, you
10 know, the worker.

11 SENATOR MAY: Thank you.

12 CHAIRWOMAN KRUEGER: Thank you.
13 Assembly.

14 ASSEMBLYWOMAN PAULIN: Yes.

15 Assemblyman Blumencranz.

16 ASSEMBLYMAN BLUMENCRANZ: Thank you so
17 much.

18 Commissioner McDonald, could you
19 please explain the policy rationale and
20 intended effects of the Governor's proposal
21 regarding Certificate of Need requirements to
22 investor-owned entities, including physician
23 practices?

24 ACTING COMMISSIONER McDONALD: Yeah,

1 so the short answer of it is it's trying to
2 have some oversight where we don't have
3 oversight. And it's modeled after what went
4 on in Oregon.

5 You know, it's one of those things
6 where if Amazon's going to come in and own
7 something, we'd like to have a say in what's
8 going on and just see what's going on.

9 ASSEMBLYMAN BLUMENCRANZ: Okay, thank
10 you.

11 And then, Superintendent Harris, thank
12 you for coming today. I want to piggyback
13 off of what Chair Weprin -- his concerns
14 surrounding long-term care. I was wondering,
15 with your expertise as superintendent
16 relating to long-term care, what would --
17 what legislative tools and solutions would
18 you recommend for us to implement to help you
19 in the process of lowering these increases
20 that are continuing to plague our elderly and
21 those who have paid for many years?

22 DFS SUPERINTENDENT HARRIS: Well, I
23 think, not to sound like a broken record, but
24 I do think that the health guarantee fund,

1 because so many of these books are written
2 and the risks are what they are -- and the
3 state of these carriers around the country is
4 fairly precarious. So having that consumer
5 protection in place in New York is going to
6 be incredibly important.

7 I think going forward, as I mentioned,
8 I've asked my team to do a thorough study of
9 how decisions have been made over the past
10 many decades, where assumptions were
11 incorrect, why regulators and industry across
12 the country were slow to fix them. And I
13 expect that that research will produce any
14 number of insights, many of which we will
15 likely need you and your colleagues' help
16 with implementing.

17 ASSEMBLYMAN BLUMENCRANZ: Thank you
18 very much.

19 DFS SUPERINTENDENT HARRIS: Thank you.

20 CHAIRWOMAN KRUEGER: Thank you.

21 Senator Helming, ranker on Insurance,
22 for five minutes.

23 SENATOR HELMING: Thank you,
24 Senator Krueger.

1 Thank you for the testimony this
2 morning. (Pause for mic.) Is that better?

3 SEVERAL PARTICIPANTS: Yes.

4 SENATOR HELMING: A couple of
5 questions. First of all, I wanted to start
6 with the 340B messaging that we heard this
7 morning. I strongly, strongly agree with the
8 messaging -- not the actions, but the
9 messaging. My rural communities are served
10 by the FQHCs. Without them, the delivery of
11 medical services, mental health services,
12 dental services to residents, to the migrant
13 workers, will be severely impacted. So I
14 hope that will be something that we will be
15 taking a look at.

16 Real quick, Dr. McDonald, you had
17 mentioned in the budget the various
18 investments to emergency medical services
19 statewide, which I truly appreciate,
20 representing a rural district. It's
21 incredible the need that exists.

22 And you may be aware -- if not, I want
23 to make you aware -- that in 2021 the
24 Legislature realized the significance of the

1 problems that we are experiencing, and the
2 Governor signed into law legislation creating
3 the Rural Ambulance Task Force. Again, that
4 was signed into law at the end of 2021.

5 In 2022, it is tremendously disturbing
6 to me that that task force was never
7 convened. I understand that they have met
8 once in 2023. The report is due back to the
9 Legislature at the end of this year, December
10 of 2023.

11 I'm hoping that you will be looking
12 for the information, the recommendations, and
13 that will help guide some of this funding.
14 So --

15 ACTING COMMISSIONER McDONALD:

16 Absolutely. You know, so I'll look for the
17 report. You know, I just took over as
18 commissioner January 1st, so I'm getting a
19 list of all the mandated reports, finding out
20 where they are and getting them back. And I
21 want them back to you on time. That's the
22 Navy officer in me that's used to doing that,
23 quite frankly. So we'll see if we can get
24 that done for you. Thank you.

1 SENATOR HELMING: I'd appreciate it.
2 Superintendent Harris, it's great to
3 see you again. I wanted to switch gears and
4 talk about the pay-and-resolve proposal
5 that's in the budget. It's my understanding
6 that New York's existing external review law,
7 it's been a model that's been used by many
8 states across the country, and in fact a
9 model that's been used by the federal
10 government.

11 And would you agree that the existing
12 law resolves disputes between hospitals and
13 plans by having an independent third party
14 determine, in a short time frame, whether the
15 claim was medically necessary?

16 DFS SUPERINTENDENT HARRIS: Yes, I
17 think that's an accurate statement.

18 SENATOR HELMING: Then I'm wondering
19 why the department feels that this
20 pay-and-resolve proposal is necessary in the
21 context of the budget.

22 DFS SUPERINTENDENT HARRIS: Well, the
23 pay-and-resolve proposal is limited to
24 instances of emergency admission where

1 medical necessity is not in question. And it
2 is meant or intended to help increase
3 efficiency for those payments in the case of
4 emergency admissions.

5 SENATOR HELMING: So are you saying
6 that presently there are slowdowns with the
7 payments, payments aren't being made in a
8 timely manner under those circumstances?

9 DFS SUPERINTENDENT HARRIS: I think --
10 we have requirements for the timely payment
11 for medical necessity currently in law, as
12 you noted. This proposal is narrow and
13 limited to emergency admissions and I think a
14 good way to test if this will increase
15 efficiencies even more.

16 SENATOR HELMING: Okay. Another
17 question on the proposal. Many of our
18 upstate hospitals have cooperative plans with
19 the health plans that either offer monetary
20 advances to hospitals to aid with cash flow
21 and/or accelerated-payment agreements that
22 expedite payments.

23 It seems to me, based on everything
24 I've heard, that these agreements are working

1 quite well. Wouldn't this bill replace those
2 agreements?

3 DFS SUPERINTENDENT HARRIS: In the
4 narrow circumstance of the emergency
5 admission. But I can confirm and come back
6 to you.

7 SENATOR HELMING: Okay. Thank you. I
8 guess I'm still -- it seems to me that the
9 current process is working effectively.

10 I received correspondence indicating
11 that DFS data from the first quarter of 2022
12 shows that health plans received 104 million
13 claims, and denials related to medical
14 necessity accounted for less than 1 percent
15 of all claims. So again, I'm wondering why
16 we're trying to fix something that it doesn't
17 seem is broken.

18 And I only have a couple of seconds;
19 I'll just wrap up by saying this. When I
20 read the proposal set in the budget,
21 ultimately I'm thinking about our
22 constituents, our consumers. And I see
23 proposals like the 340B that are going to
24 take away services to the most vulnerable

1 populations. And I see proposals like this
2 one and some others that ultimately will
3 increase, drive up costs to consumers.

4 So I'm looking for changes in the
5 30-day budget amendments in the final budget.

6 Thank you.

7 DFS SUPERINTENDENT HARRIS: Thank you.

8 CHAIRWOMAN KRUEGER: Thank you.

9 Assembly.

10 ASSEMBLYWOMAN PAULIN: Assemblyman

11 Gandolfo.

12 ASSEMBLYMAN GANDOLFO: Thank you,

13 Madam Chair.

14 And thank you all for being here
15 today.

16 My question is going to be directed at
17 the acting commissioner. I want to ask about
18 non-emergency medical transportation and the
19 statewide broker RFP.

20 In the summer of 2022, a
21 billion-dollar RFP was awarded to Medical
22 Answering Services. That's a company that
23 has no experience providing transportation in
24 capitated or at-risk arrangement. The RFP

1 was awarded prior to an actuarial analysis of
2 the bid cost, meaning the department had no
3 idea whether the rate submitted by MAS could
4 even be achieved.

5 On top of that, the owner of MAS
6 donated hundreds of thousands to the
7 Governor. And further, he held a fundraiser
8 for the Governor at his house during the RFP
9 blackout process, which would be a blatant
10 violation of state finance procurement law.
11 The department has now awarded a
12 billion-dollar monopoly contract to an
13 operator that may have engaged in pay-to-play
14 with the Governor's office.

15 So I have two questions. Did the
16 Governor or her office interfere with the RFP
17 process? Do you have any knowledge of that?

18 MEDICAID DIRECTOR BASSIRI: Thank you
19 for the question, Assemblymember. No, they
20 did not.

21 ASSEMBLYMAN GANDOLFO: And do you have
22 any concerns about placing every Medicaid
23 member in a statewide broker that has no
24 experience doing this work?

1 MEDICAID DIRECTOR BASSIRI: No, we do
2 not. There are currently -- we have a
3 transportation management. There are two or
4 three transportation managers throughout the
5 state. MAS and this vendor has significant
6 experience supporting the Medicaid program.
7 And we're moving to a broker model, which is
8 an innovative model that we believe that they
9 will have no issues implementing.

10 ASSEMBLYMAN GANDOLFO: So do you feel
11 that you should look to carve out the
12 managed-long-term-care population to ensure
13 that other brokers do remain in the state, to
14 avoid a monopoly?

15 MEDICAID DIRECTOR BASSIRI: Can you
16 repeat that question, please?

17 ASSEMBLYMAN GANDOLFO: Should you look
18 to carve out the managed-long-term-care
19 population to ensure that other brokers do
20 remain in the state?

21 MEDICAID DIRECTOR BASSIRI: We are
22 phasing that in. It's sort of Phase 2 of the
23 procurement. So we're first going to start
24 with the non-MLTC population. And then

1 Phase 2, which will be the following year,
2 would include those counties.

3 ASSEMBLYMAN GANDOLFO: Okay. Thank
4 you very much.

5 CHAIRWOMAN KRUEGER: Thank you.
6 Senator John Liu.

7 SENATOR LIU: Thank you, Madam Chair.
8 And thanks to the commissioners for
9 joining us today.

10 I only have three minutes, so I'd like
11 to ask Superintendent Harris, how are we
12 doing with the commuter vans? Has any
13 progress been made?

14 DFS SUPERINTENDENT HARRIS: Thank you
15 so much, Senator, for that question. As
16 we've talked about on many occasions, this
17 is an important transportation issue that's
18 requiring a whole-of-government approach.
19 It's a 30-year problem that nobody ever moved
20 to address until last year. And thanks to
21 you and your colleagues, we have the subsidy
22 in the budget.

23 The RFP is live. ESD put that out,
24 and it is live. And I don't have a status

1 update for you on the respondents to the RFP,
2 but I believe it closes next month, and I'm
3 very happy to keep you updated.

4 SENATOR LIU: Well, you've got a very
5 long litany of accomplishments that you've
6 provided us with in your testimony, both oral
7 and written. But there's no mention of this.
8 So I guess it's too small a matter for DFS to
9 deal with?

10 DFS SUPERINTENDENT HARRIS: Not at
11 all. It's an incredibly important
12 transportation --

13 SENATOR LIU: DFS, its inattention to
14 this matter -- because I'm hearing from your
15 response that nothing's been done. It's been
16 over a year since we put this thing in place,
17 and you're still telling me that the RFP is
18 out.

19 DFS SUPERINTENDENT HARRIS: The RFP
20 was put out by ESD. Of course, as the
21 regulator of insurance, we cannot solicit
22 insurance to participate in this program. So
23 it was with ESD to put out the RFP, and it is
24 now out --

1 SENATOR LIU: Whoever it's with, it's
2 a DFS issue, isn't it?

3 DFS SUPERINTENDENT HARRIS: No, it is
4 an incredibly important transportation issue.
5 We come at it through the narrow lens of
6 insurance.

7 And again, it's an issue that's been
8 in place since the nineties, and nobody did
9 anything about it until you and your
10 colleagues looked closely to get it done last
11 year.

12 SENATOR LIU: All right. Well, I
13 understand that. We talked about this even
14 in your confirmation hearing, that you said
15 you would take the -- make it a high priority
16 to fix. Because you were a fixer, you were a
17 doer. And a year has transpired, and DFS --
18 this is not a problem that you created, but
19 you certainly inherited it. You pledged to
20 fix it. And DFS continues to be the single
21 biggest driver behind causing failure of the
22 commuter van industry, which thousands of our
23 constituents rely upon.

24 So when are you going to get it done?

1 Or have you just given up? Because it's not
2 mentioned in any of your reporting. You cite
3 a litany of successes that your leadership
4 has engendered at DFS, but no -- not even a
5 mention of the commuter vans.

6 DFS SUPERINTENDENT HARRIS: Again, I
7 believe it's an incredibly important
8 transportation issue. It's something we
9 address through the --

10 SENATOR LIU: Not important enough for
11 you to mention.

12 DFS SUPERINTENDENT HARRIS: One that
13 we address through the narrow lens of
14 insurance. It's something that MTA, TLC, ESD
15 and many others have a part to play in --

16 SENATOR LIU: But it is an insurance
17 issue. It's the insurance issue, plain and
18 simple, that's driving these commuter vans
19 out of business and therefore our
20 constituents being deprived of badly needed
21 transportation services.

22 DFS SUPERINTENDENT HARRIS: And as you
23 know, sir, the commuter vans generate \$1.50
24 in claims for every dollar of premium. That

1 subsidy that you all put in place will help
2 with that tremendously. And we're looking
3 forward to implementing the program.

4 SENATOR LIU: Let's get some progress
5 done. Thank you.

6 CHAIRWOMAN KRUEGER: Senator Liu --
7 I'm sorry, your time is up. Just in case you
8 might not have been here in the beginning,
9 and for everyone else who got here late, the
10 commissioner is here only to answer health
11 insurance questions today.

12 Her agency covers an enormous number
13 of issues that many of us have concerns
14 about. And I'm sure she will follow up with
15 you, since you used your time to go down this
16 line of questioning. But again, the deal for
17 today, the topic being health, was the
18 questions should be specific to health
19 insurance. Thank you.

20 SENATOR LIU: Thank you, Madam Chair.

21 CHAIRWOMAN KRUEGER: And Assembly.

22 ASSEMBLYWOMAN PAULIN: Assemblyman
23 Bronson.

24 ASSEMBLYMAN BRONSON: Thank you,

1 Madam Chair.

2 I'm going to try to get two questions
3 in. So the first is for the Medicaid
4 director. But if we could keep it at a
5 minute and a half, because we're not going to
6 resolve this issue about 340B.

7 But I've got to tell you, when those
8 protestors walked into this room and they had
9 the -- from the early ages of HIV and AIDS --
10 t-shirts on with the pink triangle, which I
11 have on the back of my car, every car I've
12 ever owned since the '80s, that said
13 "Silence=Death" -- I don't care if we're
14 talking only about 250,000 people out of
15 8 million. These are 250,000 lives.

16 And we know that in HIV you have to
17 stay on your regimen so that it is a
18 controllable illness. We also know that if
19 you're on that regimen that you -- oftentimes
20 you're undetectable, and that prevents us
21 from transmitting the virus to another
22 person, helping us with our goal of ending
23 the epidemic.

24 Yet the 340B carveout schedule for

1 April 1st will eliminate the services
2 necessary to help people stay on their
3 regimen, such as nutrition, housing, mental
4 health, other services that they absolutely
5 need.

6 How can you guarantee that the CMS is
7 going to get the approvals in and that we're
8 ready to go April 1st and that the funding is
9 going to be there year in and year out? How
10 can you guarantee that with this change?

11 MEDICAID DIRECTOR BASSIRI: So I can
12 guarantee that we are ready. We've been
13 ready for the last three and a half years
14 operationally in terms of implementing the
15 transition. And as -- I don't know who
16 mentioned it earlier, we did have this
17 responsibility for 4 million Medicaid members
18 pre-2012.

19 That said, the hospital reinvestment,
20 the 5 percent, we did a 1 percent trend last
21 year, so we know we're going to get a federal
22 match on that. We've been in active and
23 ongoing conversations with the federal
24 government on the clinic FQHC investment.

1 They understand the timeline. We are working
2 behind the scenes to cut through
3 administrative tape when we submit the state
4 plan.

5 But a state plan amendment that builds
6 this reinvestment into our agreement with the
7 federal government is as permanent as it gets
8 in the Medicaid program. This is not funding
9 we intend to take back. We are paying back
10 every dollar that the health centers have
11 quoted to give that they need. And we fully
12 intend to give that to them, knowing that
13 today that funding is being diverted by some
14 intermediaries in the process.

15 So I would love to talk about this
16 with you when we have more time,
17 Assemblymember. But I will personally
18 guarantee that there will not be a reduction
19 in services through the health centers,
20 because there can't be if they're going to
21 get more money than they get today.

22 ASSEMBLYMAN BRONSON: Thank you.

23 CHAIRWOMAN KRUEGER: Thank you.

24 Senator Ashby.

1 SENATOR ASHBY: Thank you,
2 Madam Chair.

3 Director Bassiri, regarding the eFMAP
4 funds, do you believe it's the intention of
5 the federal government for these funds to be
6 shared with our local governments? Based off
7 your previous response --

8 MEDICAID DIRECTOR BASSIRI: Do I
9 believe that it is the federal government's
10 intent? I think the federal government's
11 intent is that the local share be capped at
12 what it was in 2015 for Medicaid.

13 SENATOR ASHBY: So the funds that
14 we're currently getting, you don't believe
15 that they should go to our local governments.

16 MEDICAID DIRECTOR BASSIRI: No, I
17 think they are going to our local
18 governments.

19 I think the argument is that, you
20 know, should they go to our local governments
21 indefinitely at the same rate they were, you
22 know, eight years ago, when the program has
23 grown significantly and the state has
24 absorbed that cost. I think that's a

1 different discussion.

2 SENATOR ASHBY: Okay.

3 Dr. McDonald, where will the new
4 psychiatric beds under Article 28 be located?
5 And do you have a time frame?

6 ACTING COMMISSIONER McDONALD: Yeah,
7 we did send a letter with Dr. Sullivan,
8 Office of Mental Health. It's a work in
9 progress right now. We're still assessing
10 what's there. As soon as the time
11 {inaudible} business strategy -- I don't want
12 to quote it wrong, but it's obviously
13 something we know is important.

14 It's important to have mental health
15 capacity and to have the psychiatric beds
16 online. There's some obstacles that need to
17 be overcome that we understand. But we're
18 working as quick we can to move in that
19 direction.

20 SENATOR ASHBY: Do you have a time
21 frame in mind?

22 ACTING COMMISSIONER McDONALD: I don't
23 have a time frame in mind. I'll get back to
24 you with that.

1 SENATOR ASHBY: Okay. I appreciate
2 it.

3 And Superintendent Harris, regarding
4 the site of service review, do you have any
5 data to support diverting patients away from
6 ambulatory surgical centers?

7 DFS SUPERINTENDENT HARRIS: So what
8 the site of service proposal is intended to
9 do is (A) make people disclose their
10 site-of-service policies as well as make sure
11 that we're prioritizing patient access,
12 choice, and continuity of care.

13 SENATOR ASHBY: It just seems to me
14 that, you know, there's no financial
15 association with this policy. What's the
16 rationale for it being included in the
17 budget?

18 DFS SUPERINTENDENT HARRIS: That's
19 feedback I'm happy to take back to the
20 executive chamber.

21 SENATOR ASHBY: I'd appreciate it.
22 Because I know that my constituents and I
23 know throughout New York State a lot of
24 people rely on these settings for the

1 procedures. And, you know, the staffing
2 shortages that we've had, it's -- they're
3 essential to have. And so it would be great
4 to see that data, and I appreciate --
5 appreciate your response.

6 And Director Bassiri, going back to
7 the eFMAP, it seems as though the counties
8 really are being excluded. I mean, you may
9 say that in other ways they are getting the
10 funding, but I think that we're going to hear
11 testimony today -- and with the county
12 officials that I've spoken to throughout my
13 district, they're asserting that they are
14 being completely excluded from funding that
15 they have been expecting.

16 What's your response to that?

17 MEDICAID DIRECTOR BASSIRI: I can
18 certainly understand where the counties are
19 coming from.

20 I will say that the Executive and the
21 department is willing to work with the
22 counties through the budget process to ensure
23 there's no disruption in their budgets.

24 SENATOR ASHBY: I appreciate it.

1 Thank you.

2 CHAIRWOMAN KRUEGER: Thank you.

3 Assembly.

4 ASSEMBLYWOMAN PAULIN: Assemblymember
5 Rosenthal.

6 ASSEMBLYWOMAN ROSENTHAL: Okay. Thank
7 you, Chair Paulin, Chair Krueger.

8 My question is for Medicaid Director
9 Bassiri.

10 Last year we collectively took action
11 to ensure that home care workers are
12 compensated appropriately for their work,
13 ensuring that home care workers earn \$3 above
14 the regional minimum wage. And this was
15 below the fair pay proposal the home care
16 industry needs, and ones that I and many
17 others were active in. Home care workers
18 deserve more money. But it was a step in the
19 right direction.

20 In this year's Executive Budget,
21 however, the Governor's minimum-wage proposal
22 breaks that promise by freezing home care
23 wages, eventually returning home care wages
24 to the minimum wage. If enacted, this home

1 care shortage, which we all know about, will
2 worsen.

3 So does the Department of Health
4 believe home care workers should be paid the
5 minimum wage?

6 MEDICAID DIRECTOR BASSIRI: Thank you
7 for the question, Assemblymember Rosenthal.

8 No, we believe they should be paid
9 higher than the minimum wage, which is the
10 Governor's position as well, you know, as
11 evidenced by last year's investment for
12 home care worker wages. It was a \$3 increase
13 above the \$15 minimum wage. We've done two
14 of those dollars, and we will be doing the
15 other dollar in October of this coming year.

16 It's important to remember that the --
17 what we actually put into law and what we
18 established is that the minimum wage for
19 home care workers is higher than the minimum
20 wage for non-home care workers. We did not
21 put into place a requirement that everybody
22 get a \$3 or \$2 increase.

23 ASSEMBLYWOMAN ROSENTHAL: Well, the
24 budget returns home care workers to the

1 minimum wage, though, even as data makes
2 clear the only solution to the home care
3 worker shortage is raising their wages.

4 So can you just say yes or no if
5 home care workers should be paid minimum
6 wage?

7 MEDICAID DIRECTOR BASSIRI: They are
8 not going to -- that -- you're referring to
9 the inflation, the minimum-wage inflation
10 that the Governor put in the budget this
11 year, and that it excludes home care workers.
12 And I was saying earlier that that change in
13 payment is not going to happen until 2029,
14 2030.

15 ASSEMBLYWOMAN ROSENTHAL: Can you
16 explain why?

17 MEDICAID DIRECTOR BASSIRI: Because
18 the CPI, what we've been seeing based on the
19 projections that we're looking at for CPI as
20 compared to the minimum wage, will not exceed
21 \$18 until 2029 or 2030.

22 ASSEMBLYWOMAN ROSENTHAL: Okay. I
23 mean, you're certainly aware of the shortage
24 in home care workers, in nursing, in the

1 whole field -- but in particular, the home
2 care workers who help people stay at home.

3 MEDICAID DIRECTOR BASSIRI:

4 Absolutely. Absolutely. I don't disagree
5 with that at all.

6 I would just say, in addition to the
7 minimum wage, we have made investments in the
8 direct care workforce through the American
9 Rescue Plan Act of an additional \$2 billion.

10 ASSEMBLYWOMAN ROSENTHAL: Well, that
11 expires. That's a one-time.

12 MEDICAID DIRECTOR BASSIRI: But those
13 funds are meant to support the direct care
14 workforce. And we will continue making
15 investments in the direct care workforce. We
16 recognize the need of home care workers.

17 ASSEMBLYWOMAN ROSENTHAL: Okay, thank
18 you.

19 CHAIRWOMAN KRUEGER: Great.

20 Senator -- I'm sorry, I lost track of my
21 list. Senator Sanders.

22 (Off the record.)

23 CHAIRWOMAN KRUEGER: When somebody
24 needs to testify, they go to the far end,

1 either chair, and borrow that. Thank you.

2 SENATOR SANDERS: Thank you to the
3 chairs. Good to see you all.

4 Good to see you, Superintendent. I
5 just want to start by thanking you for the
6 very good relationship that we have
7 established where we're getting a lot of
8 stuff done. And although this is not the
9 time nor the place to speak of it, I look
10 forward to when we have the time and the
11 place to speak of the economic necessities
12 that we are building together.

13 So let me turn to -- you spoke of a
14 fund, a health fund that only New York
15 State -- New York State is the only state
16 that doesn't have this. Why is that? Why --
17 I mean, how did we end up here?

18 DFS SUPERINTENDENT HARRIS: Thank you,
19 Senator Sanders. I too enjoy our wonderful
20 working relationship, and I thank you for
21 that.

22 I cannot speak to why it is that
23 New York is the only state in the nation
24 without a health guarantee fund. I can only

1 tell you that I believe that it's incredibly
2 important for consumer protection to put in
3 place now, especially as we have a live case
4 with a long-term-care insurer that we have
5 moved to put into rehabilitation. And I
6 think it would be a crying shame if those
7 600-plus New Yorkers were left without the
8 benefits they've invested in over many
9 decades.

10 So I look forward to working with you
11 and your colleagues to hopefully get this
12 proposal through.

13 SENATOR SANDERS: As America ages --
14 and New York is no exception -- this becomes
15 even more important.

16 Have we figured out how much would it
17 cost to bankroll such a fund?

18 DFS SUPERINTENDENT HARRIS: Thank you,
19 sir. It's actually not a cost to taxpayers.
20 These funds, just like the property and
21 casualty fund, we have a life insurance
22 fund -- what we've put forward here is
23 consistent with the National Association of
24 Insurance Commissioners' model.

1 The funds to support the consumers,
2 the policyholders of the insurance company
3 that becomes insolvent, come from other
4 insurance companies. So I will tell you in
5 the present case that we're dealing with at
6 DFS, we expect that when those assessments
7 are levied on other companies in the
8 insurance space, if there is a health
9 guarantee fund in place, it would be on
10 average about \$10,000 a year per insurer to
11 make sure that over 600 New Yorkers have the
12 care that they've invested in over decades.

13 SENATOR SANDERS: That does sound
14 doable.

15 Does the -- how does the industry feel
16 about this, the insurance industry feel about
17 this?

18 DFS SUPERINTENDENT HARRIS: I would
19 let them speak for themselves. But I would
20 say that they comply with such requirements
21 in these funds in 49 other states, so it
22 should not be a hard lift to do so here.

23 SENATOR SANDERS: Thank you,
24 Madam Superintendent.

1 Thank you to the chairs.

2 CHAIRWOMAN KRUEGER: Thank you.

3 Assembly.

4 ASSEMBLYWOMAN PAULIN: Yes.

5 Assemblymember Kelles.

6 ASSEMBLYWOMAN KELLES: Wonderful.

7 Thank you so much all for being here.

8 So I have a question about the state
9 giving insurance plans funding that was meant
10 for home care. So my assessment -- I'll just
11 read from the notes that I have written.

12 Last year's budget included nearly a
13 billion dollars to fund the \$3-an-hour wage
14 increase -- we've all been talking about
15 it -- yet nearly all of the managed care
16 plans failed to pass this amount, we've
17 talked about this, on to the agencies. And
18 as a result, home care agencies do not have
19 sufficient funding to pay worker wages and
20 meet their own costs.

21 Forty-three percent of surveyed home
22 care agencies are declining new cases, the
23 data shows, and 17 percent are seriously
24 considering closing down. These are the data

1 that we're getting.

2 So there was a Times Union article
3 that reported private insurance companies are
4 offering pay bumps as low as 20 cents and
5 50 cents per hour, according to offers from
6 two insurance companies. So that's the data
7 we're getting. It seems a bit contrary.

8 So I have an analysis that shows the
9 state's 25 managed care plans kept
10 722 million in profits in 2021. That's
11 three-quarters of a billion dollars. Should
12 DOH continue to give private insurance
13 companies three-quarters of a billion dollars
14 meant for home care workers?

15 MEDICAID DIRECTOR BASSIRI: Thank you
16 for the question, Assemblymember.

17 I don't know what you're referring to
18 with the 700 million in profits. But what
19 we -- we do have a medical loss ratio in
20 place; that medical loss ratio is 86 percent,
21 meaning that the health plans have to spend
22 86 percent of their premium on medical
23 services, which includes personal care hours
24 and wages. We are increasing that percentage

1 to 89 this year.

2 ASSEMBLYWOMAN KELLES: We do have that
3 percentage. But the audits were not done for
4 a very long time. Last year was the first
5 time an audit was done. And there was a
6 clawback of over \$200 million, from my
7 understanding.

8 Is that audit going to continue every
9 year from now on?

10 MEDICAID DIRECTOR BASSIRI: I think
11 what you may be referring to is a COVID
12 risk -- during the 2020-'21 period we had a
13 COVID risk corridor, where we took money back
14 from the health plans. And that is what I
15 believe you're referring to.

16 ASSEMBLYWOMAN KELLES: No, I'm
17 referring to --

18 MEDICAID DIRECTOR BASSIRI: I'm happy
19 to take this offline.

20 ASSEMBLYWOMAN KELLES: -- that they
21 weren't actually passing on the percentage
22 that they were supposed to be passing on. So
23 we were supposed to be auditing them every
24 year. And we did an audit, as far as I know,

1 last year.

2 MEDICAID DIRECTOR BASSIRI: We do
3 audit their cost reports every year. We
4 audit their financials every year.

5 What I would say is the only way it's
6 possible that a worker did not get an
7 increase or got a 20 cent increase is if they
8 were already making \$17 or \$18 an hour. So
9 there were some workers who were getting less
10 than that, they were getting 15. They should
11 be getting the full 2-plus dollars per hour.

12 ASSEMBLYWOMAN KELLES: So that will be
13 part of your audit, then, to make sure
14 they're getting the \$3 when you do the
15 additional dollar.

16 MEDICAID DIRECTOR BASSIRI: We are
17 going to be doing more policing with the
18 Office of the Medicaid Inspector General to
19 ensure that any additional dollars get to the
20 worker.

21 But I just want to reiterate, though,
22 that --

23 ASSEMBLYWOMAN KELLES: I just wanted
24 to add to what --

1 MEDICAID DIRECTOR BASSIRI: -- we
2 raised the minimum wage. We raised the
3 minimum wage.

4 ASSEMBLYWOMAN KELLES: Right. But
5 that it will be held to minimum wage by 2029.

6 ASSEMBLYWOMAN PAULIN: Thank you.

7 ASSEMBLYWOMAN KELLES: Just adding my
8 voice to everyone else's. Thank you.

9 CHAIRWOMAN KRUEGER: Thank you.
10 Senator Rhoads.

11 SENATOR RHOADS: Thank you,
12 Chairwoman.

13 With only three minutes, I had no
14 intention of making this comment. But I just
15 wanted to say, to Director Bassiri, taking
16 away 20 percent from the counties is going to
17 lead directly to property tax increases.
18 There's no other way around it. You look at
19 Nassau County, for example, every single
20 dollar that Nassau County collects in
21 property taxes goes to fund Medicare -- goes
22 to fund Medicaid. Every dollar. And that's
23 not the only county.

24 And for the Governor to come in and

1 express, through you, her position that she
2 gets to spend not only the state's federal
3 COVID money but gets to spend the counties'
4 federal COVID money, is disgraceful.

5 So I wish you would consider that,
6 because it will lead directly to property tax
7 increases.

8 With respect to Superintendent Harris,
9 just on pay and pursue -- and again, we're
10 limited by time. I fail to understand -- and
11 Senator Helming did a wonderful job
12 questioning in limited time. But I fail to
13 understand how a process that takes three
14 months to resolve will be improved by
15 replacing it with a process that takes,
16 according to your own timeline, 10 to
17 14 months.

18 DFS SUPERINTENDENT HARRIS: Sir, I'm
19 not --

20 SENATOR RHOADS: How does that -- how
21 does that aid consumers in any way?

22 DFS SUPERINTENDENT HARRIS: You're
23 referring to the appeals process, is that --

24 SENATOR RHOADS: Yes.

1 DFS SUPERINTENDENT HARRIS: What I can
2 tell you is that the pay-and-resolve proposal
3 that the Governor's put forward is limited to
4 these emergency admissions, where medical
5 necessity is not in question and therefore we
6 don't expect there to be appeals because the
7 medical necessity question is effectively
8 answered by virtue of the fact that these are
9 emergency admissions.

10 SENATOR RHOADS: But whether it's an
11 emergency admission or a regular admission,
12 why is a 10-to-14-month time frame to get a
13 resolution to whether it was medically
14 necessary more advantageous than a process
15 that takes 90 days?

16 DFS SUPERINTENDENT HARRIS: It would
17 not be.

18 SENATOR RHOADS: So why are we doing
19 this?

20 DFS SUPERINTENDENT HARRIS: I'm happy
21 to take that feedback back. But as I noted,
22 this is just a narrow -- narrow proposal
23 limited to emergency admissions.

24 SENATOR RHOADS: So it's a bad idea

1 that would affect a limited number? Is that
2 what we're saying?

3 DFS SUPERINTENDENT HARRIS: I'm happy
4 to take your feedback back, Senator.

5 SENATOR RHOADS: And just one other
6 quick question.

7 With respect to the health insurance
8 guarantee fund, your department already has
9 review power for life insurers that issue
10 health insurance companies under Article 77.
11 Section 307 of the Insurance Law requires all
12 insurers to file annual statements with DFS.
13 Section 309 of the Insurance Law permits DFS
14 to make an examination into the affairs of
15 any insurer.

16 Section 1322 of the Insurance Law
17 requires all health insurers to submit a
18 risk-based capital RBC report, right? So you
19 get to review their formulas. Section 4310
20 of the Insurance Law prescribes minimum
21 statutory reserve fund requirements.
22 Section 308 of the Insurance Law confers
23 carte blanche power to the superintendent to
24 conduct an inquiry into any transaction.

1 Why is it now, given all the
2 regulatory authority you have, that now we
3 need to have a health guarantee insurance
4 fund?

5 DFS SUPERINTENDENT HARRIS: Sometimes
6 our hand is forced by other states, as in the
7 current case.

8 CHAIRWOMAN KRUEGER: Thank you very
9 much.

10 Assembly.

11 ASSEMBLYWOMAN PAULIN: Assemblymember
12 Alex Bores.

13 ASSEMBLYMAN BORES: Thank you.

14 A few weeks ago Commissioner Bray
15 joined us from DHS and said that preventing
16 future pandemics was one of the focuses of
17 DHS, and most of the investment in the budget
18 was actually through the Health Department
19 and related fields.

20 Would just love if you could talk a
21 little bit about the investment being made to
22 prevent future pandemics and to manage risks
23 in the future.

24 ACTING COMMISSIONER McDONALD: Yeah,

1 could I just interrupt?

2 ACTING COMMISSIONER McDONALD: Go
3 ahead.

4 ASSEMBLYMAN BORES: Is that what the
5 Division of Vaccine Excellence is going to
6 do.

7 ACTING COMMISSIONER McDONALD: Yes.
8 It's -- the Division of Vaccine Excellence is
9 going to help us improve our vaccine rates
10 for all vaccines in our state. But quite
11 frankly, also, we're going to address, you
12 know, quite frankly, pandemic vaccines as
13 well.

14 But, you know -- and I just want to
15 make this point. I've been a pediatrician
16 well over 30 years. We have never had safer
17 vaccines, yet I've never had a more
18 challenging time in the exam room convincing
19 parents to take these extremely safe, lovely
20 vaccines.

21 So it's one of those things where we
22 just need to find better tools to talk to our
23 public about it. Because as a physician I
24 care very deeply about the public, but I

1 don't want to be twisting arms. What I've
2 been doing is saying, Look, I've got
3 something great for you, I want you to want
4 it.

5 One of the things I noticed, by the
6 way, when I worked on the Navajo reservation,
7 it was never an issue --

8 ASSEMBLYMAN BORES: You mind if I
9 just -- I have a minute left. I want to make
10 sure to get one other question in.

11 ACTING COMMISSIONER McDONALD: Sorry.

12 ASSEMBLYMAN BORES: But I appreciate
13 the passion around this quite a bit.

14 ACTING COMMISSIONER McDONALD: Just to
15 let you know I'm there for you.

16 ASSEMBLYMAN BORES: Thank you.

17 You mentioned sort of interstate
18 compacts earlier around nursing and around
19 doctors. I want to talk about a different
20 one, which is around data sharing around
21 norovirus.

22 Fourteen states currently opt in to
23 monitor norovirus and share data with the
24 CDC. New York is not one of them, despite

1 recent reports that New York City might be
2 becoming a hotbed for it. Would just love
3 your thoughts about that sort of data sharing
4 with the feds and how we can help monitor for
5 potential viruses and pandemics.

6 ACTING COMMISSIONER McDONALD: Yes.

7 So norovirus, just so people know, is
8 something that causes the stomach flu. If
9 you've had vomiting, diarrhea recently, you
10 can thank norovirus for that. It's
11 miserable. It's spread by touch. Hand
12 sanitizer and soap and water work well.

13 I was not aware that we're not part of
14 a data-sharing agreement with other states.
15 My general approach is to share data where
16 possible, especially with the federals. But
17 I'd like to do it in a way that makes sense.
18 So let me see what's possible. In other
19 words, I'll get into the issue, look at it,
20 and get back to you.

21 ASSEMBLYMAN BORES: Wonderful. Thank
22 you.

23 ACTING COMMISSIONER McDONALD: Sure.

24 CHAIRWOMAN KRUEGER: Thank you.

1 Senator Webb.

2 SENATOR WEBB: Good morning.

3 So I have a few questions, so -- to
4 Commissioner McDonald.

5 The Governor's Executive Budget
6 includes an increase to reproductive and
7 sexual healthcare services. My question is,
8 does this increase include abortion care,
9 both procedural and medication? And if it
10 does not include all abortion care, please
11 explain why.

12 ACTING COMMISSIONER McDONALD: Well,
13 let me just say, really quick, yes, it does
14 increase -- particularly for surgical
15 abortions, there's a 30 percent increase.
16 But Director Bassiri, you might have
17 additional detail.

18 MEDICAID DIRECTOR BASSIRI:
19 Commissioner McDonald is correct, there's a
20 30 percent increase proposed for surgical
21 abortion procedures. We are also going to
22 require that health plans reimburse no less
23 than that higher rate and issue some new
24 standards for the providers.

1 It does not include increases for the
2 medication abortion treatment medications.
3 The reason is because we have current state
4 law that requires us to reimburse those
5 medications at acquisition cost. It will be
6 available for anyone in the state that needs
7 them. But to bundle it with the other
8 services was not necessary because we
9 currently have them available as separate
10 billable services.

11 SENATOR WEBB: I will definitely be
12 talking with you further about that, because
13 it should be combined.

14 And so my next question goes to
15 non-emergency Medicaid transportation. In my
16 district we have a lot of issues as it
17 relates to having access to transportation.
18 And so I'm concerned that in the Governor's
19 budget it does not include support for
20 non-emergency Medicaid transportation.

21 So my question is, what is the
22 department doing to ensure that providers
23 continue to serve in transportation deserts?

24 MEDICAID DIRECTOR BASSIRI: We've done

1 a number of things throughout the year, with
2 rising inflation and cost of labor, to offer
3 some relief to NEMT transportation providers.

4 But we were very focused in this
5 year's budget on the emergency transportation
6 and some of the issues we were seeing there.
7 But we have a range of different
8 administrative things we've done to support
9 NEMT providers, from gas relief to additional
10 funding for labor, things of that nature.

11 Be happy to follow up after.

12 SENATOR WEBB: Yes, because one of the
13 things that was raised to me is that it
14 was -- the main issue is the reimbursement
15 rates with this particular service, and it's
16 having a serious impact on Medicaid
17 recipients who actually rely on this service.

18 So with the time I have left -- and
19 I'll follow up with Superintendent Harris.
20 One of the things that gets a lot of
21 attention is our efforts in the state to
22 reduce our carbon footprint and also engage
23 in other practices that help us get clean
24 air. One of the questions I have relates

1 to -- there's an issue with your office, and
2 I'm trying to understand why your office is
3 preventing what's called liability risk --
4 excuse me, risk retention groups from being
5 able to be licensed to do business in our
6 state. And New York is the only state in the
7 country that's creating this challenge.

8 So I would like to talk with you
9 offline about that.

10 DFS SUPERINTENDENT HARRIS: Happy to
11 do so.

12 SENATOR WEBB: Thank you.

13 CHAIRWOMAN KRUEGER: Thank you.
14 Assembly.

15 ASSEMBLYWOMAN PAULIN: Yes,
16 Assemblymember Solages.

17 ASSEMBLYWOMAN SOLAGES: Thank you,
18 commissioners.

19 You know, as you know, New York
20 State's safety-net hospitals serve a large
21 population, people of color, underserved,
22 underinsured, who otherwise might not seek
23 medical attention. And we see that this
24 Executive Budget leaves a lot unsaid.

1 So what specific initiatives and
2 strategies is the department implementing to
3 support and strengthen safety-net hospitals
4 in New York State?

5 ACTING COMMISSIONER McDONALD: So, you
6 know, we did just release quite a bit of
7 money through Statewide III that included
8 safety-net hospitals, and I believe the
9 number was \$341 million included in that.
10 There is a lot more money in Statewide IV.
11 It's a total of 1.6 billion. But safety-net
12 hospitals -- you know, we have a process for
13 that that's objective and fair. You know,
14 and we have 1 billion planned in this budget
15 for Statewide V as well.

16 You know, I think safety-net hospitals
17 need help too with labor, quite frankly.
18 Travel nurses is something that we need to --
19 you know, in the budget is just asking for
20 transparency from travel nurse companies.
21 You know, one of the things I hear from
22 hospitals is the need to understand their
23 costs, be able to predict their costs. And
24 labor costs is a big issue for them as well.

1 I do think interstate licensure
2 compacts will help every hospital in the
3 state, including safety-nets, quite frankly.
4 You know, this is something that -- 37 states
5 have done the nursing compact, 37 states have
6 done the physician compact. I think it's
7 long since time for New York to do this.

8 ASSEMBLYWOMAN SOLAGES: Okay. I know
9 another fundamental problem driving the
10 crisis is the current Medicaid coverage gap.
11 And so right now Medicaid only covers
12 65 percent of the cost of services. How do
13 you expect hospitals to, you know, survive
14 under this? And do you believe that the
15 Medicaid reimbursement rate should be at
16 least 10 percent?

17 MEDICAID DIRECTOR BASSIRI: So, happy
18 to take that question, Assemblymember.

19 Medicaid reimbursement on the
20 inpatient side, that -- I think you're
21 referring to fee for service, right?

22 ASSEMBLYWOMAN SOLAGES: Yes.

23 MEDICAID DIRECTOR BASSIRI: So for the
24 safety net hospitals, and especially in the

1 last couple of years, we've actually taken a
2 different strategy, working with the federal
3 government to do something called a directed
4 payment, which tells the managed care plans
5 they have to pay that hospital a specific
6 reimbursement rate. Those rates are
7 significantly higher.

8 ASSEMBLYWOMAN SOLAGES: And then
9 we're -- we're just having a larger
10 conversation about housing. The proposal,
11 you know -- when we're talking about, you
12 know, lead and removing lead and lead
13 poisoning in our properties, the current
14 proposal doesn't meet the 2019 requirements
15 to protect children under the age of 6.

16 So what more can the state do to
17 ensure that we're complying with this 2019
18 law?

19 ACTING COMMISSIONER McDONALD: So I
20 actually think the lead proposal in this
21 budget is historic. We're talking about
22 24 municipalities in the state's
23 highest-risk -- 80 percent of our cases.

24 One of the things I love about this,

1 we're actually checking the property instead
2 of the child. What we've been doing for
3 decades, many other states as well, is to
4 wait for the child's elevated lead level and
5 then go look at the property. It's high time
6 we stopped using children to indicate there's
7 a problem. So I think this is a very
8 important thing for New York State.

9 The bipartisan infrastructure bill,
10 though, for replacing lead service lines,
11 that's real. That's \$150 million every year
12 for five years.

13 ASSEMBLYWOMAN SOLAGES: So when do we
14 get --

15 ACTING COMMISSIONER McDONALD: I
16 think, you know, when we get to the bottom of
17 it, we might be able to --

18 ASSEMBLYWOMAN SOLAGES: When do we get
19 to implementing -- we'll talk offline. But I
20 appreciate it. Thank you.

21 ACTING COMMISSIONER McDONALD: I'd
22 love to. Yeah, I want to help. Thank you.

23 ASSEMBLYWOMAN PAULIN: Senator
24 Borrello.

1 SENATOR BORRELLO: Yes, thank you.

2 For the Medicaid director. Sir, you
3 had mentioned that obviously the state needs
4 to catch up on the funds because it capped
5 the funds at the county level. Can you tell
6 me, with one in three New Yorkers on
7 Medicaid, who sets the guidelines and the
8 parameters for who is eligible to get
9 Medicaid? Is it the state or the county
10 governments?

