1 JOINT HEARING BEFORE THE NEW YORK STATE
SENATE STANDING COMMITTEE ON HEALTH
2 AND THE SENATE STANDING COMMITTEE ON INSURANCE

3 --
PUBLIC HEARING
4
NEW YORK STATE OF HEALTH:
5
A DISCUSSION ON IMPLEMENTATION
6 --

7 Legislative Office Building
Hamilton Hearing Room B
8 172 State Street
Albany, New York 12247
9
January 13, 2014
10 10:00 a.m. to 2:45 p.m.

11
PRESIDING:
12
Senator Kemp Hannon
13 Chairman, NYS Senate Standing Committee on Health

14 Senator James L. Seward
Chairman, NYS Senate Standing Committee on Insurance
15

16 PRESENT:

17 Senator Greg Ball

18 Senator Neil D. Breslin

19 Senator Simcha Felder

20 Senator Martin J. Golden

21 Senator Ruth Hassell-Thompson

22 Senator William J. Larkin, Jr.

23 Senator Jack M. Martins

24 Senator Gustavo Rivera (RM)
Senate Standing Committee on Health
25

SPEAKERS:	PAGE	QUESTIONS
Donna Frescatore Executive Director New York State of Health	10	26
Mary Morse Owner Kwik-Kut Manufacturing	82	96
Pamela Reese Finch Public Relations Consultant Sole Proprietor	82	96
Nick Fitterman, M.D., F.A.C.P. Internist Sole Practitioner	102	129
Andrew Kleinman, M.D. Plastic Surgeon President-Elect of the Medical Society of the State of New York	102	129
Patricia McLaughlin, M.D. Ophthalmologist Sole Practitioner	102	129
Dan Colacino Vice President Rose and Kiernan, Inc.	133	154
Eric P. Nevins President EP Nevins Insurance Agency, Inc.	133	154
Jack Smith Executive Vice President William A. Smith & Son Insurance Agency	133	154
Bob Carey Account Executive Otsego County Chamber of Commerce	158	
Lacey Clarke Deputy Director Freelancers Union Insurance	158	

SPEAKERS (Continued):	PAGE	QUESTIONS
Mark Eagan President & CEO Albany-Colonie Regional Chamber of Commerce	158	
Maurice Isaac Employee Benefits Program Administrator Delaware County Chamber of Commerce	158	
Sean Doolan, Esq. Attorney with Hinman Straub Representing Blue Cross/Blue Shield of New York	180 187 195	184 191 197
Paul Macielak, Esq. CEO, President, and Chairman of the Board Health Plan Association	180 187 195	184 191 197
Elisabeth Benjamin Vice President of Health Initiatives Community Service Society of New York	215	227
James Lytle Attorney Representing Coalition for New York State Public Health Plans	215 232	227 237
Mark Scherzer Attorney Representing Health Care for All New York/New Yorkers for Accessible Health Coverage	215 232	227 237

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1 SENATOR HANNON: Would you take your seats,
2 please.
3 SENATOR SEWARD: Good morning, everyone, and
4 welcome to the joint hearing of the Senate Committee
5 on Health and the Senate Committee on Insurance.
6 I'm very pleased to be joining the Chair of
7 our Health Committee in the Senate, Senator Hannon,
8 and some of his Committee members.
9 I'm Senator Jim Seward, Chair of the
10 Insurance Committee in the Senate, and we have a
11 number of our members here as well.
12 We are here this morning to take testimony on
13 the current status of the implementation of the
14 New York State Health Insurance Exchange, as well as
15 the impact of the federal health-care reform, what
16 that impact is having on individuals, families,
17 small businesses, even providers and payers, here in
18 New York State.
19 And as we listen to testimony and get the
20 current status of, not only the exchange, but the
21 impact of the federal health-care reforms, we hope
22 to be looking at possible State options for filling
23 any gaps and providing any assistance, particularly
24 those who may be negatively impacted, in terms of
25 both their coverage as well as their health care.

1 Let me say that, at the outset, that in my
2 estimation, when it comes to the exchange, I think
3 New York is doing a good job when compared,
4 certainly, to the federal exchange.
5 Now, I want to say that I appreciate the job
6 that Donna Frescatore and her team is doing, and
7 appreciate the work of her staff.
8 They have been very helpful and responsive
9 when my office has called with constituent concerns.
10 With that said, there are a number of issues,
11 however, that have come to my attention that warrant
12 further discussion.
13 I also have a number of questions that still
14 need to be answered, that were not answered in
15 response to the letter that Senator Hannon and
16 I sent back in November.
17 Specifically, I have concerns with those
18 individuals, sole proprietors, and many small
19 business owners who have seen their policies
20 canceled as a result of the federal law.
21 I have seen numbers here in New York that say
22 that, reportedly, over 100,000 individuals and
23 policies have been impacted with these cancellations
24 here in New York.
25 What is happening to these individuals in

1 terms of their coverage and health care?
2 I've also heard from a number of my
3 constituents, that tell me that the cost of
4 obtaining a new policy is significantly more than
5 they were paying previous to these changes, and, in
6 many cases, is simply not financially feasible for
7 them to continue coverage.
8 We've also heard from constituents who have
9 actually signed up on the exchange, but to this day,
10 have no verification, no card.
11 What are they to do if they need to go to the
12 hospital or another provider for their health care?
13 Most of these individuals are sole
14 proprietors or work for small businesses.
15 So I'd like to explore whether or not there
16 is any way that the State can assist these
17 individuals.
18 And, of course, there are many other concerns
19 regarding other aspects of the federal
20 health-care-reform law as well.
21 And I look forward to hearing everyone's
22 testimony here today.
23 Senator Hannon.
24 SENATOR HANNON: Thank you, Senator.
25 I'll concur with what you've said, and just

1 note that this -- the statute we're dealing with,
2 the Affordable Care Act, is probably one of the most
3 major policy initiatives we've seen in our lifetime,
4 and, has a number of different aspects. Many of the
5 aspects have focused on the mechanical problems
6 involved.
7 I would hope that we would get beyond, and
8 start to get beyond, those mechanical problems,
9 important as they may be for people who don't have
10 coverage, and start to look at what the overall
11 purpose has been of ObamaCare, what populations are
12 currently being served, what populations have been
13 missed.
14 And I'm not talking the national debate. I'm
15 talking here in the state.
16 We as a Senate have twice expanded
17 Child Health Plus. We helped establish
18 Family Health Plus. We established Healthy NY.
19 We've looked towards a wider set of coverages
20 for everybody, and the question will be:
21 Has that been achieved, or, are there steps
22 that the State needs to take, to make sure that both
23 patients are well-treated, well-covered;
24 And, the providers, there's enough of them,
25 that they're accessible;

1 That the drugs that are -- people expect, in
2 terms of their modern medical needs, are taken care
3 of.
4 So those are the things that try to widen the
5 concept of where we're going; not making it a
6 political debate, but looking at it as a policy
7 initiative.
8 Thank you.
9 Sir?
10 SENATOR SEWARD: Senator Breslin.
11 SENATOR BRESLIN: Thank you very much.
12 I would concur totally with Senator Hannon
13 that this is a -- an apolitical discussion today to
14 probably the most important piece of health
15 legislation in the last 70 years, and that we should
16 look to:
17 How it's being achieved in a successful way;
18 Who we're leaving behind;
19 Are the providers sufficient? Are they being
20 taken care of, are they being supported?
21 And I think that this type of hearing can
22 have tremendous success if we look at it in a very
23 objective direct way.
24 SENATOR HANNON: Senator Rivera.
25 SENATOR RIVERA: Thank you, Senator Hannon

1 and Senator Seward as well.
2 SENATOR BRESLIN: And me.
3 SENATOR RIVERA: And, of course, Neil as
4 well.
5 Thank you, Neil.
6 [Laughter.]
7 SENATOR RIVERA: I'm -- as a Ranking Member
8 in the Health Committee in the Senate, I can say
9 that I've have a very good working relationship with
10 Senator Hannon, and I think that this is a perfect
11 example of the type of work that can be done when
12 you are asking questions about how policy actually
13 impacts the people of the state of New York.
14 There are certainly things that the
15 implementation of the Affordable Care Act in
16 New York demonstrates can be done well, as far as,
17 how care actually gets to folks, how folks can get
18 covered.
19 And I think that there's definitely a lot of
20 successes that we are going to discuss today.
21 There's also challenges as well.
22 And I think that, as we have -- as we have
23 been leading in the nation, as it relates to the
24 implementation of the Affordable Care Act, and how
25 to make sure that people get taken care of all

1 across the state, we should continue to do so.
2 And the conversations that we're going to
3 have today will, hopefully, lead us down that path.
4 So, I'm looking forward to the conversations
5 that we will have today, both, about the successes
6 that we've already had, but also about the
7 challenges that we face, going forward.
8 Thank you, Senator.
9 SENATOR SEWARD: Well, thank you all for your
10 comments, and let's get started.
11 And our first panel, representing the
12 New York State of Health, is the executive director,
13 Donna Frescatore.
14 DONNA FRESCATORE: Good morning,
15 Chairman Hannon, Chairman Seward, other honorable
16 Members of the Committee.
17 SENATOR HANNON: Would you pull the mic
18 closer to you?
19 DONNA FRESCATORE: Sure.
20 Thank you.
21 I'm Donna Frescatore, executive director of
22 New York State of Health.
23 As you all know, New York State of Health is
24 New York's official health-plan marketplace under
25 the federal Affordable Care Act. It's a place where

1 New Yorkers can shop for, compare, and enroll in
2 health insurance.
3 Since the market's launch in October, well
4 over a quarter of a million people have enrolled in
5 affordable health care through New York State of
6 Health.
7 Thank you for inviting me here today to tell
8 you about the success of -- the successful launch of
9 our marketplace, and the many New Yorkers who are
10 already receiving affordable health-insurance
11 coverage through the market.
12 As you know, in April of 2012, Governor Cuomo
13 issued Executive Order 42, establishing a
14 state-based health-insurance exchange in accordance
15 with the federal Affordable Care Act.
16 The order set in motion an intensive 18-month
17 planning and implementation process that included
18 the input of over 200 individuals across 5 regional
19 committees in our state, the completion of 15 policy
20 studies, and extensive collaboration between our
21 marketplace, our state Medicaid program, and our
22 colleagues at the Department of Financial Services.
23 In June of 2012, the Department of Health
24 contracted with Computer Sciences Corporation, or,
25 "CSC," to be the single systems integrator

1 responsible for building and operating the state's
2 marketplace.
3 We developed an adaptive and flexible system
4 that has proven that it allowed us to identify
5 issues as the system was being built, and to quickly
6 make changes and corrections when they were needed.
7 On January 31st of 2013, just about a year
8 ago, New York State of Health issued an invitation
9 to all health insurers licensed in New York to be
10 part of our state marketplace.
11 That invitation went well beyond the federal
12 requirements for health plans that participate in
13 the exchanges.
14 It required insurers to offer standardized
15 products, it required the products at each metal
16 tier, and, out-of-network benefits were required if
17 the insurer was providing such benefits outside of
18 the exchange.
19 On October 1st of 2013, we launched
20 New York State of Health's website.
21 As reported, today, there have been over
22 2.5 million unique visitors to the site, and they
23 viewed 57 million pages on that website.
24 The traffic to the website remains high, and
25 it's operating smoothly, with an average response

1 time of less than 3.8 seconds when a consumer
2 requests a next page or action on the website.
3 Although the volume remains extraordinarily
4 high, it was even higher in our initial days of
5 implementation, and that resulted in some
6 problematic wait times for consumers.
7 Our technical team responded quickly,
8 quadrupling the website's processing capacity, and
9 project leadership stayed on site to direct and
10 oversee implementation of these corrective actions.
11 As a result, on October 5th, just days later,
12 the website performance improved dramatically, and
13 it remains at those levels.
14 Our call center was also very busy.
15 Between October 1st and December 24th of
16 2013, our trained representatives answered over
17 350,000 calls.
18 As the deadline for applying for January 2014
19 coverage approached, call volume more than doubled,
20 from an average of 5500 calls answered every day, to
21 over 15,000, often at a rate of 1500 to 1600 calls
22 answered every hour.
23 To address the increased wait times for
24 customer service, and to provide better service to
25 our consumers, the customer service center is poised

1 to add representatives to the phone lines in January
2 and February of this year, as we approach the
3 March 31st enrollment deadline.
4 New York State Health is committed to
5 improving customer interactions and meeting the
6 needs of potential enrollees.
7 To date, 75 percent of applications have been
8 submitted by consumers directly through the website;
9 I think a testimony to how the website is working
10 smoothly.
11 The rate -- remaining 25 percent of
12 applications were submitted by telephone or with the
13 help of a trained assister.
14 And these assisters include about
15 570 navigators, over 2500 certified application
16 counselors, and over 3900 licensed insurance brokers
17 in New York who have been certified to work with
18 New York State of Health.
19 Regardless of the type of assister, each must
20 adhere to strict policies and procedures related to
21 privacy and security of data related to the people
22 they're helping.
23 Forty-eight organizations serve as navigators
24 throughout state, and bring with them
25 95 organizations, including thirteen chambers of

1 commerce, and each individual has completed a
2 three-day training course that's conducted in
3 person, and a written examination.
4 Like our navigators, our certified
5 application counselors, who are generally employees
6 of hospitals, federally qualified health centers, or
7 health plans provide, provide in-person assistance
8 to individual consumers.
9 While these counselors must meet the same
10 certification requirements, they are -- they do not
11 receive grant payments from New York State of Health
12 or the department.
13 Finally, recognizing the very important role
14 that licensed insurance brokers play in
15 New York State in advising small businesses, and,
16 recognizing the assistance that they can provide to
17 individuals as we enroll more people directly in
18 insurance in New York, we have worked extensively
19 with the Department of Financial Services and broker
20 organizations to develop an 8-hour
21 continuing-education course, where licensed
22 insurance brokers can choose to work with the
23 individual marketplace, the small-business
24 marketplace, or both.
25 Regardless of how consumers apply for

1 coverage, securing personal data is critical.
2 In building and deploying the marketplace,
3 the Department of Health has implemented advanced
4 security controls and processes, based on the
5 National Institute of Standards and Technology's
6 guidelines, as well as other regulatory,
7 administrative, technical, and physical safeguards.
8 These security and privacy controls enable
9 New York State of Health to monitor and continually
10 protect the privacy of information it is required to
11 collect on behalf of the enrollee.
12 Strong encryptions protect communications to
13 and from the website, and, in addition to standard
14 computer protections in place, which include
15 anti-virus and anti-malware implementation, the
16 website uses both network- and host-intrusion
17 provision mechanisms -- prevention mechanisms to
18 detect and prevent malicious activity.
19 The marketplace always encourages consumers
20 to protect their personal identification
21 information.
22 In September, prior to opening the
23 marketplace, New York State of Health issued an
24 alert to consumers, advising them that they should
25 never be charged a fee for assistance to enroll in

1 the marketplace, that they should only provide
2 information to people they know are certified by the
3 marketplace to help them, and that no one from the
4 marketplace will ever contact them unless they've
5 requested assistance.
6 Any report of potentially inappropriate
7 activity will be fully investigated by
8 New York State of Health, in conjunction with the
9 Department of Financial Services, when appropriate.
10 New York State of Health has also established
11 an approval process for those wishing to use the
12 name or logo on their materials or advertisements.
13 New York's health-plan marketplace is a
14 leader in the nation, and health insurance
15 enrollment through New York State of Health has
16 grown steadily and significantly since first opening
17 October 1st, reaching about 294,000 enrollees as of
18 just midnight yesterday.
19 But, today, I'd like to tell you a little bit
20 more about the New Yorkers who have enrolled in
21 health insurance effective January 1, 2014, and the
22 types of coverage they've enrolled in.
23 At the close of business on December 24th,
24 which was the deadline for enrolling for January 1st
25 coverage, 230,624, to be exact, people had enrolled

1 in the individual marketplace through
2 New York State of Health.
3 The enrollments include New Yorkers from
4 every county of the state, with the largest
5 percentages from Kings, Queens, Suffolk, Manhattan,
6 Nassau, Westchester, Erie, and Monroe counties.
7 Of the individual enrollment, the majority,
8 66 percent, were in qualified health plans; so those
9 are individuals who are qualifying for private
10 coverage through a QHP, as we've come to know them.
11 Sixteen health insurers are currently
12 certified to offer QHPs through the marketplace,
13 ensuring that consumers all throughout our state
14 have access and choice to different health plans.
15 Each of the 16 health plans received
16 enrollment for January 2014 coverage.
17 Additionally, all of our qualified health
18 plans, consistent with federal requirements and with
19 state laws and regulation, cover a whole range of
20 benefits, and, each of the networks must meet
21 pre-established criteria in order for the QHP to be
22 certified on the exchange.
23 So, QHP networks must include all types of
24 providers necessary to deliver the services,
25 including hospitals, choice of primary-care

1 physicians, choice of specialty physicians in each
2 specialty type, and essential community providers,
3 such as qualified health centers, among others.
4 In the event a health-plan member who has
5 enrolled through a QHP demonstrates that they have a
6 need to see a provider that is not part of their
7 health-plan's network, the health plan must approve
8 a referral to an out-of-network provider, and the
9 member will be responsible for only the amount of
10 cost share they would have paid had they used a
11 network provider.
12 That is a protection through the marketplace
13 that currently exists for HMOs in our state, and,
14 through the marketplace, has been extended to all
15 types of insurers.
16 We continuously work with other divisions
17 within the Department of Health to assess the
18 incremental demand that new enrollment is going to
19 place on our delivery system; in particular, our
20 primary-care system.
21 As we conduct that analysis, we will take
22 into consideration the important actions taken by
23 our State Legislature, including the Primary Care
24 Services Corp -- Corporation -- Corp, I'm sorry,
25 loan-repayment program, the Doctors Across New York

1 programs, and the Health-Force Retraining
2 Initiatives, all of which play a critical role in
3 making certain that all New Yorkers can access
4 primary care.
5 Of the individuals that enrolled in a
6 qualified health plan, as of December 24th:
7 53 percent are female, 47 percent are male;
8 30 percent are under the age of 35;
9 16 percent are between the ages of 35 and 44;
10 23 percent between the ages of 45 and 54;
11 And 31 percent are over age 54.
12 So that gives you a glimpse into the age
13 distribution in our very first month of enrollment.
14 Nearly 50 percent of the individuals who
15 enrolled through the marketplace for January 2014
16 coverage were uninsured at the time of their
17 application.
18 And that rate of uninsurance, it is higher
19 for those who receive financial assistance through
20 New York State of Health.
21 And speaking of financial assistance, as
22 projected, about 68 percent of individuals and
23 families who have enrolled in coverage for January
24 received assistance in either -- the form of either
25 federal tax credits or cost-sharing credits;

1 50 percent eligible for both the tax and
2 cost-sharing credits;
3 And 18 percent eligible for tax credits only.
4 The remaining 32 percent of individuals who
5 obtained coverage for January 2014 either had
6 incomes too high to qualify for financial assistance
7 under the federal law, or, they chose not to ask for
8 assistance. Nevertheless, they have benefited from
9 the, approximate, 53 percent reduction in individual
10 premium rates as compared to the rates that were in
11 effect in 2013.
12 We require every health plan that offers
13 products on the exchange to offer products at the
14 four level -- premium levels -- I'm sorry, plan
15 levels: Platinum, Gold, Silver, and Bronze.
16 Three variations of the Silver plan are
17 available, under the federal law, for people with
18 incomes below 250 percent of federal poverty level.
19 Catastrophic plans are also available through
20 the marketplace for people under 30.
21 I'm pleased to tell you today that for,
22 January 2014:
23 17 percent of individuals enrolled chose
24 Platinum plans.
25 12 percent enrolled in Gold plans;

1 12 in Silver plans;
2 39 percent in Silver plans with cost-sharing
3 reductions that actually raise the level of benefit
4 and lower their out-of-pocket costs;
5 And, 18 percent in Bronze plans.
6 Only 2 percent of enrollees, thus far, have
7 selected catastrophic coverage through the
8 marketplace.
9 Early results for the first month of coverage
10 under New York State of Health show that it has been
11 effective in reaching all New Yorkers in all areas
12 of the state, at all income levels, and at all ages.
13 As predicted, New Yorkers are receiving real
14 savings through their marketplace enrollment.
15 Senator Hannon earlier mentioned the
16 important role of Child Health Plus for children in
17 our state, and we would concur that New York State
18 has clearly been a leader in covering children.
19 So we're proud to say this morning that, as
20 of close of business on December 24th, an additional
21 16,750 children enrolled in Child Health Plus
22 through the marketplace.
23 And, in fact, today, that number has even
24 increased further, and I'm pleased to tell you that
25 about 22,000 children, as of midnight last night,

1 have joined our Child Health Plus program.
2 We think that's truly an accomplishment.
3 The majority of these children are in
4 families that qualify for some subsidies under our
5 state Child Health Plus coverage, because their
6 incomes are at or below 400 percent of federal
7 poverty level.
8 And, enrollment of children will remain a
9 priority for New York State of Health as we go
10 forward.
11 Turning now for a minute to the small
12 business marketplace, New York State of Health was
13 one of the only state marketplaces that successfully
14 launched an online marketplace on October 1st of
15 2013.
16 Our marketplace gives employers a new option,
17 and the flexibility, to select the contribution
18 rates, the plan options, that they desire for their
19 employees. And it also let's them choose to have a
20 defined contribution program, where they will
21 contribute a predictable amount each month towards
22 coverage, and their employees have flexibility to
23 choose a plan that best meets their needs.
24 Small businesses in every county of the state
25 elected to provide coverage through the small

1 business marketplace in January.
2 In January, over 5,000 employees and
3 dependents were enrolled through New York State of
4 Health, and enrollment continues for coverage
5 effective both in -- February 1st and March 1st.
6 Platinum-level plans were the most popular
7 choice among our small businesses.
8 38 percent of them selected a Platinum plan;
9 28 percent selected Gold.
10 24 percent selected a Silver plan;
11 And 10 percent selected Bronze.
12 New York has built, truly, a one-stop
13 shopping for individuals applying for
14 health-insurance coverage in our state.
15 As you all know, effective January 1, 2014,
16 New York expanded Medicaid eligibility levels to
17 138 percent of federal poverty level, making the
18 state eligible for increased federal funding to
19 subsidize both the newly-eligible Medicaid enrollees
20 and our existing childless adults.
21 Through December 24th, 61,625 individuals
22 enrolled in Medicaid through New York State of
23 Health.
24 Since New York's eligibility levels already
25 largely met the new federal standard, the expansion

1 affected single and childless adults whose
2 eligibility had previously been set at 100 percent
3 of federal poverty level under our
4 Family Health Plus program.
5 The new expansion population, thus far,
6 represents about 20 percent of the 61,000-plus
7 Medicaid enrollees who joined for January 1st
8 coverage.
9 In summary, the launch of New York State of
10 Health has been an overwhelming success.
11 We enrolled well over a quarter-million
12 people in health insurance in less than
13 three months, but we know that implementing the
14 marketplace is not a one-time task.
15 It's a continuous process of operational
16 improvements, of ongoing training, of refining the
17 products that stock the shelves of our marketplace,
18 and, with working one-on-one with consumers and
19 their representatives when they need help or have
20 questions.
21 Each and every day, the New York State of
22 Health team works to identify and implement
23 modifications that will improve the consumer's
24 experience.
25 Many of them have already been implemented,

1 and others are planned in the upcoming weeks and
2 months.
3 I know that I speak for the entire
4 New York State of Health team when I tell you that
5 we are proud of what's been accomplished, and we are
6 committed to ensuring that New Yorkers have access
7 to affordable, comprehensive health-insurance
8 coverage, and, have the consumer experience they
9 expect and deserve.
10 Thank you, and I am happy to answer your
11 questions.
12 SENATOR SEWARD: Thank you very much,
13 Ms. Frescatore.
14 And, I know we've heard from our two Rankers,
15 Senator Breslin and Senator Gustav [sic] -- but
16 the -- what -- what I'd like to also acknowledge
17 that we have with us, Senator Marty Golden, and
18 Senator Bill Larkin, Senator Jack Martins,
19 Senator Greg Ball, and, Senator Hassell-Thompson has
20 joined us as well.
21 I had just a few questions for you, and then
22 we'll get -- we'll have some others join in as well.
23 You mentioned the term "enrolled," in terms
24 of the numbers of individuals and others who have
25 actually enrolled. I assume that means, through

1 your process at the exchange.
2 And, can you walk us through, you know, the
3 entire process, you know, enrollment --
4 DONNA FRESCATORE: Sure.
5 SENATOR SEWARD: -- and then through that
6 final step of someone actually walking into a
7 provider's door, whether it be a pharmacist or other
8 provider?
9 And the reason I ask that question, is that
10 we have -- I've had constituents who have contacted
11 me, both, on the Medicaid managed-care enrollee, who
12 had no card or verification. This individual needed
13 insulin, and so they couldn't wait, obviously, when
14 January 1 rolled around, and that was a difficulty.
15 Thankfully, your -- you know, your staff was
16 able to intervene in that one particular case, and,
17 they're continuing on a fee-for-service basis until
18 that gets straightened out.
19 And I had another constituent, on the private
20 side, who had signed up with an insurance company,
21 a John Vasalu [ph.] from Cobleskill, who -- he
22 enrolled on November 18th, but he had not received
23 any kind of verification, a card. He talked to his
24 carrier that he had signed up with. They had not
25 heard from the State.