11 MEDICAID DIRECTOR BASSIRI: It begins
12 with the federal government, then it's the
13 state.

14 SENATOR BORRELLO: So the state and
15 the federal but not the county.

16 So with that being said, you know,
17 with -- what other states besides New York
18 still saddle county governments, local
19 governments with a local share of Medicaid?

20 MEDICAID DIRECTOR BASSIRI: I don't
21 have that offhand. There are a handful, and
22 different states structure their county
23 relationships differently. But we can get
24 back to you with that information.

1 SENATOR BORRELLO: Well, I spent
2 10 years in county government, and I believe
3 New York is one of the last ones.

4 But -- so my question is, if New York
5 State controls who's eligible and what
6 benefits they receive -- New York State's the
7 most generous, I believe, of all the states,
8 as far as those Medicaid benefits -- then how
9 is it we justify taking federal money away
10 from counties to fill that gap?

11 MEDICAID DIRECTOR BASSIRI: I don't
12 necessarily think that's the way we are
13 justifying it.

14 There are things the state has done to
15 expand Medicaid coverage and benefits and
16 services. We've absorbed all of that cost.
17 All of the growth since 2015 has been
18 absorbed by the state.

19 SENATOR BORRELLO: But the state also
20 set those parameters.

21 Does any other state have one in three
22 of their residents on Medicaid, any other
23 state besides New York?

24 MEDICAID DIRECTOR BASSIRI: I think

1 California may.

2 But in any event, what I was also
3 going to say is since the PHE in March 2020,
4 the counties really have not had any
5 responsibility with respect to Medicaid
6 eligibility or administration. So for the
7 last three years they have not had to
8 change -- or dedicate any resources towards
9 Medicaid administration. They've actually
10 repurposed those staff to deal with other
11 county needs while the state has reimbursed
12 their Medicaid admin at the current rate that
13 we pay.

14 During that time we've taken over a
15 lot more of the Medicaid administration than
16 had been previously in place, and I think
17 those are important considerations.

18 SENATOR BORRELLO: Well, yeah, but yet
19 it's still the largest line item for every
20 county government.

21 And you say that they've not taken
22 over responsibility. They also have no say.

23 Would you be in favor of county
24 governments being able to determine, each

1 individual county, what Medicaid benefits
2 they give to the residents that ask for that?
3 I mean, I think that would be a great
4 solution, wouldn't you think? If the
5 counties want to --

6 MEDICAID DIRECTOR BASSIRI: They do
7 have a role in some of the long-term care
8 determinations and eligibility. Counties
9 employ nurses that do the assessments and --

10 SENATOR BORRELLO: Well, it's very
11 limited.

12 I'm asking you a very specific
13 question: Would you be in favor of having
14 county governments determine which Medicaid
15 programs they offer in their counties, as a
16 way to stem the cost of Medicaid?

17 MEDICAID DIRECTOR BASSIRI: No, I
18 would not.

19 SENATOR BORRELLO: Okay. So then why
20 are we taking money away from the federal
21 government that the federal government
22 intended for counties when clearly New York
23 State government is completely in control of
24 what this program looks like and who's

1 eligible for it.

2 MEDICAID DIRECTOR BASSIRI: All I
3 would say is that there's multiple funding
4 streams, including multiple federal funding
5 streams. Not all of those streams are being
6 taken from the counties. There are funding
7 streams that we've received from the federal
8 government that will continue to be paid to
9 the counties.

10 ASSEMBLYWOMAN PAULIN: Thank you both.
11 Thank you.

12 SENATOR BORRELLO: Thank you.

13 ASSEMBLYWOMAN PAULIN: Assemblymember
14 Lunsford.

15 ASSEMBLYWOMAN LUNSFORD: Thank you
16 very much.

17 This first question is probably best
18 suited to the Medicaid director, but feel
19 free to hop in if you have an opinion.

20 Seventy percent of our nursing home
21 beds are covered by Medicaid, and right now
22 our nursing homes are running roughly a 165
23 to over \$200 a day gap in those reimbursement
24 rates. In Monroe County alone, in that

1 region, we have about a thousand beds offline
2 right now. There's a 5 percent Medicaid rate
3 increase recommended in the Executive Budget.

4 Do you think that's a sufficient
5 amount of money to help close that gap and
6 bring those beds back online?

7 MEDICAID DIRECTOR BASSIRI: I think
8 the investment is a step in the right
9 direction. It's the largest investment we've
10 made for nursing homes since I can remember,
11 I think --

12 ASSEMBLYWOMAN LUNSFORD: Fifteen
13 years.

14 MEDICAID DIRECTOR BASSIRI: -- 15,
15 20 years.

16 I will also say we've done other
17 things to support nursing home workforce. We
18 have a health workforce bonus program. We've
19 spent 1.5 billion; I think 300 million has
20 gone directly to nursing homes to support
21 staff. We have 1.5 billion allocated in our
22 1115 waiver for financially distressed
23 hospitals and nursing homes.

24 There is a strong commitment from the

1 state and the Governor to support nursing
2 homes through the transition.

3 ASSEMBLYWOMAN LUNSFORD: What I'm
4 hearing from our providers is that 5 percent
5 is not only insufficient to bring those beds
6 back online but to even maintain our nursing
7 homes at their current rates.

8 This is a critical time where some of
9 my nursing homes are saying that they're not
10 going to be able to survive the year. We've
11 already lost a long-time high-performing
12 not-for-profit nursing home because they
13 couldn't meet these needs. So I'm just going
14 to suggest that 5 percent is insufficient.

15 But I'd like to switch, while I have a
16 minute and a half, to the acting
17 commissioner. Early Intervention services
18 right now are suffering a tremendous wait
19 time. We have a provider shortage. We've
20 had kids in Monroe County age out of
21 Early Intervention services while waiting to
22 receive them.

23 I don't see an increase in the rate in
24 the budget. What are you suggesting we do to

1 address this crisis?

2 ACTING COMMISSIONER McDONALD: Well,
3 Early Intervention's very important. I can
4 tell you it's important for kids birth to 3,
5 and it's a safety net for a lot of kids. You
6 know, I can tell you as a pediatrician I've
7 seen countless children just be helped by
8 Early Intervention. I think it's just a
9 wonderful thing to see how kids get back on
10 the path.

11 So, you know, I'm concerned about the
12 delays we have in New York State. You know,
13 there was a rate increase in '19 for
14 occupational therapists, speech therapists
15 and physical therapists. There was the
16 1 percent increase last year. You know, we
17 have to look at what our options are, quite
18 frankly.

19 I mean, I'd love to have more
20 conversation with you about that, because you
21 might be able to tell I'm a big fan of
22 Early Intervention, right? As a
23 pediatrician, I see it and I see how it
24 works.

1 ASSEMBLYWOMAN LUNSFORD: It's
2 certainly a cost-saver in the long-term.

3 ACTING COMMISSIONER McDONALD: It
4 really is.

5 ASSEMBLYWOMAN LUNSFORD: So I would
6 support looking at maybe a rate increase to
7 help address that. Right now too many of our
8 kids are receiving some of these services,
9 like speech and PT and OT through
10 telemedicine, which is really not an adequate
11 replacement when you are dealing with those
12 kinds of issues.

13 ACTING COMMISSIONER McDONALD: Yeah,
14 I'm a big fan of telemedicine, but for kids
15 in particular, that space, it's hard. And, I
16 mean, there's the county share with
17 Early Intervention -- it's complicated.

18 But I want to keep more conversation
19 going on this, please.

20 ASSEMBLYWOMAN LUNSFORD: Thank you. I
21 appreciate it.

22 ASSEMBLYWOMAN PAULIN: Senator Thomas.

23 SENATOR THOMAS: Hi. Thanks for being
24 here to testify. I've got three questions,

1 and the first is for the superintendent.

2 You know, Superintendent Harris, you
3 and I have been working hand in hand on a
4 number of issues consumer-related. I've
5 heard from providers in my district that DFS
6 has been slow to respond to complaints that
7 providers are filing about insurance
8 companies.

9 What can the Legislature do to help
10 DFS respond to requests sooner?

11 DFS SUPERINTENDENT HARRIS: Thank you
12 so much for that question, Senator.

13 Earlier I noted that in 2022, DFS
14 returned \$151 million directly to New Yorkers
15 in the form of restitution. It was double
16 the prior year, something I'm very proud of.

17 I have some numbers right here. Last
18 year we had about 56,000 complaints and
19 external appeals. We currently have 42 staff
20 that staff our Consumer Assistance Unit. So
21 I think the main thing that the Legislature
22 could do to assist us is to help us staff up
23 and make sure that we have the room in our
24 FTE and budget allocations to do that.

1 Just because I like math so much, if
2 you take that number, 42, and divide it by
3 the 151 million, and you assume on average
4 those Consumer Assistance Unit workers are
5 making \$100,000 for a round number, they are
6 returning \$3.6 million to New Yorkers for a
7 \$100,000 investment. That is assessed on our
8 regulated entities and is not a cost to
9 taxpayers.

10 SENATOR THOMAS: So more money for --

11 DFS SUPERINTENDENT HARRIS: More
12 money, more FTEs, more staff, yes.

13 SENATOR THOMAS: All right. My second
14 question here is another complaint about
15 insurance companies. Hospitals are
16 complaining that insurance companies keep
17 denying claims without human review. You
18 have these algorithms and AI that, you know,
19 just keep denying claims, and hospitals are
20 hit with the bill.

21 What can the Legislature do to stop
22 this? What are the agencies doing as well?

23 That's for everyone.

24 DFS SUPERINTENDENT HARRIS: I'm happy

1 to jump in.

2 We were chatting, actually, earlier
3 about the low number of incorrect denials and
4 the efficacy of the appeals process. I think
5 it's something that the team at DFS does very
6 well. But again, it's an issue where more
7 staff could help the timeline and the
8 efficacy of the reviews.

9 I do think the majority of denials
10 don't come from commercial plans, however, so
11 I would defer to my colleagues.

12 MEDICAID DIRECTOR BASSIRI: Well, what
13 I would say to that, what we're doing --
14 because we have seen an increasing number of
15 denials specifically for the safety-net
16 hospitals from the insurers.

17 So with some of our funding strategies
18 for distressed hospitals, I referred to a
19 directed payment template earlier. We're
20 actually doing something even further than
21 that. It's called separate payment terms,
22 which essentially only pays the insurers what
23 they pay the hospitals in terms of the
24 premium. So it really eliminates the

1 incentive for a denial and ensures that the
2 hospital is being paid appropriately.

3 SENATOR THOMAS: All right. I have
4 one last question, but I have three seconds
5 left. It's about Nassau University Medical
6 Center. But I guess I will talk to
7 Dr. McDonald later on about that.

8 Thank you.

9 ASSEMBLYWOMAN PAULIN: Thank you.

10 Next is Assemblymember González-Rojas.

11 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
12 you so much. I have a very simple question
13 for the interim commissioner.

14 Dr. McDonald, does this administration
15 care about the health of immigrant
16 New Yorkers?

17 ACTING COMMISSIONER McDONALD: I'm
18 sorry, I didn't hear the question.

19 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Does
20 the administration care about the health of
21 immigrant New Yorkers?

22 ACTING COMMISSIONER McDONALD: Yes,
23 very much so. You know, it's a very
24 important issue, quite frankly. I mean, yes,

1 healthcare is a basic human right, you know,
2 and I don't think I'm covering any news when
3 I'm saying that here. You know, the
4 undocumented issue in particular, it's
5 something we've been looking at, either as a
6 fair amount of financial uncertainty that we
7 just have to keep looking at.

8 I know -- we talked about this quite a
9 bit. Let me just ask Medicaid Director
10 Bassiri to chime in a little bit too --

11 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Yes.
12 Yes, because I know where you're -- you know
13 where I'm going with this. I want to speak
14 specifically about the opportunity for
15 New York State to submit a federal waiver,
16 called a 1332 waiver -- yes, thank you -- to
17 ensure and expand coverage for undocumented
18 communities through the Essential Plan.

19 So maybe the -- Mr. Bassiri --

20 MEDICAID DIRECTOR BASSIRI: Yes, thank
21 you for the question.

22 And we have looked at this and
23 explored the opportunity. And, you know,
24 currently we believe that there's just too

1 much uncertainty to go forward with the
2 expansion of undocumented in -- through that
3 waiver. And I'll give you some reasons why.

4 When we -- as we've gone through the
5 process and looked more at it, we cannot
6 utilize the Essential Plan trust fund as a
7 source of revenue.

8 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Why
9 not?

10 MEDICAID DIRECTOR BASSIRI: Because
11 it's tied to 1331 federal law, which
12 authorizes the Basic Health Program. This is
13 a program outside of 1331. It's going to
14 1332. And so you can't use the funds that
15 are dedicated for 1331 on that population,
16 which is ineligible for that product.

17 That said --

18 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Is it
19 because of federal policy? Why is that?

20 MEDICAID DIRECTOR BASSIRI: It is a
21 federal policy. They are willing to provide
22 what we are calling pass-through funds or the
23 annual surplus we generate from the
24 Essential Plan and the people covered in it.

1 It's roughly, I think -- it's around
2 \$2 billion a year. It's unclear in terms of
3 our enrollment estimates that we will be able
4 to support the number of potential enrollees
5 that would take up the program --

6 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: We
7 anticipate 245,000 people that would benefit
8 from this.

9 MEDICAID DIRECTOR BASSIRI: And I
10 think that is beyond the allotment we would
11 have through the pass-through funding under
12 this opportunity.

13 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Why
14 might we not try and submit the waiver?

15 MEDICAID DIRECTOR BASSIRI: I'm happy
16 to take that back. And I complete -- I
17 appreciate your question and think everyone
18 at this table is supportive of expanding
19 coverage for all populations.

20 ASSEMBLYWOMAN GONZÁLEZ-ROJAS:
21 There's -- we're currently in a comment
22 period to do so, and we have gone partially
23 through that 30 days; I think there's been
24 over 300 comments, many in support of

1 extending that for our undocumented community
2 members.

3 So I would love to have you on record
4 saying that you would assess those comments
5 and look at amending that waiver.

6 MEDICAID DIRECTOR BASSIRI: We
7 absolutely will assess those comments and
8 take the feedback as required under the
9 rules.

10 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
11 you.

12 ASSEMBLYWOMAN PAULIN: Thank you.

13 CHAIRWOMAN KRUEGER: Thank you.

14 Health Chair Gustavo Rivera.

15 SENATOR RIVERA: Batting cleanup.
16 We're going to pick up right there. All
17 right. Let's actually keep going down that
18 rabbit hole, folks.

19 Colorado and Washington did this.
20 We're saying we can't. Why not, again?

21 MEDICAID DIRECTOR BASSIRI: Good to
22 see you, Senator. So --

23 (Laughter.)

24 SENATOR RIVERA: Good to see you too,

1 buddy.

2 MEDICAID DIRECTOR BASSIRI: Yeah.
3 Colorado and Washington did something like
4 this. So Colorado and Washington were able
5 to get approval to offer subsidized
6 individual health insurance to undocumented
7 members. It is not nearly what I think is
8 being proposed in --

9 SENATOR RIVERA: Could we use an
10 Essential Plan look-alike?

11 MEDICAID DIRECTOR BASSIRI: It could
12 be possible.

13 I just want you to understand that the
14 Colorado and Washington models are very
15 different than what has been proposed by the
16 Legislature in the past and what we were --
17 what the Governor was seeking to partner with
18 the federal government on, in terms of
19 comprehensive coverage and no cost to the
20 consumer.

21 SENATOR RIVERA: Gotcha, okay.

22 Last year we were able to get coverage
23 for 65 and -- for 65-plus, as well as folks
24 who are birthing people for up to a year.

1 And you're delaying it. So it kind of goes
2 to the question that the Assemblymember asked
3 you right off the bat. Is that a
4 demonstration of your care for immigrant
5 people?

6 MEDICAID DIRECTOR BASSIRI: I can say
7 unequivocally that we are not walking away
8 from what we agreed upon last year. We are
9 100 percent committed to covering the 65-plus
10 population, as is the Governor.

11 We implemented a series of changes
12 last year, coverage expansion changes. Many
13 of them were set to take effect tomorrow.
14 Expanding income eligibility for adults,
15 eliminating Child Health Plus premium --
16 there's several changes we made. Many of
17 those changes have to be made to three
18 eligibility systems, including the ones that
19 the local districts use.

20 As we went through this process, we
21 realized we would be imposing a pretty
22 significant burden on the counties by having
23 this population enroll through the local
24 districts, and we figured out a better way to

1 do it -- better for the consumer, better for
2 the state -- by making some system changes to
3 have them enroll through the New York State
4 of Health.

5 SENATOR RIVERA: Gotcha, okay.

6 MEDICAID DIRECTOR BASSIRI: We need
7 time to make those changes.

8 SENATOR RIVERA: I've got to -- since
9 I have limited time. So we'll definitely
10 follow up on that issue.

11 But one quick thing. How much do we
12 spend on emergency Medicaid for this
13 population right now, do you know?

14 MEDICAID DIRECTOR BASSIRI: For the
15 entire population?

16 SENATOR RIVERA: For the population
17 that will be covered by the expansion. It's
18 roughly 500 million. So if we're talking
19 about less than 500 million, it probably
20 would be a good investment. Just saying.

21 Moving on, let's talk about 340B for a
22 little bit. First of all, just -- and I know
23 you know this already -- 5136. Look at the
24 bill, 5136.

1 Now, there's many of my colleagues
2 that have spoken about this. Assemblymember
3 Bronson in particular underlined the fact
4 that whether we're talking about 250,000
5 lives, as was mentioned earlier, as though it
6 was a minor number -- and that's not your
7 number, I gotcha. But it was kind of
8 mentioned in that spirit. And I'm glad that
9 we kind of pooh-poohed that. Not only do we
10 certainly care about those 250,000 people,
11 but also the broader issue is the -- that
12 these savings actually allow these
13 institutions to continue to exist and provide
14 services for everybody, not just for the
15 folks who benefit from the program. So it's
16 a little bit kind of like, you know -- and
17 again, it wasn't you, but I just wanted to
18 get that for the record.

19 A question. You're talking about the
20 permanence of how you're going to make these
21 folks whole, right? Let's talk first about
22 the amount that you're suggesting would go in
23 this budget. How did you come up with that
24 amount? Could you show us the math?

1 MEDICAID DIRECTOR BASSIRI: We can
2 absolutely show you the math for each --

3 SENATOR RIVERA: You're sure you can.

4 MEDICAID DIRECTOR BASSIRI: -- every
5 single provider.

6 SENATOR RIVERA: You're on the record,
7 bro. You'll show me the math?

8 MEDICAID DIRECTOR BASSIRI: I'll show
9 you the numbers. Love to show you the
10 numbers.

11 SENATOR RIVERA: Please. Because you
12 all know -- not you, but kind of -- I've been
13 around here for long enough. And the
14 administration, and Ms. Baldwin knows, they
15 rarely show us the math. Everybody knows,
16 you're going to show us the math. So number
17 one.

18 Number two. As far as the permanence
19 of this, you're talking about a state plan
20 amendment, right? Would you agree that
21 statute would be more permanent than a state
22 plan amendment?

23 MEDICAID DIRECTOR BASSIRI: I think
24 they're, in this context, probably

1 equivalent. But sure, yeah, statute is
2 probably more permanent.

3 SENATOR RIVERA: Cool. That's why
4 some of us are seeking something like --
5 that's statutory.

6 But anyway -- and you have thought
7 about the operational challenges that SNPs
8 might actually have from this?

9 MEDICAID DIRECTOR BASSIRI: We have.
10 We're in conversations with the SNPs. We're
11 going to take some of their requests to the
12 federal government. At the end of the day,
13 we're not taking any savings from the SNPs in
14 terms of the administrative savings that
15 we'll get from all the other health plans.
16 And to the extent there is a shortfall, we
17 have the funding to resolve it. It's very
18 minor.

19 SENATOR RIVERA: I'm sure we're going
20 to revisit that because we're not too sure
21 about that either.

22 But moving on, let's talk about MLTCs.

23 Now, first of all, there's a whole
24 bunch of reports that you folks have owed us

1 for a while. One of them is this one, that
2 was supposed to be done October 31, 2022.
3 You might -- are you going to tell me that
4 it's in my email right now?

5 MEDICAID DIRECTOR BASSIRI: The
6 interim report is in your email right now.

7 SENATOR RIVERA: Ahhh, I knew it.
8 Because you all did some last night when you
9 dropped like five or six reports that were
10 due like months ago and we got them {snapping
11 fingers} last night.

12 (Laughter.)

13 MEDICAID DIRECTOR BASSIRI: What I
14 would say is --

15 SENATOR RIVERA: Photo finish.

16 So this one -- so there is a -- so
17 there is a report, there is one in my email
18 right now?

19 MEDICAID DIRECTOR BASSIRI: There is
20 an interim report with the Legislature, yes.

21 SENATOR RIVERA: Beautiful. Okay. So
22 I'm going to be looking at that. It would
23 have been great to look at it before, maybe
24 like between October 31st and now, but

1 regardless.

2 So there is -- there's a lot of
3 concerns that we have about network adequacy.
4 Right? And that's something also that
5 crosses over with DFS. And so what steps are
6 you folks -- are you taking to ensure network
7 adequacy? And just give me something like --

8 MEDICAID DIRECTOR BASSIRI: So we are
9 very interested in updating our network
10 adequacy standards. We have been in
11 discussions with the federal government and
12 other states to see what's out there. We
13 know that there will be new access standards
14 put in place by CMS -- time standards, making
15 sure people can get appointments in a timely
16 basis, proximity, telehealth, et cetera.

17 We want to use the next year to do a
18 quality incentive to get some baseline
19 information, because our current standards do
20 not allow us to quantify how plans are
21 meeting those standards in an empirical,
22 defined way. And so CMS is going to come out
23 with the rules. We want to do a quality
24 incentive next year and then make them

1 permanent in the following year.

2 SENATOR RIVERA: So at some point we
3 will certainly, in a nontimed conversation,
4 we'll have deep conversations about this.
5 Because I have -- as you know, health
6 plans -- (loudly) my favorite. And issues of
7 network adequacy really concern me, and the
8 way that they get around what is supposed to
9 be a standard that already exists and how
10 they are enforced by the Department of Health
11 and DFS, certainly a concern about that.

12 Moving on, workforce. Now, there's --
13 you talked about some of the stuff that
14 you've -- some of the challenges that you're
15 having within the Health Department. We've
16 talked about that before. But speaking about
17 things that you -- that we created that --
18 you know, like reports that are supposed to
19 come to us that don't. Last year we had the
20 Office of Healthcare Workforce Innovation.
21 We put 20 more million on it this year.
22 That's phenomenal.

23 What is it actually doing?

24 ACTING COMMISSIONER McDONALD: Well,

1 it hasn't started yet. It's just starting
2 out. We're just hiring people for it now.
3 The director who's just being hired is
4 on-boarded next month. So it's just
5 starting.

6 SENATOR RIVERA: Gotcha. So even
7 though we created it last year --

8 ACTING COMMISSIONER McDONALD: I'm
9 just telling you what I know. We're
10 on-boarding a director next month.

11 SENATOR RIVERA: Hoo hoo hoo hoo.
12 Moving on. Let's do -- and hospital funding.
13 There's a couple of questions certainly I
14 would -- what Senator Myrie asked about
15 related to safety-net institutions, obviously
16 I care deeply about safety net institutions.
17 Let me ask a technical question.

18 It's my understanding that that DPT,
19 direct payment template program, is still
20 pending CMS approval. Could you tell us the
21 status of that, please?

22 MEDICAID DIRECTOR BASSIRI: We have
23 those approved. We recently got those
24 approved for '22 and '23.

1 SENATOR RIVERA: Like today too?

2 MEDICAID DIRECTOR BASSIRI: No, it
3 was --

4 SENATOR RIVERA: Is that also in my
5 email?

6 MEDICAID DIRECTOR BASSIRI: I don't
7 have the exact date, but it was about
8 mid-January.

9 SENATOR RIVERA: Okay. All right.
10 Now, there was also -- and as far as reports,
11 getting them -- like last night we got the
12 ambulette rate report. That was last night.
13 Thank you so much for that.

14 MEDICAID DIRECTOR BASSIRI: It was a
15 busy night.

16 (Laughter.)

17 SENATOR RIVERA: There's a question --
18 Senator May and a couple of folks asked this
19 question related to home care and related to
20 the \$3. Now, there is definitely a lot of --
21 it just seems that you folks are kind of --
22 kind of playing with terminology here.

23 First of all, there are serious
24 concerns -- and I know you've heard them,

1 it has in duals integration, individuals that
2 are covered and get their benefits from
3 Medicaid and Medicare in -- under one plan,
4 ideally.

5 Getting rid of MLTC, you know, it
6 certainly would help ensure that the dollars
7 that we make available for home care go to
8 the providers. I don't know that it
9 guarantees that the providers get those
10 dollars to the workers. There are benefits
11 from care coordination that we get in MLTC
12 that we do not have in fee for service. This
13 is not pharmacy. There are -- there are a
14 lot of care management functions necessary to
15 do MLTC. And we do believe in that model,
16 with reform.

17 SENATOR RIVERA: I will have more.
18 Thank you.

19 ASSEMBLYWOMAN PAULIN: Assemblymember
20 Byrnes.

21 ASSEMBLYWOMAN BYRNES: Thank you.

22 I have a couple of quick questions.
23 The first will be for Mr. McDonald, the
24 second I believe will be for Ms. Harris. And

1 I'll ask them both at the same time.

2 Ms. Harris, that gives you a heads-up for a
3 second to think about your answer.

4 Look, in the Governor's Executive
5 Budget there's a proposal for \$1 billion for
6 the fifth version of the Health Care Facility
7 Transformation Program. Just now, or
8 recently, the winners of Version III were
9 just announced, and there seems to be a
10 significant divide between money allocated
11 upstate and downstate. Just by way of one
12 example, in the Finger Lakes region, which I
13 represent -- home to over 1.2 million
14 people -- they've received 21 million in
15 Round III. Westchester County alone, home of
16 1 million people -- less -- received
17 \$70 million in Round III.

18 My question is, clearly there's a
19 great difference between money allocated to
20 one smaller county than to my entire region,
21 with more people. If Version V, with
22 \$1 billion, is allowed, how is that money
23 going to be distributed to the benefit of all
24 New Yorkers? Because, sir, as you said in

1 your opening statement, you stressed
2 healthcare equity for the benefit of all
3 New Yorkers is what you wanted. How is this
4 money going to be distributed to benefit all
5 New Yorkers, including upstaters?

6 And then the next question, for
7 Ms. Harris, will be how -- in nursing homes,
8 how much of the distressed provider funds
9 have actually -- for nursing homes have
10 actually been disbursed?

11 Commissioner?

12 ACTING COMMISSIONER McDONALD: Yeah,
13 thank you so much.

14 So, you know, there is a process for
15 Statewide III. There's a process for
16 Statewide IV. I think the best thing for me
17 to do is just send you this objective
18 process. The Statewide IV, which is
19 happening now, is 1.6 billion. In this
20 budget the Statewide V, which is 1 billion --
21 you know, I'll just send you the process and
22 then you can see it's an objective process.
23 I think it's fair. There's no intention, of
24 course, to favor one part of the state over

1 another part of the state. I mean, we want
2 to be fair to everyone in the state.

3 You're absolutely right, health equity
4 matters for all New Yorkers all the time.
5 And it's very deeply important to me. My
6 whole career has been about finding health
7 equity everywhere I've gone.

8 Let me now just turn it now to the
9 superintendent.

10 ASSEMBLYWOMAN BYRNES: But when our
11 constituents look at something, it shows that
12 70 million is going to an area with less
13 people than the Finger Lakes region, which
14 tends to be more rural, upstate. Yet we're
15 all paying taxes, the same amount of taxes.
16 We all are deserving of healthcare equity.
17 How can you justify this disparity? And how
18 do you ensure, most importantly, that it
19 doesn't happen again?

20 DFS SUPERINTENDENT HARRIS: If I may,
21 Assemblywoman. We do look at the percentage
22 of awards that come in, and make awards based
23 on that.

24 And I would just call out that we are

1 rolling out awards now, we just announced
2 another \$200 million this morning, of which
3 50 million went to the Finger Lakes region.

4 So we are looking at this holistically
5 in the way in which we make our awards. They
6 come out in phases. And we'll continue to
7 look at the awards to make sure they're
8 equitable across the state.

9 ASSEMBLYWOMAN BYRNES: Ms. Harris, I
10 know you're going to have to answer me later.

11 Thank you.

12 DFS SUPERINTENDENT HARRIS: Thank you.

13 ASSEMBLYWOMAN BYRNES: Unless the
14 chair allows.

15 CHAIRWOMAN KRUEGER: Thank you.

16 Assembly? Okay, thank you. I think
17 I'm the last Senator for Round 1. Thank you.

18 Okay, start with reproductive health
19 funding. So there was a commitment of
20 additional Medicaid funding for
21 community-based health centers. And
22 reproductive health centers would fall under
23 that? I'm confused about this.

24 MEDICAID DIRECTOR BASSIRI: I think

1 you may be referring to some capital or grant
2 funding at Department of Health now?

3 CHAIRWOMAN KRUEGER: No, Medicaid
4 reimbursement rates.

5 MEDICAID DIRECTOR BASSIRI: No?
6 referring to -- we're actually increasing the
7 reimbursement rate for surgical abortion
8 procedures.

9 CHAIRWOMAN KRUEGER: So there's not an
10 across-the-board Medicaid reimbursement
11 increase for the kinds of health services
12 community-based health centers provide, which
13 is most Planned Parenthoods.

14 MEDICAID DIRECTOR BASSIRI: There
15 would be for family planning. There would be
16 for family planning services as well. I
17 think those are 30 percent as well; I will
18 confirm that for you.

19 But -- and then we're requiring health
20 plans to benchmark to no less than those
21 higher fee-for-service reimbursement rates.

22 CHAIRWOMAN KRUEGER: Okay. But so
23 Medicaid is doing a higher --

24 MEDICAID DIRECTOR BASSIRI: Yes.

1 CHAIRWOMAN KRUEGER: -- reimbursement
2 rate across the board for services they
3 provide.

4 MEDICAID DIRECTOR BASSIRI: Correct.

5 CHAIRWOMAN KRUEGER: So then second
6 question, of the complaint that the level of
7 reimbursement for specific abortion services
8 is way too low. And so there was I think
9 additional money for surgical abortions but
10 not for medical abortions. Is that correct?

11 MEDICAID DIRECTOR BASSIRI: That is
12 correct. Thirty percent increase.

13 CHAIRWOMAN KRUEGER: Thirty percent --

14 MEDICAID DIRECTOR BASSIRI: --
15 increase above the current \$1,000
16 reimbursement. So it's going to 1300.

17 CHAIRWOMAN KRUEGER: So a medical
18 abortion, though, would be a service provided
19 by the health center, whoever they are. So
20 would they be eligible for the increased
21 Medicaid reimbursement for those services?

22 MEDICAID DIRECTOR BASSIRI: I would
23 want to confirm and get back to you so I
24 don't give you the wrong information. But my

1 assumption is yes.

2 CHAIRWOMAN KRUEGER: So you think yes,
3 but you're going to get back to me with
4 confirmation. Thank you. That's helpful.

5 Actually for DFS, following up on a
6 variation on a question my colleague Gustavo
7 Rivera just asked about the networks -- well,
8 he asked the question, I think, of the
9 Department of Health on the network coverage
10 of inadequate doctors in a network, and
11 that's mostly for the Medicaid population.
12 But there's a huge number of people on
13 private insurance, and I get complaints
14 constantly that the networks their insurance
15 companies -- which I think are under you --
16 are negotiating with and that there's a real
17 inadequacy of actual providers.

18 One, are you tracking that? What are
19 you learning? And what can we do about it?
20 Because I know that it's a problem.

21 DFS SUPERINTENDENT HARRIS:
22 Absolutely. Thank you, Senator.

23 We abide by the network adequacy
24 standards set by DOH. And as you noted, the

1 networks are -- under Insurance Law, are
2 required to be adequate. So we assess the
3 data from the insurers to help ensure that
4 that is in fact the case.

5 Where we have a consumer that cannot
6 get the service they need in-network, the
7 insurance company is required to let them go
8 to an out-of-network provider at in-network
9 cost. And that's one thing we do to help
10 ensure network adequacy.

11 Also, as you know, we finalized a
12 regulation last year that held consumers
13 harmless for insurance company
14 misinformation. So where an insurance
15 company tells a consumer that somebody is
16 in-network and it turns out that they are out
17 of network, this regulation now holds the
18 consumer harmless and makes the insurance
19 company responsible for that misinformation.

20 CHAIRWOMAN KRUEGER: Okay. So I think
21 we have to do a better job of letting the
22 consumers know that if they can't find a
23 doctor to go to in their network and their
24 provider -- their insurance provider isn't

1 doing anything about that, that they have the
2 right to go to out-of-network, but for the
3 same cost.

4 DFS SUPERINTENDENT HARRIS: Correct.

5 CHAIRWOMAN KRUEGER: Okay. I think
6 that is not out there in the public eye.

7 DFS SUPERINTENDENT HARRIS: Okay, I
8 will take that --

9 CHAIRWOMAN KRUEGER: But I'm glad to
10 hear that.

11 I guess a question for both of you,
12 because I'm a little confused who's whose
13 responsibility. So there's a lot of
14 complaints about the different pricing of
15 different hospitals for the same procedures,
16 and sometimes it's under Medicaid and there's
17 a Medicaid amount that's going to be paid and
18 that's that. But a lot of times it's other
19 insurance, and some of that insurance is,
20 say, for employees of the state and the city,
21 it's hundreds of thousands of people, and the
22 cost variations are enormous.

23 So the federal government said: You
24 all have to tell us what your prices are.

1 It's my understanding not everybody's
2 following that rule. So it's a couple of
3 questions.

4 One, what can we do here in New York
5 to make sure everybody is following that
6 rule? Because transparency is crucial, in my
7 opinion, even though it's a little confusing
8 about whether consumers, as they're having
9 the heart attack, are actually going to
10 review which hospital will be cheaper for the
11 care.

12 But, two, what are we doing to
13 actually push the envelope of making sure
14 that we don't have extreme price differences
15 when you go to different hospitals for the
16 same care?

17 So either or both of you.

18 DFS SUPERINTENDENT HARRIS: So on the
19 issue of hospital pricing, I'll defer to my
20 colleagues, as they oversee providers and we
21 oversee the insurance companies.

22 What I will tell you with respect to
23 insurance, and facility fees in particular,
24 is that facility fees for preventative care

1 are prohibited in New York, and they must be
2 disclosed in advance of the delivery of care
3 for non-preventative care. That's something
4 that we do oversee. And certainly if
5 somebody is having a problem with that or if
6 they were wrongfully charged the facility's
7 fee, they should come to us and we can help
8 rectify that situation.

9 CHAIRWOMAN KRUEGER: Hi. One of you
10 from DOH, take your choice.

11 MEDICAID DIRECTOR BASSIRI: I can jump
12 in. I think we've been very interested in
13 this issue as well, not necessarily specific
14 to the federal rule, but just general
15 transparency and trying to leverage the
16 all-payer database that we have in place to
17 make sure we can understand why prices are --
18 why there's so much variation within the same
19 borough, within the same block.

20 It is complicated, because not every
21 procedure in and of itself is reflective of
22 the total cost of care an individual may
23 need. So we need to be cautious about how we
24 use it for decision making. But we are very

1 interested in leveraging the APD and willing
2 to support DFS with ensuring hospitals follow
3 the rules.

4 CHAIRWOMAN KRUEGER: So -- and I'll
5 try to ask the hospitals the same question
6 later.

7 So we are working on the assumption
8 that Medicaid reimbursement for hospital care
9 is a reasonable and adequate amount.

10 MEDICAID DIRECTOR BASSIRI: We believe
11 that it is, yes.

12 CHAIRWOMAN KRUEGER: You believe that.
13 And yet the hospitals that take a far larger
14 number of the private patients tend to be the
15 hospitals who charge much more and seem to
16 not fall under the safety net category of
17 needing saving.

18 So is it conceivable that while we may
19 think they are charging too much, that we are
20 not adequately funding reimbursement for
21 services in the safety net hospitals, which
22 is why you had so many questions about why we
23 have so many of them so desperate every year
24 to be saved?

1 whole series of reports and, I must say, had
2 a good time playing gotcha that we finally
3 got, apparently, a whole lot of these reports
4 last night.

5 Are any of these reports -- because I
6 have not seen them yet -- related to -- or do
7 you owe us other reports that actually
8 evaluate objectively what should be the
9 different costs for different procedures in
10 hospitals, whether it's commercial insurance
11 or whether it's public insurance paying?

12 Does somebody actually have a document
13 somewhere in prep or available, like
14 actually, you know, the price scale is from
15 here to here in New York, but the actual
16 reasonable price ought to be X? Do we do
17 that?

18 MEDICAID DIRECTOR BASSIRI: I don't
19 believe we have a report like that in
20 process.

21 It is a complicated question. We
22 would want to work across the department to
23 do that. Medicaid only has the public health
24 insurance information. You know, the

1 all-payer database has some of the commercial
2 and self-insured populations, Medicare as
3 well. But we don't necessarily have a report
4 like that in the works.

5 We could certainly try to explore that
6 with you, Senator, if it's something that you
7 are interested in.

8 CHAIRWOMAN KRUEGER: And then, very
9 quickly, last night at the very end of the
10 hearing we had yesterday, which was on higher
11 education, there was a discussion about
12 whether or not New York ought to be joining
13 the nurses compact. And I believe the
14 Governor has proposed us doing that in her
15 budget.

16 But historically, we've never wanted
17 to do that because of concerns about lower
18 standards in other states. Why should we
19 change our mind at this point when this has
20 been working for us, so to speak --

21 ACTING COMMISSIONER McDONALD: It's
22 not working for us.

23 CHAIRWOMAN KRUEGER: It's not working
24 for us.

1 ACTING COMMISSIONER McDONALD: It's
2 not working for us.

3 CHAIRWOMAN KRUEGER: Okay.

4 ACTING COMMISSIONER McDONALD: And
5 it's not lower standards, it's the same
6 standards.

7 CHAIRWOMAN KRUEGER: Okay, I'm sorry,
8 I am out of time, so we'll have to follow up
9 after that. But I would appreciate your
10 input, and perhaps in writing others would as
11 well, why it's not working for us and it
12 makes sense to do this. Thank you.

13 Assembly.

14 ASSEMBLYWOMAN PAULIN: Assemblymember
15 Jo Anne Simon.

16 ASSEMBLYWOMAN SIMON: Thank you,
17 Madam Chair.

18 Dr. McDonald, you had said earlier you
19 agreed that home care was healthcare. And I
20 think many of us are struggling with the
21 scant evidence in the Executive Budget that
22 would reflect that.

23 So, somebody from the Department of
24 Health, I want to follow up on Assemblymember

1 Kelles, who was referring to the financials
2 for the managed long-term-care plans. And
3 there are 25 plans that reported \$722 million
4 of profit in a single year in 2021. So year
5 after year, they've been pocketing money
6 that's meant for home care workers.

7 So the question is, does the state
8 believe the plans should pocket
9 three-quarters of a billion dollars intended
10 for home care, yes or no?

11 MEDICAID DIRECTOR BASSIRI: Want me to
12 take that one?

13 ACTING COMMISSIONER McDONALD: Yeah, I
14 mean -- go ahead.

15 ASSEMBLYWOMAN SIMON: Yes or no, yeah.

16 MEDICAID DIRECTOR BASSIRI: So thank
17 you for the question, Assemblymember.

18 No, we are not okay with that.

19 ASSEMBLYWOMAN SIMON: Okay, good.

20 MEDICAID DIRECTOR BASSIRI: I mean, I
21 think if you look -- oh, sorry.

22 ASSEMBLYWOMAN SIMON: No, that's okay.
23 That's great, thank you.

24 I just want to point out,

1 three-quarters of a billion would fund
2 Fair Pay for Home Care. But that's not a
3 question, it's just a point.

4 And the other issue is this claim that
5 the home care workers should not be making
6 minimum wage, which I agree. But we're
7 raising the minimum wage and freezing home
8 care wages. So the question then is how much
9 more should home care workers be making than
10 minimum. And if it's no longer \$3, what is
11 it?

12 ACTING COMMISSIONER McDONALD: I don't
13 know that I have an exact number.

14 We value home care workers, and home
15 care workers is healthcare. And it's a
16 really growing industry. You know, since
17 2017, 32.9 percent are home care workers --
18 more than any other discipline in healthcare.

19 So I don't know that I know what the
20 actual number should be, but we are committed
21 to, you know, the increases we made. And
22 then as the future goes out, we'll see what's
23 possible.

24 ASSEMBLYWOMAN SIMON: Well, let me

1 just say I'd love to have a number if you
2 could look at that and get back to us.

3 And just the other thing is, of
4 course, it's healthcare but it's also, you
5 know, under federal law we're supposed to
6 allow people to live in their homes in a
7 less-restrictive environment, under the
8 Olmstead decision. And it saves New York
9 money because it's so much cheaper to provide
10 home care than it is to institutionalize
11 people, whether they're in long-term-care
12 facilities or assisted living or whatever.

13 So I think we all agree on what we
14 should be doing. What we really need to do
15 is talk about how we're going to be doing
16 that so that we're able to achieve those
17 goals and actually pay the workers who are
18 doing the hard work of actually saving
19 New York State money.

20 Thank you.

21 MEDICAID DIRECTOR BASSIRI: I agree.

22 Thank you.

23 CHAIRWOMAN KRUEGER: Thank you,
24 Assembly.

1 And Senator Rivera for three minutes,
2 follow-up and closing for the Senate.

3 SENATOR RIVERA: I'm ba-ack.

4 All right, quickly. First of all, our
5 Medicaid rates, thank you for the 5 percent.
6 Need more, particularly because we're looking
7 at -- we have to look at -- and this is
8 something that I'm hoping that we do in the
9 years to come. We need to actually invest in
10 institutions so that they have stability so
11 we don't have to go and save them every now
12 and then.

13 So -- and we can do that by taxing the
14 wealthy. Looking at you, Madam Governor. Do
15 the right thing.

16 All right. Moving on, nursing home
17 safe staffing money. There's \$187 million
18 that was appropriated, and it's supposed to
19 be distributed. Has it been?

20 MEDICAID DIRECTOR BASSIRI: So that
21 funding has not been distributed, Senator.

22 SENATOR RIVERA: Okay. Why not?

23 MEDICAID DIRECTOR BASSIRI: We've
24 attempted to get approval from the federal

1 government on that distribution, it's a new
2 methodology. The federal government did not
3 approve it on the first instance. We're
4 trying to get that approved before the end of
5 the state fiscal year. And there's a
6 commitment from the state to fund the state
7 share, if nothing else.

8 SENATOR RIVERA: We might have some
9 comments about some of the -- there's
10 fundamental issues in its staffing, so that
11 might be part of the issue. We'll get to
12 that later.

13 Third, Commissioner, you've talked
14 often about some of the work that you've done
15 back home in Rhode Island. And I understand
16 that you were pivotal in the implementation
17 of OPCs over in Rhode Island. Is that
18 correct?

19 ACTING COMMISSIONER McDONALD: That's
20 right.

21 SENATOR RIVERA: All right. Now, do
22 you believe -- from your experience in
23 Rhode Island, do you believe that it's legal
24 to fund overdose prevention centers through

1 opioid settlement dollars?

2 ACTING COMMISSIONER McDONALD: It's
3 complicated and it's legal. And what the
4 lawyers tell me, it's a complicated legal
5 issue. And Senator, I hate putting the words
6 "complicated" and "legal" together, because
7 it means we've got to figure this out.

8 SENATOR RIVERA: Okay.

9 ACTING COMMISSIONER McDONALD: So I
10 know -- it's something we have to figure out.

11 Right now I'm told it's not legal in
12 New York.

13 SENATOR RIVERA: Gotcha. So we've --
14 we've talked about this in other hearings. I
15 have a little bit more time now, so I just
16 wanted to reiterate to the administration,
17 anybody who's listening, if you could
18 actually tell us what exactly you're
19 referring to, that would be great. Because
20 you keep saying that it's complicated and
21 it's a legal issue and et cetera, et cetera.
22 But you can't name a single thing that
23 actually refers to limiting the legal ability
24 of the state to be able to do that.

1 So could you please, couldja? And I
2 have a couple more seconds, and I'm going to
3 just say couldja again. And lastly, to ask
4 very quickly about -- just state very quickly
5 about home care, we really have to have a
6 whole conversation about home care as well.
7 And there has to be -- if we don't invest in
8 it, we're just going to make sure -- we're
9 just going to make sure that people end up in
10 nursing homes, which is not only going to
11 cost us more money, but it's going to be
12 worse for those folks.

13 So on all of those issues, thank you
14 for your participation today.

15 I am done, Madam Chair.

16 CHAIRWOMAN KRUEGER: Thank you,
17 Senator.

18 Assembly, you have more?

19 ASSEMBLYWOMAN PAULIN: Yes, we have a
20 few more. Khaleel Anderson next.

21 ASSEMBLYMAN ANDERSON: Thank you,
22 Madam Chair.

23 And thank you to all of the
24 commissioners who are here this afternoon.

1 Thank you for giving us your testimony.

2 I have a few questions. I'm going to
3 start with the commissioner of the Department
4 of Health. So the first question I have for
5 you, Commissioner, is around the CCBHCs. So
6 when I'm looking at the budget, the Executive
7 proposed additional funding to the CCBHCs,
8 and I'm just wondering what the state's
9 objectives are to the equitable investment
10 for those CCBHCs.

11 ACTING COMMISSIONER McDONALD: I'm
12 going to let Director Bassiri handle that.

13 MEDICAID DIRECTOR BASSIRI: Sure.
14 Thank you, Commissioner. And thank you for
15 the --

16 ASSEMBLYMAN ANDERSON: Oh, that's
17 Medicaid, okay.

18 MEDICAID DIRECTOR BASSIRI: Yeah,
19 sure. Thank you for the question.

20 We've been working very closely with
21 the Office of Mental Health on this proposal.
22 It's part of the Governor's \$1 billion
23 proposal for mental health services. They're
24 currently -- it's currently a federal

1 demonstration.

2 We have 13 CCBHCs. I like to think of
3 them as comprehensive clinics that provide
4 certain services and workforce-related
5 investments for behavioral health and mental
6 health needs. There's 13; we're proposing to
7 expand it to 39 over a two-year period. And
8 we believe it's a very great model, it's been
9 nationally recognized, and working with OMH
10 to implement it.

11 ASSEMBLYMAN ANDERSON: Thank you.

12 The next question is for the
13 superintendent of DFS. Good to see you,
14 Superintendent Harris.

15 So last year in the budget, of
16 course -- and I've been very vocal on this --
17 was the inclusion of \$11.2 million for a
18 period of five years, every year, to help the
19 dollar van, commuter van industry, which is
20 critical to our, you know, economy downstate
21 and the individuals who need transportation.

22 So I'm just wondering, there wasn't a
23 request for additional funding this year,
24 obviously because it's a five-year plan. I'm

1 just wondering where the expenditures of
2 those resources are.

3 DFS SUPERINTENDENT HARRIS: So
4 currently, as you know, service is an
5 incredibly important transportation issue
6 that's required the cooperation of many
7 government agencies. ESD has issued an
8 RFP -- if that's not enough acronyms for
9 you -- to get providers for the program. DFS
10 cannot administer that RFP because of course
11 we are the regulator, and it would be
12 inappropriate for us to be distributing
13 funds.

14 So the funds from last year, we are
15 very grateful to have that to begin
16 addressing this long-standing problem. They
17 were not used last year because the RFP has
18 just gone out and is still currently open
19 under ESD.

20 ASSEMBLYMAN ANDERSON: Thank you,
21 Superintendent. And I'll use my last 30
22 seconds to ask the commissioner of the
23 Department of Health around the safety-net
24 hospitals investments that we made in the

1 budget last year. I think close to a billion
2 dollars we did. Is that happening through
3 the safety transformation grants, or is there
4 another process to get those dollars out the
5 door? The safety-net hospitals.

6 ACTING COMMISSIONER McDONALD: Yeah,
7 so the \$700 million investment last year was
8 a one-time investment. There are -- there is
9 money for safety-net hospitals, though, when
10 you look at Statewide III.

11 ASSEMBLYMAN ANDERSON: No, no, no.
12 But Commissioner, those dollars, where are
13 they? Have they been rolled out?

14 MEDICAID DIRECTOR BASSIRI: They have
15 been -- they have been rolled out through
16 various programs, including VAPAP, VAP, and
17 other supplemental payment programs.

18 ASSEMBLYWOMAN PAULIN: Thank you.

19 ASSEMBLYMAN ANDERSON: Thank you,
20 Commissioner. Thank you, Superintendent.

21 ASSEMBLYWOMAN PAULIN: Assemblymember
22 Gray.

23 ASSEMBLYMAN GRAY: Thank you very
24 much. I appreciate it.

1 So first of all, Director, I just want
2 to talk to you on the Medicaid intercept. It
3 is a pattern of the state to be intercepting
4 revenue from counties. They've done it with
5 sales tax; they've done it with -- you know,
6 for distressed aid to hospitals.

7 Part of the agreement with that was
8 the tax on the -- or was a tax cap as part of
9 the -- was the agreement on the Medicaid cap.
10 And the counties have abided by that, by and
11 large.

12 The two counties that I represent,
13 it's going to be a 4 percent tax increase,
14 property tax increase, and a 6 percent in the
15 other county. So it is affecting the
16 counties. It is a pattern of the state.
17 They have done it in the past. And I think I
18 would ask you to reconsider that. So ...

19 MEDICAID DIRECTOR BASSIRI: Thank you
20 for the comments, Assemblymember.

21 I know there's been a lot of concern
22 up to this point from various legislators.
23 Not to sound like a broken record, but we
24 have capped the local share of Medicaid since

1 2015, 7.6 billion, saving the counties, you
2 know, over 30 billion since then. They are
3 getting the COVID enhanced federal funding,
4 their share of it. I think it's something
5 we'll continue working with the counties on,
6 and definitely we'll reconsider --

7 ASSEMBLYMAN GRAY: But part of that
8 was the agreement that they would tax their
9 property -- tax cap on their properties. So
10 they've held their side of the bargain. The
11 state should do the same.

12 MEDICAID DIRECTOR BASSIRI: I
13 understand.

14 ASSEMBLYMAN GRAY: The other thing is
15 travel nurses. They're stressing hospitals.
16 Is there any consideration to put
17 geo-boundaries on travel nurses?

18 ACTING COMMISSIONER McDONALD: The
19 consideration we have in front of you is
20 simply to get transparency from travel
21 companies. You know, because quite frankly
22 we know almost nothing about the finances
23 regarding travel nurse companies.

24 I haven't seen a proposal about

1 geo-boundaries. Like, in other words, one of
2 the things you're asking is, you know, can we
3 limit how far they have to go before they're
4 a travel nurse.

5 We saw this in Rhode Island, by the
6 way, where people literally traveled five
7 miles from their home to be a travel nurse.

8 ASSEMBLYMAN GRAY: That's correct.

9 ACTING COMMISSIONER McDONALD: The
10 hospitals, you know, they need to be able to
11 control their costs. And the hospitals were
12 really at a tough time during the pandemic.
13 And so it's something that, you know, I don't
14 know that we can do that. What we're doing
15 is what we can do right now.

16 ASSEMBLYMAN GRAY: Okay. I would
17 encourage you to look at geo-boundaries in
18 terms of whether they can operate within
19 their county or a contiguous county or such.

20 Then the federal omnibus bill, there's
21 \$7 billion allocated for building out
22 capacity to deal with healthcare emergencies,
23 including stockpiling emergency supplies,
24 including diagnostics. Does the state

1 have -- is the state participating in that
2 program? It's a 20:1 match, I guess.

3 ACTING COMMISSIONER McDONALD: I'll
4 have to get back to you. I'll have to get
5 back to you on that.

6 ASSEMBLYMAN GRAY: Okay. Good. Thank
7 you very much.

8 ASSEMBLYWOMAN PAULIN: Assemblymember
9 Meeks.

10 ASSEMBLYMAN MEEKS: Thank you, Chair.

11 This question I guess would pertain to
12 Superintendent Harris. Last session I
13 sponsored a bill authorizing life insurers to
14 establish wellness programs, and we were able
15 to pass it in both houses, and it was vetoed
16 by the Governor. And it was my understanding
17 that that was referred by DFS. And just
18 wanted to get a little more insight on that.

19 DFS SUPERINTENDENT HARRIS: So at DFS
20 we offer technical assistance to the
21 Legislature and to the Governor. We don't
22 make the policy decisions about vetoes.
23 Those are for the executive chamber to make.
24 But we're always happy to provide technical

1 assistance on any proposal that you or your
2 colleagues would like to put forward.

3 ASSEMBLYMAN MEEKS: Okay. And do you
4 support wellness programs like for insurers
5 and for the insured?

6 DFS SUPERINTENDENT HARRIS: I will
7 tell you, one of the things that I have done
8 since coming into the department is part of a
9 large review that I've done -- across the
10 department, not just in insurance -- but to
11 look at ways that we can modernize our regs
12 so that they are well suited or better suited
13 for a 21st-century economy.

14 So we're always open to ideas where we
15 can modernize our regulations to suit a
16 21st-century economy.

17 ASSEMBLYMAN MEEKS: Okay. And also a
18 question -- I guess the question was posed as
19 it relates to home healthcare workers and
20 what would be a good wage, and it seemed to
21 be something that's sort of up in the air.

22 One of the things I would consider -
23 or suggest that you take into consideration
24 is a living wage. I'm from Monroe County.

1 And before the onset of the pandemic, a
2 living wage for a single parent raising two
3 children was 18.50 an hour. So I'm quite
4 sure that has increased by now.

5 But I think we need to get beyond the
6 minimum wage conversation and look towards a
7 living wage so that individuals can provide
8 for themselves as well as their families.

9 Thank you.

10 ASSEMBLYWOMAN PAULIN: Thank you.

11 Assemblyman Ra.

12 ASSEMBLYMAN RA: Thank you.

13 So regarding the proposal for pharmacy
14 service administration organizations, many
15 have expressed the concern that this proposal
16 somewhat misrepresents their role. So I'll
17 start with this.

18 Why are PSAOs required to report
19 information and actions that are outside of
20 their scope of services?

21 DFS SUPERINTENDENT HARRIS: Thank you
22 so much.

23 In fact they are not. There's been
24 some misinformation circulating that PSAOs

1 are responsible for reporting drug price
2 increases, and in fact that is not the case.
3 The manufacturers are required -- when they
4 distribute in New York State or they have
5 wholesalers and distributors that distribute
6 in New York State, the manufacturers, under
7 this proposal, are required to report price
8 increases to DFS.

9 PSAOs, along with rebate aggregators
10 and switch companies, are required to
11 register with DFS, and we will engage in
12 regulatory rule-making and oversight of those
13 organizations. Because as you noted, there's
14 quite a lot of confusion about who in the
15 drug supply chain is responsible for what
16 activities. And a lot of these entities
17 sprung up as they were spun out of PBMs or
18 other entities in an attempt to skirt
19 regulation. So they have continued to
20 complicate the prescription drug supply
21 chain.

22 This proposal gives DFS the authority
23 to oversee the various entities in the
24 prescription drug supply chain and ensure

1 that they're not all rent-seeking
2 individually and therefore increasing the
3 price of prescription drugs unnecessarily.

4 ASSEMBLYMAN RA: Well, I hope as this
5 moves forward, you know, we make sure we look
6 at that and make sure. Because there have
7 been concerns that the registration will
8 require information on activities that the
9 PSAOs don't actually do.

10 They are also, am I correct, going to
11 be required to pay a registration fee as --
12 of \$5,000?

13 DFS SUPERINTENDENT HARRIS: I can
14 confirm -- I can come back to you and confirm
15 on the fee. But I don't believe that's
16 correct. But we can confirm for you.

17 ASSEMBLYMAN RA: Okay. Because I know
18 that they have usually flat fees that are,
19 you know, pretty low that they operate on.
20 So it seems like it would be a very high fee
21 for those types of entities.

22 And, you know, my concern being, you
23 know, you talk about the PBMs -- and
24 certainly we don't, you know -- it was a

1 multiyear effort regarding the PBMs and
2 registration, so we don't want people
3 skirting that. But I think they have a
4 different role, especially relative to our
5 independent pharmacies, who rely on these
6 PSAOs for a lot of things.

7 And if, you know, we were to have a
8 too broad, sweeping new law and regulations
9 come into effect and it had the impact of
10 driving any PSAOs out of the market, it could
11 have a very detrimental effect on those
12 independent pharmacies.

13 DFS SUPERINTENDENT HARRIS:
14 Absolutely.

15 What I will say to you is often the
16 PSAOs fashion themselves to help the
17 independent pharmacies negotiate, but all too
18 often those PSAOs are owned by the PBMs, and
19 so they are rife with conflict of interest --
20 which is not disclosed to the pharmacies. So
21 these independent pharmacies are signing up
22 with PSAOs thinking that they have a
23 negotiator on their side, when in fact the
24 opposite is true.

1 And that's why it's important for them
2 to be subject to oversight.

3 ASSEMBLYMAN RA: I think oversight,
4 certainly. But we want to make sure that
5 it's appropriate to the role they're playing.

6 DFS SUPERINTENDENT HARRIS: I agree.

7 ASSEMBLYMAN RA: I just have one other
8 question, if -- I don't know whether DFS or
9 DOH could answer this, regarding the
10 pay-and-pursuit proposal.

11 There's an estimated cost to the
12 Medicaid program of \$64 million in fiscal
13 year '25. What -- do we know what the
14 estimated cost would be regarding NYSHIP of
15 this, at the state level and then at the
16 local levels for municipalities and school
17 districts, those types of entities that offer
18 those plans?

19 MEDICAID DIRECTOR BASSIRI: I believe
20 they're exempt from the legislation, so there
21 shouldn't be any fiscal impact. Self-insured
22 is not part of the pay-and-resolve bill.

23 ASSEMBLYMAN RA: Okay. And are you
24 aware -- you know, I have heard that a number

1 of large unions have expressed opposition to
2 this proposal. Would this proposal affect
3 fully insured unions?

4 MEDICAID DIRECTOR BASSIRI: Yes, I've
5 heard their concerns as well. They are
6 exempt. I think it's just, you know, a
7 longstanding policy issue that they are
8 concerned about. But they're exempt from the
9 legislation.

10 ASSEMBLYMAN RA: Thank you very much.

11 ASSEMBLYWOMAN PAULIN: Thank you.

12 Second round, Assemblymember Weprin.

13 ASSEMBLYMAN WEPRIN: Thank you,
14 Madam Chair.

15 Thank you, Superintendent, for being
16 here again and spending so much time with us.

17 I know the Governor and myself as
18 well are committed to mental health services
19 and trying to -- you know, and I know in her
20 budget and her State of the State she
21 emphasized the importance of parity with
22 mental health services.

23 There's a problem, though, with
24 private providers of mental health, the whole

1 spectrum of providers, with reimbursement
2 rates. Private rates are generally lower
3 than the Medicaid reimbursement rate for
4 mental health services.

5 Would your department consider
6 mandating a minimum reimbursement rate for
7 mental health services?

8 DFS SUPERINTENDENT HARRIS: So
9 currently we don't set reimbursement rates.
10 But certainly if you have a proposal that you
11 would like us to provide technical assistance
12 on, we're happy to do so.

13 What I will say with respect to mental
14 health and substance use disorder parity is
15 we've got robust requirements on the books.
16 Insurers are required to provide DFS with
17 reports every two years, and those reports
18 are made public on our website. And where
19 insurers don't comply with their parity
20 requirements, we bring enforcement actions.
21 And I've brought a couple in my short time at
22 DFS.

23 ASSEMBLYMAN WEPRIN: Okay. I may get
24 back to you on that.

1 DFS SUPERINTENDENT HARRIS: Please.

2 ASSEMBLYMAN WEPRIN: Thank you.

3 Thank you, Madam Chair.

4 ASSEMBLYWOMAN PAULIN: (Mic off.)

5 Thank you.

6 So I'm left, just for my cleanup. So
7 I'm going to talk fast; I'm learning from my
8 colleague here to the right.

9 (Laughter.)

10 ASSEMBLYWOMAN PAULIN: Medicaid
11 recertification is bound to be a nightmare in
12 certain areas. I wonder if the department
13 has thought about continuous enrollment for
14 children under six so that needy children
15 don't lose their coverage. Or might consider
16 it.

17 MEDICAID DIRECTOR BASSIRI: We would
18 definitely consider that, Assemblymember
19 Paulin. I think we would need an 1115 waiver
20 to do that. We currently have an 1115 waiver
21 pending at CMS, so we would have to wait
22 until we get that approved. But it's
23 something we've been looking at and
24 interested in as well.

1 ASSEMBLYWOMAN PAULIN: Thank you.

2 Quality pools, eliminated in this
3 budget. It doesn't seem to be in line with
4 the mission of the department to look for
5 better plans. Wondered about that.

6 MEDICAID DIRECTOR BASSIRI: I can
7 understand why you think that.

8 ASSEMBLYWOMAN PAULIN: Oh, my light's
9 not on. No, it's not. Oh, and there we go.
10 Well, you heard me anyway.

11 MEDICAID DIRECTOR BASSIRI: Yeah.
12 Yeah, I heard you, quality pools.

13 ASSEMBLYWOMAN PAULIN: I'm taking an
14 extra second.

15 MEDICAID DIRECTOR BASSIRI: Yeah, I
16 can understand why you think that. I think,
17 you know, we expect more from our health
18 plans from an accountability standpoint. I
19 think you see that throughout the Medicaid
20 budget.

21 There will be other opportunities,
22 there are other opportunities for quality
23 incentive programs through the Essential
24 Plan. And we are, as I mentioned, seeking an

1 1115 waiver, 13.52 billion, that will be
2 significant quality incentive opportunities
3 for the health plans when we get that
4 approved.

5 ASSEMBLYWOMAN PAULIN: CDPAP. The
6 wage parity protections are being eliminated
7 in the Article VII. Rationale?

8 MEDICAID DIRECTOR BASSIRI: I think
9 we're going to need more than a minute and a
10 half to talk about that. So maybe we can get
11 back to you.

12 ASSEMBLYWOMAN PAULIN: Okay.

13 And the last question, EMS. Big
14 improvement over last year in terms of
15 bringing in the players and the industry, so
16 to speak. Two things I wondered about,
17 because they're not in the SEMSCO report, and
18 that is to do with the CON, transferring that
19 to the state. And also setting up the
20 regional -- the 10 regional districts, which
21 is also not in the report. I wondered, you
22 know, why that.

23 ACTING COMMISSIONER McDONALD: The 10
24 regional districts, why that's in the --

1 ASSEMBLYWOMAN PAULIN: Why -- those
2 are two things that were not in the 79-page
3 report which I read.

4 ACTING COMMISSIONER McDONALD: Right.
5 I read it too.

6 ASSEMBLYWOMAN PAULIN: And wondered,
7 you know, why they were included and never
8 having been talked to or vetted with the
9 stakeholders.

10 ACTING COMMISSIONER McDONALD: The
11 state's already in 10 regional directs. From
12 what I understand, it was just ease of
13 implementing. So that's why.

14 ASSEMBLYWOMAN PAULIN: And just to
15 comment, with my last 19 seconds, I would
16 echo Jen Lunsford's suggestion about looking
17 at EI. I did that covered-lives bill. The
18 intent was to cover and to provide more
19 services for children. And if you look
20 today, there happens to be a Comptroller
21 report indicating that children are not
22 getting served.

23 ACTING COMMISSIONER McDONALD: Thank
24 you.

1 CHAIRWOMAN KRUEGER: Is that it?

2 ASSEMBLYWOMAN PAULIN: That's it.

3 CHAIRWOMAN KRUEGER: Okay. And the
4 Senate is done, the Assembly is done, which
5 means you are finally done. So it was a
6 little longer than we expected, but you got a
7 break in the middle.

8 (Laughter.)

9 CHAIRWOMAN KRUEGER: So thank you very
10 much for your testimony. We look forward to
11 seeing the responses in writing on questions
12 that you knew you didn't have the answers to
13 now or weren't allowed the time to answer for
14 us.

15 So as everybody takes a little bit of
16 a stretch break -- but not very long, don't
17 go anywhere -- we will be calling up the
18 Greater New York Hospital Association,
19 Kenneth Raske; the Save New York's Safety Net
20 Coalition, Jacquelyn Kilmer; and the
21 Healthcare Association of New York State,
22 Bea Grause.

23 And also, everyone, if you would
24 please take the conversations you might feel

1 a need to have with our guests out in the
2 hallways, that would be appreciated.

3 (Brief recess taken.)

4 CHAIRWOMAN KRUEGER: Now we're
5 starting up again, thank you.

6 And we're going to our Panel A, our
7 first nongovernment panel. Remember,
8 everybody, the rules have now changed. They
9 each get three minutes, which I know they
10 think is crazy, and we only get three
11 minutes. So we are going to be very good at
12 being concise and specific.

13 And when you are asked questions that
14 you won't possibly have the time to answer,
15 you will say "Look at my testimony which I
16 couldn't read to you," or "I will get back to
17 you." And if you get back to Helene
18 Weinstein or myself, we will make sure that
19 it gets to all the members of the committees
20 as soon as we get it from you all.

21 So why don't we start in the order
22 that you're on the panel, with Ken Raske from
23 the Greater New York Hospital Association.

24 MR. RASKE: Good afternoon,

1 Madam Chairman, and good afternoon to the
2 members of the Senate and Assembly.

3 I have an opportunity in this three
4 minutes to walk you through the panels which
5 I provided in our testimony. And I'm going
6 to isolate only a handful to get this
7 presentation started and completed.

8 The first one is profitability. I
9 have a panel of four in the handout, which
10 deals with the miserable financial
11 performance of hospitals in New York State.
12 And it's a story of one loss after another.
13 And as you can see from the panel, four out
14 of five hospitals are not on a sustainable
15 path. This is undoubtedly one of the worst
16 performances in the United States. That,
17 ladies and gentlemen, is the baseline for
18 this presentation.

19 So going in, the hospitals in many of
20 your districts are losing everything but
21 their shirt. So let's go to the second
22 panel, which is some of the causes of this.
23 right now we have an explosion due to the
24 labor shortages and labor costs. And what

1 I've done in this panel -- this is Panel 5 --
2 is taken, say, the most recent labor
3 settlements and taken them out in a ripple
4 effect across a broad sector of institutions
5 by percentage of penetration.

6 And as you can see from this table,
7 this goes into the multi-billions of dollars
8 in very quick fashion. And that's the labor
9 costs that we're seeing escalating as of the
10 moment that we speak.

11 So based on the financial performance
12 and the labor cost implosion, this creates
13 the vise that I'm talking about.

14 Now go to Panel 6. Panel 6 gives you
15 an idea -- and some questions came earlier
16 about what does Medicaid pay in New York.
17 Medicaid is, in a payment basis in New York
18 State, is the worst in the United States.
19 Okay? The worst in the United States. Now,
20 that is a statement that you probably haven't
21 heard before, because we have an extensive
22 coverage and benefits program. But the
23 payment for it is miserable. And right now
24 hospitals are receiving 61 cent on a dollars

1 of cost -- 61 cents on a dollar of cost.

2 Now I'm going to go to another segue,
3 which is the insurance companies and the
4 abuses, and that was a subject that some have
5 raised before. There are two proposals
6 within the Governor's budget that we like,
7 one on pay and review, and another one on
8 site of service. Site of service is a way
9 for payers to not pay hospitals but rather
10 direct them into ambulatory surgery centers,
11 which have none of the overhead costs like
12 emergency rooms at hospitals have. So these
13 are two proposals that warrant consideration.

14 Now, let me just conclude very quickly
15 by taking you to insurer profits. Ladies and
16 gentlemen, I have mapped out two large
17 insurers in New York State, United and
18 Elevance, which is Anthem -- Blue Cross in
19 terms of your vernacular. They show the
20 profitability, which is astronomical, in the
21 last few years. This is --

22 CHAIRWOMAN KRUEGER: Thanks, Ken, your
23 time is up.

24 MR. RASKE: All righty.

1 CHAIRWOMAN KRUEGER: Sorry. Thank
2 you.

3 Okay. Hi, Bea -- oh, no, sorry,
4 excuse me. Jacquelyn.

5 MS. KILMER: Is this on? Okay.

6 So good afternoon, and thank you very
7 much. My name is Jacquelyn Kilmer. I'm the
8 CEO of Harlem United, but I am here today
9 testifying on behalf of the Save New York's
10 Safety Net Coalition. The coalition is a
11 statewide coalition of community health
12 centers, Ryan White services providers, and
13 Medicaid HIV Special Needs Plans. And I'm
14 testifying regarding the pharmacy carveout.

15 The coalition strongly opposes the
16 carveout proposal in the Executive Budget,
17 and we urge the Legislature to adopt the
18 alternative that is currently set out in
19 S5136, introduced by Senator Rivera last
20 week.

21 We are just one short month away from
22 the effective date of the carveout, when the
23 safety net providers at that point will face
24 a fiscal cliff that will devastate us, and it

1 will devastate the communities that we serve.

2 And at this point I do want to follow
3 up on something that Senator Rivera pointed
4 out earlier and clarify something that was
5 said in earlier testimony, which is it is the
6 2.3 million community members that we serve
7 that will be impacted by this carveout. Two
8 hundred fifty thousand may be the number of
9 Medicaid members who receive a 340B
10 prescription. That also does not include the
11 uninsured New Yorkers who receive free
12 medicines from that program. And it
13 absolutely does not include the 2.3 million
14 community members that the safety net
15 providers serve, who will be impacted
16 negatively by this carveout.

17 The solution in the Executive Budget
18 is flatly unworkable. The solution isn't
19 simply to throw more money into a pool in an
20 attempt to make us whole. That's what the
21 current proposal does. But it isn't a
22 solution because it isn't reliable, it isn't
23 certain, and it isn't bankable, as the
24 340B reimbursement mechanism is.

1 The proposal is subject to budget
2 negotiations. It is not a permanent
3 solution. It is subject, as we know, to CMS
4 approval, and that plan hasn't been submitted
5 to CMS yet. And again, we are only 30 days
6 away from the effective date of the carveout.

7 And even if CMS approves the plan,
8 there is nothing that obligates the state to
9 actually make those payments. So there is
10 still extreme uncertainty for all of us in
11 the safety net who rely on this reimbursement
12 mechanism.

13 But there is a workable solution, and
14 that solution is contained in S5136 that
15 Senator Rivera introduced last week. It
16 is -- it provides the best of both worlds.
17 It maintains the carveout. It maintains the
18 benefit -- excuse me, it maintains the
19 pharmacy benefit in managed care, and
20 therefore the 340B reimbursement mechanism
21 remains intact. And it addresses the state's
22 policy objectives.

23 It also solves, for the community
24 pharmacists -- thank you.

1 CHAIRWOMAN KRUEGER: Thank you.

2 Hi.

3 MS. GRAUSE: Good afternoon, Chairs
4 Krueger, Weinstein, Rivera and Paulin and all
5 the other members of the Assembly and Senate.
6 My name is Bea Grause. I'm the president of
7 the Healthcare Association of New York State.

8 I wanted to start out by emphasizing
9 what Ken said, in that our hospitals are in a
10 structural fiscal crisis. There are two
11 reasons for it. One of them is the workforce
12 shortage, and the other is chronic
13 underpayments, where Medicaid reimburses
14 61 cents on the dollar of cost. This crisis
15 has already caused hospitals to cut services,
16 halt modernization projects, and many -- four
17 out of five of our hospitals are reporting
18 negative or unsustainable margins.

19 In addition, it has impacted
20 nursing-home beds, which are closed across
21 the state, and nursing homes are struggling
22 to keep their doors open, as much of this
23 testimony earlier today has emphasized. And
24 what has happened is that it has caused

1 system gridlock, which really is furthering
2 the fiscal deterioration for hospitals and
3 nursing homes.

4 We have three requests for you. The
5 first is we are asking you to dramatically
6 improve Medicaid payment rates while
7 restoring state supportive funding for
8 financially distressed hospitals and nursing
9 homes. Among our many priorities we urge you
10 to consider a minimum 10 percent increase to
11 the Medicaid rate for hospitals, including
12 both inpatient and outpatient rates, as well
13 as a 10 percent Medicaid rate increase for
14 nursing homes. We need to stabilize our
15 hospitals, but again, I think this funding
16 needs to be continued.

17 Second, we urge you to advance key
18 healthcare policies that provide much-needed
19 relief to hospitals and health systems while
20 imposing little to no cost to the state.
21 There are many opportunities to do so, like
22 making permanent workforce flexibilities and
23 taking steps to address the abusive practices
24 of well-resourced insurers that burden our

1 hospitals and other providers, pay and
2 resolve being one of them.

3 Third, we urge you not to make any
4 cuts to hospitals and nursing homes and
5 refrain from layering on new unfunded costs.
6 The Executive Budget couples the proposed
7 Medicaid rate increase for hospitals with the
8 advancing of the Medicaid pharmacy carveout.
9 The result for many hospitals participating
10 in the 340B drug pricing program is a net
11 negative -- at a time when they simply cannot
12 absorb any further cuts.

13 Meanwhile, the nursing home Medicaid
14 rate increases, coupled with the elimination
15 of 187 million in previously appropriated but
16 never released funding meant to support
17 increased staffing -- our nursing homes
18 needed that money when it was appropriated,
19 and they certainly need it now.

20 There are many other priorities in my
21 written testimony, and I will reserve the
22 remainder of my time. And back to you,
23 Chairman Krueger.

24 CHAIRWOMAN KRUEGER: I'm so sorry.

1 Thank you -- excuse me; Lynne showed up at
2 the wrong time.

3 (Laughter.)

4 CHAIRWOMAN KRUEGER: Excuse me.

5 Our first questioner will be Senator
6 Rivera.

7 SENATOR RIVERA: I'm good right now.

8 CHAIRWOMAN KRUEGER: You're good right
9 now. Then I will pass it to -- also good?
10 Senator Helming.

11 SENATOR HELMING: Thank you.

12 Thank you for your testimony. A quick
13 question for you. During the last panel
14 discussion, the Medicaid director -- I think
15 I heard him state that he has seen an
16 increase in the denials by health insurers
17 for our safety net facilities. Is that
18 something that you can corroborate?

19 MR. RASKE: You want me to --
20 {inaudible} if I can. The answer is we've
21 been tracking that. We're talking about a
22 denial rate, generally speaking in New York
23 State, of about 25 percent. Then they go to
24 adjudication, through an appeals process, and

1 then most of those are ruled in favor of the
2 hospitals, at least in large part.

3 With respect to the observation on the
4 safety nets, we are hearing that too. And it
5 is now a not confirmed statement, but rather
6 anecdotal. We're in the process of trying to
7 confirm it, though, and we're collecting that
8 evidence as we speak.

9 SENATOR HELMING: I'd be interested in
10 seeing that data.

11 Just trying to get to the bottom of
12 this pay and resolve, I understand that both
13 Greater New York Hospital Association and
14 HANYs are in support of the proposal that is
15 in the budget. My concern is that it seems
16 to be, when I read it, that it is -- it would
17 add further delays, further time until you
18 receive your decisions.

19 MS. GRAUSE: It would not. It would
20 not. It would require the payers to pay for
21 emergency services and inpatient services
22 subsequent to an emergency admission. So it
23 would not -- it would not delay payment.
24 They would be required to pay within 30 days.

1 SENATOR HELMING: Thank you for that.

2 And just on the 340B carveout, again,
3 I think you heard me during the last panel.
4 I hear you. I have assurances from my
5 colleagues here that that is definitely a
6 priority to fix that.

7 Thank you again for your testimony.

8 MS. GRAUSE: We appreciate that.

9 MR. RASKE: Thank you.

10 CHAIRWOMAN KRUEGER: Thank you,
11 Senator Helming.

12 Assembly.

13 ASSEMBLYWOMAN PAULIN: Assemblyman
14 Weprin.

15 ASSEMBLYMAN WEPRIN: Thank you,
16 Madam Chair.

17 Thank you for your enlightening
18 testimony. I've been a strong advocate for
19 actually a 20 percent Medicaid reimbursement
20 increase in this budget, and I've said that
21 publicly, I've written a letter to the
22 Governor to that effect, along with many of
23 my colleagues in the Assembly and Senate.

24 Mr. Raske referred to that we were one

1 of the lowest if not the lowest state in
2 reimbursement at 61 cents. Where do we fit
3 in the realm of the 50 states? What number
4 are we in that list?

5 MR. RASKE: What number are we in the
6 50 states in terms of the --

7 ASSEMBLYMAN WEPRIN: The lowest
8 reimbursement --

9 MR. RASKE: Yeah, you know, the
10 interesting -- the Medicaid statement that I
11 made was picked up in a City & State seminar
12 on Friday, and a professor from Cornell came
13 up with that observation that looking that
14 all 51 jurisdictions, that New York was the
15 lowest. And it was through her studies, and
16 we cited that in one of our tables, sir.

17 ASSEMBLYMAN WEPRIN: Okay, and who's
18 the highest?

19 MR. RASKE: I do not know, but I could
20 find out for you and get back to you with
21 that information.

22 ASSEMBLYMAN WEPRIN: Yeah, I think it
23 would be helpful in this budget discussion as
24 we're getting closer.

1 But I want you to know --

2 MR. RASKE: In fact, with the
3 permission of the chair, I will give you the
4 list of all the states from the professor and
5 her study, so you can have them all.

6 ASSEMBLYMAN WEPRIN: Sure. You can
7 send it to me directly. I don't think you
8 need the chair's permission.

9 MR. RASKE: Well, I was going to give
10 it to the entire panel.

11 (Laughter; overtalk.)

12 MR. RASKE: Your colleague was shaking
13 her head yes, so I'll give it to everybody.

14 ASSEMBLYMAN WEPRIN: No, no, I
15 appreciate that. And, you know, as we all --
16 I have a lot of hospitals and nursing homes
17 that are really in trouble because of the
18 reimbursement rate on Medicaid, so --

19 MR. RASKE: Yeah, the safety-net
20 problem warrants a separate discussion. It
21 is a big, big problem.

22 And if I could just add one comment
23 quickly, and that is the safety-net funding
24 in the budget is grossly inadequate. It is

1 minus 700 from last year. And we are
2 fighting, us and 1199 and our colleagues in
3 HANYS are trying to get that restored plus
4 some additional money, as Bea spoke to. And
5 that is essential.

6 In other words, think about the
7 incongruity of what I just said. We are
8 fighting to put money into the budget so that
9 the executive branch could have enough money
10 to bail out hospitals that run aground. Now,
11 I'm trying to help the executive branch
12 actually do their job down the road. That's
13 what we're trying to do. And I consider that
14 an incongruity, sir.

15 ASSEMBLYMAN WEPRIN: Well, we
16 appreciate your advocacy. Thank you.

17 MR. RASKE: Yes, sir.

18 CHAIRWOMAN KRUEGER: Thank you.

19 Do we have any other Senator who
20 wishes to ask questions?

21 Senator Rivera.

22 SENATOR RIVERA: While I kind of have
23 lunch. So I wanted to give an opportunity to
24 all of you to kind of chime in on the 340B

1 situation, particularly since there's a --
2 since obviously there's a concern, I mean, we
3 stopped the presses, if you will, because
4 people were so fired up about it that they
5 actually shut this down.

6 So I wanted to give an opportunity to
7 everybody to kind of chime in on this. Start
8 from the right and then go that way
9 (gesturing). I know that you have a big part
10 of your testimony was that, but -- if you
11 could, Bea.

12 MS. GRAUSE: Sure. So I think the
13 importance of 340B is really access to
14 patients. And hospitals across the state
15 have built programs as a result of the
16 savings that they receive to help create
17 mobile vans, create programs that will get
18 HIV drugs to difficult-to-treat populations.
19 And those programs are incorporated in their
20 capital plan and their overall budget. So
21 they're built into their strategy.

22 So I think unraveling and taking away
23 those savings really provides no available
24 source for these hospitals to continue these

1 programs. So it's incredibly important for
2 patient access.

3 MS. KILMER: I think another point
4 that I'd like to make is that the state, the
5 safety-net providers, and the millions of
6 New Yorkers who depend on the services that
7 we provide are actually facing a perfect
8 storm right now. So we are in a situation
9 where we are needing to recertify 8 million
10 Medicaid members. There is an increasing
11 number of immigrants coming into New York,
12 all of whom are going to need healthcare and
13 will be getting their healthcare from the
14 safety-net providers. And we have the
15 carveout. Those three things are unworkable.
16 They are just simply an unworkable situation.

17 MR. RASKE: Just to add one further
18 comment on it, in the budget there is an
19 increase of 5 percent on Medicaid payments.
20 This is the first we've seen in 15 years.
21 But that is washed out by the 340B.

22 So it basically -- you know, they give
23 on one hand, take on the other. And that's
24 what this story is all about. If that's

1 clear, Senator.

2 MS. GRAUSE: I would just add to that,
3 in that we -- in the critical condition
4 report that Ken, I and others completed and
5 you have in your packet -- really
6 demonstrated that expenses are well above
7 revenue. And while we appreciate what's in
8 the Governor's budget, it really doesn't even
9 get hospitals back to zero.

10 And that's really not what we need
11 now. We really need that investment in
12 Medicaid. We need those policies that will
13 help hospitals that don't cost the state any
14 funding. And we certainly don't need any
15 cuts like 340B.

16 CHAIRWOMAN KRUEGER: Assembly?

17 ASSEMBLYWOMAN PAULIN: Yes. We have a
18 list.

19 Assemblymember Jensen.

20 ASSEMBLYMAN JENSEN: Yes, if I can get
21 my microphone working -- or not. Is it
22 working? Okay, perfect.

23 Ms. Grause, following back up to your
24 testimony, you alluded to some of the

1 staffing crisis and shortages that our
2 hospitals are seeing across the state. We
3 still have in place a vaccine mandate that's
4 artificially limiting available care staff
5 from being able to work.

6 From your perspective, what should the
7 state be doing to help reinvigorate staffing
8 both in hospitals and our nursing homes,
9 especially with more and more mandates ending
10 up on the long-term-care side of the
11 equation?

12 MS. GRAUSE: Thank you, Assemblyman
13 Jensen, for that question.

14 I think the short answer is
15 everything. There -- you know, as you know,
16 I'm a former emergency room nurse, and you
17 really can't have a healthcare system without
18 people taking care of people. And the
19 workforce shortage is complex, and I think
20 there are immediate, mid-term and long-term
21 initiatives that are in the Governor's budget
22 that are designed to really improve that
23 pipeline and bring more healthcare workers
24 back into clinical settings.

1 As you were saying with the vaccine
2 mandate, that, as you know, the state has
3 until March 20th to perfect their appeal in
4 the Fourth Department. And so right now
5 there's the status quo, certainly, in that.
6 So we are certainly looking to -- we're
7 monitoring that very closely, but I think
8 that the Governor has made it clear that
9 healthcare workers need to be vaccinated, and
10 that is the state's position.

11 But in addition to that, there are
12 many other things that we can do to provide
13 flexibility. We support the participation in
14 the compact, for example. We support many of
15 the Governor's initiatives to make permanent
16 many of the workforce flexibilities that were
17 included in the executive orders during the
18 pandemic.

19 ASSEMBLYMAN JENSEN: So going back
20 to -- we've seen money in the budget the past
21 two years for helping the nursing homes deal
22 with some of the staffing mandates that have
23 been in place. That money never actually
24 made it to those providers.

1 If the state more appropriately
2 invested in reimbursement rates, would that
3 alleviate some of the backups that we're
4 seeing in EDs across the state?

5 MS. GRAUSE: We believe it would.

6 And again, as I alluded to before,
7 there's system gridlock. And when there
8 aren't enough home care workers, when there
9 aren't enough nursing home open beds, you
10 have -- you know, when you think about all
11 the open healthcare doors in a community, a
12 hospital's emergency room doors are always
13 open. So when all those doors are shut,
14 patients come through those emergency room
15 doors.

16 And patients -- the demand is there,
17 so patients are continuing to go into the
18 hospital and then they cannot be discharged
19 out into the community. And that's what --
20 so opening those doors elsewhere would help
21 with hospital emergency rooms.

22 ASSEMBLYMAN JENSEN: Thank you.

23 CHAIRWOMAN KRUEGER: Thank you. For
24 the Senate.

1 So according to the Nurses
2 Association, we have 355,000 licensed nurses
3 in New York State. But according to federal
4 BLS data, we have 188,000 of them working as
5 nurses. Why can't we get nurses that are
6 already living here and licensed here to go
7 to work for you all?

8 And, follow-up -- this is for all
9 three of you -- why are some of your
10 hospitals ending up paying three times the
11 amount per hour for traveling nurses? What
12 are we doing wrong?

13 MR. RASKE: Bea, you want to start, or
14 would you like me to?

15 MS. GRAUSE: Sure.

16 I think that's a fabulous question. I
17 think many hospitals are doing a lot of soul
18 searching to try to find ways to bring nurses
19 back into the workforce. I think there
20 certainly has been burnout from the pandemic.
21 And I also think that the nursing population,
22 or the workforce, is aging, and so many
23 retired early. So they may still be actively
24 licensed, but they have decided to retire.

1 So -- but I do think more research is
2 needed into that question.

3 MR. RASKE: I'd say -- I'd only add,
4 Senator, you probably are seeing a
5 significant wage adjustment going on within
6 the nursing community due to the shortage
7 issue, driven in large part by burnout from
8 the pandemic.

9 And that is the natural market forces
10 as well as collective bargains. We have the
11 NYSNA contract which just was concluded,
12 which also involved a strike at two major
13 institutions, and then we have a request from
14 1199 to reopen their contract. And that is
15 being given serious consideration by the
16 hospitals that have 1199. And 1199 has been
17 a great partner on healthcare policy issues
18 throughout the years, so I'm sure that
19 reopener will occur.

20 CHAIRWOMAN KRUEGER: But we also heard
21 from a previous question on the previous
22 panel that we have a lot of traveling nurses
23 who actually aren't traveling. They actually
24 live within a few counties of where they are

1 now working.

2 So I think there's a bigger problem
3 with all this. And I'm even hearing that
4 we're having sort of wars between different
5 New York City hospitals to take each others'
6 nurses.

7 MR. RASKE: Sure. Absolutely.

8 CHAIRWOMAN KRUEGER: So it seems to me
9 we need a more global solution than just
10 watching you having range wars between
11 different hospitals and ending up with paying
12 people three times what the actual permanent
13 nurses who work for you are making.

14 MR. RASKE: We certainly would agree
15 with you.

16 MS. GRAUSE: I think there are a lot
17 of issues in flux there, and I think it does
18 warrant some additional review.

19 I would just comment that it is a
20 national workforce shortage, which I think
21 has exacerbated many of the issues you
22 raised.

23 CHAIRWOMAN KRUEGER: Yeah, I'm not
24 saying we don't have a shortage overall. But

1 it seems like we have nurses that we're not
2 using as nurses, or nurses who will work on
3 the traveling nurse model because they can
4 get paid three times -- I guess I would take
5 the job that paid me three times what my
6 other nurses who had, you know, salaried jobs
7 take. Right? I would too.

8 My time is up. Assembly.

9 ASSEMBLYWOMAN PAULIN: Yes. Who
10 didn't we -- okay, I guess in order,
11 Assemblymember Gandolfo.

12 ASSEMBLYMAN GANDOLFO: Thank you,
13 Madam Chair.

14 So in last year's budget there was I
15 think roughly 800 million allocated to assist
16 hospitals that were struggling due to the
17 pandemic. So my question to you is, have any
18 of your member hospitals seen any of that
19 money that the Legislature allocated in the
20 budget?

21 MS. GRAUSE: No. Not to our
22 knowledge. You worked very hard to put that
23 money in the budget for hospitals last year,
24 and I think as you heard, the Medicaid

1 director testified that that money was spent,
2 and we believe on the federal match for the
3 DPT program. So we feel very strongly that
4 that funding should be restored for
5 hospitals.

6 MR. RASKE: I would only add that if
7 you take a look at that panel that I referred
8 to earlier as it relates to the hospital
9 margins, we superimposed the provider relief
10 fund that the feds gave us.

11 And if they did not provide that
12 relief, we would have a wholesale crisis in
13 New York. Because the margins would have
14 been dropping like a brick, and it would be
15 awful. And my thanks to our leadership in
16 the Congress for doing that. But it has not
17 been augmented, Bea, from the legislators'
18 point of view.

19 ASSEMBLYMAN GANDOLFO: Thank you.

20 You all spoke of, you know, the fiscal
21 troubles that hospitals and healthcare
22 facilities are facing. It would be great if
23 the money that's allocated for a purpose --
24 to assist those struggling hospitals --

1 actually gets there. So thank you very much.

2 MS. GRAUSE: Couldn't agree more.

3 ASSEMBLYWOMAN PAULIN: No more Senate,
4 right?

5 CHAIRWOMAN KRUEGER: No more Senate,
6 just double-checking.

7 It's yours, Assembly.

8 ASSEMBLYWOMAN PAULIN: All right.
9 Assemblymember Bronson.

10 ASSEMBLYMAN BRONSON: Thank you,
11 Madam Chair.

12 And Ms. Kilmer, thank you for
13 correcting the record. I don't know if you
14 were here earlier, but 250,000 --

15 MS. KILMER: Yes.

16 ASSEMBLYMAN BRONSON: -- is woefully
17 understated.

18 But more importantly, we're talking
19 about 340B, which saves lives. So whether
20 you say 250,000 or you say 2.3 million, we
21 need to save those lives.