1 And, his plight was highlighted in the
2 "Albany Business Review" at this -- earlier this
3 morning, and, lo and behold, he -- about an hour
4 ago, he called me and told me he had just received a
5 call -- that he had received, at least over the
6 telephone, a call, with his ID number, and that they
7 would be mailing it today.
8 So, I think we need to hear from -- these are
9 impressive numbers, in terms of enrollees, but what
10 happens after the enrollment period, in terms of
11 someone actually having coverage, to.
12 Go out and receive services that are needed?
13 DONNA FRESCATORE: Certainly.
14 So, individuals and small businesses can
15 elect to apply for coverage through the website, and
16 about 75 percent of individuals chose that route to
17 apply;
18 Or, with the assistance of a navigator or an
19 insurance broker, or, in the case of individuals,
20 with a certified application counselor.
21 Once their application is processed, and
22 individuals get an instantaneous response on what
23 they're eligible for, and what their tax credits
24 will be, if they qualify, they can go on to select
25 their health plan.

1 The marketplace then sends a transaction to
2 the insurer that the individual selected, and that
3 begins the process of effectuating coverage at the
4 insurer.
5 All of the insurers, as of Friday, had issued
6 invoices, and most have been issuing identification
7 cards to individuals who enrolled for January
8 coverage, for weeks now, if not months.
9 We had, of course, a very large volume of
10 enrollments on December 23rd and 24th, the closing
11 days, and some of those invoices and ID cards
12 were -- were -- followed behind that enrollment.
13 We're glad, certainly, Senator Seward, that
14 your experience with New York State of Health was
15 good when you reported those cases.
16 Obviously, not everyone would get reported to
17 us.
18 So what we've done with the insurance
19 companies, is we've worked with them, to make
20 certain that they are issuing identification cards
21 and invoices timely, and, that there are systems in
22 place to work with the health plan and the providers
23 that are affiliated with them, to make certain that
24 anyone who applied for coverage in time for January,
25 and pays their invoice, timely, has coverage

1 retroactive to January 1st.

2 SENATOR SEWARD: Do you have a number -- you

3 have the numbers, that you provided us, in terms of

4 the enrollment through your process.

5 Do we have numbers in terms of who's actually

6 paid their premium and actually have coverage as of

7 today?

8 DONNA FRESCATORE: You know, as a protection,

9 really, or a safeguard, to consumers, we worked with

10 the insurers that participate in the marketplace,

11 and have agreed upon, what I think about as a

12 rolling 10-day period to pay your invoice, a grace

13 period, which we would typically have in New York.

14 And so, for many, the very first payment due

15 date that came up would have been January 10th, just

16 last Friday.

17 But, we will have that kind of information as

18 we move forward.

19 What we want to make certain is, that if

20 there's been a delay in an individual getting their

21 invoice, through no fault of their own, that they

22 have the same 10-day protection to be able to pay

23 for their premium, and that their coverage is

24 retroactive.

25 SENATOR SEWARD: You know, under the --

1 shifting gears, under the federal legislation, as
2 I understand it, the exchange is slated to be
3 financially self-sustaining by January 1st of 2015.
4 Is that an obtainable goal, do you feel, here
5 in New York?
6 DONNA FRESCATORE: You're correct.
7 The federal law and the Governor's executive
8 order requires the exchange or marketplace to be
9 self-sustaining in January 2015. And I think that
10 will be part of the upcoming discussions about state
11 fiscal-year budgets.
12 SENATOR SEWARD: The -- I wanted to just --
13 just a question on the relationship between the
14 navigators and our agents and brokers.
15 The -- as I understand it, perhaps you could
16 share with us, if my understanding is correct, that
17 the navigator is only referring someone to an agent
18 or broker only upon request.
19 And my thought is, would a navigator be able
20 to make such a referral if they thought an
21 individual or a small business's circumstances, you
22 know, let's say, we're beyond, you know, the scope
23 of their, you know, working knowledge, and perhaps
24 they feel that they would need additional expertise
25 of an agent or a broker? Would that be allowed?

1 Because I think -- the reason I stress that,
2 is many individuals, small businesses, they have had
3 ongoing relationships with agents and brokers who
4 have been there advisors over the years, and,
5 particularly, and with this is -- we're on uncharted
6 waters here with this change that we're seeing, in
7 the -- with the federal health-care changes.
8 And it would seem to me that some -- the
9 navigators are great in terms of the extent that
10 they can go, but I'd like to see an -- a more
11 seamless role here for the agents and brokers.
12 Could you just describe how you see that
13 relationship, and, the ease of a navigator turning
14 an individual or a small business, "a client," shall
15 we say, over to an agent or a broker.
16 DONNA FRESCATORE: Sure.
17 As part of the planning process and some of
18 the policy work that we did around the very
19 important role of insurance brokers in our insurance
20 markets today, we wanted to be very careful not to
21 disrupt some of those relationships that had
22 pre-existed, you know, the ACA and the exchange for
23 many years.
24 And that's why we built upon the successful
25 continuing-education programs and the training that

1 was already in place for insurance brokers in our
2 state.
3 That said, our expectation for navigators is
4 that, following their training, that they're able to
5 help consumers, both individuals and small
6 businesses.
7 We have not prohibited navigators from making
8 referrals to insurance brokers when either the
9 individual or small business prefers that, or when
10 it's in their best interests. We obviously want the
11 applicant to have the type of assister that they
12 think best meets their needs.
13 SENATOR SEWARD: So nobody would prohibit the
14 navigator from simply saying, Well, I think you
15 should talk to an agent or a broker?
16 Is that what you're saying?
17 DONNA FRESCATORE: I'm sorry, could you
18 repeat that?
19 SENATOR SEWARD: Nothing -- you were saying
20 nothing prohibits a navigator from saying, I think
21 you should be talking to an agent or a broker?
22 DONNA FRESCATORE: No, I'm not aware of
23 anything that would prohibit that.
24 Nevertheless, our expectation is, that the
25 navigators would be able and capable of assisting --

1 of assisting all the consumers that they're required
2 to, under their grants and under the federal rules.
3 We have -- we have not approved standing
4 relationships, where there's always a referral from
5 one navigator to a particular broker. We think it's
6 very important that the applicant's choice of the
7 assister they work with is part of any referral.
8 SENATOR SEWARD: Thank you.
9 Senator Hannon.
10 SENATOR HANNON: A couple of different series
11 of questions.
12 We -- you've probably heard, or will hear
13 later today, about individuals, especially
14 professionals, who have found it very difficult to
15 find plans that would be successor plans to those
16 that were canceled last year.
17 I mean, there was a story in
18 "The New York Times" about lawyers and the bar
19 association.
20 We've received a note from the letter from
21 the Bar Association of the City of New York, that
22 said many of their lawyers there cannot find plans.
23 We find different situations where
24 replacement of drugs or the replacement of doctors
25 is not able to be done.

1 And, so, I was very -- I really -- my
2 eyebrows were raised when you said you had -- in
3 your requirements to the insurers, said they should
4 have out-of-network when -- when they offer that
5 someplace else.
6 And the maybe unexpected consequences of what
7 the rules were for the exchange, was not to have
8 out-of-network allowed in the exchange; but, rather,
9 to cut it down for plans outside the exchange.
10 And as I think in your testimony, you note
11 that the places where the out-of-network is allowed
12 is basically just in Western New York.
13 And, so, we have problems with professionals
14 seeking, even if they want to pay, not being able to
15 get products for this.
16 I think there are questions of people who are
17 changing jobs, and are in between coverage, and
18 because of the lag of getting coverage in New York
19 and the exchange, that's not available; and, yet,
20 they're waiting, 60, 30 days, for a new job.
21 We have people moving between parts of the
22 state, so that there are different coverage, because
23 we do coverage by region and by county.
24 So I'm wondering in regard to, what steps can
25 be done to start to look at where we should go with

1 out-of-network coverage, and whether that be for a
2 physician, hospital, or drugs?
3 And I could go on.
4 There's a lot of other anecdotal evidence,
5 but, I mean, you're probably at the crux of getting
6 those type of questions also.
7 DONNA FRESCATORE: So the rationale for the
8 plan invitation, was that we didn't want consumers
9 to have to, you know, choose between getting their
10 tax credits or financial assistance. And we know
11 that 68 percent or so of the individuals have
12 qualified, at least for January, for that
13 assistance, and out-of-network benefits.
14 So, thus, we thought there was sort of an
15 equity or leveling of the outside markets and the
16 marketplace or the exchange by having that
17 requirement as part of the plan invitation.
18 Each of the networks for the plans that
19 certified for the exchange has been subjected to the
20 very same rules that the Department of Health uses
21 to license HMOs in the state. And then there's the
22 added protection of, for all types of insurers, that
23 if the individual demonstrates they don't have a
24 provider that meets their needs, they're held
25 harmless on any additional out-of-pocket costs.

1 Some plans came to us, their networks weren't
2 quite ready to be certified, because they did not
3 have the required providers in a particular county,
4 and those plans were not certified for offering on
5 the exchange.
6 You know, that said, we are aware that there
7 are some individuals that would prefer a product
8 with an out-of-network benefit.
9 We think that, that in the end, that strong,
10 quality plan networks is really the answer for most
11 consumers who need, both, predictability in their
12 out-of-pocket costs, need premiums that are more
13 affordable to them, particularly through the
14 marketplace, when their incomes will typically be
15 below certain levels.
16 SENATOR HANNON: Are you saying that you feel
17 that the current -- each of the current insurers in
18 the exchange has a network that's adequate?
19 DONNA FRESCATORE: Yes, each of the -- and
20 it's done on a county-by-county basis, each of the
21 plan networks has been subjected to the same
22 rigorous tests that the Department of Health uses to
23 license an HMO in New York State, to make certain
24 those networks are adequate.
25 SENATOR HANNON: What about the standards

1 that the Department of Financial Services uses to
2 license insurers -- health insurers under their
3 certification?
4 DONNA FRESCATORE: Those as well; although
5 it's my understanding that the Department of Health
6 HMO, because those are generally closed network
7 products, is actually a more rigorous test.
8 SENATOR HANNON: Rigorous test for providing
9 adequacy? or numbers?
10 DONNA FRESCATORE: As far as, in terms of,
11 not only the number of providers in the plan
12 network, but, also the choice of providers in the
13 plan network, and other tests.
14 So, in the -- in situations where a health
15 plan could not demonstrate, to our satisfaction,
16 that they had an adequate network in a particular
17 county, they were not certified for the marketplace.
18 That would be the same way that an HMO review
19 would work, or an HMO's request for an expansion of
20 service area, through the Department of Health
21 process.
22 SENATOR HANNON: I had thought, under the
23 executive order, that there was joint governance of
24 the exchange, and things that were the specialty of
25 the Department of Financial Services were done by

1 them, and things that are specialty of the
2 Department of Health were done by them.
3 I didn't realize that you were only using
4 adequacy of network under the Department of Health's
5 rules.
6 DONNA FRESCATORE: The -- there are areas
7 where there was joint review of the applications.
8 The Department of Health took the lead in the
9 provider-network review for the applications.
10 But I don't think that, you know, which of
11 the agencies conducted the review has in any way
12 impacted the adequacy of the networks available to
13 the people who enroll through the marketplace.
14 SENATOR HANNON: Okay, thank you.
15 We'll continue to look at that.
16 Let me ask you, since you got into numbers,
17 I just wanted to go through some of the numbers
18 here, because I wasn't aware, until this morning.
19 You talked about, the total number enrolled
20 in an individual coverage in New York is 230,624,
21 and you said 66 percent of them went into qualified
22 health plans.
23 So that would be 152,211, if any
24 non-Common Core math works.
25 [Laughter.]

1 SENATOR HANNON: So that's 152,000 that are
2 going into non-Medicaid.
3 I presume the rest of the individuals, this
4 other 78,000, are going into Medicaid?
5 DONNA FRESCATORE: Some portion of -- those
6 numbers are for the people who enrolled by
7 December 24th.
8 SENATOR HANNON: I'm just taking it from your
9 statement.
10 DONNA FRESCATORE: Yeah.
11 So, there's a portion of those individuals
12 who -- I think your math is absolutely correct.
13 So, within the 230,624, about 68 percent of
14 them are individuals who enrolled in qualified
15 health plans, either with or without financial
16 assistance.
17 There's a percentage of those individuals who
18 were children who qualified for CHP, because the
19 marketplace is, likewise, enrolling children in the
20 CHP program if that's the best option for the
21 family.
22 And then, the remainder, about 27 percent or
23 so, were Medicaid. That's the 61,625.
24 So we have one front door where individuals
25 apply through the marketplace.

1 And then, depending on their income, their
2 family composition, if they're eligible for
3 Medicaid, they're enrolled in our state Medicaid
4 program. If their children are eligible for CHP,
5 they're enrolled in CHP.
6 And if they're eligible to enroll in a QHP,
7 whether they get tax credits or cost-sharing
8 credits, or not, they're enrolled into a QHP
9 product.
10 That's really the seamless front end that we
11 had envisioned throughout our entire planning
12 process for the state.
13 We don't say to someone --
14 SENATOR HANNON: I'm trying to get at some of
15 the numbers.
16 DONNA FRESCATORE: Okay.
17 SENATOR HANNON: So that -- we agree that
18 152,211 went into qualified health plans, which is
19 non-Medicaid.
20 DONNA FRESCATORE: That's right.
21 SENATOR HANNON: And then you also, later in
22 your statement, said, half of those never had
23 insurance before, or -- I'm sorry. You said half of
24 those were uninsured.
25 DONNA FRESCATORE: Half of the individuals

1 were uninsured.
2 SENATOR HANNON: Who went into the private
3 plans were uninsured.
4 DONNA FRESCATORE: That's right.
5 SENATOR HANNON: So we've now offered, so
6 far, about 70 -- insurance, for people who had
7 previously been uninsured, to 76,000 people?
8 DONNA FRESCATORE: I think that's the correct
9 logic for the math.
10 The percent of people who qualified for
11 Medicaid, that were uninsured at the time of
12 application, was slightly higher, but, that's a
13 separate number.
14 SENATOR HANNON: So, my interesting point to
15 you would be, this state had CHP,
16 Family Health Plus, and Healthy NY.
17 And the last time I could find numbers for
18 Healthy NY, we had about 170,000, according to their
19 annual report in 2010.
20 170,000 were enrolled in Healthy NY.
21 Now, that's individuals and group.
22 But, my point and my contrast is, that was a
23 significant number of people who had received
24 insurance in this state, and I contrast that with
25 the 76,000 we've just gotten now under the ACA.

1 DONNA FRESCATORE: So my understanding of the
2 most recent Healthy NY enrollment would be that
3 there were about 88,000 people who bought as
4 individuals or sole proprietors under Healthy NY.
5 If those individuals completed the
6 application for the marketplace, they, presumably,
7 would respond to a question that they had insurance
8 at the time they applied, and be part of the
9 other --
10 SENATOR HANNON: Well, I'm just contrasting
11 total numbers of enrollment: 170,000, versus the
12 76,000.
13 DONNA FRESCATORE: Yeah, I think that you're
14 applying the percentages correctly, Senator.
15 I would point out, however, that, you know,
16 the marketplace is truly a new option, and, not all
17 people who will enroll in health insurance will
18 enroll through the marketplace.
19 Insurers and brokers will work directly with
20 individuals, and small businesses as well, to enroll
21 people in coverage directly.
22 So I think that's another important component
23 if we were to look more broadly at the number of
24 people, and the transition of insured, from one
25 product through another.

1 The marketplace is one piece of enrollment.
2 SENATOR HANNON: Okay.
3 And in terms of the Medicaid expansion, just
4 the way I looked at the number, where you had 78,000
5 going into Medicaid, and you said 20 percent of
6 those were as a result of the Medicaid expansion.
7 So we've enrolled in the Medicaid expansion
8 population, 15,680.
9 DONNA FRESCATORE: Yeah, the total Medicaid
10 enrollment for January --
11 SENATOR HANNON: No, this is just the
12 expansion population --
13 DONNA FRESCATORE: Right.
14 SENATOR HANNON: -- which was the option the
15 State took under the Affordable Care Act.
16 DONNA FRESCATORE: Right, so the numbers
17 would be 20 percent of 61,625.
18 SENATOR HANNON: So it's even smaller than
19 I had. I had 20 percent of the 78,000.
20 DONNA FRESCATORE: Right.
21 If -- when we think back to some of the
22 initial projections that were done on enrollment, at
23 full implementation, the expected number of people
24 who would be newly eligible, because Medicaid levels
25 were -- because Medicaid already covered hundreds of

1 thousands of childless -- single and childless
2 adults in New York, those projections were, that
3 about -- at full implementation, about 75,000 or so
4 people would enroll in Medicaid, over time.
5 SENATOR HANNON: One point, when I mentioned
6 the bar association, part of their part -- analysis
7 of the Affordable Care Act, was that their -- the
8 definition for an "individual" had changed.
9 Before, you could get coverage if you were --
10 there were two people together.
11 Now, those two people have been split into
12 two individuals, and, the two individuals often wind
13 up paying more than they had been paying before.
14 Now that had been a change in the New York
15 law, or because of New York law.
16 And I was just wondering if you have any
17 policy recommendations to go back to where we had
18 been.
19 DONNA FRESCATORE: So my understanding is,
20 that the way we're determining, or the definition
21 of, "sole proprietor," for the purposes of the
22 marketplace, is consistent with the federal rule,
23 and that we're applying -- we're applying the rules
24 as they're defined in that federal requirement.
25 SENATOR HANNON: But, still, this state, we

1 passed legislation in the year -- what'd they call
2 them? -- RHIOs, or -- PEOs" (professional employees'
3 organizations), that allowed people to join and
4 still get the benefit of group rates.
5 So I'm just wondering where the marketplace
6 is gonna go as we try to find coverage for people
7 who previously had it. And these are not people who
8 are going to get subsidized, they're not going to
9 get tax credits, but they're still looking for
10 products that will offer them the coverage.
11 And the last thing I have to say is, I've
12 looked for -- I was looking for an -- I understand
13 it's federal, the Spanish website.
14 You have Spanish materials, but you don't
15 have a Spanish website.
16 And in terms of the population of New York in
17 need of insurance coverage, we really need to move
18 that forward.
19 And I wonder, at some point, will you get
20 some good news from the federal government when they
21 will take the rest of what you -- you can only do so
22 much with a website. You need their hub in order to
23 operate.
24 When are they going to come up with a Spanish
25 website?

1 DONNA FRESCATORE: We agree, that consumers
2 should have a website that's translated into
3 Spanish.
4 Excuse me.
5 We invested, you know, and focused on the
6 technology to launch the marketplace, and, that
7 investment has paid off, because our website never
8 crashed.
9 There were people who had long wait times,
10 but, people -- it never went down entirely.
11 And since early October, four days into it,
12 it's been running smoothly, as evidenced by the
13 number of people who are enrolling through the
14 website alone.
15 We are working on a Spanish website.
16 And while I can't give you a specific date
17 today, it is something that we agree that should be
18 made available to consumers, and we'll get that
19 done.
20 SENATOR HANNON: Thank you.
21 SENATOR RIVERA: First of all, on that last
22 point, (speaking Spanish), very much in agreement
23 with him, as soon as we can have it, that would be
24 excellent.
25 First will be a brief kind of parochial, and

1 I'm sure that we'll speak later, because there is a
2 breakdown that you have of where folks have signed
3 up, so I'm sure that if I give you, maybe, a list of
4 ZIP codes from my district, I could have a sense of
5 how many folks have signed up in the Bronx?
6 DONNA FRESCATORE: We can get you that
7 information.
8 SENATOR RIVERA: Thank you.
9 I know that there were -- that we had a --
10 2016, the goal was to have 1.1 million folks -- or,
11 the projection, was to have 1.1 million by 2016.
12 According to the numbers that we just
13 discussed, we're about 294 grand, I think just said.
14 So I think we're on track to be able to do
15 that; correct?
16 DONNA FRESCATORE: Yeah, we believe we're on
17 track, and maybe a little ahead of where we thought
18 we would be, based on the projections, at this
19 point.
20 SENATOR RIVERA: And as far as the population
21 of, you know, quote/unquote, young invincibles; that
22 35 -- "under 35" folks, according to some of the
23 numbers that you gave, about 30 percent.
24 So, a third of the folks that have signed up
25 are from this -- from this younger population.

1 There's been a discussion, nationally, about
2 the fact that there is a need for healthier
3 individuals to be part of the exchange to make sure
4 that it works.
5 Is that a percentage that, for lack of a
6 better term, is at a healthy percentage to have as
7 the total breakdown of folks that have signed up?
8 And, do you think that that would be -- that
9 will make the exchange work well?
10 DONNA FRESCATORE: Yeah, we believe that
11 these early results for January, for the first
12 month -- effective month of coverage, show that
13 there is broad awareness and interest among younger
14 adults in signing up for coverage through the
15 marketplace.
16 We have, and we will continue our efforts, to
17 reach out to younger adults, to reinforce the value
18 of being insured, of having the, you know, security
19 and protection that insurance affords us.
20 And we expect that, over time, that number,
21 that percentage, will, in fact, even increase.
22 SENATOR RIVERA: All right.
23 That's all I have.
24 Thank you.
25 SENATOR SEWARD: Senator Larkin.

1 SENATOR LARKIN: Good morning, thank you.
2 A well-prepared document.
3 I have 309,000 people in my district. If
4 they didn't know anything about health or insurance,
5 they would have said this would be an Academy Award.
6 And I'm not being insulting, but I'm confused
7 when I look at the state and the federal government,
8 when we're talking about people, like, Let's go on
9 your website.
10 I have thousands of people who don't have a
11 computer, don't have a website.
12 I did a survey over this weekend.
13 Everybody I was asking, the biggest complaint
14 is: I can't have the doctor I want.
15 "Out-of-network" is not an explained
16 situation.
17 The other thing I think about is, Friday
18 night, a 73-year-old colonel from the United States
19 Army moving to Florida, said: I got a great policy.
20 It's $175 more than last, but my daughters are very
21 disturbed, because I'm authorized two mammograms a
22 year.
23 SENATOR SEWARD: That would be interesting.
24 [Laughter.]
25 SENATOR LARKIN: Now think about it.

1 Somebody, along the line, I understand what
2 you're trying to do, and I appreciate it, because
3 I believe health insurance is an necessity, not a
4 nicety.
5 But I'm concerned that, I think there's money
6 being spent in wrong ways.
7 We talked about navigators, and all.
8 I looked at the 900 form of the society of
9 New York, where they're paying their head guys
10 600,000.
11 They're going to come up to my district.
12 That was back in September.
13 Of course, they haven't found a way to
14 Orange County yet. It's too small of a county.
15 The other thing is, is the Spanish.
16 I have a district that has tremendous
17 Spanish-speaking people. Wonderful people.
18 I have parts of three counties.
19 Rockland County, they make up for 2,000 of
20 the residents. Most of them are in my district.
21 And they're saying is that, there are inadequate
22 numbers of persons who can translate for them.
23 Now, you have better books than I do, but I'm
24 telling what the people on the street are saying.
25 Does anybody know how much we spend on

1 navigators?

2 DONNA FRESCATORE: Certainly.

3 The awards for the navigator program are

4 about $27 million a year.

5 It supports about 570 or so full-time

6 individuals throughout New York State.

7 Taking, collectively, the navigators, I can't

8 specifically to Rockland County, but I can get

9 that -- I will get that information for you,

10 Senator Larkin.

11 Collectively, the navigators speak over

12 40 different languages, and we've made available a

13 site directory.

14 You can get it on the website. We understand

15 not everyone has access to the website. You can

16 call and we can get it to people. We can get it to

17 your district offices.

18 And that directory shows what languages are

19 spoken at what locations, so people can see which

20 navigators.

21 Additionally, on language access, our

22 customer service center is prepared to assist

23 callers in just about every possible language.