22 MS. KILMER: Yes, exactly.

23 ASSEMBLYMAN BRONSON: Thank you for
24 that.

1 You mentioned, under the compromise,
2 that we're meeting what the administration's
3 goals are and what they're trying to do. And
4 we're meeting them with more certainty, more
5 reliability, and not dependent on what CMS
6 does and things of that nature. But you also
7 stated that we're saving community
8 pharmacists. Can you expand on that a little
9 bit?

10 MS. KILMER: I can.

11 So we believe that the alternative
12 bill, alternative language does actually
13 solve the community pharmacists' issues. The
14 issues that they've raised are their
15 dispensing fees, objective drug pricing, and
16 restrictions on the anti-competitive business
17 practices of the pharmacy benefit managers.
18 And all three of those things are
19 specifically addressed in S5136.

20 ASSEMBLYMAN BRONSON: Thank you.
21 Appreciate that.

22 Mr. Raske, you've mentioned the
23 troubles our hospitals are facing. Certainly
24 in my district, in my area, the University of

1 Rochester Medical Center, Rochester Regional,
2 have shared with me their numbers. They've
3 also shared how the 5 percent will be eaten
4 up by the 340B. They both participate in
5 that program.

6 But more importantly, that we are now
7 in a crisis in meting out patient quality
8 care because of the staffing issues, because
9 nursing homes have vacant beds but they don't
10 have staffing and they don't have the
11 reimbursement rate to bring in more staffing.
12 So they can't accept patients who are ready
13 for nursing home care. They can't move
14 patients from emergency rooms up to other
15 levels -- lower levels of care in the
16 hospital.

17 I too support a 20 percent
18 reimbursement rate increase. But the
19 question is what -- are there any strategies
20 in this budget to address those concerns? Or
21 do we have to rely on the reimbursement rate
22 increase, which we're going to fight for.
23 But are there any strategies that the
24 administration's fighting for that meets that

1 crisis?

2 MR. RASKE: Well, the budget
3 recommendations that we are talking about
4 include component parts. One is, of course,
5 a rate increase and the mention of that on
6 the hospital side and the nursing home side
7 as well. Another component part is to wash
8 out the 340B impact, which gives you a net
9 zero. So if you restore that, that would
10 help provide support on the rate side.

11 Then a recommendation is also, for
12 financially struggling hospitals, to add
13 700 million back to them plus an additional
14 amount, which we think could be in the
15 neighborhood of another half a billion
16 dollars --

17 ASSEMBLYWOMAN PAULIN: Thank you.

18 MR. RASKE: -- to that fund.

19 ASSEMBLYWOMAN PAULIN: Thank you.

20 ASSEMBLYMAN BRONSON: Thank you.

21 MR. RASKE: And that should take care
22 of it, sir.

23 ASSEMBLYWOMAN PAULIN: Assemblymember
24 González-Rojas.

1 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
2 you all so much. I really appreciate your
3 advocacy specifically on 340B -- actually,
4 all the issues you're fighting for. But I
5 think the connection between the low
6 reimbursement rate and the 340B situation
7 dynamic is really elucidating.

8 I want to raise something that I
9 raised earlier about coverage for immigrant
10 New Yorkers. As you know, there might be an
11 opportunity, through the -- a waiver, through
12 the Essential Plan, in order to expand
13 coverage, and we're finding out the dynamics
14 a little bit more.

15 But right now, as I understand it, we
16 spend \$550 million on emergency Medicaid.
17 Can you talk about what that means in terms
18 of the infrastructure of the hospital and
19 maintaining its health and wellness? And
20 also, what could that money be used for if
21 we're able to get Essential Plan coverage for
22 our immigrant populations that are now
23 relying on emergency Medicaid?

24 MS. GRAUSE: I can't speak

1 specifically to that proposal, but we have
2 long supported coverage for all who need it.
3 And so I think having coverage for immigrants
4 would help hospitals in that the services
5 that they provide would have some measure of
6 reimbursement. So it would help.

7 MR. RASKE: I can tell you this, from
8 the Greater New York Hospital Association
9 point of view. We believe everybody should
10 be treated with dignity and respect and the
11 best possible hospital care, and that's every
12 human being that we see. And if there's a
13 proposal to expand coverage, we're in it. We
14 support it.

15 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Because
16 as you know, you know, those who can't get
17 preventative care are going to the emergency
18 room when their situations are untenable, and
19 it will actually cost us a lot more money --
20 and not just in dollars, but in the health
21 and well-being of our New Yorkers.

22 So thank you so much.

23 ASSEMBLYWOMAN PAULIN: Assemblymember
24 Kelles.

1 (Off the record.)

2 ASSEMBLYWOMAN KELLES: So a couple of
3 things. I'm curious of your assessment --
4 this is what I'm seeing in this budget --
5 that overall there have been cuts on the
6 operational side of things, cuts and not
7 needed increases in wages. And the money
8 that's been added has been primarily capital,
9 one-time investments. I'm looking at your
10 list here: \$1 billion capital fund, and yet
11 700 million safety net reduction; \$83 million
12 in Indigent Care Pool.

13 Is that generally your assessment or
14 your experience that's happening with this
15 budget?

16 MR. RASKE: Well, we've seen the --
17 there's a couple of phenomena going on -- can
18 you hear me? Yes, okay -- one of which is
19 because the operating support of the
20 hospitals is so miserable, they have cut off
21 their capital expenditures, about half of the
22 hospitals -- right, Bea?

23 MS. GRAUSE: More than half, yes.

24 MR. RASKE: -- have curtailed their

1 major capital expansion plans. Now, that's
2 going to ripple out throughout the economy.

3 The amount of money in the budget, a
4 billion dollars that the Governor has put in,
5 is great. But it's probably a multiple of
6 that that is actually needed. Particularly
7 if we're not getting the support from the
8 operations end of the equation. Is that
9 clear?

10 ASSEMBLYWOMAN KELLES: I do have one
11 question -- yes, absolutely.

12 What will be the impact of the
13 \$83 million Indigent Care Pool cut? What
14 would that look like?

15 MR. RASKE: You know, I don't even
16 understand why they did that --

17 ASSEMBLYWOMAN KELLES: I don't either,
18 but I'm asking what will that look like.

19 MR. RASKE: I don't -- Bea, maybe you
20 can explain it to me.

21 MS. GRAUSE: I mean, I think what
22 you're speaking to I think is generally
23 correct, in that when we talk about a
24 structural fiscal crisis, it's both chronic

1 and acute. And the chronic part is because
2 of the years and years of no investment in
3 Medicaid rates --

4 ASSEMBLYWOMAN KELLES: In the
5 operating.

6 MS. GRAUSE: -- in the operating side.
7 And then you have the 340B policy and the cut
8 to indigent care, and all of -- it more than
9 undercuts the 5 percent inpatient rate
10 increase. So it really doesn't change
11 anything around -- it doesn't create an
12 investment in the infrastructure. It's a
13 zero-sum -- it's less than a zero-sum game on
14 the operating side.

15 ASSEMBLYWOMAN KELLES: That's what I'm
16 looking at too.

17 MS. GRAUSE: And then the billion
18 dollars in capital, et cetera, is all
19 one-time dollars. And again, I think to
20 Ken's point, is hospitals aren't in a
21 financial position anymore to take advantage
22 of the capital.

23 (Overtalk.)

24 ASSEMBLYWOMAN KELLES: I'm going to

1 grab my last 33 seconds.

2 Yes. Just really quickly, I'm seeing
3 these increases in profits of the healthcare
4 plans. Do you think that they are passing
5 through to you all the amount of legally
6 required direct payments to you that they're
7 required of --

8 MR. RASKE: I think absolutely not.

9 MS. GRAUSE: No.

10 MR. RASKE: And here's the problem.
11 You know, when you hear some of the -- when
12 we put the proposal of pay and review out
13 there, as an example, or site of service --
14 people will say, well, gee, this will somehow
15 involve -- I don't know why this thing keeps
16 on going off on me here, but --

17 (Laughter.)

18 MR. RASKE: Is it me or is it
19 something I ate?

20 (Laughter.)

21 ASSEMBLYWOMAN PAULIN: Thank you.

22 MR. RASKE: How can you explain this
23 without this -- with this clock keeping on
24 beeping?

1 But what -- what the -- some of the
2 opponents to this proposal are saying, Well,
3 it's going to increase premiums. I say
4 baloney. If you take a look at the
5 profitability of these companies and what
6 their market caps are and what's going on on
7 Wall Street, they're outperforming the Dow
8 Jones. Why? They've got my money, that's
9 why. And that's the problem.

10 ASSEMBLYWOMAN PAULIN: Thank you.

11 ASSEMBLYWOMAN KELLES: Thank you.

12 MR. RASKE: Thank you.

13 ASSEMBLYWOMAN PAULIN: Assemblymember
14 Palmesano.

15 ASSEMBLYMAN PALMESANO: Good
16 afternoon. My question -- well, it's not so
17 much as -- I want to address it to Bea, if I
18 may, just because a lot of HANYS is in my
19 district.

20 MS. GRAUSE: Sure.

21 ASSEMBLYMAN PALMESANO: Particularly I
22 know in the earlier panel there was much
23 discussion and questions surrounding the
24 issue of pay and resolve. And can you

1 briefly talk about the impact this proposal
2 would have on your member hospitals?

3 MS. GRAUSE: Sure. It's really about
4 cash flow. And we think that, you know,
5 having emergency services and inpatient
6 admissions that are subsequent to an
7 emergency stay, having the payer having to
8 pay that within 30 days -- now we have prompt
9 pay laws on the books, but there's a lot of
10 ways that the payers -- and they do -- delay
11 payment.

12 So it's really about cash flow. And I
13 think the payers will come in and they'll
14 tell you that it's going to raise premiums,
15 as Ken was saying. We don't think that's
16 true, because again, I can tell you from
17 personal experience, when patients are in the
18 emergency room, there's an emergency. And
19 that realtime care should have realtime
20 payment attached to it.

21 So we think it's really for hospitals.
22 The benefit is cash flow. We do not think
23 there will be an overall increase in premiums
24 as a result, because those claims should be

1 paid.

2 ASSEMBLYMAN PALMESANO: Actually, I'm
3 also hearing from a lot of hospitals in my
4 district, some that are associated -- they
5 have ownership in long-term-care facilities.
6 And I know that the new nurse staffing ratios
7 that were put in place require, I believe,
8 three and a half hours of direct patient care
9 per day.

10 And in order to be compliant with
11 that, I've heard that there's hardships
12 because they can't find enough certified
13 nursing aides. And that's really -- some
14 have had to close down beds on units because
15 of that. And it really has had a negative
16 impact on reimbursement opportunities, and
17 also jeopardizes the 40/70 rule.

18 Can you elaborate on that? I mean,
19 what can we do to -- and we also have to
20 increase reimbursement because -- and how
21 that's problematic?

22 MS. GRAUSE: I think -- as Ken and I
23 have both spoken, I think it really does boil
24 down to, at this point, wage increases.

1 Because in -- across the state more than
2 2,000 nursing home beds have closed since
3 before the pandemic. And that -- that
4 closure in large part has happened because of
5 the requirements of the ratios and the
6 inability for nursing homes to find qualified
7 workers.

8 So raising wages would help with that.
9 Hopefully it would help to open those beds.
10 And it would reduce that system gridlock that
11 I was talking about before.

12 MR. RASKE: Ditto.

13 ASSEMBLYMAN PALMESANO: Ken,
14 20 seconds if you want to add on there.
15 Anything else that you have to say? You're
16 good? Okay.

17 MR. RASKE: That was it.

18 ASSEMBLYMAN PALMESANO: Perfect, thank
19 you.

20 MS. GRAUSE: He said ditto.

21 MR. RASKE: I said ditto, yeah. I
22 would agree with it 100 percent.

23 ASSEMBLYMAN PALMESANO: Then I gladly
24 yield back my 10 seconds to the chair.

1 ASSEMBLYWOMAN PAULIN: Okay. I think
2 I'm here to close. Two things.

3 First, on hospital closures, your
4 testimony is in direct contrast with the
5 department in terms of having enough
6 resources to make sure that hospitals don't
7 close. Is it -- do you believe that we're
8 going to see hospital closures if the budget
9 goes forward as it is?

10 MR. RASKE: You know, this is a really
11 important question, Madam Chairman. And the
12 answer is -- I think I made mention of it --
13 we're trying to give the department more
14 tools to have by adding back money that they
15 deducted from last year. If they spent
16 everything last year to bail out hospitals,
17 how can they have \$700 million less this
18 year? It doesn't add up, does it?

19 ASSEMBLYWOMAN PAULIN: Well, maybe --

20 MR. RASKE: And I'm going to give them
21 more money --

22 ASSEMBLYWOMAN PAULIN: No, I
23 understand. I understand. But do you
24 actually think there's going to be closures?

1 And/or what services are eliminated when you
2 see less money? I mean, that's really what
3 we're going to be struggling with too, as a
4 community.

5 MS. GRAUSE: So hospitals already
6 today are -- you know, are cutting back on
7 services like clinic hours and things like
8 that in order to, again, bring those expenses
9 back in line with existing revenues.

10 ASSEMBLYWOMAN PAULIN: So what are the
11 kinds of services that we won't see in our --
12 probably in our most vulnerable areas?

13 MS. GRAUSE: Well, I think hospitals,
14 just to answer it in a different way, they do
15 everything possible to preserve ICU,
16 emergency room, OR, all of that. That's
17 core. But I think, you know, educational
18 programs -- again, clinic hours -- are things
19 that hospitals are looking twice at in order
20 to reduce their expenses.

21 One of the things that we are seeing
22 and that we are having many, many hospitals
23 report from across the state is balance sheet
24 erosion. So they -- month after month, their

1 expenses exceed their revenues, and they
2 are -- their balance sheet is -- is eroding
3 from --

4 ASSEMBLYWOMAN PAULIN: So I have one
5 more question, and I'm going to squeeze it
6 in.

7 MS. GRAUSE: Okay, go ahead.

8 ASSEMBLYWOMAN PAULIN: And it has to
9 do with workforce. You know, the department
10 is putting forward two initiatives, one to
11 support compact inter-nursing, and the other
12 is to support change in scope, you know, for
13 PAs and other EMS and other areas.

14 Where do you fall on both of those two
15 proposals?

16 MR. RASKE: Support them.

17 MS. GRAUSE: We support both, yup.

18 MR. RASKE: Absolutely.

19 ASSEMBLYWOMAN PAULIN: You want to
20 elaborate a little bit on SED's concern about
21 lack of supervision in terms of nurses in
22 particular?

23 MS. GRAUSE: We don't think the data
24 supports that. I think Acting Commissioner

1 McDonald said that there really is no quality
2 concern.

3 And I think as far as scope of
4 practice is concerned, the practice of
5 medicine changes every single day. And I
6 think taking a look at scope of practice in
7 light of the shortage is long overdue.

8 ASSEMBLYWOMAN PAULIN: Thank you. My
9 time is up.

10 Oh, sorry, we have one more
11 Assemblymember. Assemblymember Byrnes.

12 ASSEMBLYWOMAN BYRNES: My apologies, I
13 thought Mr. Jensen had told you. My
14 apologies.

15 This will be very quick, and it's
16 really a question to the entire panel, going
17 back just for a second to the staffing
18 shortages, which we all agree are profound.

19 Has there been any discussion yet as
20 to the feasibility of rehiring workers that
21 were fired simply for not getting the COVID
22 vaccine, now that the pandemic is over? I
23 asked the same question last year, I believe.
24 And there are people who want to work that

1 were let go. They were healthcare heroes.
2 Any discussion about allowing them to be
3 rehired? Otherwise, great employees.

4 MS. GRAUSE: Under current law, they
5 cannot do that because there is no allowance
6 for a religious exemption. If that changes
7 under state law, then I think hospitals would
8 consider that. But currently, no.

9 ASSEMBLYWOMAN BYRNES: And that's
10 because of the Governor's position.

11 MS. GRAUSE: Yes.

12 ASSEMBLYWOMAN BYRNES: Thank you.

13 ASSEMBLYWOMAN PAULIN: She's done. We
14 are done.

15 CHAIRWOMAN KRUEGER: Okay, we are
16 done.

17 ASSEMBLYWOMAN PAULIN: Thank you very
18 much.

19 CHAIRWOMAN KRUEGER: Well, we clearly
20 have far more questions, but we have to let
21 you go. So thank you very much for your
22 testimony today.

23 And our next panel will be the
24 Primary Care Development Corporation,

1 Louise Cohen, and the Community Health Care
2 Association of New York State, Rose Duhan.
3 And unfortunately David Sandman from New York
4 Health Foundation had to cancel.

5 But the testimony of everyone who has
6 submitted testimony, whether they are
7 testifying or not, has been distributed via
8 electronic source to all Senators and
9 4, and is up on the web for anyone else in
10 the State of New York to read at their
11 leisure.

12 So shall we start with Primary Care
13 Development Corporation?

14 MS. COHEN: Thank you for inviting us
15 here today. My name is Louise Cohen, and I'm
16 the CEO of the Primary Care Development
17 Corporation, which is a community development
18 financial institution and not-for-profit here
19 in New York State.

20 Primary care saves lives, it improves
21 individual and community health, and it's
22 central to health equity. And it's the only
23 part of the healthcare system that reduces
24 health disparities and total healthcare

1 costs. Yet primary care gets only about 5 to
2 7 cents on the healthcare dollar -- not even
3 half of what experts say it should.

4 Last year this Legislature passed the
5 primary care reform commission legislation,
6 which would have quantified primary care
7 spending in this --

8 SENATOR RIVERA: Excuse me a second.

9 Folks, please take your conversations
10 outside so we can hear the testimony.
11 Thank you.

12 CHAIRWOMAN KRUEGER: Thank you.

13 MS. COHEN: -- would have quantified
14 primary care spending in New York State and
15 make recommendations to increase it. The
16 Governor vetoed the bill, as you know, but
17 the need for increased investment in primary
18 care remains urgent.

19 The proposed Executive Budget offers
20 several primary care enhancements which we
21 support, but it falls short of more global
22 changes needed to establish primary care as
23 the centerpiece around which healthcare in
24 New York State is designed. One of the

1 things we know from a recent report is that
2 primary care spending in New York has
3 decreased from 2016 to the current date.

4 We have three specific asks. The
5 first is the Community Health Care Revolving
6 Loan Fund, which was created by this
7 Legislature in 2015 and administered by PCDC.
8 It had an initial investment of \$19.5 million
9 to provide affordable loan capital for
10 eligible primary care/behavioral health
11 providers. It's now fully committed.

12 We ask that you infuse this fund with
13 an additional \$19.5 million, and that the
14 fund's purpose be expanded to include debt
15 refinancing and debt restructuring, both of
16 which are critically important to the
17 financial stability of community health
18 providers in the current high-inflation,
19 high-interest-rate environment.

20 And we support the Health Care
21 Facilities Transformation Fund, but urge the
22 Legislature to, as in years past, set aside a
23 certain amount -- up to 15 percent at the
24 least -- for primary care.

1 And in addition we want to let you
2 know that the transformation fund is only
3 reimbursable. What that means is community
4 providers, particularly small ones, have to
5 have upfront cash in order to actually build
6 their facilities, and a number of grantees,
7 therefore, have turned to PCDC and the
8 revolving fund to provide bridge capital.
9 And without the capital, the revolving fund
10 and the transformation funds may well be
11 unusable in this next year.

12 And I want to then, finally, about the
13 340B program, give a very distinct
14 perspective from a community lender. As a
15 community lender -- and we really lend to
16 very grassroots community healthcare
17 providers in New York State -- we can't
18 consider one-year funds as substantial for an
19 organization to take on debt. In other
20 words, we can't lend to someone who says
21 "I've only got this for a year," when the
22 loan might be three years, it might be five
23 or seven years.

24 So that's actually really important.

1 And we are a community lender; that is also
2 true for banks. So what you're saying here
3 with the 340B carveout, whether, you know --
4 and again, whether or not the state plan
5 amendment goes through -- that that is a
6 long-term problem for community health.

7 CHAIRWOMAN KRUEGER: Thank you.

8 Rose.

9 MS. DUHAN: Thank you, Louise. We
10 agree with the comments that were just made
11 by PCDC.

12 Good afternoon. I'm Rose Duhan. I'm
13 the CEO of the Community Health Care
14 Association of New York State. As the
15 primary care provider for 2.3 million
16 residents of New York State, 60 percent of
17 which are covered by Medicaid, community
18 health centers are foundational to improving
19 population health and well-being through
20 access to comprehensive primary care, dental
21 care, and behavioral health services.

22 Community health centers provide care
23 that is centered on health equity and
24 reducing racial and geographic disparities in

1 health outcomes. Recognition of the
2 importance of primary care included in the
3 Governor's budget must be matched by an
4 investment in community health centers.

5 Along with many of my colleagues that
6 have already talked about this, we ask the
7 Legislature to repeal or delay the pharmacy
8 benefit carveout that will result in
9 \$260 million in losses across the health
10 center network. Although the Governor's
11 budget includes an administrative funding
12 set-aside for health centers, an April 1
13 transition will result in an immediate loss
14 of cash flow at a time when costs have
15 escalated and competition for labor has
16 reached crisis levels, as well as what was
17 mentioned regarding the concerns of Medicaid
18 redeterminations resulting in people losing
19 their Medicaid coverage.

20 CHCANYS supports Senate 5136 -- thank
21 you, Senator -- the alternative that would
22 repeal the carveout while achieving many of
23 the state's policy goals.

24 CHCANYS also requests the Legislature

1 direct DOH to work with community health
2 centers to assess and redesign Medicaid
3 payment rates based on the comprehensive
4 model of primary care delivered by health
5 centers, to bring reimbursement of health
6 centers costs of care into the current
7 century.

8 Health centers' reimbursement rates
9 are based on costs from 1999 and 2000. A
10 modernized payment basis, to be implemented
11 in October 2024, is necessary to achieve the
12 goals set in this year's budget for primary
13 care.

14 The increases in Medicaid primary care
15 rates in the Governor's proposed budget do
16 not apply to community health centers, and
17 rate reform, as was mentioned, is needed to
18 ensure the primary care safety net is broad
19 enough and strong enough.

20 Thirdly, we ask the Legislature to
21 amend last year's enacted budget language
22 related to telehealth parity, ensuring health
23 centers are able to receive their full
24 payment for audiovisual and audio telehealth

1 visits, regardless of patient or provider
2 location, especially to protect access to
3 behavioral health services.

4 Please refer to our written testimony
5 for more comments. Thank you for the
6 opportunity to testify, and I'm happy to
7 answer any questions.

8 CHAIRWOMAN KRUEGER: Thank you.

9 Any Senators? Senator Rivera.

10 SENATOR RIVERA: Thank you.

11 I wanted to see if you could educate
12 us about -- we've heard as far as --
13 certainly about 340B, we've heard about what,
14 just in very vague terms -- very real terms,
15 certainly. But I want to hear more
16 specifically, what is it that you actually
17 use those savings for? Could you give us
18 some examples of some of the things that you
19 would not be able to do were this program
20 to -- were you not able to avail yourself of
21 the program anymore?

22 MS. DUHAN: Yes. Well, I know that
23 the Medicaid director mentioned I think a
24 250,000 number, which is people -- that may

1 be the number of drugs purchased with 340B.
2 But as was mentioned, that's certainly not
3 the number of people that are impacted by the
4 use of these savings.

5 And one of the main purposes of
6 these -- or one of the large, widespread uses
7 of the funding is to purchase
8 pharmaceuticals, to pay for prescription
9 drugs for individuals who are uninsured.
10 community health centers have an uninsured
11 rate of about 13 percent, so about two and a
12 half times the statewide rate of uninsured.
13 And so that 340B funding is really critical
14 to ensuring that people who are uninsured can
15 have access to prescription drugs, to
16 pharmacies -- to pharmacy services.

17 Health centers also use a lot of the
18 funding for -- so to fund school-based health
19 centers, something that really has been
20 especially critical since children are
21 returning back to school following the
22 pandemic. A lot of unmet need, a lot of
23 catching up on -- as was mentioned --
24 vaccines, and a lot of behavioral health

1 needs. So the school-based health centers
2 are really critical in terms of ensuring that
3 children have the full access to services
4 that they need.

5 Additionally, a lot of outreach and
6 care management. So ensuring that people
7 understand what kinds of services are
8 available, helping them to follow through
9 with the care that they need, connecting them
10 to a lot of the services that they would
11 otherwise not be able to connect to.

12 SENATOR RIVERA: These would not --
13 you would not be able to do these things, or
14 the centers that you represent would not be
15 able to do these things if they weren't --

16 MS. DUHAN: That is correct. Many of
17 these services are not reimbursed or
18 reimbursable. Obviously, for someone who's
19 uninsured, there is no payment. So 340B
20 really provides the funding to support those
21 services.

22 SENATOR RIVERA: Thank you.

23 CHAIRWOMAN KRUEGER: Thank you -- oh,
24 I'm sorry.

1 MS. COHEN: No, if I could just say,
2 we look at everyone's balance sheets as we
3 decide about loans. And what we see is that
4 there's an extraordinary difference between
5 the revenue from reimbursement -- the 340B is
6 unrestricted dollars that enables a health
7 center to do, quite frankly, whatever they
8 need to do in order to serve their patients.

9 And so these things that Rose
10 mentioned I think are there. But let's
11 remember that this is almost a form of
12 value-based payment. We all want to give
13 these organizations -- which have good
14 outcomes, right? These are high-quality
15 providers -- to be able to provide whatever
16 service they think that person needs at that
17 time. And these are really unrestricted
18 dollars.

19 But we know from their balance sheets
20 these community providers would actually not
21 be able to survive, many of them, without it.

22 SENATOR RIVERA: Thank you.

23 CHAIRWOMAN KRUEGER: Excuse me for
24 cutting you off.

1 MS. COHEN: Sorry.

2 CHAIRWOMAN KRUEGER: Assembly.

3 ASSEMBLYWOMAN PAULIN: Yes, I think
4 I'm the only one.

5 Nobody questions the importance and
6 need for primary care. What can we do -- or
7 what can you do, what do you need, you
8 know -- and resources, of course. But in
9 terms of providing more access, in terms of
10 providing more services, you know, what are
11 those things that could be done that would go
12 toward that goal?

13 MS. COHEN: So I think what's really
14 important to recognize is -- you know, you
15 just heard testimony that if a hospital is
16 squeezed, the first thing they're going to do
17 is close clinic hours. Right? That's the
18 ambulatory care of a hospital. It's not
19 their core function, but it brings patients
20 in and it provides them -- they provide a lot
21 of primary care in this state. But we also
22 know that community health centers and
23 independent physician practices do as well.

24 But there's actually large parts of

1 the state that actually have insufficient
2 access to primary care. There aren't enough
3 primary care providers, waits are incredibly
4 long. And so what we think is an overall
5 shift in the balancing of our healthcare
6 system to really pay what other
7 industrialized countries pay for them, which
8 is 12 to 14 cents on the dollar, spread out
9 among a lot of things.

10 So it's not just one thing. I mean,
11 certainly we think it's sites. But it's also
12 making sure that there's a robust workforce,
13 making sure that hours are available for
14 people who need to have off -- you know,
15 off-work hours to see their providers.
16 There's a whole host of things that it can be
17 used for.

18 But at the end of the day, the
19 four-to-seven -- you know, 4 percent on the
20 dollar isn't even close to what we need. And
21 we know that those things will be shuttered
22 as these budget cuts happen, so --

23 ASSEMBLYWOMAN PAULIN: Are there -- is
24 more needed in certain regions of the state

1 than in others?

2 MS. COHEN: So we did a report that
3 we'd be glad to send around that showed where
4 primary care access was limited in terms of
5 the number of primary care providers.

6 There are certainly parts of the state
7 that have actually very few primary care
8 providers per population. So it's an apples
9 and apples comparison. But we know that
10 there are also pockets of real poverty,
11 low-income communities that have been
12 disinvested historically. And so those
13 communities, we would argue, actually need
14 more primary care than less. And that's true
15 for rural communities as well as for urban
16 communities.

17 So I think we try to use a couple of
18 different metrics to look at whether there's
19 sufficient access. But we would say in many
20 parts of the city in New York City, and many
21 parts of upstate, there are actually real
22 pockets where there is just insufficient
23 access. And that is one of the reasons why
24 people do go to emergency rooms and why they

1 do have -- you know, have conditions that
2 are -- need to be then treated either as an
3 emergency or as --

4 ASSEMBLYWOMAN PAULIN: So just one
5 final thing. If you were working for the
6 Department of Health as opposed to being a
7 recipient of funds from, you know, what
8 incentives or what program would you put in
9 place to expand that mission?

10 MS. COHEN: So I think it has to be in
11 a lot of places.

12 So we applaud that the -- we think
13 that the reimbursement needs to be raised.
14 We need the overall investment in primary
15 care to be much more than it currently is,
16 both on the capital side and on the other
17 side.

18 It's sort of looking at all the
19 things. Like a workforce program should
20 be -- there's a set-aside for primary care --

21 ASSEMBLYWOMAN PAULIN: We'll have to
22 take that offline. But thank you so much.

23 MS. COHEN: Good question.

24 CHAIRWOMAN KRUEGER: Thank you.

1 I think just me. Oh, hello -- oh, no,
2 you're for the Assembly.

3 ASSEMBLYWOMAN PAULIN: Oh, sorry.

4 CHAIRWOMAN KRUEGER: That's okay.
5 Sorry.

6 So as I get older, I remember -- I
7 used to study cost-benefit analysis in grad
8 school, which was a hundred years ago, and --

9 MS. COHEN: That's when our rates were
10 set, about a hundred years ago, yes.

11 (Laughter.)

12 CHAIRWOMAN KRUEGER: But I've also
13 tried to keep up on reading even a hundred
14 years later, and I'm pretty sure that the
15 research shows that primary care is not only
16 less expensive than hospital care, it
17 actually decreases the number of people who
18 need more expensive hospital care because
19 they get sicker and then end up in the
20 hospital.

21 Our policies seem to be in reverse in
22 this state. Is that correct?

23 MS. COHEN: I think that's right. I
24 mean, a recent California Healthcare

1 Foundation study showed that with larger
2 investments in primary care, they saw better
3 quality, better patient experience, and
4 lower -- fewer hospital visits and emergency
5 room visits and total cost of care. And they
6 actually estimated that there would be
7 billions of dollars in savings, even in the
8 first year, if we rebalanced the healthcare
9 system towards primary care.

10 I think the problem is when someone
11 presents at the emergency room because they
12 haven't been to primary care, you still have
13 to take care of them. And so we see these --
14 we have trouble moving to sort of upfront
15 prevention because it's hard to say, Oh, if
16 you prevent one hospitalization, now you've
17 downstream, you know, provided, you know,
18 better health at fewer costs, because today
19 what we see is what we see.

20 But we think that the primary care
21 system is made up of hospitals, FQHCs,
22 independent practices. No one should lose in
23 this -- in this prospect. We want to see all
24 these parts of the healthcare system build up

1 their primary care components, to
2 Assemblymember Paulin's question, so that
3 it's not just -- you know, it's not that
4 there's a primary care system over here and
5 the rest of the healthcare system over here.
6 We think it's distributed.

7 CHAIRWOMAN KRUEGER: But there is data
8 showing that if we had more primary care,
9 particularly in the underserved areas you all
10 are both talking about, that that would be
11 actually, financially and healthcare-wise, a
12 win for us.

13 MS. DUHAN: Yes. The healthcare
14 centers spend a significant amount of their
15 caregiving addressing chronic conditions, and
16 if those kind of conditions aren't addressed,
17 they progress, it becomes more expensive, it
18 results in worse outcomes. So really the
19 care that people provide -- the care the
20 health centers provide makes the difference
21 in terms of helping people manage their
22 diabetes, helping people manage their
23 hypertension so they aren't becoming sicker
24 and then more costly.

1 MS. COHEN: But we can't do it by
2 cutting costs of those providers today. You
3 have to increase the primary care --

4 CHAIRWOMAN KRUEGER: I'm sorry that
5 our third panelist couldn't be here with us,
6 New York Health Foundation. But I hope that
7 any studies that you are aware of that might
8 verify what I believe would be very useful.

9 So thank you very much.

10 MS. COHEN: We hoped that the primary
11 care commission that was vetoed by the
12 Governor would have helped with that. But we
13 believe that there's data that we can pull
14 together and that we can forge a new approach
15 to this, with your help.

16 CHAIRWOMAN KRUEGER: Thank you.

17 Any other Assembly?

18 ASSEMBLYWOMAN PAULIN: One more.

19 Assemblymember Jessica González-Rojas.

20 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
21 you both so much.

22 I was reviewing the testimony, and I
23 understand that CHCs are not allowed to
24 collect information on immigration status.

1 So you don't have a sense of the numbers of
2 people who are undocumented --

3 MS. DUHAN: We do not collect --
4 health centers do not collect information on
5 immigration status.

6 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Which I
7 thank you for, for --

8 MS. DUHAN: Yes, for good reasons.

9 As I said, about 13 percent of health
10 center patients are uninsured. And given the
11 broad insurance coverage in New York State,
12 we do think that the majority of that
13 population is -- are people who are not
14 eligible for insurance because of their
15 immigration status.

16 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: One of
17 the things we're fighting for is to expand
18 the Essential Plan. I saw that it was listed
19 as a priority to insure that undocumented
20 people are covered.

21 Can you talk about what that impact
22 might be on your system? Actually, this is
23 for both of you.

24 MS. DUHAN: Sure. Well, we estimate,

1 as I said, about 300,000 patients that
2 there's no payment for, there's no
3 reimbursement. So that would be -- having
4 reimbursement for those patients would be a
5 significant investment in health centers to
6 allow them to continue to do the work that
7 they do, to help them expand.

8 I think this is a time when we don't
9 want to see health centers contracting. As
10 we said, there's significant need throughout
11 the state, and health centers would welcome
12 the opportunity to serve more patients.
13 They're seeing the need, both immigrant -- I
14 mean, there's certainly been a very big
15 influx of immigrant population with people
16 coming in who need a lot of care, more care,
17 more acute kinds of care, because they
18 haven't had any access to services for a long
19 time.

20 So having that reimbursement for those
21 patients would make a big difference in terms
22 of being able to really reach a broader
23 population and ensure that people who need
24 care can get it.

1 MS. COHEN: And I think you pointed
2 out that New York State's going to pay for
3 this one way or the other.

4 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Yes.

5 MS. COHEN: We're going to pay for it
6 with emergency Medicaid or we're going to pay
7 for it upfront.

8 I would argue that people will be
9 healthier and it will cost less if we pay for
10 it upfront.

11 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
12 you for that.

13 And also, Rose, you mentioned a
14 population that I actually haven't heard all
15 day, is children and school-based health
16 centers. If you can just expound, in the
17 27 seconds you have, just to talk about what
18 that would mean for our children.

19 MS. DUHAN: Yes, many of our health
20 centers operate school-based health centers.
21 And as I said, it's a critical point of
22 access for children to get care from a broad
23 range of services -- medical, dental,
24 behavioral. Especially dental care; it's

1 really been critical. That's something that
2 was postponed, along with many of the other
3 healthcare services during the pandemic. So
4 a lot of work to catch children up on the
5 dental care that they need. And we -- that's
6 a critical piece of the work that health
7 centers do.

8 MS. COHEN: The Milbank Memorial Fund
9 reported that in 2020 in New York State,
10 30 percent of children had no usual source of
11 care. A usual source of care is really a
12 school-based health center or a community
13 health center or a provider -- a doctor in
14 the community, pediatrician. That's really
15 astounding and very concerning, I would say.

16 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thirty
17 percent -- I want to repeat that.

18 MS. COHEN: Thirty percent -- we can
19 send you a link to the report, but it's
20 30 percent of children have no usual source
21 of care in 2020.

22 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: That's
23 really concerning. Thank you for that.

24 Thank you.

1 ASSEMBLYWOMAN PAULIN: Thank you.

2 I just want to ask if -- Rose in
3 particular, if you have a program or a
4 proposal on rebasing that you could send us
5 the information. When I say "us," to Helene
6 and to the Senator here, and to Liz, and
7 they'll get it to the rest of us.

8 MS. DUHAN: Absolutely. We'll be
9 happy to share that with the chairs.

10 ASSEMBLYWOMAN PAULIN: Thank you.

11 CHAIRWOMAN KRUEGER: Thank you.

12 So I think we've covered all the
13 questions from people, so I want to thank you
14 both very much for being with us today.

15 And our next panel: New York Lawyers
16 for the Public Interest; New York Health Plan
17 Association; Health Care for All New York;
18 and Coalition of New York State Public Health
19 Plans/New York State Coalition of MLTC and
20 PACE Plans -- that is one group, I believe.

21 And for people who are following
22 along, if you would like, you can head down
23 closer to the front, Panel D, to be ready
24 after Panel C: Medicaid Matters New York;

1 Empire Center; New York Association of
2 County Health Officials; and Housing Works.

3 Good afternoon. Why don't we start at
4 my left, your right, and just each introduce
5 yourself and do your testimony.

6 MS. DUNKER: Thank you.

7 My name is Amanda Dunker. I am --

8 CHAIRWOMAN KRUEGER: Bring the mic
9 closer so we can hear you, sorry.

10 MS. DUNKER: Thank you.

11 My name is Amanda Dunker. I'm here on
12 behalf of the Health Care for All New York
13 coalition and a director of health policy at
14 the Community Service Society of New York,
15 where -- it's on the steering committee for
16 Health Care for All New York.

17 I wanted to start by addressing some
18 comments we heard earlier about the
19 1332 waiver and the issue of covering
20 undocumented immigrants and other people who
21 are excluded from public health programs
22 because of their immigration status.

23 So I think we heard earlier that the
24 Department of Health was saying that they did

1 not include immigrants in that waiver because
2 they felt that it might be rejected. Which
3 we would argue we should ask and not
4 anticipate a rejection.

5 I think another thing we heard is that
6 they thought this \$2 billion surplus would
7 not be sufficient to cover the population
8 that we're hoping to cover. So when you look
9 at the waiver that's proposed, the rates in
10 that waiver are already quite substantially
11 higher than the current cost of the program,
12 the Essential Plan. But even so, it still
13 doesn't seem to add up to \$2 billion or more.
14 And that's not including offsets like the
15 \$500 million we'd save in emergency Medicaid,
16 which I think other people have mentioned.

17 So in our estimates the \$2 billion
18 surplus would actually be sufficient to cover
19 the 245,000 people.

20 And then our final comments are just
21 if there's a concern that the money's not
22 enough, the state has, for example, proposed
23 capping the Medicaid buy-in program. We
24 could consider capping this program if it hit

1 this \$2 billion limit and just at least some
2 people would get that relief instead of
3 saying 911 can have the coverage.

4 There's obviously a lot of benefits to
5 insuring more people, one of which is if your
6 hospitals close. Another that is a priority
7 for us is that insurance is the best way to
8 prevent medical debt. Six percent of people
9 in New York State overall have medical debt
10 in their credit reports, but it's very high
11 in a lot of places. Rural areas, rural
12 counties in particular, experience really
13 high rates of medical debt. In Chemung
14 County, 27 percent of everybody who lives
15 there has medical debt in their credit
16 report.

17 And then if you look within some of
18 our more urban counties like Onondaga County,
19 it disproportionately affects people of
20 color. So overall in Onondaga County it's
21 14 percent of people. But if you look at zip
22 codes where most people are people of color,
23 it jumps up to 26 percent of them have
24 medical debt in their credit report.

1 So we are arguing that the hospital
2 financial assistance law is one way to
3 prevent medical debt. The Executive Budget
4 proposal includes a change to that law that
5 would create a uniform financial assistance
6 policy at every hospital in the state, and
7 then a uniform application. This would fix a
8 lot of problems that we see that prevent
9 people from getting the discounts that they
10 should get, that they are eligible for under
11 that law. Because we see a lot of
12 applications that are not compliant with the
13 law as it exists now.

14 So we're really excited -- is that
15 time? Oh, okay, sorry.

16 CHAIRWOMAN KRUEGER: Thank you very
17 much. Next?

18 MR. LINZER: Good afternoon. I'm
19 Eric Linzer, president and CEO of the
20 New York Health Plan Association. Thank you
21 for the opportunity to testify today.

22 I'm going to highlight four items from
23 our written testimony and requests that we
24 have. First is our opposition to the

1 pay-and-pursue proposal, Part J. Second is
2 our request to restore the funding to the
3 Medicaid Managed Care Quality Program. Third
4 would be our request to repeal the pharmacy
5 carveout. And finally, our opposition to the
6 proposed changes to the MLTC program in
7 Part I.

8 On Part J, pay and pursue, this
9 provision is opposed by unions, employers,
10 health plans and others that are concerned
11 about the affordability of healthcare in
12 New York. The proposal would create a
13 cumbersome and lengthy process that could
14 take up to 10 months for plans to be able to
15 recoup any payments that should not have been
16 paid under this proposal.

17 I do want to address two comments that
18 came up earlier today, one by the Medicaid
19 director, who indicated that NYSHIP would not
20 be subject to this. That's incorrect.
21 NYSHIP and any municipality that gets its
22 coverage through NYSHIP would be subject to
23 this provision, so there would be a cost for
24 both the state and municipalities.

1 And second, the comment by the Greater
2 New York Hospital Association about the
3 percentage of denials. Actually, quarterly
4 data from the Department of Financial
5 Services has indicated that the number of
6 denials that occur actually -- you know,
7 actually rule in favor of the health plan
8 upon external appeal. So the comment that it
9 typically rules in favor of the hospital is
10 incorrect. We ask you to reject this
11 proposal.

12 On the Quality pools, certainly we
13 think this is essential. The Executive
14 Budget, you know, eliminates the pools in
15 their entirety, totaling about \$110 million.
16 These funds are utilized for critical
17 programs including prevention, wellness,
18 outreach to a very vulnerable, you know,
19 population. And Dr. Schwartz is going to
20 speak in more detail about it, but we would
21 urge you to restore this funding as part of
22 the final budget.

23 Third, you've heard earlier today
24 about reversing the pharmacy carveout. We

1 agree with many of the -- with the comments
2 that have been said about the importance of
3 not allowing this to move forward. You know,
4 but one comment that hasn't come up is really
5 about the savings.

6 While the state has indicated that
7 there would be about \$420 million worth of
8 savings, when the funds that get disbursed to
9 various entities -- FQHCs, others -- it's
10 really only about \$42 million. We don't
11 think this is sufficient, you know, savings
12 for the level of disruption. Plus a Wakely
13 analysis that we had commissioned last year
14 indicated that it costs the state about
15 \$235 million annually.

16 And then, finally, you know, Part I of
17 the managed long-term-care changes -- last
18 year you may recall the administration tried
19 to move forward with a procurement, and
20 there's been discussion about the interim
21 report. We would ask that before moving
22 forward with this, there really needs to be a
23 full analysis of that report.

24 CHAIRWOMAN KRUEGER: Thank you.

1 Next?

2 MS. ALBISTEGUI ADLER: Thank you for
3 the opportunity to testify today.

4 SENATOR RIVERA: Closer, please.

5 MS. ALBISTEGUI ADLER: My name is
6 Karina Albistegui Adler. I am here on behalf
7 of New York Lawyers for the Public Interest
8 and my undocumented and uninsured clients who
9 face the worst of the things that could
10 happen when you're uninsured.

11 At the outset, I'd like to emphasize
12 how -- the urgency to pass the Coverage for
13 All proposal, which in addition to the
14 1333 waiver -- I'm sorry, 1332 waiver -- also
15 proposes to, if the waiver is denied, provide
16 state-only-funded Medicaid coverage for
17 immigrants in the same way that California
18 has done.

19 For my clients, this is actually a
20 life-and-death situation. Most of my clients
21 find themselves in dire situations every day,
22 choosing between paying for their food or
23 medication or between working while they're
24 feeling sick is a stark reality. While

1 emergency Medicaid does cover their dialysis,
2 because many of them do -- most of them are
3 on dialysis due to end-stage renal failure,
4 they must pay upwards of \$200 a month in
5 prescription costs, many of them.

6 I'm going to share a story about one
7 of my clients, Raul, who has faced this exact
8 dilemma. Prior to the COVID-19 pandemic, he
9 worked in the food service industry. He was
10 a proud essential worker and continued to
11 work through the pandemic until he became
12 sick. Shortly after he recovered from
13 COVID-19, his doctors told him that the COVID
14 infection that nearly killed him had actually
15 decimated his kidneys and he was now required
16 to be on a grueling three-day-a-week schedule
17 for dialysis.

18 He had to put everything on hold,
19 including all of his dreams to become a chef.
20 And he was also told, unfortunately, that
21 because he is undocumented and uninsured, he
22 would unlikely ever get a kidney transplant.

23 Raul and other undocumented
24 New Yorkers like him exemplify a major moral

1 and ethical dilemma in our state. Many
2 undocumented New Yorkers are registered
3 organ donors, either through the New York
4 State driver's license, NYCID, and also as
5 {unintelligible} donors. And yet when they
6 are in need of organ transplants, they are
7 among the least likely to receive the
8 transplants because of a lack of
9 comprehensive health insurance.

10 I see many families desperately
11 pleading with medical staff to help their
12 loved ones when they're dying of organ
13 failure, and of course they're told that they
14 can't because they're undocumented and
15 uninsured. Yet those same families often
16 turn around and do donate a loved one's
17 organs.

18 You know, we have the power right now
19 to make the healthcare system more equitable
20 for all New Yorkers. I invite you to also
21 consider some interim steps to save lives and
22 strengthen the commendable Living Donor
23 Support Act passed last year. There could be
24 a temporary measure to allow emergency

1 Medicaid to cover organ transplants.

2 Thank you.

3 CHAIRWOMAN KRUEGER: Thank you.

4 And last? You decided to take
5 yourselves out of order for some reason.

6 DR. SCHWARTZ: Good afternoon, members
7 of the joint legislative budget committee.
8 My name is Dr. Tayla Schwartz. I'm president
9 and CEO of MetroPlus Health Plan in New York
10 City, and I'm here today representing the
11 Coalition of New York State Public Health
12 Plans, PHP, and the New York State Coalition
13 of Managed Care Long Term Plans, MLTC, of
14 which MetroPlus is an active member.

15 I will use my time here to highlight a
16 few of the concerning budget proposals. The
17 first one is eliminating the Quality
18 Programs. The state's managed care and MLTC
19 Quality Incentive Programs fund critical
20 investments in provider quality and
21 community-based initiatives that improve
22 health outcomes and address social care needs
23 for the state's most vulnerable populations,
24 like the ones that we serve.

1 Plans rely on the funds to reimburse
2 providers for high-value, evidence-based
3 practices and support social drivers of
4 healthcare interventions that are not
5 otherwise covered by Medicaid.

6 As an example, MetroPlus has a
7 dedicated housing unit which has supported
8 members experiencing homelessness for the
9 entire process of identifying them, the
10 application, placement into supportive
11 housing, and then ongoing support to make
12 sure members remain successfully in their new
13 home.

14 Despite the positive impact and
15 significant value, the Quality funding has
16 been consistently reduced over time and is
17 now at risk of full elimination. We urge the
18 Legislature to reject this step backward and
19 support Senate Bill 3146, which would codify
20 the Quality Incentive Program into law and
21 ensure sustainable funding for what has
22 become a powerful tool for driving
23 high-quality and high-value care for the
24 lowest-income residents.

1 Pharmacy carveout repeal. You've
2 heard a lot about that today. Removing the
3 pharmacy benefits from Medicaid managed care
4 will harm Medicaid members. It will lead to
5 massive confusion, gaps in medicine access
6 and adherence, and fewer services from
7 community-based safety net providers.

8 Further, along with other
9 stakeholders, coalition plans have
10 significant concerns about the state's
11 ability to smoothly operationalize the
12 carveout, given that it is slated to launch
13 the same day as the start of the
14 redetermination of Medicaid, CHP and EP
15 eligibility for upwards of 9 million
16 New Yorkers. MetroPlus Health alone is
17 looking at approximately 50,000
18 redeterminations a month.

19 We urge the Legislature to repeal the
20 pharmacy carveout and protect enrollees'
21 access to needed medications and protect and
22 sustain safety net providers.

23 And finally, the Executive Budget also
24 includes a highly disruptive proposal that

1 would substantially upend MLTC coverage for
2 elderly or disabled New Yorkers. This
3 proposal, which would require MLTC plans to
4 meet minimum enrollment thresholds and give
5 the health commissioner sole discretion to
6 trigger a plan procurement, would winnow the
7 market down to just the largest MLTC plans
8 and essentially will eliminate MLTCs upstate.

9 Thank you for your time.

10 CHAIRWOMAN KRUEGER: Thank you very
11 much.

12 Our first questioner will be
13 Gustavo Rivera.

14 SENATOR RIVERA: Hello, folks. This
15 is for Ms. Dunker and Ms. Albistegui Adler.
16 I want to dig a little bit deeper into what
17 was said earlier, and I want to make sure,
18 Ms. Dunker, that you speak as closely to the
19 mic as possible, because indeed it seems to
20 me that you said, in response to the claim
21 this afternoon -- earlier today from the
22 Medicaid director, that we could not seek the
23 waiver that would -- that could actually, you
24 know, make it so that we can afford to do

1 this, right?

2 What is your response to what you
3 heard this morning? Say it to me again,
4 please.

5 MS. DUNKER: Well, first of all, we
6 should ask instead of anticipate being
7 rejected.

8 Second of all, we haven't seen the
9 math either on the estimate that they said --

10 SENATOR RIVERA: Oh, you haven't seen
11 the math.

12 MS. DUNKER: No. So that's the first
13 time that we've heard that --

14 SENATOR RIVERA: I know you're
15 shocked. I'm shocked. We're all shocked.
16 Yeah, go ahead.

17 MS. DUNKER: But just the information
18 we have, it doesn't -- we haven't seen an
19 estimate that it would cost \$2 billion or
20 more than \$2 billion to cover the number of
21 people we're talking about, which is about
22 245,000.

23 SENATOR RIVERA: Okay. And then
24 the -- one of the things I asked about was

1 about emergency Medicaid and about the amount
2 of money that we use now. And this would
3 actually -- could this avert that cost if we
4 are able to do this?

5 MS. DUNKER: Right. So this emergency
6 Medicaid cost would actually go away
7 completely because that population would have
8 comprehensive, real health insurance instead
9 of emergency Medicaid, which only covers, you
10 know, certain conditions in certain
11 emergencies.

12 SENATOR RIVERA: Thank you for that.

13 And just to reiterate from the
14 experiences of some of the folks that I
15 figure that you folks represent, who are
16 on -- who don't have any type of coverage,
17 anything else that you'd like to add as far
18 as how essential it is for the populations
19 that you help out every day?

20 MS. ALBISTEGUI ADLER: Yes, thank you.

21 For our clients, it's really, truly a
22 life-or-death situation. Being on dialysis,
23 which is covered by emergency Medicaid,
24 actually results in poorer long-term outcomes

1 as compared to transplants. And because they
2 are barred from transplants, you know, this
3 could really have a major impact on their
4 longevity and their ability to participate in
5 our communities.

6 SENATOR RIVERA: Thank you both.

7 MS. ALBISTEGUI ADLER: Thank you.

8 CHAIRWOMAN KRUEGER: Thank you.

9 Assembly.

10 ASSEMBLYWOMAN PAULIN: Assemblyman
11 Jensen.

12 ASSEMBLYMAN JENSEN: Thank you very
13 much, Madam Chair.

14 This question is going to be for
15 Mr. Linzer. Going back to the very first
16 panel, there was some conversation, I asked
17 questions about the health guarantee fund.
18 From your understanding of that proposal,
19 would these new assessments or taxes,
20 whatever verbiage, apply to large,
21 self-funded accounts?

22 MR. LINZER: The short answer is no.

23 I mean, the superintendent was correct
24 earlier today when she said that it would

1 know, given the concerns about, you know,
2 taxes, assessments, the \$6 billion related to
3 HCRA and other assessments that get applied
4 to health insurance -- and recognizing that
5 this wouldn't get triggered until there is an
6 insolvency -- it does raise concerns about
7 the prospect of asking health insurance
8 consumers, as well as employers, union
9 benefit funds and others that are fully
10 insured, to have to bear the cost of any kind
11 of shortfall or insolvency in the
12 long-term-care market.

13 ASSEMBLYMAN JENSEN: So in your role
14 at the association, do you believe that DFS
15 already has the tools in place, through
16 statute and policy, to protect consumers and
17 providers in the event that a health insurer
18 does become insolvent?

19 MR. LINZER: There are certainly
20 protections in place. You heard the
21 superintendent earlier today talk about steps
22 that they have in the event, you know, a
23 provider or a health plan gets into, you
24 know, financial trouble.

1 There's also the approval rates. You
2 know, on the front side of the process, if
3 rates are actuarially sound and approved to
4 recognize the full cost of care -- doctor
5 visits, hospital stays, increases in
6 prescription drug costs, as well as taxes,
7 fees, and assessments -- then as long as the
8 premiums are actuarially sound, that
9 provides -- that should provide sufficient
10 protection on the front end.

11 ASSEMBLYMAN JENSEN: Do you agree with
12 the urgency of the Executive to put this in
13 the budget?

14 MR. LINZER: I mean, given that it
15 doesn't have a fiscal implication, you know,
16 our preference would be to see this taken out
17 of the budget and certainly have, you know,
18 other conversations outside the budget
19 process.

20 ASSEMBLYMAN JENSEN: Okay. Thank you.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Senator Webb.

23 SENATOR WEBB: Thank you, Chairwoman.

24 And thank you all for being here.

1 So my question is actually directed to
2 Health Care for All New York. And so,
3 Amanda, I was wondering if you could expound
4 upon your mentioning with regards to medical
5 debt. As someone that represents a very both
6 rural and urban, suburban district, this is
7 probably one of the most prominent things
8 I've heard in the work that -- most certainly
9 I've worked with Health Care for All New York
10 in the past.

11 So I was wondering if you could
12 expound upon what else can we do to take
13 steps to address medical debt for
14 New Yorkers?

15 MS. DUNKER: So one is to make sure
16 that people are getting financial assistance
17 when they're eligible for it. That is --
18 right now that is limited to people who earn
19 up to 300 percent of the federal poverty
20 level.

21 Like I said before, there's problems
22 with some of the policies and applications.
23 It's very hard for people to apply. So the
24 uniform application that's in the

1 Executive Budget already I think would help a
2 lot more people get access to these discounts
3 and help prevent medical debt.

4 We are also hoping, though, to do more
5 to reform the financial assistance law, I
6 think most importantly to change the income
7 thresholds, the eligibility thresholds, to
8 match all the other healthcare programs that
9 we have. So right now you can get, for
10 example, premium subsidies to buy health
11 insurance, up to 600 percent of the federal
12 poverty level.

13 The difference is in all of the
14 thresholds between this program and other
15 ways that we help people get healthcare is a
16 problem in making sure people know that
17 they're eligible, because it is just so
18 confusing to have it be so different.

19 SENATOR WEBB: Okay, thank you.

20 And then my next question deals with
21 consumer assistance. I previously had done
22 work as a facilitator, enroller, for Family
23 Health Plus and Child Health Plus and
24 Medicaid. And so my question is with regards

1 to the outreach proposal that you all talk
2 about, can you just expound upon what that
3 outreach could look like as it pertains to
4 doing outreach in communities that have high
5 rates of uninsured people?

6 MS. DUNKER: So this is in regard to
7 the navigator program, which helps people
8 enroll in health insurance. And like I said
9 before, that's the best way to help prevent
10 people from having medical debt, is
11 insurance.

12 So the navigator program does not get
13 funding to do outreach in places where we
14 know that a lot of people have not enrolled
15 in health insurance but might be eligible for
16 programs that already exist. So we think
17 that it would be -- it would help if we could
18 have a grant program to community-based
19 organizations, which is already how the
20 program works.

21 We provide services in every county in
22 the state, and that those grants go out to
23 community-based organizations that are
24 familiar with the area and that people trust.

1 And so we're proposing that we have a
2 \$5 million grant program that would be
3 specifically focused on outreach to those
4 communities where more people than elsewhere
5 are uninsured.

6 SENATOR WEBB: Okay, thank you.

7 CHAIRWOMAN KRUEGER: Thank you.

8 Assembly?

9 ASSEMBLYWOMAN PAULIN: Yes.

10 Assemblymember Gandolfo.

11 ASSEMBLYMAN GANDOLFO: Thank you,
12 Madam Chair.

13 I have a question for you, Mr. Linzer.
14 I believe you indicated that the
15 pay-and-pursue portion of the budget, Part J,
16 that it would make coverage more expensive
17 for consumers, union benefit funds, employers
18 and the state employee benefit program. Can
19 you talk about that a little bit and expand
20 on how it would increase the costs?

21 MR. LINZER: Sure. So as I said in my
22 testimony, what this would create would be a
23 lengthy and cumbersome process that plans
24 would have to pay first and then pursue and

1 chase any kind of clinical documentation to
2 determine whether or not the services were
3 medically necessary.

4 Under the current process, providers
5 today have 120 days to submit claims. Plans
6 then have to pay within 30 days if it's
7 electronic, 45 days if it's paper. If plans
8 require additional information, then they
9 have 15 -- they have to make that request
10 during that 30-day period and, within 15 days
11 of receiving that information from the
12 provider, make a determination. So you have
13 a compressed time frame.

14 Here, under Part J -- and we included
15 it in our testimony -- you have a multi-step
16 process that could take up to 10 months
17 before a plan would be able to recoup any
18 kind of payments that shouldn't have been
19 paid in the first place, whether it was
20 for -- it was determined that services
21 weren't clinically appropriate, incorrect
22 billing, or other related issues.

23 I think the thing that's gotten lost
24 in this whole conversation is this is not the

1 health plan's money. But this is also not
2 the hospital's money. This is the employer's
3 money, this is the consumer's money, this is
4 the labor union's money. And for them to
5 then have to wait, first to pay out for
6 something that may or may not have been
7 clinically appropriate, you know, then to
8 have to recoup that, adds additional cost to
9 the whole system.

10 But the other piece is this -- you
11 know, while the superintendent earlier today
12 talked about this being a test case and
13 improving efficiency, I think we wonder how
14 adding -- you know, creating a 10-month
15 process in order to determine whether or
16 not -- and recoup any in correct payments,
17 you know, creates a more efficient process,
18 particularly for -- you know, at a time when
19 we're trying to make the system much more
20 simple and more affordable for employers,
21 consumers, union benefit funds, and others.

22 ASSEMBLYMAN GANDOLFO: And so will
23 this proposal have any impactful benefits to
24 the patients themselves? How will this

1 impact the average consumer?

2 MR. LINZER: We think, you know, it's
3 questionable at best. I mean, you know, the
4 fact that you have to, you know, pay for
5 clinical care or pay for services that may
6 not have been clinically appropriate, you
7 know, creates the potential for unnecessary
8 testing and procedures to then have to chase
9 after the fact.

10 And it, you know, I think creates a
11 disincentive for providers to follow best
12 practices. So at a time when, you know,
13 there's already issues and challenges related
14 to quality, paying for services that aren't
15 clinically appropriate, and then having to
16 chase that and recoup over a 10-month
17 process, you know, is not the best use of
18 limited healthcare resources.

19 ASSEMBLYMAN GANDOLFO: All right.
20 Thank you very much.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Are there any other Senators? Nope --
23 oh, wait.

24 SENATOR RHOADS: Just one.

1 spend the Quality pool dollars on now? And
2 what programs might be actually negatively
3 impacted by cutting of these funds?

4 MR. LINZER: So I'm going to probably
5 defer most of this to Dr. Schwartz.

6 Just at a high level, those Quality
7 pool dollars get utilized for a number of
8 services like preventative screenings,
9 in-home wellness services, and others that
10 directly benefit patients as well as support
11 providers.

12 But Dr. Schwartz?

13 DR. SCHWARTZ: Sure.

14 So the majority of the funds actually
15 are going to the providers, incentivizing the
16 providers to provide standards of care.

17 Additionally, those dollars are being
18 used for services that are currently not
19 covered by Medicaid, such as assistance with
20 homelessness, assistance with food
21 insecurity.

22 Those dollars are also used for
23 outreach for members who are not adhering to
24 preventative care. So women who are not

1 getting their mammograms as recommended or
2 other preventative care, there are
3 significant efforts to reach out to those
4 members to make sure that they actually
5 receive the appropriate treatment.

6 And so without those dollars, all of
7 those efforts will not have sufficient
8 funding.

9 ASSEMBLYMAN PALMESANO: I just have
10 one more question.

11 It's my understanding -- obviously
12 New York has ranked consistently high in
13 quality on a national scale. What will loss
14 of this funding in health, from your
15 perspective, how will it affect those metrics
16 when we look at it nationally?

17 DR. SCHWARTZ: Yeah, I mean, we made
18 significant progress closing the gap between
19 the underserved population and the commercial
20 population. There was a significant gap, and
21 then it was closed because there was
22 investment in quality.

23 With those dollars and the funding
24 going away, there is a real concern that the

1 gap will reopen. And so the services that
2 are currently being rendered to the
3 underserved populations will be actually
4 reduced.

5 ASSEMBLYMAN PALMESANO: Thank you very
6 much.

7 CHAIRWOMAN KRUEGER: Thank -- oh, no,
8 we have 54 seconds. Nope? Okay. Any other
9 Assemblymembers?

10 ASSEMBLYWOMAN PAULIN: Of course.

11 Assemblymember Jo Anne Simon.

12 ASSEMBLYWOMAN SIMON: Of course.

13 Thank you, Madam Chair.

14 So, Mr. Linzer, I have a question.
15 You know, we've talked a lot about home care
16 in this hearing. And as you know, there
17 were -- we just increased it to \$30 an hour
18 last year, and it also set benchmark rates
19 that plans were supposed to pay for home care
20 to pay for associated costs -- payroll taxes,
21 et cetera.

22 But the Times Union's reporting that
23 private insurance companies are offering pay
24 bumps as low as 20 cents to 50 cents an hour,

1 according to two insurance companies.

2 So my question is, in exact dollars,
3 how much money did your members keep this
4 year and how much did they pay to the home
5 care providers?

6 MR. LINZER: I don't have specific
7 information on what the plans individually
8 may have kept or sent out.

9 What I can tell you is that the plans
10 have worked in good faith with various
11 agencies to ensure that those dollars flow.
12 I think there is some -- you know, some
13 difference in -- and level of confusion as to
14 how those dollars have been, you know, sent
15 out to home care agencies.

16 I think the thing to keep in mind here
17 is particularly with that Times Union story,
18 you know, one, I think, you know, there
19 wasn't any kind of clarity as far as any
20 additional dollars that those plans may have
21 provided in advance of the minimum wage bump
22 at the beginning of October.

23 And we did have plans that prior to
24 that had increased the -- their payments to

1 MR. LINZER: We did -- we did ask our
2 members on the downstate provision, and many,
3 you know, were significantly above the mean.
4 You know, the upstate data we are still
5 collecting and hope to have that. But
6 certainly we'd be happy to follow up with you
7 in more detail on this.

8 ASSEMBLYWOMAN SIMON: Thank you.
9 Because we'd love to have it before we get
10 into the budget finally.

11 Thank you.

12 CHAIRWOMAN KRUEGER: Okay. Any other
13 Assembly?

14 ASSEMBLYWOMAN PAULIN: Yes.
15 Assemblymember Jo Anne Simon. Oh, she just
16 went. Sorry about that.

17 Nikki Lucas.

18 ASSEMBLYWOMAN LUCAS: Hello? Okay,
19 great. Thank you, Madam Chair.

20 So I have two parts, if I can squeeze
21 them in. New York Lawyers for Public
22 Interest, in your testimony you mentioned
23 that the State of New York should provide
24 comprehensive healthcare coverage to all

1 residents regardless of immigration status,
2 including coverage for organ and tissue
3 transplant. This could have a major
4 financial impact on the state budget.

5 Two things. One, what will be the
6 total financial ask to achieve this request?
7 Forgive me if it's been asked already. And
8 also, you also mentioned that the State of
9 California is about to provide this,
10 beginning in 2024. Can you provide us on
11 what the State of California did to achieve
12 this, and the financial impact the state will
13 be contributing to their plan?

14 MS. ALBISTEGUI ADLER: Thank you so
15 much for that question. I think my colleague
16 from CSS might have some better numbers, but
17 I can tell you that that was referring to the
18 Coverage for All proposal, which would
19 essentially not be at a cost to New York
20 State. It would be a savings for the state
21 based on, you know, moving from emergency
22 Medicaid to full coverage.

23 The State of California, I'd be happy
24 to get you that information later. We do

1 cite the -- you know, that proposal, and it
2 should be going into operation in 2024. But
3 I believe it is an expansion of their
4 state-funded Medi-Cal program, which we can
5 also do in New York State.

6 ASSEMBLYWOMAN LUCAS: Okay, great.

7 I want to squeeze this in. This was
8 for an earlier panel, but I believe someone
9 can answer this, that -- delaying the
10 expansion of Medicaid coverage for qualified
11 New Yorkers over the age of 65 who are
12 currently ineligible due to immigration
13 status.

14 What would be the cost to the New York
15 taxpayer? Do you have a breakdown of how
16 this will impact New Yorkers financially?
17 And is the 65 or over your only determining
18 factor for qualifying? This was for someone
19 earlier. And then what mechanism or
20 methodology do you use in this approach? And
21 last question, how does it impact home health
22 aide workers?

23 MS. ALBISTEGUI ADLER: The expansion
24 for the people who are 65 and older has

1 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
2 you, particularly to Karina and, I'm sorry --

3 MS. DUNKER: Amanda.

4 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Yeah,
5 Amanda. Thank you to your points about
6 Coverage for All. This has obviously been a
7 priority for me, and I thank you for all your
8 work on this and making the case, because it
9 could save us so much and also improve health
10 equity in the state.

11 However, I do want to ask the Plan
12 Association about wage parity. The CDPA was
13 added to the wage parity to address the issue
14 of some home care agencies shifting Medicaid
15 members from traditional home care to CDPA,
16 but failing to abide by the rules of CDPA,
17 which require consumer-directed care, and
18 failed to support an appropriate pay scale.

19 So given the wage-parity law -- that
20 the wage-parity law mitigated this problem,
21 what is the rationale for the Governor's
22 proposal to eliminate wage parity? And how
23 does the budget address the risks that wage
24 parity addressed?

1 MR. LINZER: I'm going to have to
2 follow up with you on what impact. We
3 haven't -- you know, we haven't modeled or
4 analyzed that issue.

5 I mean, again, we certainly recognize
6 the importance of ensuring that, you know,
7 individuals receive the funding that they're
8 owed and deserved. But certainly would have
9 to follow up on that because it's not an
10 issue where we've taken an active position.

11 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: That's
12 all. Thank you.

13 ASSEMBLYWOMAN PAULIN: Thank you.

14 Assemblymember Anna Kelles.

15 (Discussion off the record.)

16 ASSEMBLYWOMAN KELLES: There we go.
17 Can you hear me?

18 MR. LINZER: We can.

19 ASSEMBLYWOMAN KELLES: Okay. So
20 following up on the discussion on plans, can
21 you talk to us about -- can you hear me?

22 CHAIRWOMAN KRUEGER: Speak louder if
23 you --

24 ASSEMBLYWOMAN KELLES: Okay, can you

1 all hear me now? Lovely.

2 Can you talk to us a bit about the
3 breakdown of where the money goes, of the
4 money that the managed care providers -- the
5 MCTs keep?

6 MR. LINZER: So as you heard from the
7 Medicaid director earlier today, there is a
8 medical loss ratio that requires right now
9 86 percent of the premium dollar gets
10 spent --

11 ASSEMBLYWOMAN KELLES: Correct. The
12 remaining 14 is what I'm asking for. What's
13 the breakdown of what that goes to?

14 MR. LINZER: We would have to follow
15 up on -- you know, collectively. But to
16 give you a general sense, you know, first
17 there are administrative components. So
18 you've got, you know, things such as network
19 development; member outreach, as Dr. Schwartz
20 had indicated; claims payments, IT
21 operations. And, you know, so those types of
22 components that come into play with any
23 health plan, having to make sure that the
24 claims that come in get paid, operational

1 challenges. Obviously --

2 ASSEMBLYWOMAN KELLES: Could you
3 provide us -- because we have no oversight.
4 If you could provide us a breakdown of where
5 that money goes.

6 MR. LINZER: Sure. So it's
7 certainly --

8 ASSEMBLYWOMAN KELLES: Because we pay
9 billions of dollars that go specifically --
10 those 14 percent, and we don't see any of
11 that breakdown. I'd love to see it,
12 including like salaries, maybe broken down
13 into sort of --

14 MR. LINZER: We'll give you what we're
15 able to give you. I think one of the pieces
16 that you might be, you know, looking to get
17 at as far as surplus or profit margins -- you
18 know, these plans operate on very, you know,
19 slim margins, typically in the 1 to 2 percent
20 range.

21 And there are, you know, standards
22 that the department puts in place limiting
23 how much plans can make. Typically a good
24 year for any health plan is going to be, you

1 know, roughly a 1 to 2 percent profit margin.
2 But there are also years where plans will be
3 in the red and have their medical costs be in
4 excess of, you know, 86 percent.

5 ASSEMBLYWOMAN KELLES: That would be
6 great to see the breakdown of that --

7 MR. LINZER: Sure, and we'd be --

8 ASSEMBLYWOMAN KELLES: Over a few
9 years, just to give us a sense that --

10 MR. LINZER: Sure, we'd be happy to do
11 that and certainly would, you know, welcome
12 the opportunity to sit down with you face to
13 face and talk in more detail about this.

14 ASSEMBLYWOMAN KELLES: Thank you.

15 ASSEMBLYWOMAN PAULIN: Thank you.

16 I think I'm the only one left, and I
17 just have two questions.

18 First, how many MLTC plans do you
19 think are needed to have statewide coverage
20 and member choice?

21 MR. LINZER: We haven't taken a
22 position, Madam Chair, as far as the number
23 or what the right number is.

24 Like there is a recognition, you know,

1 as part of last year's conversation, around
2 Part P and the Medicaid procurement, and this
3 year with Part I, that there is consolidation
4 taking place in the market. I think there
5 needs to be a recognition of ensuring that --
6 as -- you know, in ensuring that there's
7 coverage throughout the state.

8 I think a lot of discussion focuses on
9 the downstate, but recognizing that there are
10 different and unique challenges in the
11 upstate market. But also recognition that
12 when a -- if a plan were to go away, either
13 as a result of a procurement and not being
14 chosen -- you know, the state had that
15 experience with GuildNet just a few -- you
16 know, maybe about seven or eight years ago or
17 so, and that was a 9,000-member plan. But
18 there was significant disruption just for,
19 you know, that small segment of individuals
20 and a lot of work that goes into coordinating
21 their services, moving from a new plan.

22 So while I don't have -- you know,
23 couldn't give you what an appropriate number
24 would look like, there is a recognition that

1 Thank you very much for your testimony;
2 appreciate it.

3 And our next panel we did ask to come
4 up a little earlier: Medicaid Matters for
5 New York; Empire Center; New York
6 Association of County Health Officials; and
7 Housing Works.

8 And Panel E, which will follow them,
9 if you want to also get in a little closer to
10 make your run up to the panel afterwards --
11 I'm just kidding about running -- LeadingAge
12 New York; New York State Health Facilities
13 Association; and Long Term Care Community
14 Coalition -- will be the following panel.

15 And shall we start on my left, your
16 right. You'll introduce yourself, you'll do
17 your three minutes, and we'll keep going down
18 the line.

19 DR. GELMAN: Sounds good.

20 Good afternoon, Chairpersons Krueger
21 and Paulin, Senator Rivera, and honorable
22 committee members. Thank you for this
23 opportunity to present the state budget
24 priorities of New York's 58 local health

1 departments.

2 My name is Dr. Irina Gelman, and I
3 currently serve as president of the New York
4 State Association of County Health Officials
5 in my role as commissioner of health for
6 Nassau County.

7 Entering this budget session we see
8 the Governor has prioritized several public
9 health policies that we support, as we
10 believe they will better protect New Yorkers.
11 However, without the fiscal commitment and
12 resources our local public health workforce
13 needs to take action, these policies will
14 remain impossible to implement. Strong
15 public health policy is policy that is
16 appropriately funded.

17 A case in point. The Executive has
18 provided for preventive lead funding in the
19 budget proposal. However, with only
20 18 million placed in the State Operations
21 section of the proposed Executive Budget, it
22 fails to account for or support the work
23 localities will need to conduct at the local
24 level to maintain an inspection registry.

1 Flavored products are marketed by the
2 industry to communities of color, LGBTQ+, and
3 low-income communities, and flavored products
4 hook kids on nicotine.

5 The existing ban on flavors has been
6 challenging to enforce on retailers locally.
7 I want to clarify that enforcement the
8 localities provide is civil in nature and
9 only directed at retailers. In no way, shape
10 or form is there or should there ever be
11 enforcement action against consumers. This
12 is very simply about protecting children from
13 the harms of exposure to these products.

14 Further, we respectfully request that
15 you include language in the cannabis statute
16 that mirrors the New York State Public Health
17 Law ban on flavored tobacco products to ban
18 flavored aerosolized and combustible cannabis
19 products and impose clear marketing and
20 packaging requirements for cannabis retailers
21 that are specific as to what products can be
22 named. This will assure a consistent
23 standard for aerosolized and combustible
24 products throughout the state.

1 Please note that your local health
2 departments are here working tirelessly,
3 around the clock, to protect constituents in
4 your districts from public health threats.

5 Thank you for your continued
6 leadership, support and attention.

7 CHAIRWOMAN KRUEGER: Thank you.

8 Next?

9 MS. KASSEL: Good afternoon. My name
10 is Lara Kassel. I am the staff coordinator
11 to Medicaid Matters New York. Medicaid
12 Matters is the statewide coalition
13 representing the interests of people who have
14 Medicaid for their health insurance coverage.

15 I appreciate the opportunity to
16 address you today, and thank you for being
17 here. Thanks also to your staff for being
18 here as well.

19 Medicaid Matters has been around for
20 20 years. We are celebrating our 20th
21 anniversary this year, our 20th year of
22 bringing the voices of people who are covered
23 by Medicaid to these tables.

24 I want to take a moment to illuminate

1 the importance of Medicaid by reading some
2 quotes that we have collected as part of our
3 work. We use them with permission.

4 "Medicaid has been a lifeline and has
5 been life-altering, particularly in terms of
6 my reproductive care. Not only that, but
7 it's also helped empower me as a person."

8 The second one: "I'm anemic, and I
9 discovered that I was able to get iron
10 infusions through Medicaid coverage. Through
11 these iron infusions, and then being able to
12 take care of my gynecological issues, I felt
13 that I could be a better parent and caretaker
14 for my child."

15 And then, lastly: "Because of
16 Medicaid, I was able to get single-fiber
17 electromyography testing" -- a mouthful --
18 "testing performed which confirmed that I had
19 a rare subtype of an autoimmune neuromuscular
20 disease. Left undiagnosed and untreated, the
21 survival rate is not good. Medicaid
22 literally saved my life."

23 This year's budget represents, as it
24 always does every year, an opportunity to

1 improve on the Medicaid program and the lives
2 of the people who are covered by the program.
3 Sadly, however, this year's budget does not
4 go nearly far enough to do that, despite the
5 administration's stated intentions to reach
6 greater health equity.

7 I see that I'm running short on time
8 already. You have my written testimony, and
9 I will just mention a few things that you'll
10 find in our written testimony.

11 You can play a part in making some of
12 these changes and improvements to the program
13 by enacting Coverage for All, by enacting
14 Fair Pay for Home Care, by ensuring that
15 Medicaid dollars are allocated to true safety
16 net institutions. With the many discussions
17 about increasing Medicaid rates for large
18 institutions, there must also be commensurate
19 focus on doing the same for community-based
20 providers that meet people where they are.

21 Raise the asset limit to provide more
22 equitable access to the program for older
23 people and people with disabilities. Provide
24 continuous coverage from birth to age 6. And

1 lastly -- but certainly not least -- infuse
2 transparency into Medicaid and all of its
3 programs by requiring more data collecting
4 and reporting.

5 Again, you have my written testimony,
6 and I'm happy to answer your questions.

7 CHAIRWOMAN KRUEGER: Thank you.

8 Hi, Bill. Next?

9 MR. HAMMOND: Good afternoon. My name
10 is Bill Hammond. I'm senior fellow for
11 health policy at the Empire Center.

12 We've heard a lot today about the ins
13 and outs of the Medicaid budget and the
14 details, and an awful lot of groups who feel
15 like they're not getting the money that they
16 need or they're actually being cut. I think
17 it's important in this context to step back
18 and look at the big picture.

19 New York spends an extraordinary
20 amount of money on this program. It's set to
21 break \$100 billion this year, including all
22 sources of revenue. Heading into the
23 pandemic, we were spending more per capita
24 than any state. And since the start of the

1 pandemic, we've increased the state's share
2 of the program by 20 percent, and this year's
3 budget would add another 9 percent on top of
4 that. Those are much faster rates of growth
5 than we have been accustomed to over the
6 previous decade.

7 And the only reason that we've been
8 able to make that kind of spending increase
9 is because of these temporary sources of
10 funding -- temporary federal aid and a surge
11 in state revenue, which is -- I mean, history
12 teaches us is not going to last.

13 So the question -- the important thing
14 is to run the program in a sustainable way.
15 As we've just heard, it's an absolute
16 lifeline for many New Yorkers, and so it's
17 important to be responsible in managing it.
18 It's kind of like an ocean liner -- if you
19 get going too fast, it becomes all that much
20 harder to steer away from the icebergs.

21 So I think in that context there are a
22 number of proposals that the Governor made
23 which would actually make things more
24 affordable, which I think deserve support.

1 And those include things like repealing
2 "prescriber prevails" in the Medicaid
3 program, reducing indigent care funding to
4 the low-need hospitals, loosening scope of
5 practice limits on professionals such as
6 nurses and pharmacists, and joining the
7 Interstate Medical Licensure Compact.

8 There are a number of other proposals
9 that I think should be rejected or revised.
10 The idea that you would increase costs for
11 local governments, I think that should be a
12 red flag that those costs are out of control.
13 Because if the state is dramatically
14 increasing its spending on Medicaid and it's
15 asking the localities to increase their
16 contribution, that's a sign that costs are
17 out of control.

18 I think you should really think hard
19 before extending the HCRA surcharges. Those
20 are a \$5 billion tax on health insurance,
21 6 billion in total revenue. That only makes
22 health insurance less affordable and drives
23 more people into public programs.

24 I would argue that you should reject

1 the pharmacy benefit on the grounds that you
2 don't want to make the system more fragmented
3 than it already is. The managed care plans
4 should have a holistic view of their clients.

5 And the cigarette tax I don't think is
6 advisable. It's going to drive more people
7 into the black market. And also I would
8 reject pay and pursue.

9 Thank you.

10 CHAIRWOMAN KRUEGER: Thank you.

11 Charles?

12 MR. KING: Hi. Charles King,
13 representing Housing Works and the Ending the
14 Epidemic Community Coalition.

15 I want to thank Senator Krueger for
16 inviting me back to testify after my arrest
17 in this same space earlier today. I
18 understand that not everyone on this panel
19 appreciated our action this morning.

20 However, what I would point out to you
21 is that this Legislature actually two years
22 ago approved the carveout of pharmacy from
23 managed care -- and, even after we made very
24 clear to you the impact of this carveout on

1 the beneficiaries of services from Federally
2 Qualified Health Centers and Ryan White care
3 providers, did nothing about it last year.
4 And that is why we are adamant that the
5 Legislature take action this year.

6 We strongly support the bill by
7 Senator Rivera and Assemblymember Paulin that
8 would address the Governor's concerns around
9 transparency and cost variations.

10 I also want to address the issue of
11 Health Home. Not only is the Governor
12 cutting \$100 million out of this program over
13 two years, but even more insidiously, is
14 intent on rolling 70,000 participants off of
15 the program by putting in time limits of nine
16 months and 12 months, depending on your
17 classification, without any clinical
18 assessment of your health circumstances or
19 your psychosocial needs.

20 I also want to raise the issue of 1332
21 in the context of HIV by making you aware
22 that right now, even though we are
23 dramatically decreasing the number of new
24 infections of HIV across the state, what we

1 are seeing is a rise in people receiving
2 their HIV diagnosis simultaneous with
3 receiving a diagnosis of AIDS. Far too many
4 of these folks are undocumented immigrants
5 who, because they have no health coverage,
6 only go into the emergency room when they're
7 facing a life-threatening situation which all
8 too often is an AIDS defining circumstance.

9 I would also like to address the issue
10 of overdose prevention centers. There is a
11 bill introduced by Senator Rivera and also by
12 Assemblywoman Rosenthal that would authorize
13 and fund overdose prevention centers. In
14 2021, over 6,000 New Yorkers, mostly
15 low income and people of color, died of drug
16 overdose because they don't have access. The
17 two overdose prevention centers that
18 presently exist, over the last 14 months
19 saved more than 250 lives.

20 Finally, we need rent-of-state -- we
21 need enhanced rental assistance up to
22 110 percent of fair market rent for people
23 living with HIV outside of New York City.
24 This already exists for every low-income

1 person living in New York City who has HIV.
2 Why should people living outside of New York
3 City be treated differently and only be
4 allowed a rent of \$480 a month? Which I defy
5 you to find anywhere in New York State.

6 Thank you.

7 CHAIRWOMAN KRUEGER: Thank you.

8 First Senator? Any Senator? No? Any
9 4? Of course.

10 ASSEMBLYWOMAN PAULIN: Assemblymember
11 Jensen.

12 ASSEMBLYMAN JENSEN: Yeah. My
13 apologies, Senators.

14 Getting back to -- we've heard a
15 couple of things about Medicaid from this
16 panel. You know, it's my understanding that
17 40 other states utilize, via CMS, income
18 eligibility data that is based in the most
19 recent payroll data, whereas New York State
20 determines eligibility via tax filings. With
21 I think April 1st being the start of a
22 one-year process for individuals to resubmit
23 after the expiration of some mandates, is
24 there a belief that using this free service

1 via CMS would help to make our Medicaid
2 system more efficient and effective by
3 getting closer to the original intent of why
4 the program was created?

5 MS. KASSEL: I'm not aware of that
6 particular detail, although I am aware of a
7 lot of the activity that the state is
8 pursuing for the preparation for when
9 Medicaid renewals will resume. They are
10 doing a tremendous amount of work to look at
11 other sources of data, including SNAP
12 enrollment and other public assistance. I'm
13 not familiar with the specific question that
14 you're posing.

15 ASSEMBLYMAN JENSEN: Yeah, it's
16 40 other states utilize this. It's a free
17 offering from CMS. They would cover the
18 cost.

19 MR. HAMMOND: I have to admit I'm also
20 not familiar with that, although I would say
21 it does sound like the kind of management
22 improvement that as a state with a Medicaid
23 program of our scale, we should be absolutely
24 up-to-date on a technological thing like

1 that. So --

2 ASSEMBLYMAN JENSEN: I mean, I'm going
3 to pat myself on the back that I confounded
4 Bill Hammond. So fair job.

5 Pivoting to you, Dr. Gelman, when
6 we're talking about the oversight
7 prerogatives of our local department of
8 health, would you have interest in -- with
9 the proper funding, whether through counties
10 or from the state -- to oversee some of the
11 oversight over things like the cannabis
12 licenses for inspecting the sites, the
13 cultivation sites, the commercial licensing
14 that's going to be in place, like bakeries
15 and things like that?

16 DR. GELMAN: Thank you for that
17 question. Actually, it's a multiprong answer
18 to that question.

19 The Office of Cannabis Management has
20 been carved out from -- as a separate entity
21 outside of the New York State Department of
22 Health. So currently it doesn't fall under
23 the auspice of the New York State Department
24 of Health. As such, there is a tremendous

1 degree of overlap between the programs that
2 we implement at the local health department
3 level in terms of enforcement actions and in
4 terms of just inspection of facilities.

5 Having high-risk food facilities, as
6 you've mentioned, and having that
7 crossover -- because a tremendous amount of
8 edibles are actually not stand-alone
9 manufacturing facilities, they're
10 typically -- even if you go to other states
11 such as Colorado, Washington, Oregon, they
12 are batch-manufactured in existing
13 facilities.

14 So we would be glad to actually have
15 that discussion outside, seeing the time.
16 But there's a tremendous issue with
17 enforcement of cannabis altogether.

18 ASSEMBLYMAN JENSEN: Thank you.

19 DR. GELMAN: Thank you.

20 CHAIRWOMAN KRUEGER: I do have a
21 question. Thank you.

22 First off, Doctor, thank you for that
23 answer. I'm also very interested in helping
24 figure that out, because we certainly do want

1 everyone inspected appropriately. And I
2 thought about the DOH-OCM issue, but not the
3 local DOH issue. So thank you for that.

4 ASSEMBLYMAN JENSEN: There's a great
5 bill about that if you're interested.

6 CHAIRWOMAN KRUEGER: Talk about it.

7 But I want to ask you about the
8 Governor's proposal to reduce FMAP monies to
9 the counties specifically for mental health
10 services. And I know I heard from the
11 Association of Counties how mortified they
12 were by this potential I guess \$397 million
13 loss of Medicaid or FMAP funds used for
14 mental health services.

15 What do you think the impact will be
16 on public health from your perspective?

17 DR. GELMAN: So clearly there is --
18 thank you for that question. Clearly there
19 is an impact, and we would be glad to provide
20 a more detailed response in writing. Just
21 given the fact that we have about two
22 minutes, I don't think there's sufficient
23 time to cover that in the detail that really
24 is necessary.

1 And we absolutely welcome the
2 opportunity to discuss the cannabis situation
3 and how it impacts our current work at the
4 local health department level. So I think
5 that's a two-prong response and sort of a
6 stay tuned, we will be glad to provide a more
7 detailed answer in writing from NYSACHO.

8 CHAIRWOMAN KRUEGER: I would
9 appreciate that. I think everybody on the
10 committee would. Thank you.

11 Mr. Hammond, you consistently write
12 about that we spend too much money on
13 Medicaid, all the time. So I'm curious --
14 and I have great respect for you, and you
15 know that -- does the Empire Center go out
16 and look in the counties and the communities
17 that are crying out for more access to
18 healthcare, and so do you actually see too
19 much money being spent somewhere?

20 I mean, is it what I used to call, as
21 an anthropology student, you know, actual
22 observational evaluation, versus you look at
23 some numbers on a piece of paper and you say
24 it sounds like it's too much?

1 MR. HAMMOND: Well, I mean, I think
2 it's important to pay attention to numbers
3 when you're talking about a program like
4 Medicaid. I mean, that's -- I mean, I --
5 you're right, I don't go door to door and
6 assess people's healthcare status.

7 I mean, I'll give an example of
8 something where, according to the federal
9 government, our per-capita hospital spending
10 is the highest in the country and it's been
11 rising the fastest in the country in the last
12 five or six years. In 2015, we were 22
13 percent higher than the national average, and
14 in 2020 we were 43 percent higher than the
15 national average.

16 So somehow a lot of our money -- not
17 just through Medicaid, of course, but a lot
18 of our money is flowing into hospitals and
19 it's not flowing to other things. Like we
20 heard earlier about how primary care is
21 underfunded. Part of the reason primary care
22 is underfunded is because we put so much
23 emphasis on institutional care.

24 Another area that I would say is

1 underfunded is public health, both at the
2 county level and the state level. We were
3 very ill-prepared for the pandemic, and part
4 of the reason for that is that the Health
5 Department has prioritized Medicaid over
6 public health.

7 CHAIRWOMAN KRUEGER: No time; I can't
8 ask you another question. The rules apply to
9 me too. Thank you very much.

10 Other Senators? No, Assembly, sorry.

11 ASSEMBLYWOMAN PAULIN: That's all
12 right.

13 CHAIRWOMAN KRUEGER: There's always
14 another Assemblymember.

15 ASSEMBLYWOMAN PAULIN: Yeah, there's
16 always another Assemblymember.

17 Assemblymember Nikki Lucas.

18 ASSEMBLYWOMAN LUCAS: Okay, hi. How's
19 everybody doing?

20 This was actually something that was
21 mentioned earlier, and I think, Mr. Hammond,
22 you referenced it in your testimony as well.
23 But the -- as it pertains to the federal
24 carveout, it was mentioned that the State of

1 New York has yet to offer a financial plan to
2 backfill the potential loss of the federal
3 340B revenues.

4 Would you happen to have any data that
5 could break down the impacted loss,
6 especially as it impacts Black and brown
7 communities? This can really have an
8 enormous impact in Black and brown districts
9 like mine, which is the 60th, which is East
10 New York, Brownsville, Canarsie, that really
11 rely heavily on this type of funding.

12 MR. HAMMOND: So the information that
13 I have about the financial impact of the
14 carveout is based on what's in the financial
15 plan. I don't have any independent source of
16 information on that.

17 It unquestionably -- you know, it
18 affects -- it affects providers that benefit
19 from the 340B program, which at least in
20 theory are serving high-need, low-income-type
21 areas. So that's where the impact would be
22 mostly felt.