24 They have over 60, I think 65 or so,

25 representatives who are Spanish-speaking. And, they

1 use language-line services if they need additional
2 languages or additional resources.
3 Likewise, our materials are translated into
4 seven different languages, including Spanish.
5 So far, you know, the call center has handled
6 over 20,000 calls in languages other than English.
7 It's an important feature of the program.
8 We know the website isn't going to be the
9 answer for everyone, regardless of, you know,
10 their -- of language. It's just not an option for
11 everyone.
12 SENATOR LARKIN: We realize that, but we're
13 talking about the person on the ground. That --
14 that's the one person we're trying to get to.
15 And in my honest opinion, I think our
16 communication is not up to date as it should be.
17 Remember, the age group, and I can speak for
18 them, because I'm going to be 86 years old in less
19 than 20 days.
20 But I'm saying, I talked to many, many
21 seniors, and they're confused.
22 Number one, is the out-of-network.
23 Number two, is the communications between the
24 individual.
25 I've had people tell me over the past month

1 that they've been on a the phone over 12 hours, over
2 a couple of days.
3 And there's no -- there's something missing.
4 It could be the person that's telling me the
5 story, versus the person who's receiving it, but
6 something is missing there.
7 You might not see it when you look at
8 19 million people, but when I look at 309,000 people
9 that I talk to frequently, not once in a blue moon,
10 the questions are serious.
11 Out-of-network, no communications, and lack
12 of plans that are not adequate to the individual.
13 And I thank you for appearing here today.
14 SENATOR SEWARD: Thank you, Senator Larkin.
15 Senator Golden.
16 SENATOR GOLDEN: Thank you.
17 If you could put your mic a little bit closer
18 to you, please?
19 DONNA FRESCATORE: Certainly.
20 SENATOR GOLDEN: Thank you.
21 The -- I think we're all a little concerned
22 about the out-of-network issue.
23 And, there was an article back in "The
24 Times," back on October 18th, about a young girl
25 that had a heart issue, 9-year-old D'Andrea.

1 Miss D'Andrea.
2 And, she went in, and the hospital told
3 them -- they took their insurance, and, they had no
4 idea, the number of people that were in the
5 operating room, and how many doctors were
6 out-of-network.
7 And they got additional bills for all of
8 those out-of-network anesthesiologists,
9 out-of-network doctors, and, it was pretty
10 overwhelming.
11 So, there are two areas here:
12 One, obviously, is in the -- when there's an
13 emergency and you're put into an emergency
14 situation, and you're going into the emergency room,
15 and whatever doctors are there, obviously, are going
16 to work on you.
17 There's also the secondary, where you can
18 actually plan to go into a hospital, and you can
19 actually take a look at the doctors that are in your
20 network.
21 But, we don't have a list of those doctors in
22 the network, do we?
23 And -- number one.
24 Number two: How do we go and take care of
25 these different issues, when they go into an

1 emergency room, or in a planned situation, and there
2 are doctors that go into the operating room or into
3 the -- or the anesthesiologist, that's
4 out-of-network?
5 How is that being dealt with?
6 DONNA FRESCATORE: So, thank you,
7 Senator Golden.
8 The network's information for each of the
9 plans is available. It's on the website.
10 We've also, since we launched New York State
11 of Health, made a tool available to consumers, as
12 they're applying for coverage, so that they can
13 enter the name of the physician that they desire and
14 they can see the affiliations with different health
15 plans.
16 In an emergency situation, all of the plans
17 that are certified on the marketplace, consistent
18 with, both, federal, and I think state rules, if a
19 person believes they're having an emergency, they
20 seek care, it doesn't impact their benefit, whether
21 that hospital is participating or not participating.
22 They're just responsible for -- there's no
23 prior-authorization requirement from the health plan
24 to get those services, and, those services are
25 treated as though they're inpatient.

1 For scheduled procedures and admissions,
2 these plans generally require the use of an
3 in-network provider, unless the plan has approved an
4 out-of-network referral because the plan can't meet
5 the individual's needs.
6 SENATOR GOLDEN: So let me -- in an emergency
7 situation, the network would cover it?
8 Is that what I'm understanding?
9 DONNA FRESCATORE: In an emergency situation,
10 the provider is -- would be covered. There's no
11 prior authorization, so we don't have people, in
12 emergency situations, where they have to call their
13 health plan, and ask or worry about whether they're
14 seeing a network provider or not.
15 SENATOR GOLDEN: And in a non-emergency
16 situation, where you have a hospital that's -- any
17 one of them -- NYU, Presbyterian, any one of those
18 hospitals, when you're going in for a serious
19 operation, a heart operation, you can have as many
20 as five, six, seven doctors in the room.
21 There could be three, four, that are
22 out-of-network.
23 How would they know?
24 DONNA FRESCATORE: Again, the networks are
25 available.

1 We always encourage a consumer to ask the --
2 their physician whether or not they're in their
3 health plan's network, or not. Or, ask the health
4 plan.
5 And, you know, I think there have been some
6 particular situations that have been brought to us,
7 questioning whether or not a particular institution
8 or a provider participates in the network.
9 And when we've been able -- when we've looked
10 at that network data, and, in fact, including the
11 hospital that you raised, the facility does, in
12 fact, participate with some of the plans.
13 That's something we've made available to
14 consumers while they're picking their plan, because
15 we want them to have that information while they
16 select.
17 SENATOR GOLDEN: So it would be up to the
18 consumer, if the individual were to go have an
19 operation, and in that operating room, we're looking
20 at six doctors, two anesthesiologists, three nurse
21 practitioners, and then, of course, a whole series
22 of after-care, another series of doctors, that would
23 come in and out of the room over a period of time?
24 So, it would be up to the provider -- to the
25 individual seeking that insurance, to make sure that

1 each one of those individuals were in and part of
2 the provider that was being in the network?
3 DONNA FRESCATORE: It would work as it does
4 today, in today's insurance markets, that --
5 SENATOR GOLDEN: I'm sorry?
6 DONNA FRESCATORE: It would -- we would
7 always encourage the consumer to have a discussion
8 with the providers, and, to determine their network
9 affiliation.
10 That's the same advice we give consumers
11 today outside of the marketplace coverage.
12 SENATOR GOLDEN: So it would be up to the
13 consumer to make sure they understood, how many
14 doctors and how many people were going to be in the
15 operating room, and how many in after-care, and what
16 your PT would be after that, and how that would be
17 taken care of, which could involve as many as
18 25 people?
19 DONNA FRESCATORE: Right.
20 And that information is also available
21 directly from the health plan on their website.
22 It should be available from the health plan's
23 customer service staff as well, can answer very
24 specific questions about particular doctors or
25 physical therapists and their participation.

1 SENATOR GOLDEN: Now, what about these larger
2 hospitals, some of them take one or two plans, three
3 plans, and then you have other networks that,
4 other -- hospitals that take many plans?
5 Is there any -- anything in process to try to
6 get these hospitals to take more plans? Or is it --
7 how does that work out?
8 If you have two hospitals that only take
9 two plans, that, obviously, limits the amount of
10 people that can go into those hospitals that deal
11 with acute cases.
12 Do we have any way of working with that?
13 DONNA FRESCATORE: The criteria for approving
14 the plan -- or, certifying the health-plan networks
15 has a requirement for hospitals.
16 And, depending on the location, I mean,
17 there's some counties in the state where there may
18 be only one hospital.
19 In other areas, such as in your district, the
20 requirement in the number of hospitals is higher.
21 But, the agreements between health plans and
22 providers are private contracts, as they are today,
23 and, they are negotiated and changed from time to
24 time.
25 Also, as you look at the network composition

1 of each of the plans and the marketplace, it was not
2 our intention, ever, that they be exactly the same;
3 but, rather, that there be some variation in the
4 networks, and, that consumers would have a choice,
5 often at different price points.
6 SENATOR GOLDEN: The -- just, again, on
7 D'Andrea, Miss D'Andrea, I think they call that
8 "balance billing," right, where the out-of-network
9 makes up the difference on what they were not paid
10 for because they were out-of-network.
11 Are there other states dealing with the
12 balanced billing?
13 And, is the federal government have an
14 approach on balanced billing?
15 And, what are we going to do here in the
16 state of New York, with balanced billing?
17 Or, do we have a plan to do anything with
18 balanced billing?
19 DONNA FRESCATORE: You know, I'm not certain
20 that I'm the best person to answer that question.
21 I think that -- I'm not aware that the
22 federal government has a policy on that.
23 I think there are some other states that have
24 processes when there is a balanced bill from a
25 provider that's out-of-network.

1 SENATOR GOLDEN: So they would still be
2 allowed to get their dollars, if they had not done
3 their homework.
4 Those out-of-network doctors would be able to
5 make up that balance by charging the individual,
6 out-of-pocket.
7 Correct?
8 DONNA FRESCATORE: In an out-of-network
9 situation, yes.
10 The individual would file a claim to the
11 insurer, and there may be an unpaid balance from
12 that bill.
13 But I'm not -- I don't know I'm not the
14 person to speak to, you know, a survey of the other
15 state policies on that.
16 SENATOR GOLDEN: Do we have a lot of doctors
17 today starting to opt out of Medicaid and opt of
18 this affordable plan -- affordable health-care plan?
19 DONNA FRESCATORE: You know, we've -- we
20 collect network data for the marketplace. We do --
21 we've changed that to be quarterly, and with the
22 goal of collecting information from the health plans
23 on a monthly basis, as we move forward here.
24 And there are some changes, as there are
25 today, in the usual course of business, from month

1 to month, in the provider network.
2 But, thus far, what we've seen, you know,
3 overall, is that while there's some adds and some
4 subtracts, that all of the networks exceed all of
5 the adequacy standards that were set forth at
6 certification.
7 SENATOR GOLDEN: I see a number of doctors,
8 it's in Manhattan; specifically, New York City, they
9 opt out. They have their own special concierge
10 plans today, but you never seen that in the outer
11 boroughs or in Upstate New York.
12 I see a number of doctors now starting to opt
13 out in my community.
14 I see that as a problem, coming forward.
15 You don't see that as a problem here in the
16 state?
17 DONNA FRESCATORE: Well, you know, we will --
18 I don't know that I foresee network adequacy as a
19 problem, but, that is -- we will be collecting
20 information quarterly, and then monthly, to be able
21 to see if there's changes in the number of
22 physicians or specialists available to consumers
23 when they enroll in the marketplace coverage, going
24 forward.
25 SENATOR GOLDEN: Businesses: The --

1 Senator Hannon had pointed out the number of
2 businesses across the state.
3 I think, in your testimony, it's around
4 5,000 businesses have joined.
5 Are these businesses -- which program are
6 they choosing?
7 And, are they -- is there a savings here on
8 these small businesses?
9 And, why is the number so low on small
10 businesses?
11 DONNA FRESCATORE: The small businesses
12 are -- represent businesses from all over our state.
13 The small-business marketplace is an option
14 for small businesses.
15 They still can purchase insurance directly
16 from an insurer, or with the assistance of a broker
17 and the outside market.
18 There are savings to small businesses through
19 the State, through the small-business marketplace,
20 because it's the only point of access for
21 small-business tax credits.
22 So, small businesses that meet the federal
23 requirements, they have fewer than 25 employees, an
24 average wage of $50,000 or less, not including the
25 owner's wages, and, that contribute 50 percent

1 towards the cost of coverage, can qualify for tax
2 credits when they buy through the small-business
3 marketplace.
4 We expect, over time, that more -- that the
5 enrollment through the small-business marketplace
6 will increase because of the tax credits that are
7 available, and, because the flexibility that's built
8 in, to -- for the employer to make different choices
9 about what they contribute, and what plans their
10 employees have access to.
11 SENATOR GOLDEN: God forbid any of these tax
12 credits expire, we'd be in serious trouble.
13 But if you can make it available us to, for
14 the small businesses, to the Committee Chairmen, the
15 number of businesses, the plans they're choosing,
16 and the outreach that's being made to small
17 businesses, and trying to develop that plan.
18 Last question, and then I'm going to --
19 because there's other Senators here that want to ask
20 some questions.
21 I wanted to go into the website, just for a
22 real -- two brief questions.
23 Has there been any attacks on the websites,
24 and is there any breach?
25 And, who is liable for that breach?

1 DONNA FRESCATORE: No, the website is
2 monitored constantly for any particular -- for any
3 possible intrusions.
4 There have been no breaches to the website,
5 and there's been no known attacks.
6 SENATOR GOLDEN: And who would be responsible
7 for a breach?
8 DONNA FRESCATORE: We would -- there's
9 certainly policies and procedures, as well as
10 federal requirements, about notification in the
11 event of a breach.
12 Those are governed by such regulations as
13 HIPAA.
14 But, again, we have not seen any breaches,
15 and there's no known attacks on the website.
16 SENATOR GOLDEN: Thank you very much.
17 DONNA FRESCATORE: It is monitored
18 constantly.
19 SENATOR GOLDEN: Thank you for your
20 testimony.
21 SENATOR SEWARD: Thank you, Senator Golden.
22 Senator Martins.
23 SENATOR MARTINS: Hi, how are you?
24 DONNA FRESCATORE: Hi, Senator.
25 SENATOR MARTINS: Good morning.

1 Thanks for your testimony here today.
2 My questions center around, really, two
3 topics:
4 One: The number of people who have applied,
5 the number of people who constitute the pool of
6 eligible individuals or families who would qualify
7 for coverage;
8 And, then, the costs that you spoke to in
9 your testimony.
10 How many individuals in New York State lost
11 coverage last year?
12 DONNA FRESCATORE: That's not -- that's not
13 data that we have.
14 I can walk you through the information that
15 we do have.
16 Prior to implementation -- prior to the
17 enactment of the Affordable Care Act, New York had
18 already standardized its individual markets;
19 meaning, specifically, our individual direct-pay
20 market and our Healthy NY market.
21 And we know that, while enrollment
22 fluctuated, from time to time, in those programs,
23 that, prior to the Affordable Care Act, the total
24 enrollment between the two was about 100,000.
25 So, that's the, approximate, 88,000 or so

1 that Senator Hannon referenced earlier;
2 And, an additional 12,000 or so in our
3 individual direct-pay markets.
4 Because the -- because of the way the tax
5 credits are structured under the federal law, and
6 because we've seen the individual rates in 2014
7 decrease, on average, 53 percent from their 2013
8 levels, those individuals, through the marketplace,
9 have affordable options to purchase coverage.
10 And, in fact, we see throughout the state,
11 many consumers who had coverage, perhaps through
12 Healthy NY, seeing pretty significant reductions in
13 their premiums, from the combination of those
14 two factors: the premium rates going down, and,
15 their ability to access tax credits.
16 SENATOR MARTINS: I understand, but my point
17 is broader even than that.
18 You know, when we had this national and state
19 discussion over providing affordable care to
20 everyone, there is a great deal of discussion over
21 the number of individuals and families that did not
22 have coverage, who would be able to, as a result of
23 these efforts, obtain coverage.
24 And, I want to have a sense from you, as to
25 where we are with regard to those efforts.

1 Whether those numbers continue static, or
2 whether we've actually been able to provide coverage
3 to individuals and families who previously did not
4 have coverage.
5 And, how many people today, had coverage,
6 that no longer have coverage as a result of the
7 changes that have been put in place?
8 Because we do have people who are now without
9 coverage, who did have coverage as recently as a few
10 months ago; correct?
11 DONNA FRESCATORE: What I can tell you is
12 that, through the marketplace, of the 230,000 people
13 that enrolled, about half of them were uninsured.
14 So, we are certainly reaching people who did
15 not have insurance, through enrollment in QHPs, as
16 well as our enrollment efforts in our state Medicaid
17 program, where a higher percent -- higher than --
18 slightly higher than 50 percent of people were not
19 insured.
20 Because our small-business market in New York
21 was not standardized prior to the ACA, and some
22 15,000 or so different products were out there,
23 I don't have -- we don't have data that shows how
24 many of those policies were not compliant with the
25 Affordable Care Act.

1 SENATOR MARTINS: Do you have an estimate as
2 to how many individuals in New York were uninsured
3 prior to the rollout of the Affordable Care Act in
4 New York?
5 DONNA FRESCATORE: Based on census data that
6 was part of the modeling work that was done by the
7 Urban Institute on behalf of the state, there were
8 about 2.7 million uninsured New Yorkers.
9 Of those, the expected enrollment, I think
10 this number was mentioned earlier by one of the
11 Senators, we expect that 1.1 million people will
12 enroll through the marketplace by the end of 2016;
13 by December 31, 2016.
14 So that then gives you some numbers about the
15 total number of uninsured and what the expected
16 enrollment is three years out, which we consider
17 full implementation.
18 SENATOR MARTINS: So that "2.5 million"
19 figure is probably still about accurate now, isn't
20 it?
21 DONNA FRESCATORE: Yeah, I don't know that
22 there has been any significant change, based on, you
23 know, census data, to that number, so I think it's
24 fair as an estimate of the uninsured.
25 SENATOR MARTINS: You've used the statistic,

1 "53 percent of reduction in premium rates," as
2 compared to those in effect in 2013. You've used
3 that a couple of times so far.
4 And, I just need some clarity on that
5 because, what's the baseline?
6 What are we comparing, when you compare, or
7 you say, that there's a "53 percent reduction"?
8 Because I have heard from a significant
9 number of individuals from my district who have
10 complained about premium increases.
11 Now, naturally, I expect I'm going to hear
12 from people who are complaining about increases, and
13 I'm not necessarily going to hear from people who
14 have gotten decreases.
15 But, is that based on a comparison of
16 equivalent coverages, or -- or year to year?
17 Because, as Senator Larkin mentioned earlier,
18 there are coverages that are now provided that, in
19 the past, perhaps an enrollee would not need, and so
20 the baseline for coverage has increased; thereby,
21 the cost increasing.
22 That "53 percent" figure is based on, I'm
23 assuming, comparable coverage, year to year, even
24 though, last year, that person may have opted not to
25 have the coverages; correct?

1 DONNA FRESCATORE: It is based on comparable
2 coverage.
3 The 53 percent average reduction is the
4 comparison of the individual direct-pay premium
5 rates in effect in 2013, compared to the individual
6 premiums in effect for 2014, for comparable
7 benefits.
8 SENATOR MARTINS: So if we had individuals
9 who did not choose to have the extensive coverages
10 that are currently afforded under this initiative,
11 they would see their premiums increase, not
12 decrease?
13 DONNA FRESCATORE: The 53 percent is a
14 comparison of the standardized products that were
15 sold in New York to individuals, to what's available
16 today in the individual market.
17 So, it's apples to apples.
18 SENATOR MARTINS: No, I understand, but it
19 doesn't take into account the fact that there are
20 fewer options available to individuals, because the
21 baseline for coverage has actually increased;
22 thereby, forcing them to purchase coverages that
23 they would not have had to have covered or to have
24 used last year; therefore, their actual premiums,
25 money out of their pocket, has actually increased.

1 Have you seen instances of that?
2 DONNA FRESCATORE: My understanding is, that
3 for individuals who are purchasing prior to the --
4 prior to 2014, on the individual market, those --
5 the products they were buying in the standard
6 market -- standardized marketplace were very
7 comparable to the products that are available to
8 them today.
9 Because there are so many, over
10 15,000 products, pre-Affordable Care Act, that were
11 sold in the small-business market, it is more
12 difficult to do that kind of comparison, because
13 it's not really a -- it's not really an
14 apples-to-apples comparison because, just of number
15 of different products that were in the
16 small-business marketplace.
17 SENATOR MARTINS: You know, what are -- in
18 your view, what are the challenges you have, going
19 forward?
20 You know, we've heard a lot today about all
21 of the positives, as they are.
22 What are the challenges, and what are the
23 pitfalls, and what were the hurdles, that you didn't
24 foresee, and you didn't tell us about this morning?
25 SENATOR LARKIN: Good question.

1 DONNA FRESCATORE: I think that our -- our
2 challenges are what they've been, really, since we
3 began this process; and that is:
4 To continue our outreach and education
5 efforts to New Yorkers throughout the state;
6 To continue to improve the customer
7 experience, on the website, when people call our
8 customer service center, when they work with one of
9 our sisters.
10 And it's -- as I said earlier, it's an
11 ongoing process. You know, implementation on
12 October 1st, in many ways, was the start of our
13 marketplace, and, it's a continual improvement
14 process that we are fully committed to implementing.
15 SENATOR MARTINS: One last point:
16 I think -- earlier you said that, policies,
17 insurance cards, numbers, would be -- identification
18 numbers, would be issued after someone paid their
19 premium, right, and that most of these insurers had
20 not sent out notices for payment until January 10th.
21 Is there a backlog now?
22 I mean, is this a significant concern?
23 Because, if they didn't get their notices for
24 payment until the 10th, this was rolled out
25 January 1st, they have, I'm assuming, a certain

1 period of time to pay.

2 Are we dealing with a widespread lack of

3 information being provided to individuals with

4 regard to, access to health insurance, access to the

5 policies that they have, access to identification

6 numbers?

7 And is there something that can be done to

8 expedite that?

9 DONNA FRESCATORE: Just as a point of

10 clarification, all invoices were sent out by the

11 10th, based on information reported by the health

12 plans.

13 Many of the plans had been sending invoices

14 throughout the course of the last several weeks or

15 months, as they received enrollment information from

16 the marketplace.

17 So, I just wanted to be clear about that.

18 Is there safeguards to consumers? People

19 have ten days from when they receive their invoice

20 to make their payment, and make their coverage

21 retroactive.

22 Most of the health plans have ways to

23 confirm, for providers, that individuals are

24 enrolled in their plans. Some of those processes

25 are telephonic, some are electronic systems; and,

1 so, those usual processes are in place.
2 And, again, we will work, and the health
3 plans will work, with anyone who enrolls and pays
4 their premium by the due date. And we're going to
5 be flexible there, to ensure that they have coverage
6 during the month of January if that's what they
7 would want to have.
8 SENATOR MARTINS: Thank you.
9 SENATOR SEWARD: Senator Hassell-Thompson.
10 SENATOR HASSELL-THOMPSON: Yes, thank you.
11 Just one quick question.
12 There was -- there was some conversation a
13 little earlier about the role of the facilitator --
14 SENATOR RIVERA: Navigators.
15 SENATOR HASSELL-THOMPSON: -- navigators.
16 I'm sorry. And I think that that was part of the
17 question.
18 Are they, in effect, facilitators, or -- or,
19 really, how does that role play out?
20 Let me give you an example of what I mean.
21 Many have us, as electeds, understanding
22 the -- the immigrant population in our districts in
23 the Bronx, for instance, most of us did outreach to
24 many of our organizations, particularly our clergy
25 and other not-for-profit groups, in an attempt to

1 explain this process to them. And we invited
2 navigators, and others, to explain the program and
3 how it worked.
4 But I -- but I didn't see any kind of
5 outreach efforts by the State, for instance, to
6 reach out, particularly to our Medicaid population.
7 And I'm wondering if some of that may account
8 for why the registration in some them is a little
9 slower; or, is that an automatic system?
10 In other words, you have a list of all the --
11 all of the Medicaid-eligibles, and so that,
12 automatically, they're sent information.
13 But what do they do with that information?
14 How do you ensure that they understand the
15 choices that are available to them?
16 Who's doing, that, to enhance your ability to
17 reach some of the hard-to-reach in our communities?
18 DONNA FRESCATORE: So, thank you, Senator.
19 The role of the navigator is to actually act
20 on behalf of the individual, and help them submit
21 their application.
22 So, the navigators, the expectation, and what
23 they provide to individuals in the community, is
24 more than just presentations with basic information
25 about how to enroll or where to go to enroll. We

1 actually expect them to accept the application.
2 In fact, a number -- a good percentage of
3 applications are handled by navigators, as insurance
4 brokers are assisting individuals as well.
5 We also have had outreach in communities.
6 I think that we have been in many
7 communities, if not most, throughout New York State
8 with informational types of forums.
9 We're always happy to engage with you on
10 those kinds of activities, on a local level.
11 We've met with many community organizations.
12 We have met with faith-based leaders in
13 different communities throughout New York, as well
14 as consumer organizations. And we --
15 SENATOR HASSELL-THOMPSON: But the question
16 is who initiated that?
17 I mean, is that an expectation that the
18 community initiates that? Does the navigator, you
19 know, initiate that?
20 And when you say that they do this as a
21 process with the individuals, how do they access the
22 individual?
23 The individual, obviously, is not going to
24 pick up the phone and call them, because they don't
25 know they exist.

1 So, you know, how does that work?
2 DONNA FRESCATORE: So it -- I think it's --
3 you know, I think, certainly, it's our
4 responsibility in the marketplace to initiate the
5 community outreach, but we also are receptive to
6 others in the community who may want to organize
7 outreach. And we will -- we are happy to
8 participate in that when we can be helpful to that
9 effort.
10 The navigators do community presentations.
11 They are in libraries in communities, in
12 health centers throughout communities.
13 They're in a variety of different locations
14 where people in the community live and work and
15 conduct, really, their daily business and
16 activities.
17 So, a navigator would be present there.
18 They're available by appointment, to meet
19 with individuals and process their application for
20 them. Or, they can, you know, meet in a community
21 location as well, and assist consumers.
22 So that's really the very important role that
23 navigators play in our community.
24 And we welcome the opportunity to work in
25 communities, along with you as well, to help spread

1 the word.
2 SENATOR HASSELL-THOMPSON: Thank you.
3 Thank you, Chairmen.
4 SENATOR SEWARD: I know Senator Golden has a
5 follow-up.
6 SENATOR GOLDEN: One quick backup question.
7 I just had to go back to the D'Andrea
8 situation again.
9 And, really, as I sit here and I process
10 this: If you have to be able to get six, seven,
11 eight doctors, medical professionals, into a room,
12 and you have hospitals that only have one or two
13 plans, and, other hospitals, the networks that have
14 four or five, six plans, isn't there a situation
15 that we fear, that we see in other nations, where we
16 have a backup, where you can actually have to be
17 able to get each one of these doctors into that
18 operating room at a specific date, that are
19 in-network, and how many of those doctors are not
20 in-network within those hospitals?
21 So doesn't that really create a scheduling
22 issue for us and for the state of New York?
23 DONNA FRESCATORE: I think that it's -- you
24 know, you raise an important point, Senator Golden,
25 that, you know, it's -- and one of the reasons that

1 we -- you know, we believe that, really working in
2 collaboration with health-care providers and with
3 health plans, we need to build very strong, very
4 robust networks, so that consumers have the
5 protection and the assurance that, when they need a
6 medical service, that they're seeing a physician or
7 other health-care provider that's affiliated with
8 their plan.
9 We think that in -- you know, in the end, we
10 understand, again, and we are aware, that there's
11 interest in out-of-network benefits.
12 But we think that the really best answer for
13 most consumers, is to have a plan that has a very
14 robust health-plan network, where they have
15 assurances that the provider's in the network, and
16 they know what their out-of-pocket corresponds are
17 going to be before the service is rendered.
18 SENATOR GOLDEN: Well, it works only the --
19 if you're not in an acute situation in one of the
20 larger hospitals that take care of the more serious
21 issues that are presented to families and to
22 individuals.
23 And what you're going down to are, hospitals
24 that -- doctors that are all hospital employees,
25 then you don't have that problem.

1 But in the larger sense of, New York City,
2 and around the state of New York, where you have
3 these expert doctors and hospital facilities,
4 getting these people into -- or all of these people
5 into an operating room in a timely fashion for
6 somebody that needs an operation next month, say,
7 I think is going to definitely present a scheduling
8 situation here, not only in this state, but across
9 the nation.
10 Any further comment on that? No?
11 DONNA FRESCATORE: No, I don't think so.
12 SENATOR GOLDEN: Thank you.
13 SENATOR SEWARD: Well, thank you very much,
14 Donna -- Ms. Frescatore.
15 DONNA FRESCATORE: Thank you.
16 SENATOR HANNON: Thank you.
17 Obviously, we're gonna have lots of
18 conversations.
19 SENATOR SEWARD: Our next panel are
20 consumers, purchasers of health-insurance coverage;
21 and that is:
22 Mary Morse, who's owner of
23 Kwik-Kut Manufacturing, a fine small manufacturing
24 facility in Mohawk, New York;
25 As well as Pamela Reese Finch, a public

1 relations consultant.

2 Who would like to go first?

3 MARY MORSE: Can you hear me?

4 SENATOR SEWARD: Yes. Just keep close to the

5 mic.

6 MARY MORSE: All right.

7 Good morning.

8 It's still morning.

9 Okay, I would like to thank today's --

10 Senator Seward for inviting me here today.

11 I am a small-business person, probably

12 smaller than most.

13 I own a manufacturing company, as there are

14 still manufacturers left in New York State.

15 We have been in the village of Mohawk since

16 1955, and the company was actually started in the

17 1940s.

18 I have provided these little red booklets for

19 you, so you can learn a little bit about the

20 company, and some -- there's also mentioned in

21 there, a few of the other issues that New York State

22 businesses are facing, in addition to the

23 health-care issue.

24 I've been looking forward to 2014 about like

25 putting a stick in my eye.

1 There's a lot of changes coming down,
2 especially in taxation.
3 There's two benefits, in all the years of our
4 company, that we have received from the State of
5 New York:
6 One is the Empire Zone, which was for
7 manufacturers, which you may or may not know is
8 sunsetting this year. And, my company did receive
9 benefits from that, which we no longer will.
10 The other one that was, I feel, a little bit
11 of a Godsend for my employees was Healthy NY.
12 I have kind of a unique situation with
13 employees.
14 I have three full-time employees, and
15 five employees that are retired and part-time
16 people.
17 I had a couple of employees that were
18 actually on Family Health Plus.
19 Back in 2009, they got canceled from that
20 because their son had the nerve to turn 18.
21 So, because their family became smaller,
22 their income was higher, and they no longer had
23 Family Health Plus.
24 So Healthy NY, you know, was available.
25 I didn't have any other plan in my business,

1 so, I actually let the employees pick which plan
2 they wanted through the Healthy NY plan, and they
3 chose a plan that was a non-prescription plan.
4 But other than not having prescriptions,
5 I would compare it to any of the Gold plans that are
6 offered on the exchanges today.
7 They had excellent health-care coverage. The
8 coverage they picked was through Excellus. They
9 could use it anywhere up in our area.
10 And, I contributed half towards their
11 premium, and deducted the other half from their
12 paycheck.
13 At the time, in 2009, the premium for that
14 policy was $176.
15 The -- in 2013, the premium was $226, which
16 I think you will agree is one of the smallest
17 increases of anything in that amount of time.
18 I also had another employee who was retired,
19 worked for me part-time, and he chose the Healthy NY
20 plan, which he contributed -- he paid the full
21 premium.
22 When I had to tell these -- with the
23 Affordable Care Act coming along, and I had to tell
24 the employees that they were canceled. We received
25 a cancellation notice.

1 And, the next thing I got was, which is in
2 your folder, is the policy that was the replacement
3 policy for their Healthy NY policy.
4 This policy now was $100 more a month. It
5 was loaded with co-pays. It's loaded with
6 out-of-pocket deductibles.
7 And, not only that, one small paragraph below
8 all the rates was, "If you do not have" -- the
9 policy did not include pediatric dental.
10 So if they did not have a dental policy
11 somewhere else, this policy was null, void, and a
12 moot point.
13 Well, I don't, for the life me, know where
14 someone who is a single person, who is 60 years old,
15 and never been married, would have a pediatric
16 dental plan someplace else.
17 So, that meant that that policy went by the
18 wayside.
19 The next thing that I -- because I am under
20 the 50 employees and I am not required to offer
21 health insurance, after speaking with my accountant,
22 and, you know, considering what was best for my
23 employees, I had to take the route of not offering
24 health insurance anymore.
25 I had to just cut them loose and send them

1 out on their own to the exchanges; and, so, that is
2 what they did.
3 I have two employees who signed up for --
4 who -- you know, the other part of my businesses,
5 these are people who make $10 an hour, and the
6 maximum number of hours they work is 32.
7 We're only open 32 hours.
8 So that's not a very large paycheck to be,
9 you know, trying to take home.
10 The only plan that they -- after they went
11 in, a couple of the employees received almost the
12 entire full subsidy that is available. That's --
13 that's their income is.
14 And so, after they received, you know, their
15 subsidy notification, as was spoken about, they went
16 in and selected their plans. And the only plan that
17 they could afford is a Fidelis Medicaid-based plan.
18 I -- you know, I'm very, very fearful for
19 their situation, because I think that this plan
20 has -- it also has very high deductibles, a lot of
21 out-of-pocket expense.
22 There's a lot of doctors and hospitals that
23 are not accepting Fidelis down around us.
24 So, on a day-to-day basis, of people who are
25 relatively healthy, they will be perfectly fine, but

1 if they have a major medical issue, I am very, very
2 concerned about them.
3 The other gentleman who was retired, he has a
4 cancer situation, where he has to go yearly for a
5 colonoscopy, and usually ends up, for the last
6 five years in a row, has actually had surgery every
7 year.
8 The plan he had with Healthy NY, he loved it.
9 He never had to pay any money out-of-pocket. He
10 could go see his specialist. He could make timely
11 appointments.
12 Now he has -- you know, he's also out on his
13 own now.
14 He is not a destitute person, by any means.
15 He has a good pension from where he retired from.
16 So, he took -- but he's not a person, of
17 course, who likes to spend more money than he needs
18 to, so he selected a plan that was also around
19 300-and-some dollars a month, also loaded with a lot
20 of co-pays, also loaded with, you know, high
21 deductibles.
22 And he has, at this point in time, although
23 all three of these people were signed up on time,
24 I haven't -- didn't check with them today, but as of
25 Thursday, none of them had their insurance cards.

1 He's had to cancel -- he canceled his
2 colonoscopy, he's canceled his appointment with his
3 cancer doctor, because he felt that he couldn't
4 really go do that without an insurance card.
5 I did make a phone call to Little Falls
6 Hospital, the head of Little Falls Hospital, which
7 is in the Bassett network, which he would be going
8 to Bassett, and when I asked that gentleman, what is
9 their procedure for the people who may be coming in
10 without their medical cards, he told me that they
11 plug their social security number into a computer
12 and that will tell them if they're covered or not.
13 So he probably could have gone ahead and done
14 that, but, you know, he didn't think he could.
15 The other side issue of this, looking at it
16 from a business perspective, is, I have -- because
17 of this, there's no way that I could have kept a
18 health-care plan in my business and afforded to pay
19 for half of the employees' medical insurance, but
20 mostly because they could not have afforded to pay
21 half, their half, because, if I had had a group
22 plan, they would not get a subsidy.
23 They might end up with a tax credit, but a
24 tax credit means you're waiting to maybe get more
25 money back on your income tax, maybe in -- well, if

1 you file in January, maybe in April. Or if you file
2 in April, maybe three months after that.
3 These are people who need money day by day,
4 week by week, you know, to live on.
5 So, it was a very hard decision for me.
6 Now my business has lost a tax credit that
7 I got for contributing towards my employees' health
8 insurance.
9 I feel that I -- and I have taken what I did
10 contribute toward their health insurance and added
11 it into their paycheck, because I just felt -- which
12 I know a lot of small businesses would not, but
13 I felt that was kind of their money, and it was
14 already an expense.
15 So by adding that into their paycheck, now
16 I'm paying more workers' comp, I'm paying more
17 disability insurance, I'm losing a tax credit.
18 They're losing -- they're paying more taxes
19 because their -- before their payment was pre-tax in
20 their paycheck, and now it's not. You know, now
21 they've got more money in their paycheck.
22 So, it kind of remains to be seen what
23 happens next year with this, now that their pay is
24 up.
25 Their subsidy's gonna go down, so, where is

1 all that, you know, working out?
2 And, you know, my hope in coming here today,
3 is that, New York State, which I have to give a lot
4 of credit for in the health-insurance market,
5 because there was Healthy NY, and there is
6 Child Health Plus, and, you know, what's going to
7 happen, you know, with this down the road?
8 And my hope would be, that something could be
9 worked out for some kind of a subsidy for either --
10 you know, if there was some kind of a subsidy for me
11 to go back into offering them health care, I would
12 tell them to drop their lousy plans and, you know,
13 get a better one, you know, right away.
14 But what's killing the price of the plans is,
15 these are three people who, they didn't -- none of
16 them took a prescription. They didn't want a
17 prescription plan. They don't need pediatric
18 dental.
19 You know, as one of the gentlemen said,
20 there's a lot of things in this health care that we
21 have to pay for that no one's ever going to use.
22 So, that's kind of my 25 cents.
23 I'm up, inflation. Used to be two.
24 [Laughter.]
25 SENATOR SEWARD: Thank you, Mary.

1 I know I had a couple of questions, but why
2 don't we have Ms. Finch make her statement, and then
3 we'll see if any of the Senators have questions.
4 PAMELA REESE FINCH: Thank you very much for
5 the opportunity to be here.
6 Can you hear me alright?
7 SENATOR HANNON: Move closer to the mic.
8 PAMELA REESE FINCH: I appreciate the chance
9 to share my opportunity in dealing with the federal
10 forum issue; and, in particular, New York's health
11 exchanges.
12 For more than a decade I've been a sole
13 proprietor.
14 I specialize in public relations and advocacy
15 services, and, I live in Upstate New York, with my
16 two children.
17 Four years ago, despite making some pretty
18 big changes that would ensure my family's coverage,
19 I lost my health insurance.
20 Since that time, I have looked into different
21 options; and, so, like a lot of people, I was really
22 excited to see what would become available through
23 the exchanges.
24 I think what's really important for this
25 discussion is the fact that the term "affordable" is

1 relative to your situation and your circumstances.
2 When I come here and speak today, I'm pretty
3 much in the same boat as your community's barber or,
4 you know, your local hairdresser: the average
5 middle-class-family income.
6 When you first look at the prices through the
7 exchange, some of the premium numbers can be
8 deceiving and look relatively low.
9 What people don't understand is that there is
10 a greater need now for cost-sharing.
11 So, while some of the plans may offer, for
12 example, some of the figures I pulled on the Bronze
13 level, had the lowest level at $233, which doesn't
14 look bad until you put it in perspective, that
15 you're paying $100 to see your specialist, that
16 you're paying $50 for your primary-care visit.
17 So, in essence, you may be paying less in
18 your premiums, but you're still paying the same
19 thing that you were before the federal health-care
20 reform.
21 I know that when I looked, in my situation,
22 because I am a relatively healthy individual, to
23 purchase health insurance, I would actually be --
24 pay more than what I currently paid for my regular
25 out-of-pocket costs.

1 I'm not saying that I'm opposed to the idea
2 of high co-pays or deductibles.
3 I do feel that personal responsibility is
4 something that's necessary for us all to achieve
5 affordable coverage.
6 But I'm saying, in terms of dollars and
7 cents, when we look at this from a purely business
8 perspective, if you're asking me to make the
9 decision between my son's braces or paying my
10 self-employment taxes, the health-insurance coverage
11 may be at the shorter end of the list.
12 When you're looking at people like me, what
13 we're really looking for is ways to reduce the
14 overall health-insurance cost.
15 I heard a lot of discussion earlier today
16 about the out-of-network people wanting to be able
17 to see physicians who are not part of their network.
18 I know that I did look at the website, and in
19 order to apply for the plans that were available,
20 I would have to change my doctor; and, frankly, if
21 I could find a plan that fit into my budget, I'd be
22 happy to do that.
23 For me, it's more about getting access to the
24 basic coverage.
25 For people who have insurance, and I think

1 that it was mentioned earlier, there are some kinds
2 of safeguards in place, whether -- you know, that
3 will allow them to receive their medical care.
4 And I know this isn't what everybody wants to
5 hear, but I think, right now, our focus has to be on
6 giving everyone basic affordable coverage, versus,
7 making it cheaper for those who already have it.
8 One of the other things I would like to see,
9 as a health-care consumer, is a little bit more,
10 I guess, predictability, in terms of billing.
11 Because I self-pay for all of my employments,
12 I've had the rather eye-opening experience of really
13 seeing what my providers charge.
14 The problem with that is, I only get the
15 information after the fact.
16 Recently, I went to what was a 10-minute
17 visit to my primary-care physician, to take care of
18 a sinus infection, which ultimately cost $283, plus
19 $80 for the generic medicine.
20 Meanwhile, my gastroenterologist charged $110
21 for a 15-minute follow-up.
22 From a consumer's perspective, this type of
23 disparity makes it very hard to budget or get any
24 kind of a real grasp on your health-insurance cost.
25 And I know that, from my perspective,

1 I would like to see some type of transparency in
2 knowing beforehand how much I'm going to be charged
3 for that particular visit.
4 When I meet with my own clients, I know
5 I discuss the job, the expectations, and the costs
6 beforehand.
7 Likewise, when I take by car to have the
8 tires put on it, I know that my mechanic charges
9 $95 an hour for labor.
10 What I would like to see, as a consumer,
11 especially one who pays for my services
12 out-of-pocket, is some kind of upfront pricing.
13 As I said, that's my experience, but, it very
14 much mirrors what I've been told by many other of my
15 colleagues of sole proprietors in my community.
16 We appreciate the accessibility that's been
17 made from the health-insurance exchange, but right
18 now, what we'd like to see is things that still make
19 it a little bit more affordable.
20 SENATOR SEWARD: Thank you very much.
21 I wanted to go back to Mary Morse's
22 testimony.
23 And we really do appreciate both of you
24 coming here and sharing your real-life experiences
25 which you're going through at the moment.

1 I just wanted to clarify, in terms of what's
2 happened to your employees who have gone out on the
3 exchange to seek coverage on their own.
4 Now, they are paying over $300 a month.
5 Is that with the subsidies?
6 MARY MORSE: No.
7 The one that is paying over $300 a month is
8 not getting any subsidy.
9 SENATOR SEWARD: I see.
10 MARY MORSE: He receives a good pension.
11 He's -- actually, he's a Remington retiree.
12 And the other two are getting almost the
13 maximum subsidy. They're the ones on the
14 Fidelis plan, and they still pay -- they still pay
15 over $100 a month, even with the subsidy taken off.
16 I'm not sure what the total amount was with
17 the -- I believe it was still almost $400 a month,
18 you know -- well, no. It would have been 350,
19 because they're actually two -- two people on the
20 same policy, because they're a husband and wife.
21 SENATOR SEWARD: Did you personally, either
22 of you, deal -- go on the exchange and go through
23 that process?
24 MARY MORSE: I did not.
25 PAMELA REESE FINCH: I did.

1 SENATOR SEWARD: You did?
2 PAMELA REESE FINCH: Yes, I did.
3 SENATOR SEWARD: And what was your
4 experience?
5 PAMELA REESE FINCH: The website itself was
6 relatively easy to use.
7 It was quite a bit more time-consuming than
8 I had expected, but I was able to comprehend the
9 information.
10 Uhm, it's not as bad as what I've heard the
11 federal government's website would be.
12 I think our state did a good job with ours.
13 SENATOR SEWARD: Yeah.
14 Did -- have either of you, or through -- your
15 employees, did they work with a navigator or an
16 agent or a broker?
17 MARY MORSE: No, nope, all of my employees
18 actually went through the website, and said they --
19 you know, they had a very good experience with it.
20 Actually, they even -- because we need
21 broadband better in this state --
22 SENATOR SEWARD: That's another important
23 issue.
24 MARY MORSE: -- one of them was doing it from
25 home. And, probably, they -- I think they got

1 bounced off about three or four times because of
2 their Internet service, not because of the site.
3 And they said it was very, very easy to go -- once
4 you logged in, they said you had your log-in, and
5 they could go back in. Or if -- and the other
6 gentleman said, a couple of times, he had to go get
7 more information.
8 And they all had very, very good experiences
9 with the website, I will say that.
10 SENATOR SEWARD: As I understand both of your
11 statements, just as policymakers, to the best of our
12 capabilities and abilities under this federal law,
13 if we were able to develop a product or process that
14 would -- kind of like the old Healthy NY product,
15 have access to that, and qualified under the federal
16 legislation, that, you would see that as a very
17 attractive option?
18 MARY MORSE: Absolutely, uh-huh.
19 PAMELA REESE FINCH: Yes.
20 MARY MORSE: I think it's just -- you know,
21 it's just one more thing to help business out a
22 little bit.
23 I -- I -- because I know a lot of business
24 people, I've actually asked around what a lot of
25 them were doing about the health care.

1 One business person that has been in business
2 his entire life, and, you know, from his parents, on
3 down, he's in his early 50s, and told me the other
4 day that, for the first time in his life, he has no
5 health insurance.
6 He had a plan through one of the chamber of
7 commerces. That, that plan, you can't have that
8 plan anymore.
9 So, he said that it increased, you know,
10 four times what he was paying, and he's a single
11 person.
12 And that's -- that's the story that you hear
13 out there.
14 Other business people have gone to the
15 high-deductible plans.
16 And I know one employer has had a
17 high-deductible plan, and he actually pays so much
18 of his employees' out-of-pocket expense, until they
19 get into the -- get into anything else. And he says
20 it comes out cheaper for him than it did when he was
21 paying their premiums.
22 He just pays their bills.
23 SENATOR SEWARD: Thank you.
24 Any other questions?
25 SENATOR MARTINS: I just have one.

1 SENATOR SEWARD: Senator Martins.
2 SENATOR MARTINS: Ms Morse, thank you very
3 much for your testimony.
4 MARY MORSE: Sure.
5 SENATOR MARTINS: I just want to follow up on
6 a point you made.
7 You said something, and I'm going to
8 paraphrase, that you think they'll be okay, but if
9 they need insurance, they may be in trouble, or
10 something along those lines.
11 MARY MORSE: Well, I -- you know, I just
12 think that looking at the Fidelis plan, you know,
13 just to use that as an example, which is a
14 Medicaid-based plan, there's a lot of hospitals and
15 doctors that do not accept that plan, especially,
16 you know, I'm from, like, the Utica area, you know,
17 up around there.
18 They -- I made them check with their doctor,
19 and their doctor does accept the plan, so they were
20 okay that they could keep their doctor.
21 But, when I -- just looking at, you know,
22 $2,500 out-of-pocket, if you're already -- you know,
23 if they already are giving you all this subsidy, and
24 they know that you don't have a lot of money, where
25 are you getting $2,500 out of your pocket?

1 SENATOR MARTINS: Yeah, but I just wanted to
2 point out, and I think you would agree, that a
3 hope-and-pray is not an alternative. It's not an
4 appropriate health-insurance alternative for what
5 we're talking about here.
6 MARY MORSE: Yes.
7 SENATOR MARTINS: You were here for the
8 testimony we heard previously, weren't you?
9 MARY MORSE: Uh-huh, yes.
10 SENATOR MARTINS: And you were able to listen
11 to how great the system is, and how wonderful this
12 rollout has been.
13 MARY MORSE: Uh-huh.
14 SENATOR MARTINS: But if I've heard anything
15 from both of you, it's that your experiences have
16 been just the opposite, and it's raised far more
17 issues than it has answered.
18 So, I appreciate your testimony here this
19 morning.
20 Thank you.
21 MARY MORSE: Thank you very much.
22 PAMELA REESE FINCH: Thank you.
23 SENATOR HANNON: Thank you very much.
24 SENATOR HANNON: Thank you for being here.
25 Our next panel will be physicians:

1 Dr. Nick Fitterman, Dr. Andrew Kleinman, and
2 Dr. Patricia McLaughlin.
3 Dr. Kleinman, since you're the
4 president-elect of the state medical association,
5 I'll let you go first;
6 And, Dr. McLaughlin, you can go next;
7 And, Dr. Fitterman, since you're from that
8 small little health-care system.
9 DR. ANDREW KLEINMAN: Thank you very much,
10 Senator.
11 My name is Andrew Kleinman. I'm a practicing
12 plastic surgeon in Rye Brook, New York. And, I am
13 president-elect of the Medical Society of the State
14 of New York.
15 SENATOR HANNON: Could I just ask one
16 short-term, so we don't have a lot of waiting time
17 in the waiting room, could you not read, but maybe
18 sum up the core points that you want to address?
19 DR. ANDREW KLEINMAN: I am. Certainly.
20 Basically what I -- I really want --
21 I appreciate this opportunity to speak, and I have
22 to say that I think the State has done a very good
23 job in what it's done so far, in terms of rolling
24 out the exchange.
25 Also, I have to say Donna Frescatore and her

1 staff have been very open to dialogue with us right
2 from the beginning.
3 So, I really think they have done a very good
4 job, as far as they can go.
5 We remain committed to work with them in
6 order to make this work.
7 Some of our members, politically, were in
8 favor of this, some weren't, but the bottom line is,
9 it is here, and we want to make this work.
10 The problem that we have, is that having
11 access to insurance coverage is not exactly the same
12 as having access to health care, and that's where
13 our problem -- our problems really lie.
14 Basically what has happened, is that, with
15 the rollout of this, there have been networks of
16 physicians listed on the websites of the various
17 insurance companies.
18 Now, first of all, it's very hard to find
19 those lists because you can't access it directly
20 from the website of the New York State of Health.
21 You have to go into the individual carriers.
22 Then when we looked at the lists, we saw a
23 number of inaccuracies.
24 And we actually did a survey of our
25 physicians, and, basically, of the people who

1 answered the survey, one-third said that they
2 weren't going to participate in the plan.
3 40 percent said they didn't know if they were on the
4 plans or not.
5 So we have actually recommended to
6 physicians, go onto the websites and see if you're
7 on the plans. And some of them have a great deal of
8 difficulty even finding out if they're on the plans.
9 We actually have started calling around to a
10 number of the physicians who have been on the plans,
11 and a number of them have said they are definitely
12 not on the plans.
13 Some are in the plans because they have an
14 "all products" clause in one of their you contracts,
15 or they're in a rental network. But the ones that
16 are in rental networks that can't opt out, even
17 though they're listed on the plan, have said that
18 they are going to be opting out.
19 So, therefore, although on paper it looks
20 like the networks are adequate, in reality, the
21 networks indeed might not be adequate.
22 Also looking on the website, we actually have
23 found a few physicians who aren't even in
24 New York State, and haven't been in New York State
25 for the past year or so.