23 ASSEMBLYWOMAN LUCAS: But no specific
24 data.

1 MR. HAMMOND: I don't have that at my
2 fingertips, no.

3 ASSEMBLYWOMAN LUCAS: Okay.

4 MR. HAMMOND: And again, I would be
5 referring to what's in the financial plan.

6 ASSEMBLYWOMAN LUCAS: Thank you.

7 ASSEMBLYWOMAN PAULIN: Done?

8 CHAIRWOMAN KRUEGER: Oh, sorry.

9 Lea, ah. Senator Webb. Hello.

10 SENATOR WEBB: Hi. Thank you.

11 So my question -- well, first, thank
12 you to all the panelists. Most certainly,
13 Mr. King, thank you for sounding the alarm
14 and raising even more awareness about the
15 important challenges around 340B.

16 My question is for Lara. I was
17 wondering if you could expound upon Access to
18 Home. This is something that I've been doing
19 advocacy for for quite some time, and I was
20 hoping you could lift up specifically the
21 program as relates to Access to Home for
22 seniors and people with disabilities
23 literally having physical access to their
24 homes, and what that impact is.

1 MS. KASSEL: You know, I -- if memory
2 serves, you are referring to a program that
3 provides home modifications and other things
4 that may not have to do with workforce or --
5 right.

6 So I'm not sure if there are any
7 changes in this year's budget to that
8 program. I'd be happy to check and --

9 SENATOR WEBB: Yeah, there's not.
10 That's part of the problem. It's remained
11 flat at \$1 million for many years.

12 And you're talking about individuals
13 who are seniors, people with disabilities,
14 and having access to their home, and most
15 certainly a good number of these folks are
16 Medicaid-dependent. It is problematic. And
17 so I was hoping you could lift that up along
18 with your other proposals as relates to
19 addressing health equity for those
20 populations.

21 MS. KASSEL: Absolutely. I think, you
22 know, programs like Access to Home go hand in
23 hand with all of the other things that come
24 to the fore specifically related to Medicaid,

1 such as Fair Pay for Home Care and wages,
2 et cetera.

3 You can't -- in many cases you can't
4 have one without the other, because if a
5 person can't access their home, literally, or
6 use the shower or the toilet, then they will
7 not be able to continue to uphold their own
8 right to live independently. So I firmly
9 believe that all of it is part of that
10 package.

11 SENATOR WEBB: Thank you.

12 MS. KASSEL: Sure.

13 CHAIRWOMAN KRUEGER: Thank you.

14 Assembly?

15 ASSEMBLYWOMAN PAULIN: I'm going to
16 mix it up; I'm going to go in the middle, I
17 guess with a question for CHCANYS and also
18 for Medicaid Matters -- different questions.

19 For Medicaid Matters, I find it
20 interesting, you know, the -- sitting next to
21 each other there. I wonder if you've taken
22 any position or believe that the Medicaid
23 investments in the budget are adequate, and
24 what might you do differently?

1 MS. KASSEL: That's a very good
2 question.

3 ASSEMBLYWOMAN PAULIN: We have a
4 minute, because then I have a CHCANYS
5 question.

6 MS. KASSEL: Okay. I'll try to make
7 it quick.

8 I mean, I think one of the things that
9 we always bring to the table related to
10 Medicaid and increasing rates or
11 reimbursement or what have you, whatever is
12 done needs to have some commensurate look, as
13 I said earlier, about what are we doing on
14 the institutional side but, more importantly,
15 what are we doing for the providers that
16 actually reach people where they are in the
17 community.

18 And also, if we're increasing rates or
19 reimbursement or what have you, let's make
20 sure that it also shows quality, that the
21 quality goes up. That access to services
22 actually goes up. Because you can add money
23 to the program, but if you don't go far
24 enough to actually address the access issues,

1 you won't have actual changes.

2 ASSEMBLYWOMAN PAULIN: Thank you.

3 And lead. You know, we had that --
4 first thank you for the last three years of
5 COVID. I mean, you were really front-line,
6 you know, neighborhood health centers. And
7 now the Health Department's proposing that
8 you again front-line in trying to help
9 resolve, you know, lead in children and
10 so forth.

11 You know, on the Zoom we were on, you
12 had suggested that the departments -- you
13 know, 17 of them, I guess -- would need about
14 \$58 million to do the right kind of job.
15 Which seems like a lot of money. It's a
16 little more than 3 million per department.
17 And I just wondered exactly what would be --
18 you know, what does that look like?

19 DR. GELMAN: Thank you very much for
20 that question.

21 So NYSACHO actually has provided the
22 breakdown in the written testimony, and it's
23 actually on page 8 of 19 pages. And
24 currently the New York State Department of

1 Health has designated 19 counties as --

2 ASSEMBLYWOMAN PAULIN: Nineteen what?

3 DR. GELMAN: Nineteen counties as
4 having areas of high risk for lead. So zones
5 within 19 counties.

6 ASSEMBLYWOMAN PAULIN: But two are
7 within the Health Department, right, and 17
8 are local.

9 DR. GELMAN: Correct. So you're
10 absolutely correct. Two are partial-service
11 counties, and the remaining 17 are
12 full-service counties, meaning that the
13 county picks up the entire burden of having
14 to correct those cases.

15 Now, when a local health department
16 that's full-service goes out to actually have
17 interventions -- and typically we receive the
18 elevated blood lead level labs, and we
19 follow up both with nursing and the clinical
20 care for the chelation of that resident and
21 that child, as well as an environmental
22 health assessment determining what the
23 underlying etiology is. So --

24 ASSEMBLYWOMAN PAULIN: Thank you.

1 Maybe you could just send me some
2 information. Thank you so much.

3 DR. GELMAN: We'll provide the
4 breakdown of what that actually entails.
5 Because we've been dealing with lead for
6 decades now on the local level. Thank you.

7 ASSEMBLYWOMAN PAULIN: Do you have
8 anybody else? We have two 4.

9 CHAIRWOMAN KRUEGER: No, I don't see
10 any other Senators raising their hand.

11 ASSEMBLYWOMAN PAULIN: Assemblymember
12 Jessica González-Rojas.

13 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: I
14 really want to thank you all for your work.
15 I think we've partnered in some way, shape or
16 form over the last two years.

17 And Charles King, thank you for your
18 advocacy. I really support it, and I think
19 this Legislature is behind this.

20 My question is actually for
21 Dr. Gelman. Regarding the tobacco ban on
22 flavored products, does that include hookah?

23 DR. GELMAN: So the Governor's
24 proposal is for menthol-flavored tobacco, so

1 cigarettes. And what the local impact is
2 really what NYSACHO was advocating for as a
3 public health measure, to extend the same and
4 to apply the same rules, essentially, for any
5 form of combustible, whether that's cannabis,
6 whether that's anything else.

7 And where hookah comes into play is
8 really on the local level, the health
9 departments are tasked with enforcing the
10 flavored vape ban. And it becomes extremely
11 difficult to enforce that on the local level
12 when the same rules for flavored vapes do not
13 apply to other flavored forms of either
14 combustibles or vapes, such as cannabis,
15 especially open-cartridge cannabis.

16 So that's essentially kind of the crux
17 of it, is the impact to public health and
18 enticing -- with any flavored type of
19 combustibles or vapes, enticing younger --
20 sort of illicit use by minors.

21 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: I think
22 the challenge I'm up against -- I in general
23 would support this kind of ban, but I
24 represent a district that has a large

1 Arab-American community, and we have a lot of
2 hookah coffee shops -- it's a cultural
3 practice. And I saw some language against
4 that, but I know -- I know my community, and
5 it's not an addiction, it's a cultural
6 practice. And I'm really concerned about how
7 it will impact a community that is already
8 being policed and faces -- also through
9 surveillance, to be further surveilled
10 because of these cultural practices of
11 smoking hookah.

12 DR. GELMAN: Thank you for that. And
13 we would be able to discuss this in greater
14 detail, because again, as I mentioned -- and
15 we have about 50 seconds, but we would be
16 glad to come to the table and discuss the
17 public health impacts of that.

18 And as I mentioned, the enforcement is
19 not civil. When local Health Departments go
20 out to enforce, it's under Public Health Law,
21 and the impact to retailers and to really
22 sellers to minors especially. So we would
23 love to discuss this in -- kind of as far as
24 outreach efforts, education around any forms

1 of combustible or vape use.

2 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: But as
3 you understand it, the Governor's proposal
4 right now does not include hookah? As
5 written in her budget, correct?

6 DR. GELMAN: It does not. The current
7 proposal is for menthol tobacco.

8 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Menthol
9 tobacco, okay. Thank you very much.

10 DR. GELMAN: Thank you.

11 ASSEMBLYWOMAN PAULIN: Anna Kelles,
12 Assemblymember.

13 ASSEMBLYWOMAN KELLES: Thank you, all
14 of you, for being here.

15 I did want to just thank you,
16 Mr. King, for bringing up the overdose
17 prevention centers.

18 I do want to note that that is a
19 hugely -- has a huge impact on the budget and
20 Medicaid costs. Let me put my public health
21 hat on for a second. The stigma around it
22 literally drives me absolutely nuts, because
23 the data shows that it increases treatment,
24 people who seek treatment, decreases the

1 spread of HIV. It decreases the spread of
2 hepatitis C, it decreases the spread of all
3 particular types of diseases that we do not
4 want spreading that cost the state a
5 tremendous amount of money.

6 So just thank you, because it has been
7 around since the 1970s in other countries,
8 and our stigma is ridiculous.

9 Second, the only question I have for
10 you, you were talking about the cost of
11 housing for people with HIV living outside of
12 New York City. Do we have an estimate of how
13 many people that is and the differential in
14 amount of funds that they would get for
15 treatment -- for rent?

16 MR. KING: Yes. So we estimate that
17 this would impact about 3500 households.

18 And the proposal is that localities
19 would still pay their portion on the initial
20 480, which was legislated like 30 years ago,
21 as the rental assistance number for people
22 with HIV. People with HIV would pay
23 30 percent of any income they have above
24 public assistance, and then OTDA would pick

1 up the difference up to 110 percent of the
2 fair market rent. And this is in a bill
3 introduced by Senator Hoylman and
4 Assemblymember Bronson.

5 ASSEMBLYWOMAN KELLES: And just to be
6 clear, it's 3500 households, so a very small
7 impact on the state's cost. But it would be
8 a huge impact on communities because being
9 destabilized with housing, of course --

10 MR. KING: It is such little impact --

11 ASSEMBLYWOMAN KELLES: Correct.

12 MR. KING: -- that you would not have
13 to add one dollar to the OTDA budget for OTDA
14 to be able to absorb this cost.

15 ASSEMBLYWOMAN KELLES: Thank you so
16 much.

17 And to Ms. Kassel -- that's how you
18 pronounce it, correct?

19 MS. KASSEL: Mm-hmm.

20 ASSEMBLYWOMAN KELLES: You were
21 talking a bit in your testimony about
22 prioritizing the interest of consumers in
23 Medicaid managed care. And I just want to
24 give you a little bit more time to talk about

1 what you wrote in your testimony.

2 MS. KASSEL: Sure.

3 So we have for many years had a
4 managed care workgroup that dives into these
5 issues all the time. And we began this work
6 when the original Medicaid Redesign Team
7 prescribed that all of Medicaid be
8 administered through managed care plans.
9 That really ramped up our work in this regard
10 because we thought that it would be important
11 to really examine very carefully how people
12 access their services when they are covered
13 through a managed care plan. Is their access
14 different, et cetera.

15 So some of the things that we're
16 looking at for this year have to do with,
17 again, going back to data and transparency --
18 we do have some legislative language that's
19 been shared -- and looking more deeply at
20 both consumer protections and managed
21 long-term care, as well as deeper data
22 collecting and reporting.

23 CHAIRWOMAN KRUEGER: Sorry, I have to
24 cut you off. You're welcome to continue

1 offline afterwards.

2 All right, any other Assembly?

3 ASSEMBLYWOMAN PAULIN: No.

4 CHAIRWOMAN KRUEGER: Any other Senate?

5 Well, then we want to thank this panel

6 very much for your participation today.

7 Appreciate it.

8 And I am going to call up -- where am

9 I? Hello -- LeadingAge New York; New York

10 State Health Facilities Association; and

11 Long Term Care Community Coalition. That's

12 Panel E.

13 And for people following on the

14 scorecard, Panel F might want to get ready to

15 come up, which will be Agencies for

16 Children's Therapy Services; The Children's

17 Agenda; Consumer Directed Personal Assistance

18 Association; and the Center for Independence

19 of the Disabled.

20 Let's mix it up. Let's start to my

21 right, your left. Hi.

22 MR. FOSTER: Hi. Can you hear me?

23 ASSEMBLYWOMAN PAULIN: Yes.

24 MR. FOSTER: Beautiful.

1 Thank you for inviting me to provide
2 testimony today. My name is Stefan Foster.
3 I am a policy researcher for the Long Term
4 Care Community Coalition, and former
5 volunteer ombudsman with the New York State
6 Long Term Care Ombudsman Program.

7 The Long Term Care Community Coalition
8 is a nonprofit, nonpartisan organization
9 dedicated to improving care and quality of
10 life for residents in nursing homes and
11 assisted living. Roughly 117,000 people
12 reside in nursing homes in New York State.
13 Unfortunately, these vulnerable individuals
14 are far too often subjected to substandard
15 care, abuse and neglect. Care problems
16 persist not because facilities lack
17 resources, but rather because we fail to
18 enforce the laws protecting residents and
19 fail to hold accountable a powerful provider
20 industry funded almost entirely by New York's
21 taxpayers.

22 We have long known that insufficient
23 staffing is a widespread problem in New York
24 State, which consistently ranks among the

1 worst in the U.S., according to federal data.
2 As an ombudsman for several years, I saw
3 firsthand how this harms residents. Without
4 a minimum staffing standard, safe care in
5 nursing homes is essentially voluntary.

6 The nursing home industry complains
7 that it does not receive enough money to
8 provide sufficient staffing for residents.
9 However, the recent lawsuits by the New York
10 Attorney General against several major
11 nursing home operators indicate that rampant
12 financial fraud and self-dealing are
13 resulting in understaffing and avoidable
14 resident harm. Too many nursing homes use
15 related-party transactions to hide profits by
16 funneling vital public funds away from
17 resident care into companies that they
18 themselves own -- all while claiming that
19 they are underfunded.

20 In just one of the AG's lawsuits, a
21 nursing home was alleged to have paid a
22 related party over \$15 million in fraudulent
23 rent costs.

24 The implications are clear. We need

1 to take meaningful steps at every level --
2 from empowering families to improving
3 enforcement to strengthening financial
4 integrity -- to stop nursing home operators
5 from putting profits before their residents.
6 We must improve oversight and accountability
7 for nursing home care in our state. One
8 resident who experiences inhumane care is one
9 too many. And sadly, I have observed many.

10 For residents to receive safe and
11 quality care, we must fully implement the
12 laws around sufficient staffing and financial
13 accountability which the Legislature
14 promulgated two years ago. Moving forward,
15 we must stand up for residents and families,
16 rather than bow to the pressure from
17 New York's nursing home industry.

18 Thank you for your interest in the
19 well-being of residents and their caregivers
20 and for the opportunity to provide testimony.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Hi.

23 MR. HANSE: Good afternoon. My name
24 is Stephen Hanse, and I have the privilege of

1 serving as president and CEO of the New York
2 State Health Facilities Association, the
3 statewide organization representing over
4 450 skilled nursing and assisted living
5 providers throughout New York.

6 It's been said that one of the
7 fundamental roles of government is to provide
8 care for those who are unable to care for
9 themselves. Nowhere is this more critical
10 than with New York's nursing home and
11 assisted living residents who rely on
12 Medicaid for their care.

13 However, as a result of the state's 15
14 years of disinvestment in long term care,
15 New York unfortunately leads the nation with
16 the largest shortfall between the amount
17 Medicaid reimburses nursing homes and the
18 actual cost of providing essential care.

19 Specifically, New York statewide
20 average Medicaid reimbursement for
21 around-the-clock nursing home care was \$211
22 per resident per day. However, the statewide
23 average cost of caring for a Medicaid
24 resident in a skilled nursing facility is

1 \$265 per resident per day. New York's \$211
2 statewide average Medicaid reimbursement,
3 when divided by the 24 hours of care that is
4 provided, equals \$8.79 per hour.

5 \$8.79 per hour is well below New
6 York's minimum age, and this nation-leading
7 underfunding of Medicaid has direct
8 correlations to our state's long-term-care
9 staffing crisis, the continued operation and
10 ability to upgrade skilled nursing and
11 assisted living facilities, and -- as we
12 heard earlier from the hospitals -- the
13 overall operation of the healthcare
14 continuum.

15 The 2023-'24 Executive Budget
16 acknowledges the state's history of
17 underfunding of Medicaid and proposes a
18 5 percent Medicaid increase for skilled
19 nursing and assisted living providers. While
20 NYSHFA and NYSCAL are grateful for the
21 5 percent increase, it falls well short of
22 the 43 percent increase it would take for the
23 state to make up for its 15 years of cuts to
24 nursing homes.

1 However, we recognize that a
2 43 percent Medicaid rate increase, while
3 desperately needed, is a difficult increase
4 in one fiscal year. That is why
5 NYSHFA/NYSCAL is working with our partners at
6 1199 SEIU and LeadingAge and other advocates
7 in respectfully requesting a 20 percent
8 Medicaid increase for nursing homes
9 throughout New York. States throughout the
10 nation are providing significant double-digit
11 Medicaid increases to skilled nursing
12 facilities.

13 Without a 20 percent Medicaid increase
14 in the '23-'24 state budget, New York will
15 continue to fail in its responsibility to
16 providers, employees and, most importantly,
17 the vulnerable women, men and children who
18 rely on essential skilled nursing care.

19 Thank you.

20 CHAIRWOMAN KRUEGER: Thank you.

21 Next?

22 MR. CLYNE: I'm Jim Clyne, the
23 president and CEO of LeadingAge New York. We
24 have extensive testimony because we represent

1 the full continuum of care in New York State,
2 from nursing homes, home care, assisted
3 living and managed long-term care.

4 I can't go -- get into my testimony
5 without addressing the first testimony. The
6 only thing that was correct in his testimony
7 was that we are largely funded by the
8 government. Other than that, it was fiction.
9 The Long Term Care Coordinating Council is
10 essentially a front group for trial lawyers.
11 Go to their website. The chair of their
12 board makes her living suing nursing homes.
13 So obviously they have a negative view of the
14 care being provided.

15 With that said, I'd like to deal with
16 some actual facts. As Stephen said, the
17 state has the worst Medicaid rate when you
18 compare the cost of care with the Medicaid
19 reimbursement. Fifteen years of unfunding.
20 If you look at the charts on page 5 and 6 of
21 my testimony, you'll see that we've also
22 gotten no investments or nearly no
23 investments from the Medicaid waiver programs
24 or from the transition pools -- nothing like

1 what the percentage of Medicaid we are in the
2 state.

3 Without this significant investment,
4 you are not going to see new beds open up.
5 There's 6,600 closed nursing home beds,
6 closed as in not staffed. They're legally to
7 be open, but we can't find the staff. That's
8 6,600 more than in 2019.

9 That's why you're seeing backups in
10 hospitals. Hospital emergency rooms are
11 being affected, not only because they don't
12 have the staff they need, but they can't get
13 people up into the rooms because they can't
14 get people out of the rooms to the nursing
15 homes. So the underinvestment in long-term
16 care is now affecting the entire healthcare
17 system.

18 A 20 percent increase would be half of
19 what the nursing homes should be being paid
20 if we had had a COLA for the previously
21 15 years. The ultimate solution is to rebase
22 the system. That means move up to a year
23 that is closer to what's actually going on as
24 far as the costs of providing care and who is

1 providing the care.

2 By rebasing the system you get a more
3 accurate reflection of the costs and which
4 individual facilities were providing the
5 care.

6 The other area I just wanted to touch
7 on is the proposal in the Governor's budget
8 for med techs that would allow CNAs to
9 provide medications. It's something that
10 goes on in the OPWDD system right now. It's
11 something that could be done safely, and it
12 would really take the burden off nurses from
13 having to pass meds, and allow them to do the
14 nursing skills that we desperately need in
15 our facilities.

16 Be happy to take any questions.

17 CHAIRWOMAN WEINSTEIN: Thank you.

18 We go to Senator Rivera.

19 SENATOR RIVERA: Thank you.

20 Thank you for being here today.

21 So a couple of questions, Steve. So
22 you've had -- the request that you folks are
23 making as far as increases in the rates, what
24 was the percentage that you talked about?

1 MR. HANSE: Right now, so New York,
2 under the prior administration, as Jim
3 mentioned --

4 SENATOR RIVERA: Since I only have
5 3 minutes, I'm going to try and get --

6 MR. HANSE: Okay. Twenty percent.

7 Because 15 years ago the COLA was
8 eliminated by the prior administration. And
9 if you take -- you run the numbers, it would
10 actually be 43 percent, where we are now. If
11 that COLA was in place, we wouldn't be where
12 we are today.

13 SENATOR RIVERA: So you're saying --
14 so just to be clear, you're asking for 20,
15 not 43.

16 MR. HANSE: Correct. We are asking
17 for 20 percent.

18 SENATOR RIVERA: Gotcha. So I was
19 just confused about the --

20 MR. HANSE: We recognize 43 in one
21 fiscal year is a pretty tough lift.

22 SENATOR RIVERA: Right. I just wanted
23 to make that -- make sure for the record I
24 understood that correctly.

1 MR. HANSE: Correct.

2 SENATOR RIVERA: So -- and certainly
3 15 years of disinvestment, and we've talked
4 about this many times, there's -- it's very
5 hard to kind of keep up if you're
6 consistently trying to -- if you don't have
7 enough to have stability, you constantly have
8 to be running behind.

9 Jim, you said at the beginning of your
10 testimony -- I just want to make sure I also
11 understand that. So you said there was a
12 fiction. You were referring to the testimony
13 of this gentleman before you?

14 MR. CLYNE: No, the Long Term Care
15 Coordinating Council, which is the front
16 group for trial lawyers. They're not patient
17 advocates. Just so you know.

18 SENATOR RIVERA: Okay. And -- all
19 right, just wanted to -- just wanted to get
20 those two things on the record.

21 And bottom line, 20 percent is what
22 you folks feel would be sufficient to be able
23 address some of the -- at least some of the
24 concerns subsequent --

1 MR. HANSE: At least in the present.
2 When we look around other states, they're
3 realizing it and they're doing 27, 28, going
4 into 30 percent. As we heard earlier through
5 testimony from multiple folks, New York leads
6 the nation in underfunding nursing homes.
7 It's just one of the things we lead the
8 nation in, in shortfalls in healthcare.

9 So again, 20 percent, while it won't
10 solve the problem, it will really help move
11 us forward. You heard in terms of the
12 continuum. We are not -- we are -- as Jim
13 mentioned, over 6500 beds are not able to be
14 staffed. We can't compete against Target
15 paying \$22 now, based on the Medicaid rate.

16 SENATOR RIVERA: And anything you want
17 to comment on in the last 32 seconds?

18 MR. FOSTER: I would just add that any
19 increases in the budget must come with
20 accountability for ensuring good care and
21 including appropriate staffing.

22 I have direct experience working with
23 residents and families, not as a professional
24 lobbyist. We need to keep track of where the

1 money goes in nursing homes, and this can be
2 achieved by fully implementing the safe
3 minimum staffing and minimum spending laws
4 that were promulgated by the Legislature two
5 years ago.

6 SENATOR RIVERA: Okay. Thank you.
7 Thank you, Madam Chair.

8 CHAIRWOMAN WEINSTEIN: Thank you.
9 We go to Assemblywoman Paulin.

10 ASSEMBLYWOMAN PAULIN: Thank you,
11 Madam Chair. Welcome back, thank you.

12 So I wonder if -- you mentioned
13 rebasing it. Do you have any specifics, you
14 know, with a certain way of doing it? You
15 know, there's lots of ways.

16 MR. CLYNE: Yeah, it's a complicated
17 process, and it would be great if the
18 department would set up a workgroup to work
19 on it that everybody could have a chance --
20 right now the statute already states that the
21 state should be rebasing periodically.
22 Certainly 15 years is not periodically.

23 We're going to work on some language
24 that would try to put some parameters around

1 rebasing. Most other states do it every five
2 years in order to catch up the cost and also
3 sort out where the money goes for the
4 appropriate providers.

5 ASSEMBLYWOMAN PAULIN: Thank you.

6 And to your knowledge, do you -- have
7 there been any nursing homes cited for lack
8 of safe staffing?

9 MR. HANSE: Based on the 3.5 or the
10 new laws that are in place? The Department
11 of Health is still promulgating the
12 regulations. We're waiting for the final
13 regulations.

14 ASSEMBLYWOMAN PAULIN: That's it for
15 me. Thank you.

16 MR. CLYNE: That's an interesting
17 point. I just want to give you one other
18 point. So the 40/70 law already requires the
19 spending on resident-facing care and
20 direct-care staff, so that's already the law.
21 Ninety-plus percent of my members meet that
22 statute, yet 57 percent of them cannot get to
23 the 3.5 hours.

24 And it's because the rate is too low.

1 So even when we're doing 70/40 like you
2 requested, again, 90 percent of my members,
3 they can't hit the 3.5 hour mark because
4 there's just not enough money. Medicaid pays
5 for 70 percent of the care.

6 ASSEMBLYWOMAN PAULIN: I would just
7 ask one more question as a follow-up.

8 The 20 percent increase in Medicaid,
9 would that open the 6,000 beds that we're
10 talking about?

11 MR. CLYNE: That would open beds.

12 MR. HANSE: Absolutely. Absolutely.

13 MR. CLYNE: That's why we -- again,
14 the 5 percent, it's a start, but it is not
15 going to have an impact on the level -- I
16 mean, there are waiting lists, I have a
17 member in Westchester, 65 calls a day looking
18 for placements.

19 ASSEMBLYWOMAN PAULIN: We did hear
20 today that the money for safe staffing is
21 supposed to still go out the door, so that
22 was good news.

23 MR. CLYNE: If they actually do it.
24 Now, just -- again, remember, trust but

1 verify, or something like that.

2 The money that you appropriated in
3 '21-'22 never went out.

4 MR. HANSE: That's correct.

5 MR. CLYNE: So the money now, they're
6 going to say it's going to go out, and in the
7 last 30 days --

8 ASSEMBLYWOMAN PAULIN: So are you
9 really saying the 5 percent is less than
10 that?

11 MR. CLYNE: It's 2 percent. If the
12 187 goes out, then it's not a 5 percent
13 increase, it's a 2 percent increase.

14 ASSEMBLYWOMAN PAULIN: Right. Thank
15 you.

16 MR. HANSE: Just for nursing homes.
17 It's just to expand -- there's 614 skilled
18 nursing facilities in the State of New York.
19 When the data is run, 75 percent of those
20 cannot meet the 3.5 staffing requirement.

21 MR. FOSTER: I would like to add that
22 roughly one-quarter of the facilities in
23 New York State do meet the federally
24 recommended 4.1 HPRD requirement. So safe

1 care is possible, but with sufficient
2 staffing and it needs accountability.
3 Otherwise it's essentially voluntary.

4 CHAIRWOMAN WEINSTEIN: Thank you.

5 We go to Assemblyman Jensen.

6 ASSEMBLYMAN JENSEN: Thank you very
7 much, Madam Chair.

8 For Stephen and Jim, many of our
9 long-term care providers are still being
10 tasked with mandatory HERDS reporting on a
11 daily basis. My understanding from working
12 in a nursing home before getting elected to
13 office is that this has tremendous
14 administrative burden. What is the impact
15 that this now-outdated mandate has on the
16 ability of your nursing staff to actually
17 administer care to their residents?

18 MR. HANSE: Sure.

19 To the best of my knowledge, New York
20 is the only state requiring daily data
21 reporting such that -- other states have gone
22 to weekly, biweekly, monthly. What it is
23 doing is taking skilled nurses away from
24 providing direct care and basically making

1 them report data which actually is very
2 voluminous. It's a daily, 365 days a year --
3 it takes a lot of time. So it's actually
4 taking away from direct care on the floor.

5 ASSEMBLYMAN JENSEN: Last -- two years
6 ago, and then we amended it last year, we
7 created a Reimagining Long-Term-Care Task
8 Force. That entity was supposed to -- the
9 effective date was the beginning of December.
10 Are either of you aware of either the
11 cochairs -- I wish I would have had a chance
12 to ask the commissioner earlier, whether it's
13 the commissioner of Health or the director of
14 Office for the Aging -- an understanding of
15 when that task force may begin its statutory
16 work?

17 MR. HANSE: I'm a member, I was
18 appointed a member of that. I've gone
19 through the background check. I have not
20 received any information as to when the first
21 meeting will be.

22 ASSEMBLYMAN JENSEN: Do you think that
23 in listening to the statutory stakeholders
24 that are supposed to be a part of that

1 task force, it's important for it to begin
2 its work, to begin providing recommendations
3 to the Legislature and the Governor on the
4 ways to move our long-term care ecosystem
5 forward into the 21st century?

6 MR. HANSE: I would say absolutely.
7 As Jim mentioned, from rebasing to staffing,
8 the whole spectrum of issues facing long-term
9 care in New York need to be dealt with in a
10 holistic way and not a siloed way. And I
11 think that committee is the vehicle to do
12 that. So I think that it is appropriate to
13 move forward on that as soon as possible.

14 MR. CLYNE: And the Governor also has
15 the Master Plan on Aging going on, but they
16 are not looking at the long-term-care system
17 specifically. So unless there's going to
18 be -- unless this other group is going to
19 look at it, then nobody's going to be.

20 ASSEMBLYMAN JENSEN: And I'm
21 anticipating some more questions on the
22 Medicaid reimbursement rate increase. But I
23 do want to point out that I think it was last
24 week the progressive bastion that is the

1 South Dakota State House of Representatives
2 did pass legislation mandating that their
3 state would have a hundred percent nursing
4 home reimbursement -- and that it would still
5 not cover the cost of care in that state.

6 So certainly while other states are
7 choosing to make that investment, certainly
8 we should take the time in New York State to
9 fix the failings of a generation and ensure
10 that we can actually have the costs of care
11 covered for some of our most vulnerable
12 residents.

13 MR. CLYNE: Yes. In the middle of
14 COVID, remember, we took a 1.5 percent cut.
15 But every other state was investing.

16 ASSEMBLYMAN JENSEN: Thank you both.

17 CHAIRWOMAN WEINSTEIN: Thank you.

18 We go to Assemblyman Gandolfo.

19 ASSEMBLYMAN GANDOLFO: Thank you,
20 Madam Chair.

21 Thank you all for being here and
22 providing your testimony.

23 So we heard a lot about staffing
24 issues at our nursing homes and long-term

1 care facilities. If med techs were
2 introduced in nursing homes, what kind of
3 impact would that have on care and staffing
4 in these facilities?

5 MR. CLYNE: I think it would not
6 impact care at all. Again, in the OPWDD
7 system, it's been going on for 50 years.

8 You certainly have to train the CNAs,
9 and they have to work under the supervision
10 of a nurse. But what it does is it takes an
11 easier task of passing medications away from
12 the nurse and allows the nurse to spend more
13 time on things like assessment that only a
14 nurse can do.

15 MR. HANSE: Yeah, I would actually
16 say, to build upon Jim's point, it would
17 improve care, because the nurses will be
18 acting to the full extent of their license in
19 providing direct care. As opposed to pushing
20 a med cart.

21 ASSEMBLYMAN GANDOLFO: Great. That's
22 it for me. Thank you very much.

23 CHAIRWOMAN WEINSTEIN: We go to
24 Assemblywoman Jen Lunsford.

1 ASSEMBLYWOMAN LUNSFORD: Thank you.

2 This question is I guess for Stephen
3 and Jim.

4 When we look at the 5 percent, there
5 are many ways that that's reduced, whether
6 it's the 187,000 for dealing with our
7 county-run nursing homes, the 340B issues,
8 the eFMAP issues will further reduce that. I
9 wanted to give you an opportunity to discuss
10 the difference in the solvency and quality of
11 care in our nursing homes if they receive the
12 5 percent versus the 20 percent Medicaid
13 increase.

14 MR. CLYNE: I think the 5 percent will
15 certainly provide some stability. I still
16 think there would be some closures of
17 not-for-profit homes. We've had 50 homes
18 close or be sold. So we're rapidly moving to
19 a system without not-for-profit care.

20 But certainly the staffing, you would
21 have a better chance of making the 3.5 hour
22 requirement with that 5 percent. I'm not
23 convinced the 5 percent would actually get us
24 there. And again, I think there's some

1 confusion -- again, Medicaid is the overall
2 payer. Medicare is the next biggest payer.
3 The government totally controls what we get.
4 There is no place to cost-shift, there is no
5 place to get money from somewhere else.
6 There's no ability to shut down your
7 services. It's 24/7 taking care of people.
8 So the only thing we can go back on is taking
9 beds offline.

10 MR. HANSE: And one thing we've seen
11 in New York City and we're seeing this in
12 nursing homes now, many of the hospitals sign
13 a contract with their nurses for a 19.1
14 increase. We have lost key nurses to the
15 hospitals. And we don't blame them. They
16 are making -- one of my members yesterday was
17 telling me he lost his two top key nurses:
18 One left for a hospital to make 25,000 extra
19 dollars, and one 40,000. He couldn't pay.

20 ASSEMBLYWOMAN LUNSFORD: So we are
21 certainly talking about now just a matter of
22 increased care, but at 20 percent we could
23 bring beds back online.

24 MR. HANSE: Yeah.

1 ASSEMBLYWOMAN LUNSFORD: And at 5
2 percent we are still going to continue to
3 lose beds off the 6600 we currently lost.

4 MR. CLYNE: Because the first priority
5 is going to be hit, the 3.5 staffing hour
6 requirement.

7 ASSEMBLYWOMAN LUNSFORD: Thank you
8 very much. That's all I have.

9 CHAIRWOMAN WEINSTEIN: Assemblywoman
10 Buttenschon.

11 ASSEMBLYWOMAN BUTTENSCHON: Thank you
12 to all of you for the important testimony.

13 This question is for Stefan. I know
14 that you talked quite a bit about
15 accountability. If you could choose the
16 three top priorities for accountability, what
17 would they be?

18 MR. FOSTER: Thank you for that
19 question.

20 I think the three top priorities for
21 accountability are financial transparency,
22 ensuring sufficient staffing, and where
23 excess monies are spent, where profits are
24 spent, which is in sync with financial

1 accountability. And ... yeah, I think,
2 honestly, that's what I would emphasize.

3 ASSEMBLYWOMAN BUTTENSCHON: Thank you,
4 Chair. My colleagues asked my other
5 questions.

6 CHAIRWOMAN WEINSTEIN: Thank you.
7 So back to the Senate. We have no
8 other 4.

9 CHAIRWOMAN KRUEGER: (Mic off.) No
10 other Senators.

11 So I want to thank you very much for
12 your participation today -- I want to thank
13 you very much for your participation, on mic.

14 And now we're going to ask the next
15 panel to come down and join us, and that will
16 be the Agencies for Children's Therapy
17 Services, some guy named Steve Sanders -- I'm
18 sorry. Assemblymember Steve Sanders, sorry.
19 He was my Assemblymember, to be fair. The
20 Children's Agenda, Brigit Hurley; Consumer
21 Directed Personal Assistance Association,
22 Bryan O'Malley; and Center for Independence
23 of the Disabled-CIDNY, Heidi Siegfried.

24 We are mixing it up; I'm going to

1 start with Steve Sanders, to my right, your
2 left, and then we'll just go down.

3 MR. SANDERS: Good afternoon. It's a
4 pleasure to be here again with all of you.

5 My name is Steven Sanders. I'm the
6 executive director of Agencies for Children's
7 Therapy Services. My association provides
8 most of the Early Intervention services for
9 the 70,000 families and their infant and
10 toddler children across the state.

11 Interestingly enough, just a few hours
12 ago, the State Comptroller issued what I
13 would refer to as a rather scathing report of
14 the state's oversight of the Early
15 Intervention Program. What the Comptroller
16 found was that over half of the children
17 enrolled in the Early Intervention Program do
18 not receive all of the services that they
19 have been diagnosed and evaluated to
20 receive -- over half do not get the services
21 that they need.

22 Over a quarter have their services
23 delayed beyond the state's statutory period
24 of time the services are supposed to be

1 instituted after the evaluation is completed
2 and the family serve plan is adopted. And
3 thousands of children -- thousands -- don't
4 receive services at all.

5 So the question is why. Why are we
6 failing? And the answer, sadly, is very --
7 is very easy to understand. It's not
8 complicated. The rates in the Early
9 Intervention Program are lower today than
10 they were in 2009, lower today than they were
11 in 2009. This in spite of the fact of rising
12 costs, inflation -- we all know about that.
13 So what is the ramification of these rates
14 that have remained stagnant and in fact are
15 lower than they were 14 years ago?

16 Well, not surprisingly, according to
17 the Department of Health -- these are their
18 statistics, not mine -- over 1800 therapists
19 have left the Early Intervention Program in
20 the last four years. Sixty-five agencies
21 have closed. The ratio of children to
22 therapist is at an all-time high. The bottom
23 line is that there simply is not the
24 workforce any longer to provide all the

1 services to all the children who need them.
2 And that is causing families an enormous
3 amount of misery and difficulties.

4 Fortunately, there is -- there is some
5 good news here. And the good news here is
6 that there is new money, new money in the
7 budget that comes from the Early Intervention
8 Program, \$40 million -- unallocated,
9 unspent -- that ought to be reinvested back
10 into the Early Intervention Program to
11 support a rate increase this year.

12 CHAIRWOMAN KRUEGER: (Mic off;
13 inaudible.)

14 MR. SANDERS: Thank you.

15 CHAIRWOMAN KRUEGER: Next?

16 MR. O'MALLEY: Hi, everyone. Thanks
17 for the opportunity to talk to you today.

18 My name is Bryan O'Malley. I'm --

19 CHAIRWOMAN KRUEGER: Can you pull it a
20 little closer to you?

21 MR. O'MALLEY: Sure. My name is Bryan
22 O'Malley. I'm executive director of the
23 Consumer Directed Personal Assistance
24 Association of New York State. We're

1 fighting for a stronger CDPAP for the
2 consumers who rely on it and the agencies who
3 administer it.

4 You have my written remarks, many of
5 which has already been covered in whole and
6 in part by other witnesses today. While I'm
7 happy to take questions on that, I want to
8 use this opportunity to briefly talk about
9 some of the competing levers pushing on our
10 long-term-care system and how the state has
11 been addressing them.

12 Namely, the laudable desire to
13 increase eligibility through programs such as
14 the Medicaid buy-in expansion and last year's
15 Essential Plan expansion to cover long-term
16 care, which are all too often running into a
17 competing desire to minimize costs within the
18 programs themselves. When you don't provide
19 the benefits in healthcare, coverage itself
20 is meaningless.

21 The enrollment for both Medicaid and
22 CDPA is clearly laid out in law and
23 regulation. The state determines Medicaid
24 eligibility; Maximus determines eligibility

1 for CDPA or personal care; the plan or county
2 determines the number of hours a person
3 receives. Fiscal intermediaries, or FIs,
4 administer services. However, for years now,
5 despite not having a role in enrollment or
6 eligibility, the FI is continually blamed for
7 the increasing levels of service.

8 The fact is the state's aging rapidly,
9 and many who are aging are poor. Research
10 indicates the poor will have a much greater
11 need for long-term supports and services, in
12 large part due to the physical impact of
13 poverty. Families are doing what they can to
14 keep loved ones at home, something the
15 Governor and DOH do clearly like. They
16 included LTSS in the Essential Plan, as I
17 said, and they're proposing to expand the
18 Medicaid buy-in for working people with
19 disabilities.

20 We agree the expanded eligibility is a
21 good idea, but can't help but notice the
22 mixed messaging implicit in expanding
23 coverage combined with cuts. If the Governor
24 wants to lower enrollment, she should engage

1 in that discussion with you all. We can then
2 discuss the merits of providing these
3 services. But instead, the budget cuts
4 providers and, worse, the wages of workers --
5 all of whom are merely trying to ensure
6 people have access to the services the
7 government has said it wants them to have.

8 Returning home care to minimum wage
9 just throws gasoline on a workforce crisis
10 that's already out of control. Making
11 workers and CDPAs second-class home care
12 workers by removing them from wage parity
13 would devastate the only program holding the
14 long-term-care system together. And the
15 failure to require accountability to managed
16 care plans to adequately pay for the services
17 they're supposed to provide to their members,
18 instead of stealing funds meant for agencies
19 to pay workers and further empowering them to
20 make deeper cuts, is just the definition of
21 irresponsible.

22 Thank you, and I'm happy to take
23 questions.

24 CHAIRWOMAN KRUEGER: Thank you.

1 Next?

2 MS. SIEGFRIED: Hi. Good afternoon.

3 I'm Heidi Siegfried. I'm the health policy
4 director at Center for Independence of the
5 Disabled in New York, and our mission is to
6 help people with all types of disabilities
7 get the benefits and services and policies
8 that they need to live independently in the
9 community and not in facilities.

10 So that would be like the nursing
11 facilities that were just at the last panel,
12 and psychiatric facilities, prisons, people
13 with disabilities are disproportionately in
14 prisons and people need to live independently
15 in the community. And that's their right
16 under the Americans with Disabilities Act,
17 and also under the Olmstead decision, which
18 Assemblymember Simon mentioned earlier today.

19 And I do have a prop here. This is a
20 very old bag that talks about the Olmstead
21 Housing Subsidy. And that used to be the big
22 thing that we needed to get people out of
23 nursing facilities. This bag is so old it
24 had a CC Tasic {ph} flyer in it.

1 Now the real issue is home care.
2 Right? So here we just saw, even though the
3 hospitals and nursing facilities wanted a
4 20 percent increase, they only got a
5 5 percent increase. We're seeing that the
6 battle that we waged for home care last year
7 has just been decimated, in the same budget.
8 That facilities get an increase and home care
9 gets a reneging on what we thought was a
10 promise to always be, you know, \$3 above
11 minimum wage -- when it should 150 percent.

12 But the other issue that I wanted to
13 bring up that hasn't been discussed today is
14 we have a coalition called the Restore Home
15 Care Access Coalition. And this deals with
16 the fact that when we finish spending our
17 increased FMAP, which requires us not to
18 implement the Medicaid redesign team cutbacks
19 on eligibility for home care, we are going to
20 see a lot of people who are not going to be
21 eligible for home care, are going to go
22 without, are going to fall, are going to be
23 hospitalized or may have to admit themselves
24 into nursing facilities.

1 And this is really important to try to
2 get this repealed this year because it's not
3 been implemented only because the federal
4 government has said: You cannot implement
5 it. And our previous governor, he tried to
6 sneak into a federal omnibus bill the ability
7 to implement it, and our congressional
8 delegation came forward and said, No, we're
9 taking that out.

10 And so it's really important that
11 people be able to access home care by having
12 the same eligibility that they have now,
13 which is not just two or three needs for
14 physical assistance with activities of daily
15 living. People need lots of other types of
16 care in order to stay independent in their
17 homes.

18 CHAIRWOMAN KRUEGER: Thank you.

19 Next.

20 MS. HURLEY: Good afternoon. My name
21 is Brigit Hurley. I'm with The Children's
22 Agenda, which is the anchor organization for
23 the Kids Can't Wait Campaign.

24 The Kids Can't Wait Campaign is a

1 statewide coalition of parents, healthcare
2 providers, advocates and grandparents and
3 community members who are deeply concerned
4 about young children with developmental
5 delays and disabilities.

6 And I come to you today with three
7 messages that are reflected in my testimony
8 that you all have. But I want to make them
9 very clear.

10 Number one, there are too many
11 children in New York State waiting too long
12 for developmental services.

13 Number two, they are waiting because a
14 history of inadequate reimbursement rates has
15 caused a hemorrhage of providers from the
16 field.

17 And number three is that you already
18 have a partial solution to this crisis with
19 the Covered Lives Amendment, as Steven
20 mentioned.

21 New York State is routinely failing to
22 comply with requirements of the federal IDEA
23 legislation, and in doing so is losing the
24 chance to intervene when brain development is

1 most adaptive. In a child's early years,
2 more than one -- listen to this -- more than
3 1 million neural connections are made every
4 second. So imagine the impact this has on an
5 infant who needs services and needs to wait
6 months.

7 Kids Can't Wait was in Albany a few
8 weeks ago, and we met with some of you, I
9 know. You might have met Lynn. Lynn has a
10 2-year-old son named Timothy who has been
11 waiting for speech therapy services for over
12 a year. So half of his life he's been
13 waiting for services that he was evaluated
14 for and was determined appropriate for his
15 development. So this delay is of course
16 going to impact Timothy, but it is also going
17 to affect New York State taxpayers likely in
18 special education services needs for the rest
19 of his school career.