1 We did a survey of neurosurgeons in
2 Suffolk County.
3 One lives in New Jersey, and has for a while;
4 one lives in Albany, and has for a while; so,
5 therefore, they've been included in multiple
6 networks, and they're not.
7 The -- one of the problems with having
8 physicians participate, is that, although we can't
9 ask directly how much do the networks pay, the
10 physicians supposedly can.
11 The physicians, in a lot of cases, are having
12 a very hard time finding out what the reimbursement
13 is. Although there are laws in New York, basically,
14 it's been rather difficult to find out.
15 When the physicians do find out, very often,
16 the reimbursement is significantly lower than it is
17 on any other network within an insurer's -- an
18 insurer's networks.
19 And, very often, it's significantly lower
20 than even the Medicare rate, which, as most of us
21 know, is already inadequate; so, therefore, it makes
22 it very hard for a physician to remain viable and
23 continue to participate.
24 In addition to that, there is the
25 "90-day grace period" rule that's going to come into

1 effect; so, therefore, physicians will be taking
2 care of a lot of patients who actually look like
3 they have insurance, but, in fact, haven't paid
4 their premium.
5 And that's a federal problem, and I know we
6 can't do anything specific about that.
7 We are working with the AMA and Congress in
8 order to try to modify that.
9 We have some suggestions on how at least to
10 notify physicians when a patient is in that grace
11 period. And, if the patient does pay a premium
12 60 days after the due date, that, at that point,
13 rather than starting over the 30 days again, if we
14 could have reimbursement done a little sooner.
15 I think what we're asking for is, basically,
16 to, essentially, make it so the networks are
17 adequate, the networks are accurate.
18 And I think one of the things that we would
19 like to see, is that, in the exchange, a physician
20 actually has to have a contract with the insurance
21 company.
22 That way, when a patient calls a physician
23 and says, "I'm in X network," the physician will say
24 they take it.
25 I think one of the problems right now, having

1 a lot of physicians on the networks who really
2 aren't going to be participating in those plans, is
3 that, if you as a patient go onto the website and
4 say, "Oh, my physician's there; so, therefore, I'm
5 going to sign up for this plan," and then it turns
6 out that's inaccurate, or, as soon as the patient --
7 as soon as the physician finds out, the physician
8 signs -- you know, basically, opts out of that
9 contract, a patient has, essentially, picked a plan,
10 that they can't see their own physicians.
11 The other thing that I think we do want to
12 ask for, is some out-of-network coverage.
13 And, Senator Hannon, we do support your
14 recent bill -- the number is in here somewhere --
15 requiring companies to offer out-of-network
16 coverage.
17 And I think it's important to offer
18 out-of-network coverage in the exchange as well,
19 especially with the very limited networks that these
20 companies are going to have for the exchange.
21 I think it's very important for a patient to
22 have the ability to go out-of-network.
23 And we think that one of the reasons that
24 almost all of the companies -- in fact, downstate,
25 I think Oxford is the only one that offers

1 out-of-network at all, and they're only doing it on
2 the small-business exchange.
3 Nobody is giving it on the individual
4 exchange.
5 I think part of it is to try to coerce
6 physicians to have to participate in the exchange if
7 they want to see any of these patients.
8 So, again, I do want to say that, I think
9 they've done a good job signing up patients.
10 I think there will be a number of patients
11 who continue to sign up.
12 And our concern, is that the patients should
13 be able to have an adequate network across all
14 specialties, and, should be able to know who is in
15 their network.
16 Thank you.
17 SENATOR HANNON: Great summary.
18 Dr. McLaughlin.
19 DR. PATRICIA MCLAUGHLIN: Good afternoon.
20 Thank you for inviting me here today.
21 I'd like to speak, not only as a physician,
22 but as a small-business person, because,
23 inadvertently, I have been hit twice in this
24 situation, and I think my personal story will have
25 great impact on the problems that are out there.

1 As a small business, in 2013, my office is in
2 New York City on the Upper East Side, and I had two
3 employees who were qualified for health insurance,
4 and, I paid for their premiums.
5 We had elected, Empire Blue Cross/Blue Shield
6 called "Total Blue." It was a high-deductible plan.
7 And I resorted to that back in 2008 when the
8 premium had jumped up to an astronomical number if
9 I didn't take a high-deductible plan.
10 So once it reached $859 a month per
11 individual, I sought some relief.
12 Fortunately, I had a brilliant broker, and he
13 gave me the advice to consider one of the
14 high-deductible plans.
15 That same year, the premium for the same
16 health plan, the same coverage, the same network,
17 decreased from $859 to $300 an individual.
18 I was thrilled.
19 Yes, that meant my employees and me all had a
20 $2,000 deductible.
21 There was the option for an HSA account.
22 I did as much investigation as I could.
23 I found a wonderful bank who was very
24 knowledgeable in this, had a long track record, and
25 I set up the health-savings account.

1 I contributed, not in a health-savings
2 account, but I did contribute towards the deductible
3 for my employees.
4 They did not want to open up a health-savings
5 account, fearing that the money might be locked in
6 there.
7 As the years went along, this just renewed
8 every January 1st, and I was thrilled.
9 I never expected to get a letter at the end
10 of September, telling me that this wonderful plan
11 that covered everything, everything that we needed,
12 was suddenly, because of the ACA, in the letter, not
13 qualified, and was not going to be renewed on
14 January 1st.
15 Literally, the rug was pulled out from under
16 me.
17 Now, at the end of a calendar year, running a
18 medical practice, and all the other issues that are
19 involved in end-of-the-year accounting work, I was
20 not pleased to suddenly have to start looking at
21 spreadsheets of other available plans and
22 contemplating the New York State exchange.
23 I didn't want us to go in as individuals, so
24 I wanted to keep this as a small group.
25 When I looked at what was available, I wasn't

1 pleased either.

2 When the insurance company sent me another
3 letter in a month after the first one, rolling out
4 what was the new concept, the new plan, I was
5 definitely not pleased.

6 And the reason is, my first plan, which we
7 were paying $483 a month, last year, in the new plan
8 would go down to $470.

9 That's about a 2.5 percent decrease.

10 The deductible, however, went up 20 percent,
11 from $2,000 an individual, to $2,500.

12 The coinsurance stayed the same.

13 What really disturbed me, was this -- now,
14 was an EPO plan, and that alphabet soup meant
15 "in-network only."

16 What further upset me, is that this EPO plan
17 in this national insurance company, suddenly, was
18 going to require referrals to see a specialist.

19 In the history of this company, the EPO
20 network did not require referrals.

21 So, suddenly, this new plan was targeted to
22 yet another hurdle that one had to jump.

23 It also mentioned in that letter something
24 that raised grave concern, that I must say I had a
25 bit of an advantage over other, probably, claim

1 administrators in non-medical businesses.
2 They were very careful to mention that, as
3 the administrator, I needed to check to see what
4 former doctors I had gone to in, literally, the same
5 network -- EPO and PPO, formally, have the same
6 network of doctors -- that I needed to check, and
7 I needed to tell my employees to check, to make sure
8 that the doctors we had seen were still in-network.
9 They also went on to state that whatever
10 drugs we were using, the medication network was also
11 changing.
12 That I couldn't find information to, but the
13 network I did.
14 So I went onto the website of the insurance
15 company and looked at the network, starting with
16 myself.
17 After all, I was a participating provider in
18 the EPO and PPO network.
19 I wasn't there.
20 I looked at my PCP; he wasn't there.
21 I asked my secretary what other specialists
22 she went to. There were four; they weren't there.
23 I asked the other person who worked in my
24 office for her doctors, and they weren't there.
25 Now, I must say that most of us were using

1 doctors within the same hospital system, but because
2 of this change, the premium was not the issue.
3 The network and the access was the issue.
4 And every single one of us, including my
5 husband who's my dependent, were losing our doctors.
6 100 percent of our doctors.
7 I don't think that anything should be
8 designed to cause that destruction, besides what it
9 did to me in chaos in my business.
10 So I started to look at other plans through a
11 broker.
12 I must say, that if I did nothing, by
13 default, the insurance company said I would roll
14 into this plan, which should indicate that I would
15 get the new insurance card, because they also
16 mentioned I would have a new insurance ID.
17 A month after that, I finally got the letter
18 that gave a clue as to why I wasn't in that network.
19 As per the terms of my contract, they did not
20 feel they needed to extended to me participation in
21 the Affordable Care network or the small-business
22 network that was using the term "pathway."
23 So they gave the network an actual term,
24 "pathway."
25 When I went to the website to look at how

1 many other ophthalmologists, a group that I'm
2 familiar with, being that's my specialty, there were
3 a lot of names in the ZIP code of my office.
4 I must say, if you looked at that list, there
5 were a few doctors who were either retired or who
6 had moved to another state within the past
7 six months; so, it was not refined.
8 I think the greater thing that was
9 disturbing, it wasn't in alphabetical order, which
10 made it next to impossible to look at, but,
11 I printed it out, and I must have seen at least
12 40 to 50 names that were duplicated.
13 So if they were counting the raw names, it
14 just meant they were in a different office; not that
15 you had more participating providers.
16 Now, I think it's rather ironic, or a little
17 short-sighted, to use a term in my own field, that
18 if you're going to insure more individuals through
19 the magnitude of the Affordable Care Act and the
20 New York State marketplace exchange, why would you,
21 as an insurance company, be looking to cut back on
22 the participating providers?
23 I wasn't even asked if I wanted to be in it
24 or not. I was just told, by my contract, I wouldn't
25 be.

1 Now, on the flip side, there was another
2 insurance company, that I had no knowledge, had put
3 me on the exchange, and I found out about that in
4 the third to fourth week of October, after the
5 website became live, by a patient who had
6 Healthy NY, who found out that he had lost his
7 insurance and needed to search for something.
8 And he said, "Oh, great, I see you're on the
9 Oxford United."
10 I said, "Really? They never told me."
11 And I said, "That's a little peculiar,
12 because I don't have a contract with Oxford to start
13 with."
14 So after doing a little bit of checking, it
15 turned out that that was an error.
16 For some reason, that company decided to put
17 the entire Oxford Liberty participating physician
18 group into the Affordable Care Act and the
19 exchanges, probably because, Oxford married United,
20 my name carried over from my United contract, but it
21 was an error. It took about another two to three
22 weeks before my name was removed, along with dozens
23 of other physicians who were similarly misplaced.
24 Now, in that time, individuals in
25 New York State were deceived.

1 They may have signed up on the New York
2 marketplace, thinking they were seeing Dr. A, B, and
3 C, who were not there, and should not have been
4 there, and, three weeks later, were taken off.
5 So, yes, we do need a lot of transparency,
6 because I think that there are mistakes in the
7 provider networks that are unclear.
8 I can tell you from my own personal
9 experience, I do not relish, and would not tolerate,
10 this limited network.
11 I have sought out insurance through another
12 carrier. I'm in a pending state.
13 They have my check; they haven't cashed it.
14 I'm in flux.
15 My secretary slipped and fell on the very day
16 that this meeting was canceled last week. She
17 injured her hand.
18 I didn't know what to tell her to do because,
19 this plan wasn't official, my new plan wasn't
20 official. We were sort of in limbo.
21 And I even said in my testimony, that I think
22 it was rather negligent on the part of an insurance
23 company, knowing they gave me notice about my plan
24 three months ago, that it was terminated, and
25 I received my insurance card, one of four, on

1 Saturday.

2 No one else has received theirs.

3 My husband should have been in that envelope
4 also, since he was my dependent.

5 I'm glad it came, though.

6 I have given 20 copies of this to the
7 staffers before this meeting, because I just brought
8 it up with me today.

9 Another thing that you must look at, and
10 I beg you to look at from a physician's standpoint,
11 the chaos that is going on right now with patients
12 coming to us, believing that we're in networks that
13 we don't know if we are, asking for care that we
14 don't know if we can truthfully tell them will be
15 covered as part of a network agreement. Or, we
16 can't even be transparent to say what the fee might
17 cost them, other than give them a fair estimate of
18 what that day's results would be.

19 We won't know, until we've filed this claim a
20 good four weeks from today, what the insurance
21 company's take on this is going to be.

22 Will it be handled as an in-network
23 participating group, or will it be rejected because
24 we're suddenly not in the panel?

25 This new insurance ID card couldn't be more

1 deceptive to a front-desk knowledgeable person in a
2 doctor's office.
3 It says that I have a PPO plan.
4 It does not mention the word "EPO."
5 I have an EPO.
6 It does not mention that I need a referral.
7 It does not even give credit to the name of
8 another person, Patricia Ann Foxman, with a phone
9 number. It doesn't even give her the credit of a
10 title of M.D.
11 I'm assuming she might have been my assigned
12 PCP.
13 On Saturday, after this came in, I decided to
14 call the phone number.
15 Lo and behold, the phone number is incorrect.
16 It tells me it was canceled. It gives me a
17 new phone number.
18 I call that phone number, I get a completely
19 different physician's office.
20 Now, I don't know, if I stay in this plan, am
21 I supposed to have this particular person?
22 Did they just put down the wrong phone
23 number?
24 Am I just automatically defaulted to the
25 other PCP?

1 And I'm somebody who understands this.
2 Please, for the majority of our citizens, the
3 people that we, as physicians, who work so hard to
4 help day in and day out, this is complete chaos.
5 This is not fair to anyone, mostly the
6 patients.
7 This is detrimental to the small business of
8 a physician's office.
9 I am a solo practitioner. I have a fiduciary
10 responsibility to pay my creditors.
11 If I have people calling up to schedule, in a
12 plan just as mine, telling my front-desk person they
13 have an EPO plan, how am I, as the physician, going
14 to know if I am still the participating physician in
15 the old PPO plans that are serving the larger
16 corporations, the federal government, Blue Cross,
17 the union plans, or am I in this new pathway?
18 If the patient doesn't even have the card, if
19 the patient doesn't even understand what "pathway"
20 is, they wouldn't be able to tell my secretary at
21 the time of booking the appointment what plan it is.
22 How can I be transparent when there's such
23 misinformation?
24 We need so much help.
25 I know that there's a limited time to talk

1 about this here, but all I would say to you is, I am
2 so willing to work with you.
3 Please reach out to me. I have a very good
4 handle on this. I would love to tell you more of
5 the pitfalls.
6 But the one thing that I completely resent,
7 and don't understand, is the complete elimination of
8 the out-of-network.
9 That is such an important and critical
10 factor, especially now that I am giving you perfect
11 evidence that these networks are not what they seem.
12 They are very narrow.
13 And I have had other physicians call me,
14 because they know of my ability to understand all
15 this, and they say, "I have a full practice. I'm
16 finding out I'm listed as a participating physician.
17 I've had five new phone calls today from patients on
18 the exchange, asking for an appointment as soon as
19 possible."
20 He said, "I can't fit them in. What am
21 I supposed to do?"
22 I said, "Either work later, or give them the
23 next available appointment. And, if necessary, send
24 them to the emergency room. I don't know what else
25 you can do."

1 There is a critical shortage happening here.
2 And if it's not that an insurance company
3 signed us off, it's, also, that they are paying us a
4 fraction of the Medicare-allowed fee, where we
5 cannot stay in business.
6 Thank you so much for your time, and I'm so
7 willing to answer questions for you.
8 SENATOR HANNON: Well, thank you very much.
9 It actually seems that the majority of the
10 complications that are befuddling your practice are
11 insurance companies, and not the
12 Affordable Care Act.
13 DR. PATRICIA MCLAUGHLIN: Absolutely.
14 SENATOR HANNON: Okay.
15 Now, I'm not going get into it, because
16 I think you've been very clear as to the problems,
17 but I will say one thing:
18 As a sponsor of at least two bills on
19 out-of-network, that it's much more difficult than
20 it would seem, and especially because you have
21 simply the logical objection, that if you start
22 regulating and mandating out-of-network, what
23 incentive will be left for physicians to join a
24 network?
25 Now, maybe it would be -- the incentive would

1 be if they just ran them rationally, instead of the
2 maze that you've had to go through; but, still, that
3 is the logistical legislative problem that we face.
4 DR. PATRICIA MCLAUGHLIN: Yes, but --
5 SENATOR HANNON: I thank you very much, and
6 we still have to go to your co-panelist.
7 Doctor.
8 DR. NICK FITTERMAN: Thank you.
9 I'm Nick Fitterman. I'm a practicing
10 internist. I've been practicing for 22 years,
11 beginning of my career in private practice, and,
12 most recently, employed by a large health-care
13 system in our state.
14 I am here representing the New York State
15 American College of Physicians, the largest medical
16 specialty group in the state, with over
17 13,000 members.
18 I want to thank Senators Hannon and Seward
19 for sponsoring these hearings.
20 Again, as previously said, thanks to staff,
21 Donna Frescatore, and Sherry Tomaski, as they've
22 kept their bi-directional lines of communication
23 open.
24 And, actually, despite all the horror stories
25 we're hearing, thank all of the administration staff

1 for these efforts.
2 There's no doubt that this has helped to
3 improve the health of residents of New York State,
4 and in a Herculean task like this, there will be
5 road bumps; thus, the hearings today.
6 I am not reading from prepared testimony that
7 we've handed out to you.
8 I'm going summarize some notes that I took in
9 canvassing my colleagues; most importantly, in
10 canvassing the office managers, the practice
11 managers at many offices, as they had a lot of
12 information on the impact of this; and on a few
13 patient stories.
14 I'll be brief, because you've heard most of
15 this already.
16 So the challenges encountered by patients and
17 physicians fall into basically four broad domains
18 that overlap, and you've have heard them:
19 There's the problems with not having
20 insurance cards and IDs;
21 Problems with access;
22 A problem with continuity;
23 The problem with communication.
24 Not having cards or ID numbers when they show
25 up for office visits has been frustrating for

1 patients, has been a burden to the front-office
2 staff in these offices.
3 The offices do not have a method to go on and
4 check enrollment eligibility.
5 If the patients don't have their cards, and
6 sometimes even if they do, as we heard, they may not
7 know what the co-pay is, what deductibles are, what
8 the fee schedules are, and it leaves both patients
9 and the providers concerned about potential
10 financial exposure.
11 More importantly, it limits the capacity of
12 the providers of the docs to help facilitate care.
13 I hear story after story, where the doctor is
14 saying, "Fine, come on in, let me see the patient,"
15 but, then, to facilitate the next step, whether it's
16 an ancillary service or referral to a subspecialist,
17 is next to impossible.
18 As far as access, the network is not
19 adequate.
20 We're hearing stories of patients getting
21 coverage, but not being able to see physicians,
22 either because there's an inaccuracy in the listing
23 in the provider network, or there are not -- or the
24 physicians in their region that are in the exchange
25 are full.

1 And, we're hearing some stories in
2 communities, where physicians are not able to meet
3 the demands of patients that now are insured, that
4 want to be seen and accepted into the practice; yet,
5 in the same community, there are physicians ready,
6 willing, and able to see these patients, but cannot
7 gain access to the provider network.
8 As far as continuity, again, as we've heard,
9 stories of patients having to -- being assigned a
10 PCP different from the PCP they've had for many
11 years, despite that PCP being in the exchange.
12 In communication, the common theme that I've
13 heard, that we've heard, in canvassing providers, is
14 lack of communication of the carriers to the
15 provider, letting them know if they're in the
16 exchange; if they're not in the exchange.
17 For those that have gone on and accessed the
18 site to see if they're in the exchange products,
19 they're having difficulties dealing with the
20 carriers in getting access into their provider
21 network.
22 Two quick real stories that I came across in
23 doing homework for today's hearings, that I think
24 will summarize this.
25 First: Middle-aged man, small-business

1 owner, signs up for a product on the exchange.
2 Presents to his primary-care provider, who he's had
3 for over a decade, with abdominal pain in the first
4 week of January.
5 He didn't have his card. He didn't have an
6 ID number yet.
7 The staff -- the front-office staff could not
8 figure out if he was enrolled, and, truly, in what
9 plan, what his co-pays are, or anything like that,
10 but the doc said, as he should, Just come on in, let
11 me take care of him.
12 He's got belly pain, they suspect
13 diverticulitis.
14 They had to shop around to four providers to
15 find someone who would do a CAT scan, because they
16 couldn't find out where he could get a CAT scan.
17 Finally, he wound up in the emergency
18 department of our local community hospital to get
19 that CAT scan.
20 The man was tolerating oral fluids and meds.
21 This was an ambulatory condition. No need to
22 get to the ED.
23 Second case, of a woman in her early 60s, who
24 had a kidney transplant about three years earlier,
25 who had a primary-care provider who had cared for

1 her for over three decades, who sent her to a
2 tertiary care in the city for her kidney.
3 They had been -- the transplant team there
4 had been following her for three years.
5 Transplant teams follow these patients very
6 closely for the remainder of their life, or at least
7 the life of the transplant.
8 And, now, the provider -- her primary-care
9 provider was in one exchange product. The
10 transplant center is in the another.
11 No overlap.
12 So she's forced to choose, who she gonna go
13 with?
14 I must say that these issues are not all
15 universal, and I did hear some good stories, so, as
16 we moved forward, including physicians having
17 success in gaining access to plans.
18 But in conclusion:
19 We urge you to continue to monitor;
20 Stress the need for an adequate and accurate
21 network of providers;
22 Continue to stress the need for a provider
23 helpline for each approved plan;
24 Ask for materials to educate physicians and
25 offices, and the New York ACP stands ready to help

1 distribute those and spread the message;
2 For New York State to help lead the way in
3 the 90-day grace period, that needs revision;
4 And, finally, thank you for allowing me to
5 speak.
6 SENATOR HANNON: There's little to add.
7 You've been very comprehensive, and very
8 illustrative, as to some of the problems that are
9 out there, and, really, where the oversight from the
10 Department of Financial Services is for the plan.
11 There's so much that we've heard before on
12 what the exchange is doing, but none of what the
13 exchange did is negated any of the responsibilities
14 of the Department of Financial Services, and,
15 there's a lot to be done.
16 The lack of information is incredible, and
17 it's going to result in bad patient care.
18 SENATOR SEWARD: I have one quick question
19 for you.
20 What is your experience in terms of the
21 reimbursement levels for participation in a plan in
22 the exchange, versus outside the exchange?
23 DR. ANDREW KLEINMAN: Well, for obvious legal
24 reasons, we can't actually do a real survey,
25 unfortunately, to find out how everybody is making;

1 however, we have had a number of physicians call to
2 complain.
3 And, basically, we have not heard from a
4 single physician, even when we asked, and we sent
5 out surveys, just to see, "How happy are you with
6 the reimbursement?"
7 Virtually every plan downstate -- upstate,
8 the situation is a little bit different.
9 But, downstate, almost every plan in the
10 exchange is paying at a lower rate, significantly
11 lower, than other plans in the same -- from the same
12 company.
13 And as I said, we have heard as low as
14 45 percent of Medicare, in some cases.
15 And, as those of you who have been doing this
16 for a while know, the Medicare rate already is so
17 inadequate, in terms of compatibility with staying
18 in practice, that 45 percent of Medicare, basically,
19 for most specialties, is lower than the cost of
20 doing business, so you're actually losing money
21 seeing those patients.
22 And I just want to answer what Dr. Hannon
23 kind of hypothetically --Senator Hannon, excuse me,
24 hypothetically asked about: What incentive would
25 there to be in-network?

1 And I think that comes down to a lot of the
2 crux of it.
3 If the in-network reimbursement was adequate,
4 most people would want to be in-network.
5 And what has happened is, as networks pay
6 less and less out-of-network, they can lower the
7 reimbursement in-network.
8 So, essentially, we think it's somewhat
9 coercive to try to keep people in-network.
10 So, basically, in terms of negotiating, the
11 one thing you have when you're negotiating with an
12 insurance company, is you can walk away.
13 If you can't see any patients at all if you
14 walk away, then you can't negotiate at all.
15 DR. PATRICIA MCLAUGHLIN: I'd like to address
16 one other issue.
17 I agree with the reimbursement.
18 It personally happened to me, so I was
19 actually relieved that I was mistakenly put on the
20 exchange in this one company, because I would have
21 been put out of business with the reimbursement that
22 they were going to give me.
23 But, if we look at the Australian system, as
24 far as what you said about out-of-network, there
25 is -- today, the insurance companies do not pay a

1 reasonable and customary fee.
2 They are using the Medicare Fee Schedule, and
3 paying a percentage of it for whatever little plans
4 are left that are paying out-of-network.
5 They are paying 110 percent of Medicare, to
6 140 percent.
7 So if a patient chooses, who's lucky enough
8 to have one of those out-of-network plans, chooses
9 to go to an out-of-network doctor, the patient knows
10 that they are not going to get anywhere near the
11 asking fee of that physician.
12 This actually is a good thing, in a sense,
13 because it will foster a sense of competition
14 between physicians.
15 So, if you are not in-network, and you are
16 charging more than your colleague down the block,
17 and most of the patients who are using
18 out-of-network choose to go to that person, you will
19 lose your practice, and you will lower your fees.
20 Competition fosters a lower health-care cost.
21 Please keep that in mind.
22 Covering everything from A to Z only
23 increases health-care costs.
24 There are plenty of studies that state this.
25 The cost of drugs have become astronomical

1 ever since managed care has sought to cover the cost
2 of pharmaceuticals.
3 You need to relook at a lot of this, but
4 I will tell you that I am advocating for
5 out-of-network benefits.
6 It is essential.
7 It will not hurt the insurance companies,
8 especially since they have chosen to limit the
9 amount their exposure to a high bill.
10 It will then be between a negotiation of the
11 patient to the doctor, and that is a good thing.
12 Thank you.
13 SENATOR HANNON: Thank you very much.
14 SENATOR SEWARD: Thank you very much.
15 SENATOR HANNON: [Inaudible.]
16 SENATOR SEWARD: Before we call up the next
17 panel, I'd just like to acknowledge that we have,
18 Senator Felder has joined us.
19 Thank you, Senator.
20 Our next panel are brokers and agents:
21 Dan Colacino is vice president of Rose and
22 Kiernan, Inc.;
23 Erin Nevins, who's president of
24 Nevins Insurance Agency;
25 And, Jack Smith, who's executive VP of

1 William A. Smith and Son Insurance Agency.
2 DAN COLACINO: Good afternoon, Senator.
3 Senator, thank you again for inviting us,
4 appreciate that.
5 SENATOR HANNON: You've got to all pull your
6 mics closer.
7 DAN COLACINO: Real close. Okay.
8 SENATOR HANNON: Especially because, the rest
9 of them in here, and the sound up here, it's
10 horrible.
11 DAN COLACINO: Oh, okay. All right.
12 I'll yell as loud as I can, then.
13 I'd thank Dr. McLaughlin for giving the
14 brokers a nice plug in her last testimony. We
15 appreciate that.
16 My name's Dan Colacino. I work for Rose and
17 Kiernan.
18 I've been there -- I've been working in the
19 insurance industry now for a little over 40 years,
20 so, I've seen everything, from ERISA being
21 implemented, to the Affordable Care Act.
22 So all the upheavals in the industry, I've
23 seen most of those.
24 I just want to touch on a few things that
25 haven't been really discussed much today.

1 We talked about the improvement in rates, and
2 I think the improvement in rates that we've seen has
3 been in the individual market.
4 As Donna Frescatore had mentioned, the
5 mandated programs in the individual market were
6 horribly expensive.
7 Individual rates in the individual market
8 were the same as family rates.
9 So, now, we've seen a significant decrease in
10 those costs.
11 So for people who are uninsured, unemployed,
12 or who work for an employer who simply doesn't
13 provide insurance, they now have affordable
14 insurance which they didn't even have before.
15 We'd like to compliment Donna and her staff.
16 They've been very good in reaching out to us, and
17 working with us, as our trade association, helping
18 us to understand and get through some of the
19 roadblocks that existed in the initial part of the
20 rollout.
21 Yes, there have been some bumps in there, but
22 I think, right now, in general, based on what
23 they've had to deal with, the changing regulations,
24 and so forth, I think, all in all, things have run
25 out pretty well.

1 And I can say that as a sole proprietor
2 myself.
3 I work for Rose and Kiernan, but I work
4 part-time these days, so, I'm a sole proprietor, so
5 I don't qualify for benefits. So I had to go
6 through the exchange to buy my own insurance, which
7 I did.
8 The experience was fine.
9 I went through the marketplace in, probably,
10 November of this year, and things went fairly well.
11 I ended up buying off-exchange, which I think
12 is something that we've missed.
13 The off-exchange market, where the carriers
14 offer the exchange-type programs, not through the
15 exchange, but directly as another resource for
16 people to go to, whether they're individuals or
17 small employers.
18 I ended up buying off-exchange because the
19 requirements off-exchange for some of those products
20 were a little more flexible.
21 Although they all had to meet the same
22 metal-level tiers, of the Bronze, Platinum, Gold,
23 and Silver, and so forth, they had a little more
24 flexibility in some of the designs.
25 So I found a better product off-exchange than

1 on exchange, actually.
2 Let me talk a little bit about
3 sole proprietors, because that question had come up
4 earlier.
5 The sole proprietors lost a lot.
6 As a sole proprietor, I bought my insurance
7 through the Albany Chamber of Commerce.
8 Sole proprietors, according to New York law,
9 were allowed to get the group rates, with an
10 increase factor of 15 to 10 percent, which was
11 affordable.
12 Now, beginning in -- January 1st of this
13 year, of course, "sole proprietors" are now defined
14 by the Affordable Care Act as being in the
15 individual market, because the "group market" is now
16 defined as "2 to 50," and soon to be "2 to 100" in
17 2016.
18 I think that was the biggest impact.
19 There's no evidence that ever showed that
20 sole proprietors are a higher risk than any employer
21 of two or three, so I think sole proprietors have a
22 legitimate place in the group market.
23 Although, the Affordable Care Act does make
24 mention of the group market size, and I think that's
25 what we went by, trying to follow the

1 Affordable Care Act guidelines, I think there's
2 ample opportunity for the State to look at
3 legislation that would make -- roll our marketplace
4 back and allow the sole proprietors to enjoy group
5 benefits as well.
6 We did that before; we allowed sole
7 proprietors to enter the group market a number of
8 years ago, and legislation was written that way, and
9 it also allowed a little bit of a markup for the
10 carriers to do so.
11 I don't see any reason why we can't do that
12 again.
13 The states are the place where
14 experimentation are supposed to happen in the
15 insurance marketplaces.
16 And New York already had a viable market.
17 I think the Affordable Care Act itself is one
18 that had the biggest impact on us, and it wasn't
19 necessarily a positive impact because of some of the
20 requirements.
21 And I think somebody mentioned earlier, you
22 were able to buy an insurance product without
23 prescription drugs.
24 You can't do that now in the individual or
25 small-business market, and you have to meet

1 essential health benefits or else you pay the
2 individual penalty.
3 I think there's some opportunity here for us
4 to at least negate some of the impact on the
5 sole-proprietor market, and allow them to buy
6 insurance through the group market as well.
7 And I think with legislation we can do that
8 one.
9 I don't think we'd lose any cost -- any
10 revenue-sharing from the federal government.
11 I don't think we'd lose any grants by doing so.
12 I think it's something we need to seriously
13 look at during this session.
14 I also want to talk about, we haven't talked
15 it be much at all, the small-business tax credit,
16 because that did come up.
17 That's something that I think, the
18 anticipated amount of money to be spent on the
19 small-business tax credit was probably in excess of
20 3 or 4 billion dollars.
21 I doubt that we've even hit $1 1/2 billion in
22 small-business tax credits nationally.
23 I think that's because the people don't
24 understand how the small-business tax credit works,
25 even though the IRS has on their website, something

1 that says "Three simple steps."
2 There aren't three simple steps to
3 determining whether you have a small-business tax
4 credit. It takes more than that.
5 It's not that complex that it can't be
6 understood, but I think the communication of it and
7 the understanding of it is something that's been
8 lacking.
9 Part of my days off, if you will, have been
10 spent instructing employer -- brokers on being able
11 to be certified to sell in the small-business and
12 the individual exchange.
13 So that's -- I've spent a lot of time talking
14 to brokers about how they can use the small-business
15 tax credit, help them understand it better, to help
16 their clients.
17 We haven't seen a lot of activity in the shop
18 market.
19 I'll be honest, I've taught over 400 brokers
20 in the shop and the individual marketplace in
21 certification classes.
22 I don't think I've talked to anyone who's put
23 anybody through the shop at this point.
24 Individual exchange, certainly, that works.
25 I think a lot of them are defaulting to

1 the -- selling the business directly with the
2 carrier as opposed to going through the shop.
3 The shop offers some advantages.
4 The small-business tax credit that Donna
5 mentioned earlier certainly is one of them.
6 And I think the opportunity to offer multiple
7 carriers and multiple plans is something for
8 employers that's offered through the shop, that you
9 won't get if you sell directly with a carrier.
10 But I think most of us, right now, are
11 concerned about the complexity of trying to sell
12 through the shop. I don't think it's well
13 understood.
14 Donna and her staff have agreed to work with
15 us, to run some seminars through the next part of
16 2014, so we can get our people more comfortable with
17 selling through the shop and using that as well.
18 Finally, I think you did ask in some of your
19 testimony, about whether the State made the right
20 choice when they adopted not to allow carriers to
21 maintain the same plans that were canceled.
22 And I think they absolutely did.
23 And I think the timing of that -- the
24 legality of it being questionable on a federal
25 level, in the first place, but the timing of it was

1 such, that there was no time for any carrier to get
2 any communication, any rate filings on plans that
3 had, thus, been discontinued.
4 So I think we absolutely did make the right
5 decision, in deciding not to extended those plans
6 that had been canceled, going into 2014.
7 We had enough of a road -- we had enough road
8 bumps in 2014 -- January 1st of 2014 without that.
9 I think that would have added to the
10 confusion.
11 I think we made the right move by not doing
12 so.
13 With that, thank you very much for your time.
14 ERIC P. NEVINS: Hi, my name is Erin Nevins.
15 I am the owner, founder, and president of my
16 own insurance agency here in Albany, from
17 EP Nevins Insurance Agency.
18 I'm also the president-elect of the
19 National Association of Health Underwriters local
20 chapter for my industry, as well as a member of the
21 board for the state legislative board for that
22 organization.
23 Dan actually taught me through that process,
24 and I am certified to sell in the New York State
25 exchange, as well as with small businesses and

1 individuals and sole proprietors.

2 What I would like to say is, I thank you very
3 much for the opportunity to be here and speak to you
4 candidly about what is going on.

5 I think that brokers have a unique
6 perspective that really encompasses almost
7 everything that you heard here today.

8 Brokers assist members in purchasing
9 insurance.

10 They work with the providers to ensure that
11 the providers are participating for these members.

12 And, we help people with their carriers when
13 there's issues that arise from their insurance
14 carriers.

15 So, the one group of people that actually
16 physically touch almost every piece of health
17 insurance are brokers and agents.

18 I represent a vast number of individuals,
19 sole proprietors, chambers of commerce that are
20 county wide, as well as small businesses, and that
21 is my specialty with employee benefits. The health
22 insurance is a large portion of that.

23 I daily speak to sole proprietors and small
24 businesses that are very concerned and very upset
25 about the loss of their previous coverage, from a

1 few points:

2 Cost: Not just monthly premium costs, but
3 out-of-pocket costs as well;

4 And then, also, their access to networks.

5 I just want to go back to, Senator Martins,
6 you had mentioned something in one of your exchanges
7 with a panelist, about the decrease of insurance
8 costs and the increase in the individual market.

9 And I want to make a distinction, that,
10 routinely, before 2014, individuals that had no
11 affiliation through a business or a
12 sole proprietorship to -- into the group market, the
13 pricing for individual insurance in our state was
14 extremely high.

15 The average cost about $900 a month for an
16 individual in the upstate market.

17 Downstate, of course, is more.

18 What has happened is, we have adopted the
19 ERISA language that dictates that sole proprietors,
20 and small businesses that are husband/wife joint
21 ventures, have now been forced to now be in the
22 individual marketplace, so, you have increased their
23 pricing to decrease the individual marketplace.

24 There's a true distinction about what makes
25 up that individual market previous, and going

1 forward.
2 And I wanted to make that point to you,
3 because it is a true distinction.
4 We have -- my agency has spent a long period
5 of time educating employers and sole proprietors
6 about high-deductible health plans, consumer-driven
7 health plans, how to use their insurance to the best
8 of their ability in an economical way, while also
9 putting funding arrangements alongside of it to be
10 able to afford their out of-of-pocket costs.
11 Those plans in 2013 that we were selling had
12 a 675,000-provider-strong in-network network; now,
13 totally inaccessible to all of these people that
14 were routinely enjoying that network.
15 I'm not even talking about the out-of-network
16 capability. I'm talking about the in-network.
17 So, that was a real big hit to that market
18 segment, and, it's hurt every day, because they call
19 our office and they're very upset about it, when
20 they're trying to select new plans that only
21 incorporate, maybe, 23 county service areas with
22 very limited providers, as well as limited
23 prescription drugs at this point.
24 The cost of those plans that we have been
25 selling and educating and pouring all of our energy

1 and time into routinely cost about $150 a month in
2 the small-group market/sole proprietor cost.
3 They have risen to a 50 -- or, a 100 percent
4 increase, to $300, which doesn't sound like much,
5 but you have also increased their out-of-pocket
6 liabilities on the deductibles and out-of-pocket
7 maximums.
8 So, it's not just the premium that has
9 increased for these people that were going along
10 satisfactorily for the last two or three years, that
11 have really been adjusting their incomes to pay for
12 their out-of-pockets in a different way.
13 Now they're being hit by the premium as well
14 as increased out-of-pockets.
15 So, network accessibility and costs
16 associated with the premiums, as well as the
17 out-of-pockets, has been a big, huge impact to these
18 people.
19 I have a husband-and-wife doctor practice in
20 Dutchess County, engaged in a legitimate business,
21 that are now considered to be in the individual
22 marketplace, and are totally upset and insulted that
23 they cannot have a national network that they
24 previously had had or out-of-network capability.
25 And, the language in ERISA goes back to

1 stating that, "husband and wife."
2 And I don't understand why that has happened,
3 but, just because you're married doesn't mean you're
4 not actively participating in a business.
5 So, that has been a big, huge problem for
6 that region, as well as broker compensation.
7 You know, we touch so many people.
8 We educate people. We help them with claims
9 resolutions. We help them pick a plan. We help
10 them understand the plan.
11 We do so many things for so many people, and
12 we are compensated by insurance companies, not by
13 the individuals or the constituents that we
14 represent.
15 But, as this whole thing has unfolded for
16 2014, routinely, we are no longer compensated on
17 certain products, we are no longer compensated on
18 market segments, of which we were previously
19 compensated.
20 So all of these sole proprietors and
21 husband-wife joint ventures, if they move to an
22 insurance company that does not compensate for
23 individual plans, we lose compensation, but they're
24 still our clients.
25 So we're trying to run our businesses and

1 continue to be a resource.

2 We have always been a resource for these
3 people, especially now when things are so
4 complicated and confusing, and they really are
5 relying on us to assist them. And now we have to
6 say, Well, I can't help you with this, but I can
7 help you with this.

8 Of course, we're not going to say that,
9 because we would never practice that way, but, you
10 know, over time, we will have to adjust our business
11 plans to not broker for certain market segments, and
12 that leaves a gaping hole for those people.

13 Navigators are great, and they're doing what
14 they were asked to do, which is to enroll people.

15 But, brokers and agents are more than just
16 enrollers. We are consultants to these people.

17 SENATOR HANNON: We have to hear from
18 Mr. Smith.

19 ERIC P. NEVINS: Oh, I'm sorry.

20 Well, I thank you.

21 SENATOR HANNON: You were great.

22 I've been trying to cut in, but you didn't
23 even take a breath.

24 ERIC P. NEVINS: Sorry.

25 [Laughter.]

1 ERIC P. NEVINS: Well, I appreciate the
2 opportunity.
3 SENATOR HANNON: I had asked before that
4 people not read.
5 I didn't realize you were so passionate that
6 you'd speak longer.
7 ERIC P. NEVINS: Sorry.
8 SENATOR HANNON: No, everything you said was
9 very [inaudible].
10 ERIC P. NEVINS: I put some information in
11 your packets. Please feel free to reach out.
12 SENATOR HANNON: Thank you.
13 JACK SMITH: Thank you.
14 I'm Jack Smith. I'm executive vice president
15 of William A. Smith and Son.
16 We're a third-generation insurance firm in
17 the Mid-Hudson Valley. We've got offices in
18 Newburgh, Montgomery, and Poughkeepsie.
19 We work with people on, not only their home
20 and auto and business insurance, but also on their
21 health insurance.
22 We've got about 1,000 health-insurance
23 clients that are clients of ours with, say, their
24 business insurance, but, also, we have a
25 relationship with the Orange County Chamber of

1 Commerce. We're a joint-venture partner with them
2 to provide health-insurance advice and sell product
3 to their constituents.
4 So, what I'm going to talk about comes from
5 that experience.
6 Much of what I would have normally have said
7 has already been covered, so I'll try to keep it
8 pretty short.
9 And, I'm also on the board of directors of
10 the Independent Agents and Brokers Association of
11 the State of New York, and speaking on behalf of our
12 members as well.
13 A couple of things that I just want to
14 reiterate, they've already been touched on, but, the
15 loss of out-of-network coverage is tremendous in our
16 area. A large number of our clients would normally
17 go to New York City for various procedures.
18 Sloan-Kettering comes to mind, you know,
19 frequently, when somebody finds out they have
20 cancer.
21 And, you know, with the removal of the
22 out-of-network coverages, they can't do it, you
23 know, and that's when -- when we have to tell people
24 that, when we're explaining to them what the
25 differences are between exchange and non-exchange

1 products and networks, and so forth, and they find
2 that out, that they feel like they've been let down.
3 You know, I would say, from the standpoint of
4 our government, whether it be federal or state,
5 I think your constituents feel let down that they
6 lost this.
7 And it's important that, through the
8 legislation that I know has been introduced, or is
9 in the process of being introduced, that that be put
10 back in, because it's extremely important for
11 people, you know, not only for a situation like
12 cancer, but, also, you know, look at somebody whose
13 child is in college, and maybe is going to school in
14 the University of Connecticut, or someplace like
15 that.
16 If they don't have network coverage, they've
17 now got to come back to New York State to seek
18 treatment, because they can't see a doctor in
19 Connecticut or Massachusetts or Maine or
20 North Carolina, or wherever they might be going to
21 school.
22 You know, that hasn't really been talked
23 about at all, but that's, you know, important as
24 well.
25 You know, also, if you look at business

1 owners who might spend part of the year, or a couple
2 months of the year, in a different state, again, if
3 their doctors -- if they don't have out-of-network
4 coverage, they're now losing the ability to seek
5 treatment when they're somewhere else, though they
6 are residents of New York and they pay taxes in
7 New York, but they're -- you know, they're losing
8 that ability.
9 The "sole proprietor" issue has been
10 discussed.
11 Again, that's -- we've seen that time and
12 time again with our chamber clients.
13 It's a huge dilemma and it really does need
14 to be fixed.
15 I won't reiterate what's already been said.
16 You know, the price of insurance and net cost
17 I think is something that often gets confused. And,
18 while premiums, in some cases, may go down because
19 of these higher deductibles and out-of-network
20 costs, their total cost of health care has not gone
21 down, and I think that's, you know, a big issue.
22 People are trying to reduce premiums by
23 increasing deductibles and other out of -- you know
24 costs, the cost-share mechanism, and so they're
25 really not decreasing their cost of insurance and

1 health care when you take all of that into account.
2 I would say that the shop exchange, the
3 small-business exchange, has not been a great
4 success so far, and because of the reasons that have
5 already been discussed.
6 Again, we're working with, you know, several
7 hundred to a thousand employers, and I think we've
8 placed one person in the shop exchange, one small
9 business.
10 So, that really has not, you know, made an
11 impact thus far, and I don't think that was the
12 intent.
13 I think the intent is for that to make an
14 impact, and for us to be able to place businesses
15 there, so that it does create more coverage for
16 employers.
17 And, you know, I would say, while the
18 Health Department has done a great job with the
19 exchange in the small amount of time that they had,
20 and the website is phenomenal, there's still work
21 that needs to be done on the back end, which is the
22 transmission of data from the exchange to the
23 carriers.
24 And that's, I think, some of the issues that
25 we're having, relative to people not having their

1 ID cards, and, when we try to call a carrier on
2 behalf of a client, and they can't answer our
3 questions because they don't even know they're one
4 of their insureds yet, you know, I think that's
5 probably a technology issue, which I'm sure will be
6 handled down the road, but, you know, that is an
7 impediment at this point in time.
8 And, really, that's all I have to offer,
9 because everything that I wanted to talk about has,
10 really, already been talked about by so many people
11 today.
12 SENATOR HANNON: That's the disadvantage of
13 going third.
14 JACK SMITH: Yeah.
15 SENATOR SEWARD: Just two quick questions.
16 The low shop participation, shop-exchange
17 participation, could you just summarize, you know,
18 why that -- in your view, why that is occurring?
19 JACK SMITH: In our opinion, there's
20 two reasons.
21 Number one, it's difficult to navigate in a
22 logical way as a broker for a client.
23 And what I mean by that is, in so many lines
24 of insurance now, there are things called
25 "comparative rating," where we can put data in for

1 one client and see multiple carriers' information,
2 and then we can talk them through what's what.
3 That doesn't exist.
4 I think that's a fairly easy fix, and I think
5 that would help.
6 As was discussed already, the tax-credit
7 benefits I think are probably confusing, and may not
8 be, you know, fully understood. And, some people
9 just aren't qualifying for them.
10 I know, in our case, you know, some of the
11 people that we've tried to see if there was a way
12 for them to utilize that, it just hasn't worked out
13 where it's been better and they would want to buy
14 one of those plans, because they would then be
15 losing their out-of-network coverage.
16 So it's kind of that twofold purpose.
17 And the out-of-network coverage is also a
18 huge consideration about buying a plan in the shop
19 exchange, because if it doesn't exist, they don't
20 want to, you know, lose what they had.
21 SENATOR SEWARD: Yeah, it's just -- the
22 product doesn't stack up very well, as compared,
23 yeah.
24 Just one final question, in terms of the --
25 your experience with these -- with the navigators,

1 have you had any experience there?
2 You know, they -- they do the three-day
3 training, and, without a background check, without
4 any educational background requirements, but they do
5 have the three-day training and they do pass an
6 exam.
7 What has been your experience, if any, with
8 these navigators -- with navigators?
9 Who I think have an important role to play,
10 in terms of outreach, but when it comes right down
11 to it, in terms of really advising someone, you
12 know, I think the agents and brokers are in a much
13 better position to do that.
14 But, can you -- have you had any experience
15 that you can share with us, briefly, in terms of:
16 Have they overstepped their bounds in any
17 way?
18 Or, do you think it's a -- have you had any
19 referrals from the navigators?
20 JACK SMITH: I know, in our situation, we've
21 had no experience with navigators.
22 ERIC P. NEVINS: I personally have.
23 I do broker a large countywide chamber of
24 commerce, and at the onset of this, my chamber
25 president was approached by another group that had

1 solicited to be the navigator for that region. Had
2 not won the reward yet, but was already meeting with
3 our chamber of commerce, my client.
4 And, once they did actually receive their
5 award, so, we know who they are.
6 We've -- we've given many different
7 conferences and forums for all of the chamber
8 members.
9 They've attended every one of them and taken
10 lots of notes.
11 And at the onset, I think a lot of brokers
12 were upset. They thought that navigators would be
13 overstepping and taking business from them.
14 And, actually, it's turned out to be quite
15 the opposite, where we've had some of our clients
16 mosey on over and take a peek at them, and then
17 we're told, "Uh, I think you need a broker," and
18 then referred right back to us.
19 So, I don't know that they are trained well
20 enough.
21 I know they know the process on how to enroll
22 somebody, but I don't know that they're trained well
23 enough to understand, and how to explain differences
24 in carrier networks, prescription-drug formularies,
25 and I could go on and on.

1 I don't think that -- I think that they are
2 just there to specifically get people enrolled.
3 As far as educating them, I don't think
4 that's part of their task, and I -- so that's ours.
5 DAN COLACINO: Yeah, my experience has been
6 mostly with hospital-based navigators. I think they
7 were formerly Medicaid-facilitated enrollers, and
8 they moved over, so they were kind of familiar with
9 how the Medicaid program worked, and so forth.
10 So, we've actually, when we had to refer
11 individuals to a navigator, we would send them to
12 the hospital-based navigators.
13 And I think they had that -- they had a head
14 start on everybody else because, again, they were
15 Medicaid facilitators and enrollers, and they
16 understood the process to start with. And we're
17 more comfortable than sending them to
18 community-based people right now.
19 SENATOR SEWARD: Thank you.
20 Thank you very much for appearing.
21 SENATOR HANNON: Thanks.
22 ERIC P. NEVINS: Thank you.
23 SENATOR SEWARD: Our next panel are
24 small-group insurers:
25 Bob Carey, who's an account executive of

1 Otsego County Chamber of Commerce;
2 Leslie [sic] Clarke, deputy director of
3 Freelancers Union Insurance;
4 Mark Eagan, president and CEO of the
5 Albany-Colonie Regional Chamber of Commerce;
6 And, Maurice Isaac, who's employee benefits
7 program administrator of the Delaware County
8 Chamber of Commerce.
9 And we're going ask Mr. Eagan to lead off
10 this panel.
11 MARK EAGAN: Good afternoon.
12 I'm Mark Eagan, president and CEO of the
13 Albany-Colonie Regional Chamber.
14 We have a membership of 2200 businesses that
15 come from throughout the Capital Region, and they
16 employ about 110,000 area residents.
17 Appreciate the opportunity, and I commend you
18 for hosting the hearing today, and I appreciate the
19 opportunity to share a little bit of the feedback we
20 received, particularly from the small-business
21 community, within the limitation of the
22 Affordable Care Act in New York.
23 I guess I'd start by making just a couple of
24 comments about the exchange itself, for businesses
25 who look to use the exchange.