20 So Timothy and his family are not
21 alone. In '21-'22, 47 percent -- similar to
22 what the Comptroller found, 47 percent of
23 eligible infants and toddlers experienced
24 delays in receiving therapies beyond a 30-day

1 deadline required under federal law. From
2 2017 to 2021, there was a 27 percent drop in
3 the percentage of children receiving services
4 on time.

5 In addition to delays, we're also
6 concerned about the number of families that
7 are now being limited to telehealth-only
8 service delivery, regardless of whether or
9 not that's best for the child.

10 For these reasons, The Children's
11 Agenda is making the recommendations that are
12 in my testimony --

13 (Laughter.)

14 MS. HURLEY: -- an 11 percent increase
15 in reimbursement rates and enhancements for
16 in-person delivery.

17 CHAIRWOMAN KRUEGER: Thank you all.

18 I know that Senator Rivera has
19 questions.

20 SENATOR RIVERA: I do.

21 Thank you for being here, folks.

22 I want to ask Heidi in particular,
23 there's one thing that we haven't heard about
24 today, and it was brought up to me kind of

1 late in the whole process. But let's talk a
2 little bit about the health home proposal
3 that the Governor's putting forward. In
4 particular, I want you to give me a sense of
5 what your organization's position is on it,
6 particularly as it relates to folks who are
7 physically disabled.

8 MS. SIEGFRIED: I'm not that familiar
9 with the health home proposal. I have seen
10 that there's been difficulty with
11 implementing the health home so far, so
12 people haven't always gotten the services
13 that they're supposed to get in these health
14 homes. But --

15 SENATOR RIVERA: So I certainly would
16 suggest that you do a little digging into it.
17 I'm -- I have -- Bryan?

18 MS. SIEGFRIED: Yeah, I was just going
19 to suggest Bryan.

20 MR. O'MALLEY: I have a vague
21 awareness of it. I think that what we're
22 seeing is what is often the case. The health
23 homes are providing the care management that,
24 frankly, MLTC was supposed to provide and

1 never has.

2 The health homes, for providing that
3 care management and having successful
4 results, are being punished, and the people
5 who rely on them are being punished by
6 pulling people who are succeeding because of
7 this care management out of the health home
8 and subjecting them into the MLTC sphere,
9 where they will lose care management.

10 I think, you know, this is not an area
11 we are explicitly focusing on, but I think
12 the health home model is a much better model
13 for New York to be looking at than the MLTC
14 model.

15 SENATOR RIVERA: Okay. And, Heidi,
16 earlier you -- I figured that you were
17 talking about some of the changes that have
18 yet to be implemented by the state as relates
19 to activities of daily living -- activities
20 of daily living.

21 MS. SIEGFRIED: Oh, yeah. Right,
22 right.

23 SENATOR RIVERA: Right. So I wanted
24 for you to talk a little bit about that,

1 since the state has yet to implement this.
2 We just have a minute, but if you could talk
3 about the consequences that you foresee if
4 this new eligibility requirement goes into
5 effect.

6 MS. SIEGFRIED: Well, I mean, it
7 requires that you need physical assistance
8 with three -- well, more than two activities
9 of daily living, and if you have a diagnosis,
10 which is completely -- you should not have a
11 diagnosis-based eligibility. But if you have
12 a diagnosis of Alzheimer's or dementia, that
13 you could have less need.

14 But whenever we present examples of
15 people to legislative staff and we say, do
16 you think this person would be eligible,
17 everybody always thinks that they are. And
18 they aren't. And one of the biggest things
19 is the housekeeping which is needed, which is
20 what they call IADLs, instrumental activities
21 of daily living. People who just needed that
22 would be completely, you know, ineligible.

23 Now, we try not to scare people, so we
24 want to let people know that they're going to

1 be grandfathered if they get it now. But for
2 people who are coming forward in the future,
3 they won't be eligible.

4 SENATOR RIVERA: Thank you.

5 CHAIRWOMAN KRUEGER: Thank you.
6 Assembly.

7 CHAIRWOMAN WEINSTEIN: Assemblywoman
8 Paulin.

9 ASSEMBLYWOMAN PAULIN: Thank you.

10 So I'll give you a chance to talk
11 about the 40 million, Steve.

12 MR. SANDERS: This is my chance?

13 ASSEMBLYWOMAN PAULIN: Yeah, you got
14 your chance.

15 MR. SANDERS: Okay. It's a little bit
16 complicated, but we don't have time to get
17 into the complexities, so let me just say
18 this as succinctly as I can.

19 For the first 25 years that the Early
20 Intervention Program existed, the first payor
21 was commercial insurance. If a family was
22 covered by Prudential, MetLife, whatever, the
23 services under the Early Intervention Program
24 would be billed to commercial insurance.

1 What we found over the years, the state
2 found, is that -- no surprise -- commercial
3 insurance was very good at denying claims.
4 Eighty-five percent of the Early Intervention
5 claims that were submitted to commercial
6 insurance, they rejected. They paid about
7 \$12 million -- out of a \$700 million
8 Early Intervention Program, each year they
9 paid \$12 million.

10 So finally the Legislature a year ago
11 decided -- Assemblywoman Paulin was the
12 sponsor of the bill in the Assembly --
13 decided that let's not -- let's not bill
14 commercial insurance anymore, they're not
15 paying. We're not going to bill them
16 anymore, but we're going to assess them an
17 amount of money that we believe is their fair
18 share. And that amount of money is
19 \$40 million.

20 So commercial insurance is assessed
21 \$40 million a year. They used to pay 12.
22 The difference between 40 million and 12 is
23 28 million. You see, whatever commercial
24 insurance used to pay -- \$12 million -- would

1 now be paid by the state and the counties,
2 50/50. The state would pay 6 million more,
3 because commercial's not paying for it, and
4 the counties would pay 6 million more because
5 commercial insurance is not paying for it.

6 That leaves \$28 million from the
7 assessment, commercial insurance's fair
8 share, that ought to be reinvested back to
9 where it came from, the Early Intervention
10 Program. That \$28 million is unallocated, it
11 has never been in the budget before, it is
12 unspent. There is no reason in the world --
13 rationally, politically, economically -- why
14 that money ought not stay in the Early
15 Intervention Program to help underwrite what
16 Brigit Hurley said is the request, which is
17 an 11 percent rate increase.

18 ASSEMBLYWOMAN PAULIN: And I would
19 argue that was the purpose of the
20 legislation.

21 I have one question for Bryan. So --
22 thank you.

23 CDPAP. How many workers would be
24 affected by the wage parity loss?

1 MR. O'MALLEY: That's a great question
2 that we would know the answer to if
3 Assemblymember Gonzalez-Rojas' data
4 transparency bill were passed.

5 (Laughter.)

6 MR. O'MALLEY: But right now that sits
7 in DOH and I have never FOILED it.

8 ASSEMBLYWOMAN PAULIN: Thank you.

9 CHAIRWOMAN KRUEGER: Thank you.
10 Senator Brouk.

11 SENATOR BROUK: Thank you all. Thank
12 you for being here today. A special
13 shout-out to my Children's Agenda
14 organization over there holding it down in
15 Rochester. But obviously you all do so much
16 work statewide. I'm proud to house the
17 organization that's housing Kids Can't Wait.

18 And so I do want to ask this question,
19 and then -- you know, Brigit, I would love
20 for you to kick it off, and if we've got more
21 time I would love to hear even more.

22 But, you know, for me one of the
23 things that always sticks in my head when
24 we're talking about the Early Intervention is

1 exactly what Brigit said -- and I want to
2 make sure I get this right -- one million
3 neural connections per second. And I think
4 that's important because when we talk about
5 children developing, especially infants and
6 toddlers, we can't operate in months or
7 years, we're operating in literal seconds and
8 days.

9 And, you know, one of the things
10 that's frustrating to me is that we seem to
11 never be able to get this done, year after
12 year, to get these rates up. And I don't
13 think people are fully understanding when you
14 don't have an Early Intervention like this
15 for young people, what happens five years,
16 10 years, 15 years, 35 years when they're out
17 in the workforce, going to school or what
18 have you.

19 And so I just want to put, you know --
20 I want to emphasize that, that we are talking
21 about these crucial, crucial times in these
22 children's lives that we are completely
23 failing them. And we don't get a redo. And
24 so I would love for you to -- and now I've

1 taken half the time. But I would love for
2 you to illustrate what it does look like down
3 the road when we are failing these children
4 and unable to bring them these services.

5 MS. HURLEY: So two things come to
6 mind, two stories. One is a child who had
7 made some progress pre-pandemic and then
8 regressed because services were not available
9 during the pandemic, and he stopped saying "I
10 love you" to his mother.

11 Second is a young family who had a --
12 brought a child, an infant, a premature
13 infant home from the NICU and normally, you
14 know, years ago they would have gotten a
15 visit that day from Early Intervention to
16 help them manage their baby's feeding tube,
17 and they waited two weeks for that visit.
18 That's what I would say happens.

19 SENATOR BROUK: Thank you.

20 MR. SANDERS: Let me just -- with
21 three seconds, let me just add one more
22 point. The Comptroller's report, which
23 pretty much outlined the consequences of
24 underfunding the Early Intervention

1 Program -- services delayed, services
2 denied -- is particularly more acute in
3 minority communities. That's what the
4 Comptroller said.

5 If you are Black or you are Hispanic,
6 those numbers rise dramatically. You are
7 much less likely to get services or services
8 on time. So -- so there it is.

9 CHAIRWOMAN KRUEGER: Okay. Assembly.

10 CHAIRWOMAN WEINSTEIN: So we go to
11 Assemblyman Jensen.

12 ASSEMBLYMAN JENSEN: Thank you very
13 much. Thank you very much, Madam Chair.

14 I was very happy a few months ago to
15 stand beside The Children's Agenda in support
16 of increasing Early Intervention services,
17 and shared my own personal story with
18 Early Intervention and the journey my son's
19 currently embarking on.

20 So we're talking about adding funding
21 to provide greater capacity for children to
22 receive services. But could you talk a
23 little bit more about increasing the capacity
24 of actually the service providers, and

1 ensuring that if we're able to grow the
2 amount of children eligible, that we actually
3 have the people to provide those services.

4 MS. HURLEY: Right. So that's the --
5 that is the key. You know, we're a child
6 advocacy organization. I'm not used to
7 talking about service providers getting
8 increases; I'm not an advocate for providers.
9 But that is the key to this, to getting kids
10 and families services, is that.

11 And the people who are currently
12 providing services are basically, you know,
13 missionaries. They really don't break even
14 providing the services -- partly because they
15 don't get reimbursed for anything beyond just
16 the actual reimbursement rate. So they may
17 travel, you know, an hour to get to a family
18 and provide a service, and they get paid as
19 much as somebody who drives down the street
20 to provide a service.

21 So that's one of the reasons why we
22 are concerned about this telehealth growth.
23 Not because telehealth is a bad thing --
24 telehealth is an amazing thing, and it's

1 going to be part of our lives moving forward.
2 But when a child -- I mean, you can imagine a
3 six-month-old who needs physical therapy;
4 telehealth is probably not the best way to
5 deliver that service.

6 So that's why we're looking for
7 enhancements, so that if you do deliver
8 services in person, you will get reimbursed
9 for travel or for mileage. You know, we're
10 not in the business of deciding what those
11 enhancements are. We're leaving it up to the
12 Department of Health.

13 But all of those -- if you talk to
14 the -- we brought 12 students from
15 Nazareth College here when we came, and all
16 of them were here to say "I have no incentive
17 to go into Early Intervention" -- because
18 they get paid so much more in other settings.

19 MR. SANDERS: I'd just like to
20 underscore the point again that since 2019,
21 over 1800 rendering providers, therapists,
22 have left the Early Intervention Program.
23 Sixty-five agencies have closed. And the
24 reason for that is their costs have exceeded

1 reimbursement. It's very simple economics.

2 And it's worse still in minority
3 communities.

4 ASSEMBLYMAN JENSEN: Yeah, and I
5 shared the story of my own son. You know,
6 he's four now, he's in full-day pre-K, so he
7 gets services through pre-K through a local
8 provider. But when he was in daycare, the
9 only reason he was actually eligible for
10 services was because there was another child
11 in his daycare class that was there the same
12 days that he was, and they were both eligible
13 for group treatment.

14 So if my son would have been going on
15 a different day or he would have needed
16 individualized service, then he would have
17 not had an available provider. So we
18 certainly have to close that gap.

19 CHAIRWOMAN KRUEGER: Thank you.

20 Any other Senators? You're not a
21 Senator, but I want to get everybody's
22 attention --

23 (Laughter.)

24 CHAIRWOMAN KRUEGER: Well, you just

1 raised your hand when I said any other
2 Senators, so I was double-checking myself.
3 It's been a long day.

4 Okay, no other Senators, but at least
5 one other Assemblywoman.

6 CHAIRWOMAN WEINSTEIN: We have
7 several.

8 CHAIRWOMAN KRUEGER: Okay, fine.

9 CHAIRWOMAN WEINSTEIN: Several
10 4. We'll start with Assemblywoman Lunsford.

11 ASSEMBLYWOMAN LUNSFORD: Thank you
12 very much. And thank you to my colleagues,
13 who have done a great job helping illustrate
14 why that 11 percent increase is so important
15 this year.

16 I did want to give you, Brigit --
17 because I'm a homer from Rochester -- an
18 opportunity to talk a little bit about the
19 need for rate add-ons or higher rates when
20 you're dealing with in-person services.

21 MS. HURLEY: Right. So this is
22 something that we're seeing, honestly,
23 growing rapidly in the New York City area,
24 and then to a slower extent in other regions

1 of the state where providers are choosing to
2 deliver services only via telehealth. And no
3 big surprise there, right? They can see many
4 more -- as I said, you know, you get paid per
5 visit. And so if you can do six visits a day
6 instead of three, you're probably going to
7 prefer to do that.

8 The problem is that when you -- we're
9 talking about infants and toddlers. Early
10 Intervention provides services to children
11 from birth through age 2. And I think we'd
12 be hard-pressed to say that there would be a
13 really great reason to provide telehealth
14 service delivery to an 18-month-old.

15 And so we're simply saying, as is true
16 in many other services, you know, just get
17 reimbursed for the additional expenses --
18 again, like mileage or even time just to do
19 your notes.

20 So there's a whole lot of work --
21 there's no -- there's now no longer any
22 reimbursement for providers to -- say there's
23 three service providers for one child. They
24 no longer get reimbursed for the time they

1 spend talking to each other about the child.
2 They don't get reimbursed for the planning
3 process for what services a child is to
4 receive. So it just goes on and on.

5 I mean, this is why I say the
6 providers are real heroes, because they are
7 not reimbursed for many of the things that
8 they already do.

9 ASSEMBLYWOMAN LUNSFORD: From our
10 providers, what we're hearing is that they're
11 not reimbursed for anything that is not the
12 direct visit.

13 MS. HURLEY: Yes, that's true.

14 ASSEMBLYWOMAN LUNSFORD: And if we're
15 going to incentivize our providers to do this
16 work, incentivizing them for the
17 recordkeeping and the travel that they have
18 to do to provide these services seems pretty
19 essential.

20 I also wanted to ask you a little bit
21 about what happens to our kids who are more
22 profoundly disabled. When they exit Early
23 Intervention services and go into a school
24 setting and the schools can't adequately

1 provide for those services, what are you
2 seeing from your perspective of where those
3 children are receiving their services from?

4 MS. HURLEY: So you look like you have
5 a answer that you want me to say there, Jen.
6 I don't know what it is, so I'll just --
7 unless you want to go ahead.

8 ASSEMBLYWOMAN LUNSFORD: No, go ahead.

9 MS. HURLEY: Okay. It's just that
10 it's not -- so of course what happens is when
11 those kids go into preschool special
12 education, then they are that much farther
13 beyond. When they enter the school system if
14 they haven't gotten either, or inadequate
15 treatment, then they're that much farther
16 beyond. And if the school district can't
17 meet their needs, then they are placed in
18 4410 schools, which is beyond the purview of
19 this committee because it's -- they're
20 governed by the Department of Education. But
21 they --

22 ASSEMBLYWOMAN LUNSFORD: And we're
23 seeing a decrease when kids are getting their
24 Early Intervention services, between those

1 that enter the 4410s and the 853s than when
2 they don't receive those services.

3 MS. HURLEY: Right, absolutely.

4 ASSEMBLYWOMAN LUNSFORD: Thank you
5 very much.

6 CHAIRWOMAN WEINSTEIN: Any others?

7 CHAIRWOMAN KRUEGER: I don't believe I
8 have any other Senators, unless somebody
9 wants to join the Senate quickly. But you
10 might have more --

11 CHAIRWOMAN WEINSTEIN: We have.

12 So next, Assemblywoman Kelles.

13 ASSEMBLYWOMAN KELLES: Yes, we could
14 do this for many hours. I'm just trying to
15 get everything in at three minutes.

16 So quick questions about the direct --
17 the DPAs and home healthcare aides first. Do
18 we have an estimate of the comparable cost of
19 actually officially sufficiently supporting
20 DPAs and home healthcare aides compared to
21 what the impact would be of how many people
22 are going to nursing homes? The cost of
23 nursing home care versus home healthcare.

24 MR. O'MALLEY: The cost of home

1 healthcare is substantially cheaper by tens
2 of thousands of dollars per year.

3 ASSEMBLYWOMAN KELLES: So tens of
4 thousands of dollars per person. Do we have
5 a sense of what the current demand is of how
6 many people need home healthcare aides right
7 now that don't have them because they don't
8 exist because the pay is so low?

9 MR. O'MALLEY: I unfortunately don't
10 have that number off the top of my head.

11 What I can say is that we have been
12 measuring that via surveys in CDPA for the
13 past seven years. And last year when we
14 released our last version of the report,
15 those numbers were higher than they have ever
16 been before, and continuing to grow.

17 ASSEMBLYWOMAN KELLES: In the
18 thousands.

19 MR. O'MALLEY: Yes.

20 ASSEMBLYWOMAN KELLES: Okay. And just
21 moving to childcare -- thank you, I
22 appreciate that. Actually, one other
23 question. Eligibility requirements. My
24 understanding is they're going from cognitive

1 and physical and you need at least one, and
2 there's about 22 different things that can
3 qualify you, and it's going down to about
4 seven and you have to have at least three of
5 them, and it's only physical, no longer
6 cognitive. Is that correct?

7 MS. SIEGFRIED: Well, I mean, the fact
8 that the Alzheimer's diagnosis or the
9 dementia would -- you know, that's cognitive.
10 So, you know, it's factored in.

11 But yes, there's a huge long list of
12 different things that you -- that would make
13 you eligible for home care and --

14 ASSEMBLYWOMAN KELLES: So that's our
15 way of saving money, by cutting eligibility.

16 Moving to childcare, really
17 appreciated Early Intervention. I just
18 wanted to make sure it's on record, I'm so
19 appreciative of what you said, that it's the
20 first three years are so important because
21 there is, after those first three years, a
22 tremendous decline in how many neural -- you
23 know, the connections are made. Huge,
24 precipitous decline.

1 So literally if we don't catch it in
2 those first three years, we won't catch it.
3 And those are very highly correlated with
4 hearing language, cognitive development -- we
5 set that stage for life.

6 So thank you for bringing that up, and
7 just a few questions. One is, how long does
8 it take for a provider to actually get paid,
9 an Early Intervention provider?

10 MR. SANDERS: It used to take a very
11 long time. It used to take sometimes four,
12 five, six months.

13 With the elimination of commercial
14 insurance as the payor, customarily I would
15 say now it is somewhere between two to four
16 to five weeks.

17 ASSEMBLYWOMAN KELLES: And that's a
18 good thing. That's why we lost providers.

19 One last really quick question --
20 thank you so much.

21 MR. SANDERS: You're welcome.

22 ASSEMBLYWOMAN KELLES: The no add-ons
23 in the budget, that's not in this budget and
24 we haven't had it for years, correct?

1 CHAIRWOMAN KRUEGER: Excuse me.

2 Time's up.

3 CHAIRWOMAN WEINSTEIN: The time's up.
4 Can't ask a question with one second on the
5 clock.

6 ASSEMBLYWOMAN KELLES: I'll follow up.
7 Correct. The answer is yes.

8 (Laughter.)

9 CHAIRWOMAN WEINSTEIN: Assemblywoman
10 Simon.

11 ASSEMBLYWOMAN SIMON: We're very good
12 at answering our own questions here.

13 (Laughter.)

14 ASSEMBLYWOMAN SIMON: So I have a
15 question -- and I want to thank all of you
16 for the work you're doing. This issue with
17 the IE is huge, and the CDPAP is critically
18 important, as you know. And it's so much of
19 a more bang for our buck, and we're not using
20 it. And it's pretty disgraceful.

21 I kind of want to just sort of
22 piggyback on the EI issue -- or issues. And
23 today a Washington Post article just came out
24 on -- they've been scanning brains from

1 prenatal to 100 about different connections
2 and things, and apparently the thickness of
3 the cerebral cortex peaks at two years old.
4 So again -- and we know our prime language
5 learning years are zero to three. Do you
6 have any perspective -- you know, EI is under
7 Department of Health. The Committee on
8 Preschool Special Education, that becomes
9 Department of Education.

10 Do you have any sense whether EI would
11 be different if it was under NYSED versus
12 Department of Health?

13 MR. SANDERS: Very difficult question
14 to answer. As a matter of fact, going way,
15 way, way, way back when I was sitting on your
16 side of this table, I was involved in the
17 creation of the New York State Early
18 Intervention Program, and there was a debate
19 should it go into the State Education
20 Department, does it belong in the Department
21 of Health -- because it's sort of a hybrid.
22 It's education, it's health-related.

23 For whatever reason, the decision was
24 made to make the Department of Health the

1 lead agency.

2 I think the answer to your question
3 goes back to the very premise of our concern,
4 which is money. And would -- would the
5 Early Intervention Program be doing better in
6 terms of its funding if it were under the
7 auspices of the New York State Education
8 Department? I don't know.

9 But what I can tell you is that under
10 this Governor, two budgets in a row, zero.
11 That followed her predecessor, who for
12 10 years provided virtually zero. And as I
13 said at the outset, the rates are actually
14 lower in 2023 than they were in 2009. What
15 service, what business can survive with those
16 kinds of metrics?

17 So I don't know the answer to your
18 question. I'm not sure. But what I am sure
19 about is that whether it's in the Department
20 of Education or Health or Transportation or
21 Agriculture, it all comes down to funding,
22 which simply hasn't been there in recent
23 years.

24 MS. HURLEY: Could I add something

1 just quickly to that? Which is just that the
2 Early Intervention providers have not
3 received any COVID-related bonuses or
4 retention bonuses. So ...

5 ASSEMBLYWOMAN SIMON: Thank you.

6 CHAIRWOMAN WEINSTEIN: Thank you.

7 To the Senate.

8 CHAIRWOMAN KRUEGER: See, I didn't
9 think I had a question, but I do now.
10 Because I went to go read that audit by the
11 Comptroller's office, Steve's -- and the
12 Senate -- sorry, the response by DOH to the
13 audit is that the delay and lack of services
14 is because parental consent is not available.

15 Have you ever heard that as a reason
16 that we're so radically not providing
17 services that we used to provide?

18 MR. SANDERS: No. No. No. I think
19 it's important to understand the process. A
20 child generally enters the Early Intervention
21 Program with a referral from the
22 pediatrician. So it's very often the
23 pediatrician who discovers that there is a
24 delay, a possible developmental disability.

1 The parent probably has noticed that the
2 child is not reaching their milestones.

3 The parent wants services. The parent
4 can't access services. So if what the
5 Department of Health is saying is that
6 because most of the children don't receive
7 all the services that they have been
8 evaluated to need -- that makes no sense
9 whatsoever, because it's the parents who have
10 initiated trying to get help for their kids.

11 And this is most profoundly impacted
12 in minority communities. That's the other
13 thing that the Comptroller's audit indicated,
14 which is that the lack of services, the lack
15 of timeliness is exacerbated if you are a
16 community with Black and Hispanic residents.

17 CHAIRWOMAN KRUEGER: Thank you.
18 Assembly.

19 CHAIRWOMAN WEINSTEIN: We go to
20 Assemblywoman González-Rojas.

21 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
22 you all.

23 Today is February 28th, and I realize
24 13 years ago to the day, and almost the exact

1 time, I broke my leg snowboarding. I thought
2 I was Shaun White, it was a, you know, a year
3 where the Olympics were happening. It was
4 very inspiring. I didn't quite make it. I
5 couldn't walk for five months. I broke my
6 femur. It was a home health aide who helped
7 feed me, ensure I was showered, ensured I
8 could function while I was healing.

9 This fight for fair pay is profoundly
10 important for people who are elderly, for
11 people with disabilities, and that includes
12 temporary disabilities. I now walk, I
13 function, I'm here today because of the work
14 of that aide.

15 So, Bryan, I want to give you a few
16 more moments to underscore the importance of
17 this fight, why this wage -- why the proposed
18 increase in minimum wage, which is important,
19 undercuts all the work we've done to increase
20 wages for our home care workers. And just
21 what the shortage means for the health of
22 New Yorkers.

23 MR. O'MALLEY: I want to -- the
24 proposed minimum wage increase is a net

1 positive all round. The problem is removing
2 the indexing to the minimum wage that just
3 last year, y'all and the Governor determined
4 home care's not a minimum wage job. And that
5 is where the problem lies.

6 The rising tide needs to lift all
7 boats, and this rising tide is going to sink
8 home care.

9 When people can't get the services
10 they need, they go to hospitals, they go to
11 nursing homes. My board president wound up
12 sleeping in her chair and going days without
13 food because she couldn't find a home care
14 worker to come feed her. She couldn't find a
15 home care worker to transfer her to her bed.
16 These are the real-life consequences of the
17 home care shortage.

18 And we can talk about the fact that
19 there are hundreds of thousands of home care
20 workers that have been hired, but that isn't
21 meeting the need of this rapidly aging state.
22 Mercer Consulting -- not a bastion of
23 liberalism -- has said we are not getting
24 enough home care workers to meet the need,

1 and we have the worst workforce crisis in the
2 country. That's driving up our healthcare
3 costs, and it's worsening shortages in
4 hospitals and nursing homes who can't
5 discharge to the community because the home
6 care doesn't exist.

7 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: And
8 what's the ask? What's the solution? I just
9 want you to put it on record so we can
10 remind --

11 MR. O'MALLEY: The solution is fair
12 pay for home care. The solution is to stop
13 attacking CDPA. The solution is to not do
14 the Governor's wage parity cuts. And the
15 solution is to let FIs operate the way they
16 need to.

17 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
18 you.

19 CHAIRWOMAN WEINSTEIN: Assemblywoman
20 Jackson.

21 (Pause; off the record.)

22 CHAIRWOMAN WEINSTEIN: Nikki,
23 you're -- I don't know if we acknowledged you
24 being here before. Assemblywoman Lucas.

1 Yeah, I think you're going to be the last
2 one, then.

3 ASSEMBLYWOMAN LUCAS: I've been called
4 a number of things, but never Jackson.

5 (Laughter.)

6 ASSEMBLYWOMAN LUCAS: But thank you,
7 Madam Chair. I appreciate it.

8 So first, Mr. Sanders, I'd like to
9 thank you for acknowledging the disparities
10 within Black and brown communities. Because
11 when things happen other places, it happens
12 ten times, a hundred times more in our
13 communities.

14 I do want to also highlight something
15 that the Senator said. We've talked about a
16 number of different services for different
17 concerns, but there is an issue, however,
18 with some parents not wanting to acknowledge
19 some needs for their children in our
20 communities. And just as a parent of a high
21 school student, and have gone through schools
22 and being very involved, that is an issue and
23 it definitely needs to be addressed.

24 But what I'd like to know is -- are

1 two things. One, when it comes to home care
2 workers, what is the ethnicity of most of
3 these workers?

4 MS. SIEGFRIED: Well, I mean, the
5 population is largely people of color and
6 also immigrants, and even undocumented
7 immigrants, we've found. I don't know how
8 they get that number, but I've seen people
9 report that they're largely immigrant and
10 people of color.

11 ASSEMBLYWOMAN LUCAS: I kind of asked
12 the question because I knew the answer,
13 because I wanted it on record that this
14 usually just happens to us. And it's a
15 problem that really needs to be addressed, it
16 needs to stop. And America just needs to be
17 ashamed of itself for the treatment of Black
18 and brown and immigrants because, again, it's
19 just not fair.

20 Second, is there any data that
21 supports the connection between the lack of
22 services that are received and issues when it
23 comes to homelessness, when it comes to
24 crime? Because I live in the 60th. I

1 represent the 60th Assembly District. We are
2 high when it comes to violence, we're high
3 when it comes to issues of homelessness.
4 When we look at the courts, like the
5 surrogate's courts, it's very difficult to
6 get representation for those folks that are
7 having challenges because they can't afford
8 to get the services.

9 So I'd just like you to also take a
10 look -- you probably won't be able to
11 respond -- but include these ideas in what
12 you're looking at when you're representing
13 and speaking about this issue. Thank you.

14 CHAIRWOMAN KRUEGER: (Mic off.) --
15 with that one now, but if you would like to
16 answer it offline, you're welcome to.

17 And with that, we're done with
18 4 and Senators with questions. So thank you
19 all for testifying here before us today.

20 MS. SIEGFRIED: Thank you.

21 MR. SANDERS: Thank you.

22 MR. O'MALLEY: Thank you.

23 MS. HURLEY: Thank you.

24 CHAIRWOMAN KRUEGER: Thank you.

1 And I am going to call up Panel G:
2 Medical Society of the State of New York;
3 Pharmacists Society of the State of New York;
4 New York State Nurses Association; CWA,
5 Communication Workers of America; and
6 1199 SEIU.

7 And we're going to invite Panel H to
8 get closer to the front, because we'll be
9 calling them after. And that will be
10 American Cancer Society, Planned Parenthood
11 Empire State Acts, Hospice and Palliative
12 Care Association of New York State, and the
13 National Hookah Community Association.

14 Okay. So let's start at my right, and
15 we'll go down to the left. Hi. You are?
16 See if the light lights.

17 MS. HAYES: Hi. Good afternoon. My
18 name is Debby Hayes, and the upstate New York
19 Area Director for the Communication Workers
20 of America.

21 Thank you for giving me the
22 opportunity to testify on the need to ensure
23 sufficient funding to help stabilize
24 New York's hospital and healthcare workforce.

1 I'm a registered nurse and have been for
2 44 years, and I've worked in the healthcare
3 industry for almost 50 years.

4 CWA District 1 represents about
5 15,000 healthcare workers across New York
6 State, with a heavy concentration in Western
7 New York, particularly in two struggling
8 systems right now, the Kaleida Healthcare
9 System and the Catholic Health System. The
10 most urgent crisis facing healthcare
11 institutions and our members across the state
12 is staffing. Unsafe staffing predates the
13 COVID-19 pandemic by decades, but the
14 pandemic brought us to the tipping point.

15 While much of the world is now moving
16 on from the COVID-19 pandemic, and the public
17 attention on supporting healthcare workers
18 has subsided, our members and healthcare
19 workers across New York State continue to
20 carry a broken healthcare system on their
21 backs every single day.

22 Crisis-level short staffing and
23 deteriorating hospital working conditions at
24 the expense of patient care add relentless

1 stress to an exhausted, burned-out and
2 overworked workforce. And unfortunately,
3 there is no end in sight.

4 The staffing emergency in our state
5 requires both a short-term and long-term
6 response. Last year we were pleased to see
7 the state make a major investment in the
8 healthcare workforce pipeline with programs
9 like Nurses Across New York. However, there
10 is much work to do. The state must continue
11 robust investment and incentives to get folks
12 to join the healthcare professions, while
13 focusing on getting workforce development
14 programs online and increasing capacity at
15 educational institutions and in clinical
16 placements.

17 In the short term, the state must
18 focus on supporting healthcare employers to
19 immediately improve job conditions and raise
20 wages in order to recruit and retain the
21 current workforce.

22 While there is certainly a shortage of
23 healthcare workers, the biggest threat is the
24 shortage of good healthcare jobs. A recent

1 study from the Center for Health Workforce
2 Studies identified workers leaving for
3 better-paying jobs, and burnout is the
4 biggest driver of difficulties in retaining
5 healthcare workers in hospitals.

6 Hospitals and other healthcare
7 employers must address staffing and workforce
8 -- okay. And I submitted testimony, so all
9 of it will be there for folks to look at.
10 Thank you.

11 CHAIRWOMAN KRUEGER: Thank you.

12 Next?

13 MR. MATHEW: Hi. My name is Benny
14 Mathew. I'm a director at large on the NYSNA
15 board of directors and a member of NYSNA's
16 Steering Committee at Montefiore Medical
17 Center in the Bronx, where I work as a
18 full-time registered nurse in the emergency
19 department.

20 I want to thank the legislators for
21 giving us an opportunity to address the
22 concerns related to the health and Medicaid
23 proposals in the Executive Budget. We are
24 supportive of many of the proposals in the

1 budget to increase access to healthcare and
2 funding for hospitals, nursing homes and
3 other healthcare services.

4 We do have certain areas of concern,
5 however, about some aspects of the budget
6 which are laid out in more detail in our
7 written testimony.

8 First, we join with our fellow unions
9 and advocates in calling for big increases in
10 funding for hospitals and nursing homes, many
11 of which face serious financial pressures.
12 We urge the Legislature to: Increase
13 Medicaid reimbursement by at least
14 10 percent, with the higher increases
15 targeted to safety net providers; rescind or
16 delay the elimination of the 340B drug
17 program to make sure that all safety net
18 providers are made whole and that the federal
19 government approves alternative funding
20 sources; target the 1 billion in new
21 Healthcare Transformation Capital Funding to
22 make sure that the money goes to the true
23 safety net providers; fix the Indigent Care
24 Pool funding to shift more funding to true

1 safety net providers in the form of directed
2 payments or increased reimbursement rates;
3 end the Medicaid cap and allocate funding for
4 healthcare based on the needs of New Yorkers
5 and not artificial spending caps.

6 Second, we support the Executive's
7 proposals to expand access to care, but
8 believe that they do not go far enough.
9 NYSNA supports universal health coverage for
10 all New Yorkers, which will also address a
11 lot of funding disparities in the current
12 system.

13 In the absence of passage of the
14 New York Health Act or another plan for
15 universal single-payer coverage, we would
16 urge the Legislature to take the following
17 steps to expand access to care: Expand the
18 Essential Plan to include all uninsured
19 New Yorkers, regardless of their immigration
20 status, using federal waiver authority and
21 existing Essential Plan reserves.

22 Reject the elimination of "provider
23 prevails" for Medicaid participants. Make
24 hospitals reopen their closed psychiatric

1 cares units and restore 850 inpatient beds,
2 but also increase reimbursement rates for
3 equalized psychiatric care payments,
4 especially for the safety net hospitals that
5 provide the lion's share of beds statewide.

6 Implement measures to further crack
7 down on insurance company practices that
8 delay payments and patient access to services
9 to maximize their profit.

10 CHAIRWOMAN KRUEGER: Thank you.

11 Hi.

12 DR. FERRARESE: Thank you. My name is
13 Dr. Heather Ferrarese --

14 CHAIRWOMAN KRUEGER: Bring your mic a
15 little closer to you, Doctor. Thank you.

16 DR. FERRARESE: Sorry. Thank you.

17 My name is Dr. Heather Ferrarese, and
18 I currently serve as president of the
19 Pharmacists Society of the State of New York,
20 better known as PSSNY.

21 PSSNY members are united in support
22 for many of the Executive Budget proposals'
23 pharmacy-related provisions. You will find
24 the details in our written testimony. I

1 would like to focus my remarks on the
2 April 1st implementation of the Medicaid
3 pharmacy carveout.

4 Like many PSSNY members, I am a
5 second-generation pharmacy owner. My father
6 opened Bartle's Pharmacy outside of
7 Binghamton 60 years ago, and he and I have
8 been providing healthcare side by side since
9 I earned my doctorate 25 years ago.

10 Ever since former Governor Cuomo
11 implemented the managed care system,
12 pharmacies have been under constant financial
13 pressure due to underwater reimbursement by
14 the plans and PBMs. The state finally agreed
15 to transition back to fee-for-service when it
16 realized all of the money that PBMs and
17 others have been siphoning off the system.
18 But the Legislature's two-year delay in the
19 implementation of fee-for-service has let
20 these parasites continue to thrive.

21 Under state law, we are supposed to
22 receive a \$10.18 fee for dispensing
23 prescriptions in the Medicaid program.
24 However, we actually receive 50 cents on a

1 prescription that's dispensed. As a result,
2 independent pharmacy is currently subsidizing
3 the Medicaid program instead of receiving
4 fair reimbursement for our services.

5 Pharmacy deserts are growing across
6 the state. Pharmacies are closing, even
7 large chains, because the system simply does
8 not work. In my rural area, a large
9 corporate chain was recently excluded from
10 the Medicaid network, which caused thousands
11 of Medicaid patients to lose their pharmacy
12 access. Meanwhile, independent pharmacies
13 across the state report layoffs, decreasing
14 store hours, cutting back on employee
15 benefits, and owners taking personal loans to
16 stay afloat. Yet we have no capital fund, no
17 rate increase, and without fee-for-service,
18 we have no hope.

19 Recent legislation has been introduced
20 and framed as a compromise. However, the
21 bill does not solve the problem because it
22 leaves PBMs in the space, and it cuts the
23 pharmacy dispensing fee down to \$8.50.

24 On the other hand, the Governor's

1 proposal will make the 340B entities whole by
2 reinvesting nearly 400 million into those
3 entities. Today you have heard them testify
4 that carveout is a net zero; in other words,
5 they will not lose money. Make no mistake
6 about it, anything but the on-time
7 implementation of NYRx is a continued ask of
8 pharmacy to be reimbursed negatively for the
9 filling of prescriptions.

10 PSSNY and its members are urging you
11 to support the return to fee-for-service in
12 the Medicaid program.

13 Thank you, and I look forward to your
14 questions.

15 CHAIRWOMAN KRUEGER: Thank you.

16 Next?

17 DR. PIPIA: Yes, hi. Good afternoon.
18 I'm Dr. Paul Pipia. I thank you for the
19 opportunity to speak.

20 I'm the chair of the Department of
21 Physical Medicine at Nassau University
22 Medical Center, and I am president-elect of
23 the New York State Medical Society.

24 The Governor's proposed budget

1 contains a number of measures we support to
2 enhance physician-delivered care to our
3 patients, but it also contains concerning
4 items that will adversely affect inpatient
5 care. Our testimony has been submitted.

6 We thank the Governor for proposing to
7 continue a number of important programs: The
8 MSSNY Committee for Physicians Health, which
9 absolutely is an essential program to help
10 address the growing problem of physician
11 burnout; the Excess Medical Malpractice
12 Insurance Program, which provides nearly
13 16,000 physicians with a supplemental layer
14 of liability insurance coverage, which
15 otherwise would be unaffordable in New York's
16 excessive high-cost environment; proposals to
17 help ensure access to care in underserved
18 areas, including the Doctors Across New York
19 medical student loan repayment program, and
20 proposals to increase the reimbursement for
21 care received by patients insured by Medicaid
22 and the Essential Plan.

23 However, we oppose some of the
24 proposed burdensome new prior-authorization

1 requirements on physicians writing
2 prescriptions for their patients insured by
3 the state's Medicaid program. Physicians and
4 their staffs are already drowning in excess
5 paperwork and phone calls and are taking time
6 away from patient care.

7 We're also very concerned with the
8 proposal to require the DOH approval for
9 private physician practices who wish to merge
10 with other practices, which will reduce
11 patient choice of care setting and prevent
12 innovative ways of expanding quality care and
13 delivery.

14 However, most importantly, we strongly
15 oppose Part W, which would fundamentally
16 restructure New York's healthcare delivery
17 system by significantly expanding the scope
18 of healthcare services delivered by PAs,
19 pharmacists and others. We are deeply
20 concerned these proposals would adversely
21 impact patient care by completely removing
22 the important oversight and coordination that
23 a physician provides, particularly as it
24 relates to the ordering of diagnostic tests

1 and evaluation of effective services.

2 With regard to proposals to permit
3 physician assistants to practice
4 independently after 8,000 hours of care, my
5 residency was 16,000 hours -- but merely
6 accumulating hours did not make me a
7 physician. I had to achieve milestones which
8 were set and constantly modified by national
9 certifying boards that oversee residency
10 training programs. I also had to pass a
11 certifying exam, and every 10 years must
12 complete continuing certification to maintain
13 my board status.

14 These standards are crucial to
15 ensuring patients receive the best possible
16 care, and should not be overlooked.

17 Thank you.

18 CHAIRWOMAN KRUEGER: Thank you.

19 Next, Helen?

20 MS. SCHAUB: Thank you very much for
21 allowing us to testify today. My name is
22 Helen Schaub. I'm the interim political
23 director at 1199 SEIU. We represent about
24 350,000 healthcare workers throughout New

1 York State, from home care workers, including
2 consumer-directed workers, to workers in
3 FQHCs, to nursing homes, to hospitals and
4 pharmacies. So we represent the broad
5 spectrum of workers affected by many of the
6 policies that you've been discussing here
7 today.

8 A lot of things have been touched on;
9 we've been named in some other people's
10 testimony, so I just wanted to make a few
11 points.

12 One, certainly people have talked
13 eloquently about the real workforce crisis
14 facing the healthcare industry, why people
15 are leaving, the trauma of the experience
16 during COVID. Certainly for the long-term
17 care sector, the money and having to compete
18 with Target paying a couple of dollars more
19 than a nursing home is able to pay CNAs or
20 that healthcare workers are making. The
21 competition with agencies and working
22 alongside someone who's making three times
23 what you're making and has less strenuous
24 work to do because they're not being given

1 the full complement of responsibilities that
2 a staff nurse might be given.

3 And fundamentally, many people are
4 leaving just because they can't provide the
5 kind of care that they know their patients
6 and residents and clients deserve. When
7 they're working short-staffed, they go home
8 every day, our members go home every day
9 feeling like they couldn't do their jobs.
10 And they couldn't do the kind of -- they
11 couldn't provide the kind of care that
12 brought them to be a healthcare worker in the
13 first place. And many people just can't do
14 that anymore.

15 So it's a vicious cycle that has to be
16 addressed by a number of interventions,
17 including being able to raise wages,
18 especially for the lowest-paid workers. We
19 really have a fundamental structural problem,
20 which is that Medicaid rates have not been
21 raised for 15 years. And I don't think
22 anybody here can imagine that the costs have
23 not gone up and particularly gone up
24 exponentially during that period of time.

1 What we're really hoping that the
2 Legislature will be able to do in this budget
3 is start to fundamentally address that
4 structural problem. Because if we don't, the
5 foundations are shaky, they're going to keep
6 cracking, they're going to fall. We have to
7 recognize that costs go up, payment has to go
8 up. And it's the state as a payer,
9 particularly in the long-term-care system but
10 also in the safety nets, that has to take
11 responsibility for actually paying for the
12 services that the Medicaid beneficiaries need
13 and deserve. Because they're not going to be
14 able to access those services. Already
15 they're not able to access all the services
16 they need because the payer is not paying
17 appropriately for those services.

18 We are asking you to make those kind
19 of investments, to increase Medicaid rates
20 10 percent for hospitals, 20 percent for
21 nursing homes, to invest in the safety net
22 institutions. We also believe there are
23 savings to be had through the Managed
24 Long-Term-Care Program and other programs.

1 So opportunities to right-size some of the
2 problems, structural problems in the system.

3 CHAIRWOMAN WEINSTEIN: Thank you.
4 Senate?

5 CHAIRWOMAN KRUEGER: Thank you.
6 Okay. Senator Rivera.

7 SENATOR RIVERA: Thank you.
8 Two things. To the Pharmacists
9 Society. So I thank you for being here
10 today; obviously you've been here during most
11 of the conversation that we've had during the
12 day. So a couple of things that I just want
13 to kind of say off the top.

14 There is -- I have been pretty
15 consistent on the fact that I care deeply
16 about community pharmacies in particular. I
17 know that there's -- if Roger's watching
18 somewhere, Roger Paganelli, who's a dude who
19 has been consistently in my ear about this, I
20 actually care, even though there have been
21 some things said that I don't, particularly
22 because of the bill that I introduced.

23 Two things that I will say. Number
24 one, I believe that there is a good

1 compromise to be had by having an 8.50 floor
2 for a dispensing fee, as well as protections
3 that are in the bill. What I would say, and
4 I will this publicly, as I said it privately
5 earlier to your president, I remain open. If
6 there are things you think the bill needs to
7 do differently to be able to better protect
8 pharmacists, I want to be able to hear about
9 that and I want to be able to implement it.

10 But we feel pretty strongly -- I
11 certainly do -- that we can't allow the
12 transition to happen because of the impact
13 that it will have on all the providers that
14 we talked about during the day.