1 And I would say that, that the first piece of
2 feedback, for those who wanted to, quote/unquote,
3 shop the exchange, we received quite a bit of
4 feedback that they thought it was difficult to
5 window-shop, because they had to go in and set up an
6 account. And I think a lot of them had concern, if
7 they set up an account, were they going to almost be
8 sort of trapped within the portal.
9 So I think, just as some suggestions on how
10 it can be improved, going forward, if it was easier
11 to see what's available without having to set up an
12 account and go through that formality.
13 Within our membership, we have a lot of
14 businesses who gather -- gain health insurance
15 through our organization, so, some of my comments
16 will be respective to those folks, and others will
17 be businesses who just gather health insurance from
18 a lot of different places, and feedback that we've
19 received.
20 First, from the sole proprietors, those who,
21 you know, are independently employed, who get
22 coverage through us:
23 Many of them were really shocked and angered
24 when they learned that they were no longer
25 considered a business in buying health insurance

1 when they went to purchase insurance, with the
2 Affordable Care Act.
3 As you folks know, they are now classified as
4 an individual.
5 And many of them, you know, called our office
6 and complained, and said, you know: We believe the
7 only reason we were asked to now buy as an
8 individual, is we're helping to subsidize insurance
9 for other individuals. We worked hard to create a
10 business, and we'd like to be able to continue to
11 purchase as a business.
12 Obviously, when they went to buy it on the
13 individual exchange, most of them experienced
14 significant increases in their premiums.
15 The other piece that we heard from our
16 sole proprietors, was things that they would
17 discovered as they went through the process, and one
18 of them that we got several calls about was, no
19 out-of-network coverage.
20 So, whether they're out of state, whether
21 they have their children away at college, they
22 weren't sure how that worked.
23 And these are, either, they did it through
24 the exchange or they continued to get insurance
25 through our organization.

1 Also, as you know, we have some new insurance
2 carriers that are offering coverage in New York.
3 And we're getting some feedback from the --
4 where a business says they've checked to see, was
5 their current provider going to offer that
6 insurance.
7 It appeared so, yes, when they went to a
8 website and looked, but then when they actually
9 called it -- the office, they said they don't accept
10 that coverage.
11 So I don't know if that's still just part of
12 rollout, but that's a frustration that we're hearing
13 from our sole props.
14 From the small-business community, those who
15 are from 2 to 50 employees, really what we
16 discovered, if they were getting insurance through
17 us now, we mapped them with our carriers to the
18 product that was closest to what they currently had.
19 As you know, none of the products remained,
20 you know, 100 percent as is.
21 And we realized that almost all of those
22 businesses, wherever they were suggested, wherever
23 they were mapped to, navigated to, that was the
24 coverage they continued to keep.
25 So it -- from what we can tell, most of those

1 businesses didn't even explore looking at the -- the
2 exchange, going to the website or the marketplace.
3 I don't know if it's because it's the first
4 year and they're not sure what the impact would be
5 for them or what the benefit would be for them or
6 their employees, but it appears most, if they were
7 able to maintain the status quo, that was the route
8 that they elected to do.
9 So with that, those are my comments, Senator.
10 Thank you.
11 SENATOR HANNON: Thank you.
12 Who would like to go next?
13 MAURICE ISAAC: Yes, I'll go next, Senator.
14 I'm Maurice Isaac, with Mang Insurance
15 Agency, and I'm the benefits administrator for the
16 Delaware County Chamber.
17 And I kind of just wanted to go through my
18 experience, you know, since the exchange opened.
19 I completed the CE course the Saturday, on
20 September 29th, so I could be one of the first
21 agents eligible for the exchange.
22 I still did not receive my invitation till
23 October 4th, four days after the exchange opened,
24 even though I qualified and passed all the exams.
25 In trying to set up my broker's account, it

1 took five complete days of trial and error with the
2 exchange before I could get that satisfied.
3 And I got -- finally on the 9th, I got a
4 "Congratulations, your brokerage account is open,"
5 with various technical problems.
6 With the chamber, I've got -- I think,
7 through the two chambers, I have approximately
8 90 self-employed sole proprietors, that all of their
9 are plans were canceled, so I had to set up meetings
10 throughout the next three months with them.
11 With them at the help desk, sometimes we
12 waited 45 minutes to reach someone, while the client
13 was sitting with me, because it said -- you know,
14 when you needed help.
15 There was times where we waited 20 minutes,
16 and the person who answered stated they couldn't
17 help us, we needed to be transferred. And, again,
18 we waited another 20 minutes, with the client
19 sitting there with us.
20 The help desk has stated at times, that, you
21 know, We would get back to you within 48 hours.
22 We never heard from them.
23 When I called back, the help desk says,
24 "Well, do you have a ticket number?"
25 And I says, "No, I didn't receive a ticket

1 number. Am I supposed to?"
2 And they said, "Yes."
3 So the next time I had an issue, I tried to
4 insist that I get a ticket number, so if I needed to
5 follow up and call back, I had it.
6 At that time, I was told that we don't --
7 "We don't issue ticket numbers," in direct
8 compliance to, you know, what I was told the last
9 time.
10 There was many times where we had programming
11 errors, and the help desk just stated: Look,
12 everyone's having this here, they're having
13 problems. You're gonna have to try again tomorrow.
14 Tell your client, you know, they're gonna have to
15 reschedule an appointment with you.
16 And these -- some of the clients in
17 Delaware County, it's a huge county, they drove
18 30, 35 minutes, just to get to me. In inclement
19 weather, you know, and they would have to turn
20 around and drive 30 minutes home, and then back and
21 forth again.
22 The biggest help-desk issue we had was, on
23 12/10, it was -- after we put all the information
24 in, it was stated that it could not make a
25 determination.

1 On the 13th, they finally made a
2 determination that there would be no subsidy.
3 On 12/16, when we went -- when the client
4 wanted to pursue and get a policy anyways, when we
5 went to confirm and check out, we received an error.
6 The help desk said, "Keep trying again
7 tomorrow. We're gonna work on it."
8 Three days later I sent a picture of the
9 problem into the technical support, and, you know,
10 that was on 12/19.
11 That afternoon, I actually got an e-mail from
12 a regional director of the Department of Health,
13 stating that problem -- that issue was corrected,
14 and that they assigned someone to follow up with me
15 by phone.
16 She gave me instructions -- they gave me
17 instructions on how to enroll the client further.
18 I tried that and it did not work.
19 Eventually, the person called every day, that
20 they assigned to help me, and we could not -- we
21 could not get the coverage put through.
22 On 12/21, with only two days left to get this
23 client enrolled for January 1st, I resent the error
24 message to technical support and that regional
25 director, stating that we have still been unable to

1 enroll this client.
2 And I immediately, from the regional
3 director, received an out-of-office message that
4 says, "I'm going to be out of the office until
5 January 1, 2014. I have a person who is here to
6 help you. Here's their e-mail address, please
7 contact them."
8 I forwarded the e-mail to that person, and
9 I've never heard from either one of them.
10 On the 27th I received a phone call from --
11 the person that was helping me on the phone stated:
12 The problem has finally been corrected, and we did
13 install their plan, but it's not gonna be effective
14 until February 1st.
15 That was after -- on 12/23, the last day,
16 I enrolled that client directly with a
17 Blue Cross and Blue Shield plan, that they've paid
18 for, and had to, you know, come into the office that
19 day, to make sure they had coverage for January 1st.
20 Applications that -- on individuals, to date,
21 I put in 58 applications for the exchange, and I've
22 enrolled 49.
23 Out of the 49, I believe about 10 percent of
24 them were enrolled into Medicaid that qualified for
25 it.

1 For applications for the shop exchange,
2 I have two, and enrolled -- enrolled one client in
3 the shop exchange.
4 One client that I had was an individual
5 family that has one child in college, that's
6 20 years old. They have two children under the age
7 of 19 that are still in high school.
8 Their eligibility determined that they'd have
9 a $414 a month subsidy on the Silver plan for the
10 complete family.
11 The premium was $1,370. Their net premium,
12 after the 414, is 955.
13 And, also, even though they already qualified
14 for a family plan, the exchange notified us that the
15 children under 19 were eligible for
16 Family Health Plus, and were forced to go into
17 Family Force Plus, and they were charged an
18 additional $60 on top of an already-family plan that
19 they're paying.
20 And we were told that there's no way to
21 circumvent that. Once that they qualified for
22 Child Health Plus, they had to pay the additional
23 funds.
24 The clients eventually did enroll in that
25 plan to get their subsidy, but are paying $60 extra

1 even though they're already paying for a family
2 plan.
3 My clients are mostly small groups,
4 sole proprietors, partnerships, LLCs, and
5 corporations.
6 One client is an attorney with a newly opened
7 firm less than two years old, and that's a
8 corporation.
9 This year, she promoted that second attorney
10 to a partner, and now they're equal shareholders.
11 Both are drawing a salary, and, they file a
12 New York 45 quarterly; however, they're now
13 classified as individuals because they're both the
14 owners of the corporation, and now they're required
15 to pay $39 a month more, each, for the same exact
16 plan that's available for small businesses.
17 This attorney decided and elected not to take
18 the plan, based on that, and has taken the penalty.
19 With having all small groups, every plan
20 [unintelligible] everyone that I had was canceled,
21 and those clients had to choose a new plan: either
22 move through to the exchange, move to the direct
23 market, or go -- or directly through the carrier.
24 The President did announce that you were able
25 to keep your existing plan for one more year, our

1 phone started ringing off the walls.
2 Clients that we already had moved into new
3 plans and already sent checks in, called up, wanting
4 to move their plans back to their old plans.
5 And we had to explain to them it wasn't
6 available.
7 Chamber members, as a whole, were very split
8 on -- some were happy to have our help, and will
9 continue to be members.
10 Some members stated right out, that they
11 don't need the chamber anymore, and this is the last
12 time we're gonna pay our -- that was -- last year
13 was the last time they're paying their dues and
14 they're not gonna renew their membership.
15 In summary:
16 Some clients were very happy. They chose a
17 plan that was better than the one that they had, for
18 the same or less money.
19 Some clients were determined to be eligible
20 for Medicaid, and were very unhappy and very upset,
21 stating that, you know, "We don't want to be in
22 welfare." And they actually purchased a direct plan
23 outside the exchange and are paying full price.
24 Some sole proprietors are paying 50 percent
25 more to 100 percent more in premium for less

1 coverage than they had in their old higher --
2 high-deductible plans.
3 SENATOR SEWARD: Thank you.
4 MAURICE ISAAC: Thank you for this
5 opportunity to share that with you.
6 SENATOR SEWARD: Thank you very much.
7 Mr. Carey.
8 BOB CAREY: Hello, I'm Bob Carey. I'm with
9 the Mang NBT Insurance Agency as well, and, I'm an
10 account executive. And, I am the benefit
11 administrator for the Otsego County Chamber.
12 I do want to mention that our agency handles
13 five different chambers as benefit administrators.
14 Maurice is one of them.
15 And I was asked to come here on behalf of the
16 Otsego County Chamber, to talk about the
17 difficulties and problems, as well as their feelings
18 towards the -- what's been happening within this
19 last year.
20 The chambers, as a whole, have spent many,
21 many years, in concert with the Legislature here in
22 New York, to create the "sole proprietor" product
23 line, and the "sole proprietor" product line came
24 about because of the input of the chambers, with the
25 State legislators and the Insurance commissioner,

1 and they created what's called the "Chamber Trust
2 Product." And that Chamber Trust Product did have
3 small-group products, 2 to 50, and it typically had
4 the "sole proprietor" product that was mentioned,
5 that is 10 to 15 percent more.
6 With the Affordable Care Act, and no reason
7 that -- or, New York didn't do anything to create
8 this, but the Affordable Care Act created the
9 situation where the individual sole proprietor is
10 being moved to the individual market.
11 What we had discovered when that happened is,
12 within our chambers, anywhere between 25 and
13 90 percent of chamber revenue on that product line
14 will be lost because of these chamber members moving
15 to the individual market.
16 So from a chamber's perspective, that was a
17 revenue stream that helped chambers do their good
18 work of promoting small businesses in the community,
19 and the economic-development work that they do, and
20 all the other things.
21 So, from the chamber's perspective, this law
22 has been a real shot in the arm as far as revenue.
23 On the small-group side, the executive
24 director of the exchange had mentioned she wasn't
25 sure how many plans were canceled.

1 I just want to mention that, in our
2 marketplace, 100 percent of all small-group plans
3 were canceled for January 1st, because they did not
4 comply with the essential health benefits.
5 So, every one of our clients received a
6 letter that their plan was being canceled.
7 That means every single participant received
8 a letter that their plan was gonna be canceled, and
9 that they would be mapped to a plan that was
10 compliant with the Affordable Care Act.
11 When the State Legislature -- or, when the
12 Insurance Department and the exchange created the
13 Platinum, Silver, Bronze, and Gold plans, they
14 created standard plans.
15 And if you study those plans, most small
16 businesses in this state had plans that had
17 deductibles and coinsurance, but they also had
18 co-pays for many items. And those deductibles and
19 coinsurance would only apply to certain
20 circumstances, like hospitalization, or outpatient
21 surgery, and all your other services were
22 co-pay-based.
23 When the new plans in our marketplace came
24 out, the plans that they were going to be
25 automatically mapped to, and that employer might

1 have had a $1,000 deductible on their plan; that
2 $1,000 deductible only if you were hospitalized.
3 That $1,000 deductible in the mapped plan is
4 now in front of all the co-pays, and there are only
5 a handful of plans by one carrier in our marketplace
6 that has co-pays in front of the deductible.
7 So, it created a tremendous amount of stress
8 in the broker community to reach out to all their
9 clients, to explain that they were being mapped to a
10 plan, and, yes, the premium is less, but all your
11 participants are gonna be subject to this deductible
12 in front of their doctor co-pay.
13 So, from our perspective, it created a
14 tremendous amount of stress on our staff, on our
15 brokers themselves, and, on our clients, because
16 they didn't understand the products, they didn't
17 understand how they worked, they didn't understand
18 the mandates that they had to have, that they didn't
19 necessarily need.
20 So from our perspective, although, as
21 mentioned before, the 12,000 people in the
22 direct-pay market received a substantial discount on
23 their premium, but many of the other people are
24 gonna have higher costs, maybe a lower premium, but
25 a lot more out-of-pocket in the plan itself in

1 cost-shares.
2 Additionally, I think agencies and chambers,
3 going forward, are going to be reassessing their
4 model as to their staffing, because if we're gonna
5 lose 25 to 90 percent of our revenue stream, we're
6 going to have to work on our staffing as well.
7 And, so, this has created an additional
8 stress on the industry, to staff properly in a
9 environment where there's more inquiries coming into
10 the agency.
11 I have some other notes, but I won't touch
12 upon those because they've already been discussed.
13 Thank you.
14 SENATOR HANNON: Thank you, Mr. Carey.
15 And, finally, Ms. Clarke.
16 LACEY CLARKE: Hi. Thanks for inviting
17 Freelancers Union to testify today.
18 I'm Lacey Clarke, director of policy for
19 Freelancers Union.
20 Freelancers Union has been providing health
21 insurance to New Yorkers since about 2001.
22 For the first several years that we existed,
23 we offered health benefits to independent workers
24 through a portable benefits fund. And then,
25 eventually, we decided to start our own

1 health-insurance company, rather than simply
2 connecting our members to others' plans.
3 Freelancers Insurance Company (FIC) was
4 created in 2009 as a demonstration project, with
5 bipartisan support from the New York State
6 Legislature.
7 It's the first several-purpose
8 health-insurance company to offer independent
9 workers affordable, stable, and portable health
10 insurance, and is wholly owned by Freelancers Union.
11 FIC aims to provide insurance to the
12 30 percent of the workforce -- freelancers,
13 consultants, temps, contractors, and the
14 self-employed -- who are excluded from traditional
15 work-based supports.
16 FIC covers about 25,000 New Yorkers through
17 5 health plans designed and tailored specifically
18 for freelancers.
19 In 2012, we launched Freelancers Medical, an
20 innovative patient-centered primary-care program
21 that offers free primary care with zero-dollar
22 co-pays for all visits, free yoga, acupuncture,
23 medication, and other wellness classes.
24 Enrollment has already surpassed
25 expectations, with more than 3500 members signed up

1 after only 12 months, and we're excited to open our
2 second location in downtown Manhattan next month.
3 And despite this new offering, members have
4 seen zero premium increases for two consecutive
5 years.
6 FIC was created in 2009 before the
7 Affordable Care Act was enacted and greatly changed
8 the health-care marketplace.
9 In 2012, this Legislature recognized the
10 potential upheaval that the ACA could cause in the
11 individual health-care market, and wisely extended
12 the sunset date for the demonstration project for
13 one year, until the end of 2014, to ensure that
14 FIC members would have a smooth transition during
15 the first year of the health exchanges.
16 At the end of 2012 and in early 2013, the
17 federal government promulgated numerous rules and
18 regulations in preparation for the ACA's
19 implementation in 2014.
20 As we followed the events, it became clear
21 that several our very popular health plans would
22 need to be altered at a great expense.
23 Additionally, more than 70 percent of our
24 members, most of whom are middle-income earners,
25 would not qualify for subsidies on the exchange and

1 would see significant increases in their monthly
2 premiums.
3 However, thanks to the forward-thinking of
4 Chairmen Hannon and Seward, this Legislature
5 reaffirmed FIC's ability to continue to offer and to
6 afford both comprehensive plans for these
7 independent workers through the end of 2014.
8 We are very pleased to report that FIC
9 members have not experienced any disruption in
10 coverage, and 97 percent of members renewed their
11 existing coverage in December for another year.
12 In addition to FIC, Freelancers Union also
13 owns a health-care technology company that provides
14 back-end services to insurance companies in several
15 states, including New York; New Jersey, whose
16 exchange is run by the federal government; and,
17 Oregon, who runs their own exchange.
18 Our experience working with both the federal
19 and another state exchange has only highlighted the
20 exemplary work that New York State has done in their
21 exchange and in managing the implementation process.
22 The New York -- an insurance company we
23 provide consulting services for had very few delays
24 in enrollment. New Yorkers were able to easily
25 enroll on their on exchange -- on exchange plans

1 from day one, and exchange staff has been
2 well-informed and accessible throughout the process.
3 While Freelancers Insurance Company does not
4 currently offer health coverage on the
5 New York State exchange, Freelancers Union is
6 committed to ensuring that our members transition
7 smoothly onto the exchange for 2015.
8 Our focus in the upcoming months will be to
9 educate our members about the exchange offerings and
10 the system in choosing a plan that will best meet
11 their health needs.
12 We look forward to continuing to work with
13 Donna Frescatore and DFS as we guide members through
14 the enrollment process for 2015.
15 Thanks.
16 SENATOR SEWARD: Well, you've had a very
17 complete testimony. All my questions have been
18 answered, except, one for a -- a quick one for
19 Ms. Clarke.
20 You're absolutely right, you know, through
21 legislation, you know, the Freelance Union was given
22 another year -- the demonstration project was given
23 another year.
24 Have -- will anything change at the end of
25 2014, versus the end of 2013?

1 LACEY CLARKE: Well, it --
2 SENATOR SEWARD: Other than the fact, you
3 know, in terms of the impact on your -- your members
4 and subscribers?
5 LACEY CLARKE: Well, we -- our members are
6 currently enrolled in our -- in FIC through the end
7 of 2014.
8 The demonstration project only lasts through
9 the end of 2014, so, right now, we're -- that's --
10 we're really involved in trying to figure out what
11 will happen in 2015, and we're really committed to
12 making sure that we get our members onto the
13 exchange.
14 But it will definitely be a different
15 marketplace for our members in 2015.
16 SENATOR HANNON: Just a lot of work ahead.
17 LACEY CLARKE: Exactly.
18 SENATOR HANNON: Well, thank you very much.
19 SENATOR SEWARD: Thank you.
20 SENATOR HANNON: We appreciate it.
21 SENATOR SEWARD: The next panel is our
22 insurers:
23 Sean Doolan, Blue Cross/Blue Shield;
24 Paul Macielak, Health Plan Association.
25 SENATOR HANNON: Good afternoon.

1 PAUL MACIELAK, ESQ.: Good afternoon.
2 SEAN DOOLAN, ESQ.: Good afternoon, yes.
3 SENATOR HANNON: Who would like to go first?
4 SEAN DOOLAN, ESQ.: Go ahead.
5 PAUL MACIELAK, ESQ.: All right.
6 I guess, after having sat here this morning
7 and listening to a lot of the comments, I mean,
8 from, I think, our perspective on the plan
9 perspective, everybody operated under tight
10 timelines, and continue to operate under tight
11 timelines.
12 You know, plans have had a deal with major
13 and substantial policy-form changes, rate
14 applications, technical architecture to plug into
15 the exchange. And there have been bumps in the
16 road, and we've heard about some of them.
17 There's a whole other list of other bumps in
18 the road that we've already had to deal with as
19 we've proceeded.
20 One such bump has been the federal policies
21 that have changed at the last minute, that have
22 bound the state exchange, which has bound plans, in
23 terms of they're dealing with enrollments.
24 Extended times for enrollments, extended time
25 periods for payment of premiums, all of those

1 factors play into the ability of the plan to process
2 the applications, to get out the cards, the premium
3 invoices, et cetera.
4 Today, as we sit here, we meet with the
5 State, at the CEO level on policy once a month, we
6 meet on legal issues once a week, operations once a
7 week, and the technical-related issues twice a week.
8 That's an ongoing relationship that's been
9 going on.
10 In terms of, from our perspective, HPA, we've
11 always said, at the exchange, there were going to be
12 winners and losers.
13 And you heard a lot about that today, in
14 terms of, you know, how it's rolled out in the
15 marketplace.
16 Clearly, the Healthy NY population and
17 sole proprietors have taken hits, in terms of, what
18 they had, to what they have today as it's rolled
19 out.
20 The direct-pay market has had benefits in
21 terms of what their premiums were, to what they are
22 now in the exchange.
23 Affordability is and continues to be, you
24 know, the theme that we seem to strive for, we know
25 that's what the exchange staff is also looking for,

1 and we believe that's what the public is looking
2 for, in terms of health insurance.
3 Whether it's transparency; whether it's
4 trying to address surprise balanced billing, or
5 billing from providers Senator Golden referred to;
6 whether it's dealing with some of the ACA taxes or
7 HCRA taxes that we're all paying; I mean, I think
8 affordability is a key factor.
9 Now, that has to be juxtaposed, I think, with
10 the tension that exists about access and choice, and
11 we heard a lot today about out-of-network benefits.
12 So I'm fond of saying there's no free lunch,
13 and that I think is an example of something that you
14 have to confront.
15 Well, chambers, sole proprietors, Healthy NY
16 people, are concerned about affordability and want
17 the policies to be more affordable.
18 You have, on the other hand, other people who
19 want out-of-network access and choice, which are
20 going to add costs to the policy.
21 And that's something I think you need to
22 reconcile.
23 I think I'll turn it over to Sean to make
24 some more points.
25

1 SENATOR HANNON: I would simply point out,
2 the sole proprietors --
3 (Turns on microphone.)
4 SENATOR HANNON: I would point out, the sole
5 proprietors are not saying that they got increased,
6 but, somehow, the system was able to take care of
7 them before; and now they're being declared
8 individuals instead of being able to a group of two.
9 How is it that it -- by making them
10 individuals, the insurance companies are saving and
11 the individuals are paying more?
12 SEAN DOOLAN, ESQ.: What do they mean, the
13 companies are saving?
14 PAUL MACIELAK, ESQ.: Did you say the
15 companies are saving?
16 SENATOR HANNON: Well, you're the ones who
17 just said it costs somebody if you make these
18 changes.
19 Well, you're -- if the individuals are paying
20 more, then, obviously, the insurance companies are
21 collecting more, so, they're benefiting.
22 PAUL MACIELAK, ESQ.: Well, I don't
23 necessarily see that as a benefit.
24 SENATOR HANNON: I would think --
25 PAUL MACIELAK, ESQ.: If we have to pay --

1 SENATOR HANNON: I was just --
2 PAUL MACIELAK, ESQ.: -- additional taxes --
3 SENATOR HANNON: I was just stating the
4 proposition that you had outlined.
5 PAUL MACIELAK, ESQ.: Well, if we have to pay
6 additional taxes, like the ACA taxes, that's not
7 something that's benefiting the insurance companies,
8 but that is being imposed on those sole proprietors.
9 Some of the additional benefits that are
10 mandated by the essential benefit package, that
11 sole proprietors don't like, those aren't benefiting
12 plans either. They are just additional benefits
13 that are made available to the population.
14 SENATOR HANNON: Then you'd have no problem
15 going back to allowing these husband and wives to be
16 declared a group instead of being two individuals?
17 SEAN DOOLAN, ESQ.: Yea, unfortunately,
18 that's driven by federal law.
19 PAUL MACIELAK, ESQ.: It's federal policy,
20 yeah.
21 SENATOR HANNON: I understand that.
22 SEAN DOOLAN, ESQ.: No, as a matter of fact,
23 the "sole prop" issue is probably the most
24 perplexing, because they were hit with two things:
25 Number one, they were moved from the group

1 market, or a peg off the group market, to the
2 individual market. That was driven exclusively by
3 federal rules.
4 The second issue is, their product selection,
5 many sole props were in high-deductible plans.
6 SENATOR HANNON: Excuse me?
7 SEAN DOOLAN, ESQ.: Many sole proprietors
8 were in high-deductible plans.
9 By moving them into the individual market;
10 and, in turn, as a result of the changes to -- that
11 were coming down from the federal government, those
12 high-deductible products became more expensive.
13 So, how to address it?
14 You know, quite frankly, other than getting
15 at the underlying cost-drivers to coverage overall,
16 unless you had some movement from the federal
17 government to allow them to shift back to the group
18 market, you know, there's nothing, you know, at
19 least on the surface, that can be done.
20 SENATOR HANNON: What about the fact that,
21 last year, we allowed for the continuation of the
22 professional employee organizations?
23 How do those members of those differ so much
24 from the two-member groups, in concept?
25 SEAN DOOLAN, ESQ.: To a great -- the concept

1 is the same, but the PPOs, and this is actually
2 something I think that they're still waiting for
3 federal guidance on, the change to the "association"
4 law required, if you're a small group or an
5 individual and you go into an association business,
6 you're rated -- you're going to continue to be rated
7 as a small group or as an individual.
8 The benefit of PPOs is that they could rate
9 them as a large group, even though there was no
10 connection between the individual and the small
11 group.
12 Whether the federal law -- and that -- again,
13 that change in state law to applicable associations
14 was driven from the federal government.
15 To the extent -- and I think this is, you
16 know, clarification that's still needed from the
17 federal government, to the extent that that same
18 rule applies to PPOs, then, they're going to run
19 into the exact same problem.
20 SENATOR HANNON: You wanted to start.
21 SEAN DOOLAN, ESQ.: Thank you.
22 I will just touch on a few global issues, in
23 terms of how things have gone, and then, perhaps, we
24 can jump into some of the individual questions.
25 To echo Paul, you know, this -- you could not

1 underestimate --
2 SENATOR HANNON: What I think we failed to
3 do, this is being webcast, and we failed to have you
4 do one essential thing: Identify yourselves for the
5 people who are on the other end of the TV camera.
6 SEAN DOOLAN, ESQ.: He's Paul Macielak,
7 CEO of the Health Plan Association, chairman of the
8 board, and president.
9 I am Sean Doolan with Hinman Straub,
10 representing the Blue Cross plans of New York.
11 SENATOR HANNON: Thank you. I'm sorry.
12 SEAN DOOLAN, ESQ.: No, thank you.
13 This has been a transformational period for
14 the plans.
15 The focus today has really been on the
16 individual and small-group market vis-a-vis the
17 exchange.
18 In reality, virtually every policy, whether
19 it be coverage policy or plan policy, whether it be
20 actuarial, whether it be underwriting, or whether it
21 be sales, have gone through dramatic changes and
22 implemented in a short time period.
23 You know, as Paul had mentioned, there have
24 been challenges, certainly, not the least of which
25 has been a change in the paradigm of oversight.