15 But I just wanted to say it to you,
16 and publicly again: I remain open. If
17 there's things in the bill that's currently
18 out there, 5136, that you think don't
19 adequately protect folks, I believe that is a
20 good compromise. It is not 50 cents. It is
21 not 10.18. But 8.50 is a good floor to start
22 from. So I just wanted to say that.

23 And second, for -- for folks -- Helen,
24 you obviously ran out of time but I wanted to

1 give you a little bit of time to talk about
2 -- there was a question that I posed to the
3 folks in the Health Department and the
4 Medicaid director earlier. There's a report,
5 the MLTC report that I'm not sure -- I'm not
6 sure if it's even in my email inbox. It
7 might be in there. But there are real
8 questions that I have, and I know that we've
9 got to talk about this, like: Is this
10 serving us well? Is this MLTC system serving
11 us well in the State of New York?

12 MS. SCHAUB: We would say no. You
13 know, the -- it was a little more than
14 10 years ago when there was a decision to
15 move the entire population of folks who need
16 personal care under managed long-term care.
17 At the moment, at that time, the promise was,
18 A, it's going to save money, they're going to
19 manage utilization, and it's going to be a
20 step on the pathway to people being enrolled
21 in fully dual-eligible plans where the state
22 could potentially capture some of the
23 Medicare savings. Which is an important goal
24 if it were to happen.

1 It did not happen. I think 10 years
2 ago people started walking in this direction;
3 we're now over here (gesturing). Utilization
4 has exploded. The state has not only not
5 saved money, but spent a lot more money. And
6 there's only a 17 percent of the population
7 enrolled in dually capitated plans.

8 So we're left with this partially
9 capitated system. We're expending a
10 tremendous amount of administration,
11 almost -- the vast majority of the plans and
12 all the largest plans are for-profit, so
13 we're including a lot of profit, to deliver
14 one service. And we think we could deliver
15 that much more efficiently and effectively.

16 SENATOR RIVERA: Much more to discuss.

17 Thank you. Thank you, Madam Chair.

18 CHAIRWOMAN KRUEGER: Thank you.

19 Assembly.

20 CHAIRWOMAN WEINSTEIN: Assemblywoman
21 Paulin.

22 ASSEMBLYWOMAN PAULIN: So just to
23 continue on the same theme, what ideas do you
24 have for the future? I know that there are

1 some that you're thinking about.

2 MS. SCHAUB: So we believe that if you
3 moved to what some other states, including
4 Washington, including Connecticut, have done,
5 what's called a managed fee-for-service
6 system -- so you would need to have a care
7 management program. You could spend about
8 the same amount of money you're currently
9 spending now on care management. But you
10 would be -- the state would be paying the
11 providers directly.

12 The state would know how much the
13 providers are getting paid, which it
14 currently doesn't know. It would know which
15 providers are providing the services, both on
16 the LHCSA and the FI side. And you would
17 eliminate this very large administrative
18 structure to deliver one service. It's not
19 really insurance, because the vast majority
20 of the money being spent is to deliver just
21 the home care service.

22 We think, you know, partial
23 capitation, it was -- there was a vision, it
24 did not get realized, and we ought to be

1 taking a fundamental look at how best to
2 deliver the service. We think if you've made
3 that switch, we have an analysis that shows
4 the state could save about 1.5 to 3 billion
5 dollars a year.

6 ASSEMBLYWOMAN PAULIN: Thank you.

7 And to NYSNA, what ideas do you have
8 to address some of the issues regarding the
9 workforce shortage? How do you get more
10 nurses into the system?

11 MR. MATHEW: The workforce shortage is
12 kind of manufactured. We have 170,000 nurses
13 in New York State not working in New York
14 State, but they are licensed to work in
15 New York State.

16 The hospital administrators and the
17 Legislature, ask yourselves why they are not
18 working in New York State. What is
19 preventing them from working? Because of the
20 working conditions. We mentioned earlier we
21 go home with guilt, we go home as
22 co-conspirators in a crime. How long can you
23 work like that? If you improve the
24 conditions in hospitals, nursing homes, and

1 all other healthcare facilities, yes, we will
2 work.

3 And having the compact nursing
4 licensure, it's not an answer. We had it --
5 that for the last three years. Did it make
6 any difference? No. Montefiore, we had less
7 than 300 open positions three years ago, now
8 we have over 700 positions. So the compact
9 licensing, it doesn't work.

10 What works? Have a safe place for us
11 to work.

12 ASSEMBLYWOMAN PAULIN: Thank you.

13 That's it for me.

14 CHAIRWOMAN KRUEGER: Thank you.

15 Senator Rhoads.

16 SENATOR RHOADS: Thank you,

17 Madam Chairwoman.

18 Obviously the home healthcare -- home
19 healthcare -- healthcare worker shortage is
20 something that has been a crisis for some
21 period of time. The question that I have --
22 and it's specifically for Ms. Hayes, because
23 I know that you mentioned this topic first --
24 during the course of the pandemic, about

1 33,000 healthcare workers ended up either
2 retiring or being let go as a result of the
3 vaccine mandates. Our understanding is that
4 the vaccine mandates are continuing in
5 effect, despite the fact that as of May 2023
6 the Biden administration has declared an end
7 to the pandemic.

8 Do you see this as being problematic,
9 the fact that we have qualified healthcare
10 workers who are out of work simply because
11 they've refused to get a vaccine?

12 MS. HAYES: I believe that it's
13 problematic in that we lost, in one of our
14 health systems, 300 employees, 150 of which
15 were nurses. I have my own personal opinion
16 related to vaccinations, and to me it makes
17 sense and it made sense that healthcare
18 providers working at the bedside be
19 vaccinated. But you can't deny the fact that
20 it pushed healthcare workers out of the
21 system.

22 SENATOR RHOADS: Thank you so much.

23 And Mr. Pipia -- Dr. Pipia, excuse me,
24 could you -- when we're having physician

1 assistants, when we're having pharmacists
2 that are actually pharmacists that are
3 writing orders, for example, for prescription
4 medications, when we have nurse
5 practitioners, for example, that are
6 authorizing tests, as has been proposed in
7 some legislation that's before the State
8 Legislature -- what problems does that
9 create?

10 DR. PIPIA: Okay, so nothing stops any
11 of these individuals to quit their profession
12 and go to medical school, okay? They're also
13 a very valuable -- and it's in my testimony,
14 a very valuable, integral part of the test --
15 of the healthcare team. They provide
16 essential services. So I'm not saying
17 anything tremendously bad about them.

18 But at the end of the day, there
19 should be somebody who's a physician that
20 should be heading the healthcare team, and
21 that's our position. We think that that
22 person should be the physician. Just
23 accumulating hours, as I said earlier,
24 doesn't make somebody competent in their

1 field --

2 SENATOR RHOADS: Are you aware of any
3 studies that -- I've read about the
4 South Mississippi System's accountable care
5 organization --

6 DR. PIPIA: Right, so there was a
7 study that was done by the AMA -- I think
8 it's referenced in our testimony -- that says
9 that those people as physician assistants and
10 possibly nurse care providers, order more
11 tests than physicians do. And that's a study
12 that was done by the AMA.

13 SENATOR RHOADS: Thank you.

14 CHAIRWOMAN WEINSTEIN: Assemblyman Ra.

15 ASSEMBLYMAN RA: Thank you.

16 Dr. Pipia, also about the kind of same
17 topic with Part W. Do you have
18 suggestions -- and I think you do, because I
19 think we've spoken about this in the past --
20 but about other things that the state could
21 be doing, as opposed to scope of practice
22 changes for non-physicians, to help, you
23 know, address shortages of people -- of
24 doctors in certain specialties in parts of

1 the state?

2 DR. PIPIA: Right. So among the many
3 things is New York -- and it's in our
4 testimony, and there's charts -- with the
5 highest malpractice costs in the country,
6 okay. If you look at Texas, it might be like
7 2.46. In New York, it's like 24. So it's
8 like, you know, 12 times what another big
9 state pays.

10 So if that could be lowered down, if
11 there were medical courts for that type of
12 stuff, it would be good.

13 Also, the Doctors Across New York is a
14 program that's funded. We probably could,
15 you know, find another way to let other
16 people know that that exists, and help make
17 sure that that program gets more utilized.

18 And then also, you know, there's a lot
19 of burdens in this state that are negative
20 towards physicians, a lot of things -- I
21 mean, Medicaid pays us much lower than the
22 Medicare ceiling, and now you're going to
23 have to make a call and task somebody to call
24 up and get a pre-authorization on a

1 medication.

2 So New York is not the most friendly
3 environment for physicians to work in, and
4 people are leaving New York quite frequently.

5 ASSEMBLYMAN RA: Thank you.

6 And just for the Pharmacists Society,
7 I know it's mentioned about the transparency
8 piece, drug transparency piece in the budget,
9 saying it should be removed from the budget
10 process. And I think I would agree, because,
11 you know, it's a complex matter and we want
12 to get to the right result. But if you can
13 elaborate on how that impacts your members,
14 if something were to go forward that maybe
15 doesn't fully treat each of the entities in
16 that chain appropriately.

17 DR. FERRARESE: So the return to NYRx
18 would have one preferred drug list, versus
19 many separate drug lists for each Medicaid
20 managed care plan. It would cover
21 100 percent of FDA-approved drugs. It would
22 streamline the prior authorization process
23 for these patients. It would return
24 oversight to the Department of Health and

1 New York State, which would allow for
2 transparency into these payments and remove
3 PBMs from the mix.

4 ASSEMBLYMAN RA: Thank you.

5 CHAIRWOMAN KRUEGER: Thank you.

6 Senator John Liu.

7 SENATOR LIU: Thank you, Madam Chair.

8 I want to thank the panel for your
9 patience today, and testifying.

10 I just have a question for Dr. Pipia,
11 which actually Assemblymember Ra started
12 talking -- asking you about it. I think one
13 of your responses was New York State makes it
14 too difficult to be a doctor, and therefore
15 we don't have enough doctors?

16 DR. PIPIA: Let me clarify what I mean
17 by that.

18 The standards are the same in every
19 state. However, the amount of hoops and
20 loops and hurdles that --

21 SENATOR LIU: And the paperwork.

22 DR. PIPIA: The paperwork and all of
23 that kind of things, yes. I mean, like to
24 get approval for something, I have to call

1 up -- and I'm the physician, and somebody
2 else who's not a physician is making the
3 decision.

4 SENATOR LIU: Oh, I understand. I
5 understand it's a pain in the neck.
6 Dr. Pipia, I tend to agree with you. You
7 know? I mean, you go to medical school, you
8 spend a huge amount of your life studying to
9 become a physician, and physicians are highly
10 skilled, highly qualified. And we don't want
11 to take anything away from them. So I tend
12 to agree with your statements and your
13 written testimony.

14 But we are approached over and over
15 and over again by nurse practitioners and
16 other participants in the medical field about
17 expanding their scope of practice. And one
18 of the main reasons that they offer, which I
19 have always found it hard to refute, is that
20 they're just -- there are lots of communities
21 where physicians are not available.

22 And, you know, you cite the difficulty
23 or the hassle or paperwork of being a doctor
24 in the State of New York. I don't think

1 there are any shortages of doctors in the
2 New York metropolitan area. But there are
3 parts of the state where it's much more
4 difficult.

5 So in order to make sure that those
6 fellow New Yorkers have adequate care, to the
7 extent that physicians just are not available
8 for whatever reason, don't we need to deliver
9 the care in some other manner?

10 DR. PIPIA: Okay, so you're right when
11 it comes to that. The thing is we're asking
12 for a physician to be oversight on them.

13 In preparation for this testimony, we
14 had -- I had a PA that worked for us when I
15 was in Brooklyn at Downstate. And this was
16 the best PA I ever saw in my life. He
17 decided to become a physician. He quit, he
18 went and became a physician. I called him
19 up, and I go, "Can PAs practice
20 independently?" And this is one person's
21 opinion, obviously. He said -- he said, "I
22 learned so much more in medical school to
23 help synthesize what I did when I made a care
24 plan." So I think that that's the way to do

1 that.

2 And for those of you who are
3 lawyers -- and this might not be the best
4 analogy, but you have paralegals that work
5 for you. Are you going to let paralegals go
6 to court and do cases? And the answer is
7 probably not.

8 SENATOR LIU: And likewise, a mother
9 who is looking for healthcare for her child
10 may not be so inclined to go to a nurse
11 practitioner or a physician assistant -- not
12 to take anything away from them. But if
13 there are no doctors available --

14 DR. PIPIA: They're an essential
15 group. I kid you not, they're an essential
16 group and we value them and they're part of
17 the allied health team. But we just think
18 that the doctor should be the one that's in
19 charge of all of that stuff. He can't have
20 five different people driving the car at the
21 same time.

22 SENATOR LIU: Thank you very much.

23 Thank you, Madam Chair.

24 CHAIRWOMAN KRUEGER: Thank you.

1 I believe the Assembly is closed, and
2 I just have one more question for the Senate.

3 So since three of you represent
4 nurses -- so help me understand. They gave
5 the numbers I think earlier today that there
6 are something like 355,000 licensed nurses in
7 New York State, 188,000 of them working as
8 nurses. We all seem to agree there's a
9 nurses shortage. And yet we also have this
10 parallel phenomenon where we have hospitals
11 filled with what's called traveling nurses
12 who are also New York State residents, but
13 they're making three times the amount as the
14 nurses that I think are members of your
15 unions working in our hospitals.

16 So something's very wrong with this
17 picture, and I need help understanding. I
18 asked the hospitals; they agreed there was
19 something wrong, but they didn't give me an
20 answer what we can be doing.

21 MS. SCHAUB: So can I -- I mean, I'll
22 maybe start off and -- the agency phenomenon
23 is also very significant in the nursing
24 homes, so we're dealing with it in a number

1 of places.

2 And, you know, it's a beautiful
3 business model for the agencies, right?
4 They're essentially getting paid to fill the
5 holes that they create. If you -- you know,
6 you can recruit someone. If you're offering
7 that kind of salary bump, of course even
8 people might take leave from a permanent job
9 to be able to go pay off their mortgage if
10 they work six months at that kind of premium.
11 Right?

12 So if you offer enough, people will
13 come work for you. And then of course the
14 institution where they were working has to
15 maintain a minimum complement, and you can
16 then bargain with them to bid up the price.
17 It's been very inflationary, and it was
18 funded -- it was funded in part by a lot of
19 federal money during COVID that subsidized
20 these very high traveling agency rates.

21 We have to figure out how to interrupt
22 the cycle because otherwise it is a
23 self-perpetuating cycle where, you know,
24 again, they are doing well because they are

1 getting paid to fill the holes that they
2 create by recruiting staff to work for
3 temporary agencies.

4 We do think -- you know, of all the
5 things we regulate in New York, nursing
6 staffing agencies are very underregulated.
7 We don't know who they are, we don't know how
8 much money they make. So the Governor's
9 proposals to regulate staffing agencies we do
10 support, and we think that that is a start.

11 Other states -- there's a number of
12 other states that have passed laws related to
13 temporary staffing agencies, especially since
14 COVID. Two other states allow for a cap in
15 the amount of money that staffing agencies
16 can charge. That's something that we could
17 look at and maybe give authority to
18 institute, certainly with the financial
19 information that comes from registration.

20 Other states have regulated what they
21 can put in contracts. For example, Illinois
22 said a staffing agency can't prohibit a
23 traveling nurse from taking a permanent job
24 at the institution where he or she is placed,

1 which in some cases is part of the staffing
2 agency contract.

3 And then we think there ought to be
4 ways to look at incentivizing employers to
5 invest in full-time jobs so that the
6 financial calculation gets a little bit
7 different.

8 The only other thing I'd say, you
9 know, for many years we were fighting against
10 staffing agencies because they've always been
11 terrible for the union workers, and the
12 employers have liked the flexibility. We're
13 at a moment when the employers are not happy
14 with the staffing agencies because of how
15 much they're getting charged, and so we
16 actually have a moment to I think come
17 together with some meaningful approaches to
18 try to invest in permanent jobs.

19 CHAIRWOMAN KRUEGER: So I know this
20 isn't a three-minute question, so thank you
21 for trying to answer it in three minutes.

22 MS. SCHAUB: Sorry.

23 CHAIRWOMAN KRUEGER: But I hope that
24 we can all continue the conversation, because

1 we all know we need our nurses. We all know
2 we need more nurses. We have nurses, but
3 it's not working out right. So thank you.

4 And I believe I was the last one on
5 the panel, so thank you all for being here
6 today and for the work you do. Greatly
7 appreciated.

8 And I'm going to call up our next and
9 actually our last panel for the day, the
10 American Cancer Society, Planned Parenthood
11 Empire State Acts, Hospice and Palliative
12 Care Association of New York State, and the
13 National Hookah Community Association.

14 Okay, good afternoon. From my right,
15 from my left -- let's start with my right,
16 your left. Hi, Georgana.

17 MS. HANSON: Good morning -- or good
18 afternoon. Good evening.

19 CHAIRWOMAN KRUEGER: Good morning?

20 (Laughter.)

21 MS. HANSON: I know, you've all been
22 here much longer than I have.

23 CHAIRWOMAN KRUEGER: It's still
24 afternoon.

1 MS. HANSON: Good evening. My name is
2 Georgana Hanson. I use she/her pronouns.
3 I'm the interim president and CEO of Planned
4 Parenthood Empire State Acts. And I'm
5 honored to be providing testimony to you
6 today.

7 Planned Parenthood Empire State Acts
8 represents the five New York Planned
9 Parenthood affiliates who provide primary and
10 preventive sexual and reproductive healthcare
11 services to more than 200,000 individuals
12 each year.

13 I know it's been a long day; I will
14 work to be brief. I believe everyone here is
15 aware of the devastating impact of the loss
16 of our federal constitutional right to
17 abortion this past summer. In this pivotal
18 moment in the fight for reproductive freedom,
19 we must continue to respond in bold and
20 innovative ways, building a system of
21 policies and care that is anchored in equity,
22 where everyone who needs an abortion can
23 truly access it.

24 While a proactive policy environment

1 is important, it is no longer enough on its
2 own. There must be a significant financial
3 investment in access to care. It is in that
4 frame that I want to uplift three key issues
5 for your consideration in the enacted budget.

6 First, we strongly support the
7 provision in the Executive Budget that
8 includes increased Medicaid funding for
9 family planning and procedural abortion care.
10 However, this critical investment must also
11 include an increased reimbursement for
12 medication abortion. Medication abortion
13 comprises over 60 percent of abortions
14 provided in New York Planned Parenthood --
15 and 60 percent of the abortions provided in
16 New York Planned Parenthood affiliates are
17 medication abortions.

18 Over the past several years many
19 states have raised Medicaid rates for
20 abortion services. As a result, New York's
21 reimbursement levels are significantly out of
22 alignment with other access states, including
23 Illinois and California. This is especially
24 the case for medication abortion.

1 During testimony earlier today the
2 Medicaid director stated that reimbursement
3 for the medication used in medication
4 abortion would not be increased. We
5 understand current policy requires that
6 medication is reimbursed at acquisition cost.
7 But to be clear, diagnostic and treatment
8 centers also receive reimbursement for a
9 visit in conjunction with the medication.
10 The cost of this visit is reimbursed hundreds
11 of dollars less than what other states
12 reimburse, and must be increased.

13 Upstate providers receive
14 approximately \$143 for the visit and \$99 for
15 an ultrasound if provided. In comparison,
16 California, Illinois, and Vermont each
17 reimburse over \$530 for a medication abortion
18 visit. Therefore, we urge that the enacted
19 budget builds upon the Executive Budget
20 proposal to also include a rate increase for
21 providing medication abortion care to no less
22 than \$550.

23 Additionally, we ask that the enacted
24 budget include \$25 million in grant funding

1 for abortion providers and \$1 million for
2 abortion funds to increase access. Prior to
3 the Governor's commitment to invest
4 \$35 million in access and security funding
5 for providers this past summer, there's been
6 no intentional investment in abortion access.
7 We strongly support the \$25 million
8 investment proposed by the Governor to
9 continue these critical grant funds.

10 Further, we ask that the Legislature
11 include an additional \$1 million to be
12 directed to organizations addressing the
13 practical support needs of people seeking
14 abortion care in New York and ensure passage
15 of the Reproductive Freedom and Equity
16 Program. Thank you.

17 CHAIRWOMAN KRUEGER: Thank you.

18 Next?

19 MS. CHIRICO: Okay. I think I'm on.
20 There we go.

21 CHAIRWOMAN KRUEGER: Yes.

22 MS. CHIRICO: Good evening. Thank
23 you, Chairs Krueger and Weinstein for
24 allowing me to speak to the committee today.

1 My name is Jeanne Chirico. I'm the
2 president of the Hospice and Palliative Care
3 Association of New York State, and I have the
4 privilege of representing the men and women
5 who are working to ensure that the transition
6 from this life to the next is a peaceful and
7 celestial experience, as our acting
8 commissioner mentioned this morning that he
9 wanted the experience of childbirth to be a
10 celestial experience.

11 And that word seems extremely apropos
12 for the work that we do. And I'm going to
13 use that in reference to the fact that I
14 believe it's time again to call upon you to
15 help our hospice and palliative care
16 providers, our workforce, who has been
17 working without the support of their state,
18 except for the fact that last year you, the
19 Assembly and the Senate, supported hospice
20 workers by passing three bills that were
21 meant to support access, quality and
22 workforce. And I just would like to draw
23 your attention to what's happened with those
24 bills since, because there's still work to be

1 done.

2 In response to the lack of Department
3 of Health representation and support, you
4 passed unanimously a bill to create an office
5 for hospice and palliative access and
6 quality. This bill was then vetoed by the
7 Governor, for reasonings that it was not
8 included in the budget and that was the place
9 to address it. So we're asking you to
10 address this issue in this budget with a
11 \$400,000 allocation.

12 The second bill passed unanimously
13 allowed hospices to provide care to
14 individuals residing in adult living
15 programs. Then, just days before the
16 Governor signed that bill into law, the
17 Department of Health released a "Dear
18 Administrator" letter that confused and
19 offered conflicting information. So right
20 now no individual living in an assisted
21 living program is being offered hospice
22 services.

23 We're asking also that you consider
24 the fact that you passed legislation and a

1 bill was signed to create a statewide
2 advanced care planning campaign. The
3 Governor then signed that law this past
4 summer, and yet delivered an Executive Budget
5 without any funding to help support that
6 campaign. So we're asking for \$2 million to
7 begin this advanced care planning campaign
8 that we hope can help lift New York State
9 from last place in the country in hospice
10 utilization, so that people begin to have the
11 conversations that they need to have to help
12 plan for their end of life, to make that a
13 meaningful experience for them and their
14 entire family.

15 I thank you for your time.

16 CHAIRWOMAN KRUEGER: Thank you.

17 Good afternoon.

18 MR. DAVOLI: Good afternoon, Senators,
19 4. Thank you so much for the opportunity to
20 testify today. My name is Michael Davoli. I
21 am the senior director of government
22 relations for the American Cancer Society
23 Cancer Action Network, ACS CAN.

24 On behalf of the 1.6 million cancer

1 survivors in New York State, I'm here to
2 testify on behalf of two issues -- (1)
3 related to cancer screening and (2) related
4 to the tobacco issues included in the budget.

5 First, on cancer screening, I want to
6 speak about the New York State Cancer
7 Services Program. Every single year in
8 New York State over 30,000 men and women will
9 be diagnosed with just three cancers:
10 Breast, cervical and colorectal cancer. All
11 three of those cancers can be diagnosed at an
12 early age through basic screening, and
13 therefore lives can be saved.

14 Unfortunately, despite the incredible
15 work of the CSP, it barely can scratch the
16 surface of the need in New York State,
17 serving only 18 percent of the eligible
18 population. When Governor Cuomo cut the
19 budget by 20 percent in 2017, more than 6,000
20 New Yorkers lost their ability to get
21 screening the following year. We must
22 restore those cuts from 2017 and bring the
23 CSP's budget back up to \$26.8 million in
24 '23-'24.

1 Pivoting very briefly to tobacco, I'm
2 just going to highlight a couple of
3 statistics that some of you may or may not be
4 familiar with. 28,200 -- that's the number
5 of New Yorkers that will die this year alone
6 from tobacco-related illness. That's more
7 than the capacity of Madison Square Garden.
8 That's like 10 times the size of The Egg just
9 across the street.

10 26.7 percent of all cancer deaths in
11 New York State are tobacco-related. Just
12 think about that. If anything else -- guns,
13 car crashes, suicide, anything else was
14 causing 28,000 New Yorkers to die, it would
15 be front-page news of the New York Post every
16 single day until you act. We must act to
17 curb tobacco use. We must stand up to the
18 lies of Big Tobacco. We must address,
19 advocates must address the questions that you
20 have about these proposals. And we must work
21 together to end the sale of flavored tobacco
22 products, which are proven to hook kids
23 generation after generation and drive
24 inequities and health disparities, and drive

1 smoking rates within communities of color and
2 lead to huge health disparities and deaths
3 from cancer, smoking-related cancers within
4 people of color, communities of color.

5 We must increase the tax on cigarettes
6 because there has never been a more
7 definitive way to drive down smoking rates
8 and to keep youth from starting.

9 And finally, we must increase funding
10 for the Tobacco Control Program. The TCP is
11 how we help people quit and how we keep kids
12 from starting in the first place.

13 Thank you.

14 CHAIRWOMAN KRUEGER: Thank you.

15 Next.

16 MR. HUDGINS: Hi. Thank you. My name
17 is Christopher Hudgins. I report my company,
18 Al Fakher, on the board of --

19 CHAIRWOMAN KRUEGER: Can you pull your
20 mic a little closer? Thank you.

21 MR. HUDGINS: Better? Thank you.

22 My name is Christopher Hudgins. I
23 represent my company, Al Fakher, on the board
24 of the National Hookah Community Association,

1 or NHCA. Appreciate the opportunity to share
2 their views here today.

3 Founded in 2019, NHCA brings together
4 hookah producers, distributors, sellers,
5 hookah lounges, consumers -- really, the
6 whole supply chain -- and community members
7 to support the preservation of hookah's rich
8 cultural traditions.

9 Hookah, also known as shisha, is a
10 combination of a tobacco and a sugar
11 substance such as honey or molasses, and it's
12 comprised of only 15 to 20 percent tobacco.
13 It is a heavy, wet, sticky substance that can
14 only be smoked in a hookah pipe.

15 As has been the practice for hundreds
16 of years, hookah is by nature a flavored
17 product. As a result, a ban, the Governor's
18 suggested ban on all flavored tobacco, would
19 result in the ban of all hookah.

20 We ask that you exempt hookah from the
21 flavor ban. You would be joining numerous
22 jurisdictions that have done so for many of
23 the reasons I'm about to discuss. Most
24 recently, California made history and passed

1 a statewide flavored ban on -- a statewide
2 flavored-tobacco ban, but they exempted
3 hookah. And that's because the NHCA worked
4 with legislators there to help them
5 understand that the product has a cultural
6 significance and it has a low youth usage
7 rate.

8 We've worked with many other cities
9 and states, including Colorado; Columbus,
10 Ohio; Denver; San Diego; San Jose;
11 Los Angeles. All of these cities have
12 considered or passed flavored bans with
13 hookah exemptions in them.

14 Hookah is a very small category in the
15 tobacco space. It makes up only roughly
16 0.005 percent of nicotine sales here in the
17 U.S., but it is a very important cultural
18 practice that has existed for centuries.
19 Middle Eastern, Armenian, Turkish, East
20 African, Indian, Persian, Indonesian and many
21 other immigrant citizens in the U.S. today
22 enjoy hookah as a centerpiece for a cultural
23 business and social gathering.

24 It has a very large population of use

1 here in New York, considering that many
2 immigrants from these countries reside here.
3 There are hookah lounges all over certainly
4 the New York City area, but Buffalo,
5 Rochester, Syracuse, Binghamton, Albany,
6 Watertown -- all over. And these lounges
7 serve as safe gathering spaces for many
8 diverse ethnic and religious communities,
9 each of them represented by small
10 minority-owned businesses owned by immigrant
11 or first-generation Americans with ties to
12 regions where hookah originated or is
13 practiced.

14 Hookah pipes are unlikely to be used
15 by youth. They are several feet tall, they
16 are expensive, they can take anywhere from 20
17 to 30 minutes to set up. It's not something
18 you can hide in a backpack and smoke in
19 school.

20 Federal data supports this. Each year
21 the CDC and FDA put out youth usage rates for
22 tobacco. The most recent one showed that
23 just 1 percent of middle and high school
24 students had tried hookah in the past

1 30 days -- and that's 10 times less than the
2 number of those who vape.

3 For these reasons we ask that you
4 exempt hookah from the flavored-tobacco ban.

5 Thank you.

6 CHAIRWOMAN KRUEGER: Gustavo Rivera.

7 SENATOR RIVERA: Thank you,
8 Madam Chair. I just have a few.

9 Ms. Chirico, good to see you again. I
10 wanted you to talk a little bit -- so we
11 obviously passed this bill last year; I was
12 very proud to do so. But you -- which you
13 referred to earlier. But you said that no
14 hospice and assisted living -- could you
15 clarify what you said? Because I want to
16 make sure if the bill in its implementation
17 is not doing what we want it to do, then I
18 certainly want to look into it more deeply.

19 MS. CHIRICO: Sure. Thank you for the
20 question.

21 SENATOR RIVERA: Closer on the mic,
22 please.

23 MS. CHIRICO: Oh, sorry.

24 I just want to clarify. Hospice is

1 provided in assisted living facilities, but
2 we have a classification specific, as you
3 know, to assisted living programs that have
4 Medicaid funding, backing. And it required
5 legislation that we receive to allow hospice
6 in.

7 Unfortunatly, the day before or two
8 days before the Governor signed the bill into
9 law, the Department of Health released a
10 "Dear Administrator" letter that confounded
11 the delineation between the hospice
12 responsibilities and the Assisted Living
13 Program responsibilities, to the point that
14 it created a bureaucratic nightmare that it's
15 taken months of questioning of the Department
16 of Health. Now they have set a meeting for
17 mid-March to begin the conversation of how to
18 weed through the confusion that the DAL
19 created.

20 SENATOR RIVERA: I want to be helpful
21 with that, because we certainly want this
22 bill to be implemented correctly.

23 MS. CHIRICO: Thank you.

24 SENATOR RIVERA: So let's make sure

1 that we follow up on that.

2 Mr. Davoli. Good to see you again,
3 sir. Do you have a response to the gentleman
4 at the end that talked about the hookahs? I
5 share some of the concerns that were
6 expressed. Certainly in my district in the
7 Bronx there's certain communities that
8 certainly --

9 (Overtalk.)

10 MR. DAVOLI: With all due respect, I
11 would question the statement about the
12 historical use of flavored hookah products.
13 Flavorings -- the tobacco industry, the
14 manufacturers themselves only talk about this
15 in the past 60 years, some of the different
16 flavors that hookah -- I mean, hookah has
17 been -- for a thousand years. I mean, hookah
18 has been something around -- I -- you know, I
19 don't know if flavored hookah was being used
20 for a thousand years. So I do question that
21 statement.

22 But in New York City, the only hookah
23 that is allowed is tobacco -- is hookah that
24 does not have tobacco. So you could have

1 hookah that does not have tobacco in it, and
2 that's a key distinction.

3 But, you know, from the American
4 Cancer Society's perspective, our greater
5 concern really is focusing on the broader use
6 of tobacco use and focusing on whatever way
7 tobacco is being delivered, we must be
8 working to rid it of. So --

9 SENATOR RIVERA: Thank you.

10 Thank you, Madam Chair.

11 CHAIRWOMAN WEINSTEIN: Assemblywoman
12 Paulin.

13 ASSEMBLYWOMAN PAULIN: Thank you.

14 Hospice, do you believe that we should
15 eliminate the for-profit hospice?

16 MS. CHIRICO: We supported a bill that
17 was passed in the Assembly and the Senate
18 that would prohibit the establishment of
19 additional for-profit hospices. Right now
20 that bill helped to solidify the CON that is
21 in place for hospices.

22 And unfortunately in the
23 Executive Budget there were CON modifications
24 to the hospice rules, and we're asking those

1 to be rejected as well, because it does open
2 New York State to become proliferated with
3 for-profit and venture capitalist hospices,
4 like other states, like California.

5 ASSEMBLYWOMAN PAULIN: And we are a
6 state that is -- underutilizes hospice
7 services, to say the least. Ideas on how to
8 make that better?

9 MS. CHIRICO: My first idea would be
10 fund the advanced care planning campaign so
11 that we can start --

12 ASSEMBLYWOMAN PAULIN: We're trying.

13 MS. CHIRICO: -- talking as a culture
14 about these issues that are hidden too far --
15 deep in our families and cultures.

16 ASSEMBLYWOMAN PAULIN: I think that's
17 it for me. Thank you.

18 MS. CHIRICO: Thank you.

19 CHAIRWOMAN WEINSTEIN: Senate?

20 CHAIRWOMAN KRUEGER: Any other
21 Senators?

22 I have a question. Just following up
23 on the American Cancer Society's comments
24 that -- so in New York City where I come

1 from, the hookah bars are not providing
2 tobacco products, they're a different
3 product.

4 MR. DAVOLI: It's -- they cannot
5 serve -- so flavored hookah is prohibited,
6 unless it is -- does not contain tobacco.
7 And that's -- there's the key. You can have
8 hookah that does not actually have tobacco in
9 it.

10 Now, I will fully admit, this is a
11 little bit out of my expertise. I'm happy to
12 get back to you with more information. But I
13 just -- I don't want to misspeak here, so --

14 CHAIRWOMAN KRUEGER: So assuming
15 you're correct, the Governor's proposal
16 wouldn't change the story in New York City.

17 MR. DAVOLI: No, it would expand -- it
18 would not change what's happening in New York
19 City. It would expand this statewide and
20 create the clarity.

21 CHAIRWOMAN KRUEGER: So then I want to
22 ask the gentleman from the National Hookah
23 Community Association, so do you really think
24 this is going to be a big issue in New York

1 State, since I think the majority of the
2 communities using hookah are New York
3 City-based. And if life's been going on okay
4 without flavored tobacco there, why should we
5 worry it's a real problem outside of New York
6 City and the rest of the state?

7 MR. HUDGINS: Well, I don't think
8 things have been going okay, and I would say
9 that --

10 CHAIRWOMAN KRUEGER: Try and get
11 closer to the mic.

12 MR. HUDGINS: Oh, yeah, sure.

13 CHAIRWOMAN KRUEGER: Sorry.

14 MR. HUDGINS: I don't think that
15 things have been going okay. I think
16 certainly with that ban, which frankly
17 happened before we were -- we existed --
18 partly why we existed, because many of these
19 folks come from communities where interacting
20 with government is not a good thing to do.
21 So they're reluctant to speak up.

22 Hookah has been flavored for thousands
23 of years. It was originally called mu'assel,
24 which translates to "with honey." There is a

1 flavor presence. One of the most popular
2 flavors today, and has been for hundreds of
3 years, is "two apple," and that's because
4 they originally would add slices of apple to
5 it.

6 It's very popular, the flavored
7 product, for people who practice this, and
8 this is what they practice in foreign
9 countries, and this is what they bring here.

10 It is true that flavored tobacco is
11 banned in New York City. Lounges closed
12 because of that. There are still lounges
13 there. I question the enforcement there as
14 well, which I think exposes some of the
15 problems of taking this statewide.

16 The real fact is this is not something
17 that is used by youth.

18 CHAIRWOMAN KRUEGER: And do you have
19 any evidence that smoking hookah does not
20 cause cancer?

21 MR. HUDGINS: I do not. I agree that
22 hookah does contain tobacco. Hookah contains
23 about 15 to 20 percent tobacco. A cigarette
24 or vape comes up -- contains 100 percent

1 tobacco.

2 If you are looking -- if you're
3 addicted to nicotine, you're trying to get a
4 nicotine fix, a hookah is a terrible way to
5 do it because it takes 20 or 30 minutes to
6 smoke something this big.

7 Federal data also shows that hookah
8 users only use it once or twice a month,
9 predominantly. Over 90 percent only use it
10 once or twice a month. It's not something
11 you're going to go to for that nicotine fix.

12 It does contain tobacco; we're not
13 hiding that.

14 CHAIRWOMAN KRUEGER: I once told a
15 tobacco company that they should really think
16 about coming up with products that don't kill
17 their clients, because it's not that easy to
18 replace them. So I might encourage people to
19 use other products.

20 And my time is up. Thank you very
21 much.

22 Any other questions?

23 CHAIRWOMAN WEINSTEIN: Oh, yeah, we
24 have --

1 CHAIRWOMAN KRUEGER: Oh, Assembly.

2 CHAIRWOMAN WEINSTEIN: Assemblyman
3 Blumencranz.

4 ASSEMBLYMAN BLUMENCRANZ: (Mic off.)
5 Thank you.

6 Ms. Chirico, with Hospice, thank you
7 so much for coming. I appreciate it, I
8 appreciate everything that you do.

9 One thing that I find pretty
10 interesting --

11 CHAIRWOMAN KRUEGER: I'm sorry, is
12 your mic on?

13 ASSEMBLYMAN BLUMENCRANZ: Sorry.

14 One thing that I find pretty
15 interesting is that it's commonplace that we
16 don't separate palliative and hospice care.
17 So what efforts do you think we should be
18 taking as a body or in the budget to increase
19 palliative care in other fields of medicine,
20 including geriatrics, but across the field?

21 MS. CHIRICO: Thank you for that
22 question.

23 One of the things I didn't have an
24 opportunity to talk about was our request for

1 workforce funding. And contained within that
2 is education about hospice and palliative
3 care. And following up on the Hospice and
4 Palliative Care Education Training
5 Council that Governor Cuomo actually had put
6 into place, which would include training even
7 providers on the difference between hospice
8 and palliative care and how to identify
9 patients who would be appropriate for either,
10 so that we can assure whenever somebody's
11 seeing their primary care physician or an NP
12 or a PA, that they understand the difference
13 between the two and make referrals sooner in
14 the trajectory of someone's illness.

15 ASSEMBLYMAN BLUMENCRANZ: Thank you so
16 much.

17 CHAIRWOMAN KRUEGER: Assembly?

18 CHAIRWOMAN WEINSTEIN: Assemblyman
19 Sayegh.

20 ASSEMBLYMAN SAYEGH: Thank you very
21 much, Madam Chair.

22 On the hookah products and on cancer
23 in general, as an educator, we've -- all of
24 us as a society have always preached, you

1 know, to avoid the smoking and the impact on
2 cancer, and alcohol and gambling.

3 But we go ahead and we follow and
4 agree on policies and procedures to allow us
5 to smoke cigarettes in general and allow us
6 to smoke pot in New York, but to say you
7 can't smoke a hookah.

8 I just want to show a testament that
9 with my Middle Eastern background, for nearly
10 25 years, as was said, I probably smoke a
11 hookah once, twice a month. Never saw it to
12 be addictive. It is cultural for me. And
13 from what I understand of the science, a lot
14 less harm than cigarettes.

15 And I'm a little concerned because it
16 really looks to a large community of Middle
17 Easterners and South Asians and a broad
18 spectrum around the world that smoke and
19 enjoy hookah, that it's an unfair burden to
20 say you can't smoke a hookah but you can
21 smoke other products.

22 If you told me you had legislation
23 where we agreed to ban all forms of smoking,
24 I would say, well, this is a policy and this

1 is a procedure. But I really see this as
2 unfair and it targets certain groups.

3 And more important, people I spoke to
4 said, "You know what, even if you banned it,
5 we know how to buy it, because it's available
6 all over." So you lose the tax base. You
7 have unmonitored products, and it becomes
8 even more dangerous.

9 So I really think it's a little bit
10 unfair to tie in the risk -- and I agree with
11 you -- of cancer and the ills and cancer and
12 really target one component of it.

13 MR. DAVOLI: Would you like me to
14 respond or --

15 ASSEMBLYMAN SAYEGH: If I can have
16 remarks from both --

17 MR. DAVOLI: Yes, yes, of course.
18 Thank you so much.

19 Well, in -- listen, I want to
20 emphasize this, this is why -- we're not
21 talking about one group of people or another,
22 we're talking about a product. And we're not
23 talking about one specific product or
24 another, we're talking about flavors.

1 Whether they are menthol cigarettes,
2 flavored, you know, marketed towards women,
3 using Virginia Slims to attract women and
4 hook them on menthol cigarettes -- which, you
5 know, women smoke menthol cigarettes nearly
6 three times as much as men do.

7 Whether it's menthol cigarettes being
8 given out all across communities of color in
9 New York City and around the country, free,
10 for decades, and advertisements in Black
11 magazines to try to ingratiate themselves,
12 the tobacco industry, with the Black
13 community and trying to hook the community.

14 Whether it's, you know, the direct
15 targeting of LGBT community populations in
16 New York City with menthol cigarettes. These
17 products are used to hook people.

18 So I am not advocating for any one
19 specific type of tobacco. I'm talking
20 specifically about saying that flavors are
21 used to hook people, and we must do anything
22 in our power -- and for all the communities
23 in New York State.

24 We are the American Cancer Society.

1 My office is in the fourth floor of the Hope
2 Lodge in Manhattan. There are cancer
3 patients that come in there from many of your
4 districts. I meet them in my office, coming
5 in and out of the office every single day.
6 They're from all over the State of New York.
7 And they're dying, many of them, because of
8 tobacco.

9 CHAIRWOMAN WEINSTEIN: Thank -- thank
10 you. Thank you. Assemblywoman
11 González-Rojas.

12 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
13 you all so much.

14 I do want to say for the record that I
15 have -- I represent a district that has a
16 large Arab community that -- and quite a
17 number of hookah bars and lounges. So I
18 completely support a ban on flavored tobacco,
19 but I would support also an exemption for
20 hookah because of the cultural significance
21 in my community.

22 My question, though, is for Georgana.
23 Thank you so much for being here.

24 I want to ask -- probe on the

1 Governor's proposal directly. Is there
2 anything in this proposal that does provide
3 for logistical support for people who need
4 and are seeking abortion care, including
5 travel, lodging, childcare, translation?

6 MS. HANSON: Are you speaking to the
7 25 million? The way in which the language
8 reads in Aid to Localities connects that to
9 providers. I think we -- which is part of
10 the reason why we want to ensure that there's
11 clarity that we could see grant money being
12 used, not just to support providers in this
13 moment increasing access, but to also be
14 supporting the nonprofit entities that are
15 delivering practical support to patients who
16 need to seek -- you know, who are seeking
17 abortion care in New York.

18 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Can you
19 expound on like the lack of investment in
20 these very practical supports? How does it
21 impact the ability for us to provide abortion
22 care for those who seek it?

23 MS. HANSON: Yeah, I think it's
24 important to, you know, anchor ourselves in

1 the reality that even prior to the
2 Supreme Court overturning Roe v. Wade this
3 summer, that there were already barriers that
4 prevented people from accessing abortion
5 care, whether it was having to take time off
6 of work, arrange childcare.

7 There are -- even in the great work
8 we've done in New York to expand insurance
9 coverage for abortion care, there are still
10 individuals who lack coverage. And those
11 barriers can push care out of reach. That's
12 certainly the reality now, too, where we live
13 in a country where 18 states have severely
14 banned or restricted access to abortion.

15 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: In the
16 last couple of seconds, can you speak to the
17 capacity needs of providers? What do
18 appointments look like? How are you all
19 doing in terms of providing that care?

20 MS. HANSON: I appreciate the
21 question. I mean, I think we are living in a
22 space where it's pretty dynamic, as states
23 work to enact bans and restrictions.

24 But to be honest, care was challenging

1 before. I think you've heard from plenty of
2 other providers today, and organizations
3 representing providers, the cost of
4 delivering care is increasing. It is hard to
5 attract and retain staff. That is true
6 especially for small safety-net providers
7 like Planned Parenthood.

8 And so, you know, when we've seen
9 underinvestment in care and, you know, that
10 has throttled our ability to grow and expand
11 to just meet current need, you can -- as you
12 can hire providers and train them and bring
13 them to capacity, you can increase access to
14 care. When you can't do that, that impacts
15 directly New Yorkers and others.

16 ASSEMBLYWOMAN GONZÁLEZ-ROJAS: Thank
17 you so much.

18 CHAIRWOMAN KRUEGER: (Mic off.) Okay.
19 Any other Assembly or Senators, speak now or
20 forever hold your peace.

21 I want to thank you all very much for
22 coming and testifying today. I believe this
23 now concludes the public hearing on the
24 health budget for New York State.

1 Come back tomorrow morning at 9:30,
2 and the topic will be housing. And then I
3 believe there is a second hearing tomorrow,
4 on workforce development, starting at
5 2 o'clock or later.

6 So thank you all very much.

7 (Whereupon, the budget hearing
8 concluded at 6:16 p.m.)

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