1 Insurance has traditionally been a
2 state-regulated business, with the exception of
3 ERISA or self-funded plans.
4 Now, obviously, many of the rules are being
5 driven by the federal government on a blanketed
6 perspective, not taking into consideration where
7 each individual state has been in the past or what
8 their ground rules are today.
9 Adapting and changing to that has been
10 incredibly challenging, not to mention the
11 operational issues around the exchange.
12 Historically, the business of insurance is
13 really between the broker, at least with small
14 groups, the plan, and the group.
15 Inserting the exchange into that with
16 individuals is just simply enrollment from the
17 individual to the plan.
18 Inserting the exchange into that process,
19 where the exchange is the front end of enrollment
20 without the plan's ability to do enrollment
21 themselves, has been, you know, not only from an
22 IT perspective, but just operationalizing it, an
23 incredibly challenging endeavor.
24 And, you know, in terms of recommendations at
25 the end, you know, perhaps there are some areas for

1 improvement there.
2 The exchange staff, you know, certainly led
3 by Donna, the level of collaboration to all
4 stakeholders, you know, really is unprecedented, and
5 has been remarkable.
6 Paul went through, you know, the somewhat
7 daily contacts we have with them.
8 You know, certainly, we agree on issues as
9 frequently as we disagree, but, the dialogue,
10 whether it be with Donna, her staff, the DFS, and
11 other stakeholders, you know, has been, you know,
12 truly helpful in trying to facilitate this process.
13 In terms of your initial question, Senator,
14 "Has the implementation of the ACA accomplished its
15 goal?" -- and I think Paul touched on, and the
16 broker panel before touched on, the key issue of
17 affordability -- I think you have to look at the
18 shop and individual exchanges differently.
19 Certainly, the individual exchange, simply by
20 putting in more products and greater selection to
21 what was historically a broken system, is an
22 improvement.
23 You know, that said, there were a number of
24 assumptions that went into the price-setting
25 process.

1 Typically, through the prior approval, there
2 are a limited number of assumptions: utilization,
3 trend, being the two prominent ones.
4 This process was a little bit more
5 speculative, so to speak, in that, there was an
6 anticipated level of uninsured people, the young
7 invincibles, becoming enrolled.
8 Likewise, there was morbidity factors: How
9 many groups were dropping coverage, and those
10 individuals go -- healthy individuals going into the
11 exchange?
12 I think it remains to be seen whether those
13 projections will ultimately prove to be true.
14 And as a matter of fact, you know, as we head
15 into 2014 and 2015 rates, you know, we will be
16 submitting -- because of the prior approval process,
17 we will be submitting rates, you know, in the first
18 quarter, April, perhaps May at the latest, with very
19 limited experience to ascertain whether those
20 assumptions were spot on, or whether the number of
21 healthy individuals that came into the pools were
22 either overestimated or underestimated.
23 SENATOR HANNON: Given the number of types of
24 policies that have sharply decreased because of the
25 whole nature of change --

1 SEAN DOOLAN, ESQ.: Yeah.
2 SENATOR HANNON: -- should you have to submit
3 your rates that early?
4 Or, should you at least, on a one-time basis,
5 be given greater time to get some experience, and
6 then -- because, arguably, they're -- the time frame
7 was set when there were forty, fifty thousand types
8 of policies, many of them were almost me-toos,
9 but, still, they don't have to look at all of them?
10 SEAN DOOLAN, ESQ.: Yeah, I mean, you've got
11 two timelines.
12 You've got the prior-approval timeline, you
13 know, which we've talked about, which is laborious.
14 I mean, there's a 60-day notice of proposed
15 rates, there's a review period, and then there's an
16 additional 60 days at the back end, prior to being
17 implemented.
18 You know, there's an additional time period
19 for the department to request more time.
20 You know, that alone is about 150- to 180-day
21 process.
22 Compounding things -- so that takes you, you
23 know, at a minimum, to, you know, May or June.
24 Compounding and accelerating that timeline is
25 the recertification of the plans to participate in

1 the exchange, which the department and the exchange
2 has actually given us some additional flexibility,
3 but it's still resulting in the submission of rates,
4 you know, in, you know, April or May.
5 And I think that, again, the plans submit the
6 rates, say, May 1, but they begin to develop the
7 rates on April 1, and, it gives them, essentially,
8 three months worth of experience to determine
9 whether they have a healthy pool, a sick pool, and
10 whether any of the assumptions from last year's
11 prior-approval process were accurate or not.
12 SENATOR HANNON: I'm just saying, for both of
13 those timelines, it seems to be that experience
14 would be a great valuable asset to have for
15 actuarial projections, for adequacy network
16 projections, to see what type of flexibility needs
17 to be given. And it's -- those are self-imposed
18 deadlines, both by the department and the exchange.
19 SEAN DOOLAN, ESQ.: Yeah. Yeah, I agree,
20 I agree.
21 PAUL MACIELAK, ESQ.: We --
22 SEAN DOOLAN, ESQ.: And one other -- I'm
23 sorry, Paul.
24 One other huge variable in this, is risk
25 adjustment, which will be coming down again from the

1 federal government.

2 There were simulations done by the
3 department, that were somewhat controversial, and
4 that some plans agreed with them, some plans
5 disagreed with them. Those, likewise, were built
6 into the rate.

7 That risk-adjustment model has still yet to
8 be promulgated by -- fully promulgated by the
9 federal government.

10 So, again, another variable that could have a
11 dramatic impact on premium.

12 SENATOR HANNON: But how could they do a risk
13 adjustment until they know the actuarial makeup, the
14 demographic makeup --

15 SEAN DOOLAN, ESQ.: Exactly.

16 SENATOR HANNON: -- of the insured pool?

17 SEAN DOOLAN, ESQ.: Exactly.

18 PAUL MACIELAK, ESQ.: Only to model. I mean,
19 it's -- what it was based on was some assumptions.

20 I mean, we've operated, to date, on a lot of
21 assumptions, and that's been part of the rate
22 setting.

23 And while you've had a number of new plans
24 enter into marketplace, you have had a few other
25 plans sit on the sidelines, because I think there

1 was a fear about rates, fear about, you know, what
2 the mix was of who was going to enroll, and what the
3 pent-up demand was, and what some the utilization
4 would be.
5 SEAN DOOLAN, ESQ.: So back to the two
6 worlds, you have the individual market, which we
7 talked about, which definitely has promising
8 features.
9 On the flip side, I think you've heard pretty
10 loud and clear, there has not been a lot for small
11 business in the ACA.
12 You have additional benefits, number one,
13 which, obviously, lead to the increased cost in
14 coverage.
15 You have a very narrow tax-credit band that
16 clearly is not providing a sufficient number --
17 incentive for businesses to participate in the
18 exchange.
19 Likewise, that tax credit, under federal law,
20 lasts only two years.
21 And so you have -- and you have additional
22 taxes.
23 The ACA tax, the research task, that was
24 enacted last year. You know, the issue about
25 self-financing, which you talked about, or touched

1 on earlier, Senator, in terms of paying for the
2 exchange in 2015.
3 And going forward, to me, that is, you know,
4 especially since there is no mandate for the
5 small-group market, addressing the affordability of
6 small-group coverage will be critical.
7 The other issues, in terms of lessons
8 learned, you know, going forward, uhm -- and I --
9 actually, one more other issue on the shop that
10 I think has been an impediment, that the State,
11 actually, we disagreed with them on, and the State
12 actually had flexibility in this regard:
13 One of impediments to the shop is, instead of
14 a group enrolling in the shop, or enrolling for all
15 of their employers -- employees, rather, which was
16 certainly the initial guidance from the federal
17 government -- the initial guidance from the federal
18 government is, the group could pick the metal level,
19 but each individual employee would pick the company.
20 So whether it be Empire, Aetna, Oxford, that
21 complexity, which I think recognized pretty early on
22 by the federal government, and they allowed the
23 states to simply stick with the current process,
24 which is, a group can enroll all of their members,
25 not only selecting the metal tier, but the

1 individual plan.

2 I think between the broker community and the

3 plans, that became a pretty significant impediment

4 to enrollment in the shop, which I think you do have

5 the control to modify.

6 SENATOR HANNON: State law? Federal law?

7 SEAN DOOLAN, ESQ.: State law.

8 The federal law modified it by giving states

9 flexibility to allow for group enrollment.

10 The State decided to stick with individual

11 employee selection.

12 So they're with -- they're -- and I think,

13 frankly, that would make the shop, you know,

14 perhaps, going forward, a more attractive

15 marketplace.

16 SENATOR HANNON: I think there needs to be a

17 full assessment of how corporations and small

18 corporations are going to be looking forward in

19 2015.

20 SEAN DOOLAN, ESQ.: Sure.

21 SENATOR HANNON: Because the federal

22 government suspended part of the rules for the large

23 corporations --

24 SEAN DOOLAN, ESQ.: Right.

25 SENATOR HANNON: -- and then changed around

1 some of the rules for the small.

2 So, if there's anything with the market,

3 they've screwed it up.

4 SEAN DOOLAN, ESQ.: Right.

5 In terms of -- and this actually touches on,

6 I think, in terms of looking forward, an area to

7 improve, you know, the operations of the exchange,

8 as I said, you know, the plans have had, you know,

9 a fairly significant challenge.

10 There have been mistakes.

11 A lot of the front-end issues that Donna

12 touched on, that the State experienced in October

13 and November, both in terms of enrollment, but just

14 consumer access to the website, you know, obviously,

15 the plans to -- start to experience in December and

16 January with actual enrollment.

17 So the same high volume, not necessarily high

18 volume in enrollment, but high volume in terms of

19 questions, and in terms of customer service.

20 You know, likewise, there is somewhat of a

21 natural barrier between the actual enrollment

22 process and the plan's role.

23 The plan, under the current construct, has

24 very little role in the actual enrollment of whether

25 it be a group or an individual on the exchange.

1 That is handled exclusively by the exchange,
2 with assistance from, primarily, the navigators, but
3 also brokers.
4 To the extent that there is -- the plans can
5 play a greater role in actually facilitating
6 enrollment, either having access to the exchange's
7 web portal and enrolling people through the plan's
8 web portal, or having the ability to directly enroll
9 with the exchange.
10 SENATOR HANNON: Do you mean, letting the
11 plans who have been doing enrollment for decades
12 actually do the enrollment?
13 SEAN DOOLAN, ESQ.: Correct.
14 SENATOR HANNON: Well, it seems to me, that
15 if you're not getting a subsidy or a tax credit, or
16 you're not going on Medicaid, there's no reason to
17 have the exchange do the qualification and all that.
18 Why not just go directly to a plan?
19 SEAN DOOLAN, ESQ.: Right.
20 It -- certainly, at a minimum, having greater
21 visibility.
22 I mean, one of the challenges we had in
23 operationalizing things were, in order to get access
24 to the exchange, you had to begin the application
25 process.

1 So the plans, just validating logos,
2 validating that the information is correct, they'd
3 have to be a dummy applicant, so to speak; as
4 opposed to having greater visibility, and to the --
5 at least on their own information, to ensure
6 accuracy.
7 Again, hindsight being 20/20, I think that's
8 something that could be looked at to be corrected,
9 going forward.
10 In terms of some of the individual issues
11 that have been raised, you know, I know, earlier on,
12 there was a question about multi-lingual
13 participation, that I think both Senator Rivera and
14 Senator Larkin raised.
15 Actually, there's an obligation on the plans,
16 to the extent that there is greater than 10 percent
17 of a particular ethnicity, whether it be
18 Spanish-speaking, whether it be Asian, whether it
19 be, even in Rockland County, Yiddish or
20 Orthodox Jewish, there is a requirement that the
21 plans provide enrollment data for -- or, enrollment
22 applications, as well as backup data, in that
23 particular language.
24 You know, likewise, a number of plans, you
25 know, certainly Empire in the city being one of the

1 more prominent, has gone through an outreach to the
2 Spanish populations in the Bronx, in Brooklyn, in
3 Queens, to facilitate and educate them on the
4 enrollment process.
5 But, certainly, more can be done, and having
6 the multi-lingual website is a big start.
7 In terms of the networks --
8 SENATOR HANNON: My point on multi-lingual
9 was, that they have information in other languages,
10 but there's not enrollment, so that if you were to
11 go through the enrollment process, you need to know
12 English.
13 SEAN DOOLAN, ESQ.: Right.
14 No, absolutely. Absolutely.
15 In terms of networks, certainly a lot of
16 lessons to be learned.
17 There are a number of issues there.
18 You know, in terms of network submissions,
19 and that the networks that the plans used to apply
20 for the exchange, many -- each plan varied.
21 Many plans, a number of upstate plans, for
22 example, simply use their commercial network.
23 So a provider, not knowing whether they're on
24 the exchange or not on the exchange, frankly, might
25 not know, because the plan is simply using their

1 commercial network. And, the contract that they
2 have with the provider covers all products -- all
3 commercial products.
4 Some plans used a variation of their
5 commercial network. Some plans built an
6 exchange-only network.
7 Based on the contracts with providers, they
8 were to be notified of their, either, option to
9 accept new rates or new terms and conditions, or
10 not.
11 In terms of --
12 SENATOR HANNON: Well, that sounds well
13 enough, but you were here to hear Dr. McLaughlin
14 describe, both as an individual and as a
15 practitioner, the attempt to find out who is in
16 which plan, when, and how to prove it.
17 So I would think that there's a large
18 mountain to go up right now for all the health
19 insurers in this state, because of all of the
20 changes to try --
21 SEAN DOOLAN, ESQ.: Yeah, and my only point
22 is, I think it varied, depending on the approach
23 that the plan had taken.
24 You had also asked about network adequacy.
25 SENATOR HANNON: Well, let me go back to it.

1 This is, Dr. McLaughlin was the
2 Upper East Side. Hardly the rural part of America.
3 In fact, if I recall, it's probably one of
4 richest parts of America; and, still, she was pretty
5 articulate about the amount of confusion that
6 exists.
7 PAUL MACIELAK, ESQ.: It still goes back to
8 what Sean was saying: Depending on what model the
9 plan pursued, it didn't matter what part of the
10 state you were in. It mattered what the plan model
11 was that they pursued.
12 That created, I think, some of confusion.
13 SENATOR HANNON: I know, and the problem was
14 not the exchange. The problem is, your memberships.
15 SEAN DOOLAN, ESQ.: Yeah, I think, again, you
16 know, starting with the exchange, you know, and
17 I think that they would acknowledge this is an area
18 for improvement.
19 The consumer's ability to determine the
20 providers in each plan's network is not a single
21 provider point-and-click methodology, as opposed to
22 getting full visibility into the entire plan
23 network.
24 Likewise, from the plans' end, I think that
25 they can and should do a better job of transparency

1 on their own web pages, in terms of which plans are
2 in the network.
3 PAUL MACIELAK, ESQ.: Right, but I think that
4 was, both were a reflection of the time.
5 The time-compressed period that plans had to
6 submit their proposed networks, have DOH, DFS, do
7 the review and certify, or come back with what
8 deficiencies were to have corrected, that it was
9 that compressed.
10 I think that, in part, feeds to some of the
11 confusion we're hearing about today.
12 SENATOR HANNON: I think there was a lot more
13 need for the plans, and, in fact, probably the
14 exchange, to allow people to put in their providers
15 and find out if anybody meets them.
16 Likewise for drugs, likewise for clinics,
17 likewise for hospitals.
18 It is -- the entire onus is on an incredible
19 maze of the consumer, or potential consumer, to try
20 to figure out who's where.
21 But I would simply -- I would simply think,
22 go back and listen to what Dr. McLaughlin said.
23 That's -- it's a lot more complicated than it's ever
24 been before.
25 SEAN DOOLAN, ESQ.: Yeah, and I think to

1 Paul's point, I mean, both, in the defense of the
2 exchange operationalizing their platform and the
3 plans developing those networks in a short
4 time frame, and negotiating contracts in a short
5 time frame, continues to be a work in progress.
6 SENATOR HANNON: This goes back to your other
7 point: I think there's more time needed to plan for
8 next year.
9 SEAN DOOLAN, ESQ.: Correct.
10 In terms of the network adequacy review,
11 I think you had mentioned, DFS versus DOH.
12 In reality, today, the DOH process is far
13 more robust and comprehensive.
14 The DFS process, really, is limited to a
15 fairly minimalist approach.
16 And I think deferring it to DOH, and the
17 DOH review process, while more cumbersome, and has
18 actually been -- there's been a quite a bit of
19 give-and-take between the plans.
20 And DOH, from a consumer's perspective, in
21 terms of determining network adequacy, was the
22 appropriate approach.
23 SENATOR HANNON: Well, that may be true, but
24 the point is, for the consumer in New York, you have
25 a problem with adequacy of a network, you make your

1 complaint to the Department of Financial Services.
2 What the Department of Health is doing, is
3 simply regulating the HMOs that are Medicaid
4 HMOs, and, that's a whole different process.
5 SEAN DOOLAN, ESQ.: Actually, DOH determines
6 network adequacy for commercial HMOs as well.
7 So, they basically took that commercial HMO
8 network-adequacy standards and imposed them on
9 insurance products.
10 So, again, it actually required the plans, on
11 their insurance products that had closed networks,
12 to raise the bar.
13 In terms of other changes that were made,
14 again, going from HMO, to insurance, and I think
15 Donna had touched on this, there were a number of
16 consumer protections that exist in the HMO market,
17 that, as a result of the contracting with plans,
18 have been extended to the insurance market; whether
19 it be allowing a member to go out-of-network for
20 emergency services. Or, for that matter, an APO
21 product, allowing a member to go out-of-network, to
22 the extent that there is not an appropriate and
23 available provider in-network to provide those
24 services.
25 So, incrementally, I think they tried to

1 raise the standards.

2 Clearly, more needs to be done, especially in
3 terms of, you know, participating providers and
4 network adequacy.

5 And, whether it's updating them on a more
6 timely basis, whether it's greater transparency, you
7 know, the key, I think, from a policymaker's
8 perspective --

9 SENATOR HANNON: All of which is obviated by
10 the fact, if they've made these skinny networks,
11 that -- and don't allow for going outside of
12 network, that it doesn't matter about the rules for
13 out-of-network, and, that the "adequacy" has had a
14 new definition.

15 SEAN DOOLAN, ESQ.: Yeah, and I was going to
16 get to the out-of-network issue, so, just to segue
17 there, you know, because, obviously, that's been a
18 dominant theme here.

19 Even prior to the implementation of the ACA,
20 the marketplace has been moving away from
21 out-of-network coverage, for two reasons:

22 You know, number one, pure affordability.

23 And, having out-of-network benefits
24 regardless of which benchmark you were using,
25 whether it's UCR, a percentage of Medicare, or a

1 plan's own fee schedule, was becoming
2 cost-prohibitive. And the pricing, and you see it
3 in the large-group market as well, the pricing was
4 really being skewed, because only those groups or
5 individuals that were accessing, or needed to have
6 out-of-network providers, were purchasing the
7 coverage; thereby, driving up the price.
8 The other issue, you know, which, frankly,
9 I think Senator Martins talked on, and, actually,
10 Dr. McLaughlin referenced, was the
11 balanced-billing process; where, if you're
12 in-network, you have a contract between the plan and
13 the physician or the hospital, that is payment full.
14 If you're out-of-network, the plan pays their
15 out-of-network reimbursement rate. Since there is
16 no contract, the provider then turns around and
17 balance-bills the member whatever that particular
18 provider desires.
19 Now, Dr. McLaughlin said that that,
20 frankly, was, you know, an admirable process: let
21 the provider negotiate with the consumer.
22 Frankly, from a customer-service perspective
23 and a public-policy perspective, I would think you'd
24 want the member out of the middle, and not to get
25 hit with that surprise bill.

1 You know, likewise, the example that
2 Senator Golden walked through, unfortunately, that
3 is a very common scenario, where you have the member
4 go to a participating hospital, they think they're
5 in-network. The surgeon is a participating
6 provider, but the anesthesiologist or some other
7 specialist is non-par; the hidden provider.
8 They think that they've played by the rules,
9 and they get hit with the balance bill.
10 Greater transparency in terms of the
11 physician, because they'll -- should know, you know,
12 who's providing the services. The hospital should
13 know which -- whether they're par or not, which
14 plans they participate with.
15 Greater access to consumers of which
16 providers are par, and which are -- which plans they
17 participate with and which they don't, is a major
18 step in the right direction, in terms of reform,
19 that would go a long way.
20 You know, in terms of, you know, the mandate
21 of having an out-of-network benefit, again, you
22 know, with the digestion of these benefits today,
23 and, likewise, even if you handled it through a
24 rider type of scenario, the groups that would
25 purchase that rider are only those groups that would

1 utilize the coverage; and that, in turn, would make
2 it cost-prohibitive.
3 So, from the plan's perspective, having a
4 mandate, whether it be on the exchange or off the
5 exchange, of an out-of-network benefit, which
6 doesn't hold the consumer harmless, number one;
7 which doesn't have that greater transparency and
8 ultimately leads to increased costs; goes completely
9 contrary to the goals that we're trying to
10 accomplish in terms of affordability.
11 SENATOR HANNON: Doesn't answer the question.
12 The -- I did put a bill in, for requiring an
13 out-of-network rider, but without any limitation as
14 costs.
15 So if people really want that, is what they
16 want to design their policy, let them pay for it.
17 PAUL MACIELAK, ESQ.: Well, the other related
18 issue to that is, that rider we have to get approved
19 by the DFS division. And I'm not sure that, you
20 know, what would be requested, what we believe would
21 be the market price, would get clearance through the
22 DFS process, in terms of the prior approval.
23 So that would be a concern, as we had seen,
24 actually, in the other direct-pay market,
25 particularly on the point-of-service product, what

1 some of the costs were, what some of the rate
2 requests were, versus, what was approved.
3 So, that, that would be a concern.
4 SENATOR HANNON: Good point.
5 SENATOR SEWARD: I had one question.
6 And it's been an interesting discussion here.
7 You've covered a lot of issues.
8 But I had one question regarding the -- your
9 view of the transfer of debt and information once,
10 you know, someone has enrolled on the exchange and
11 selected a plan, that the delay in getting the
12 verification and the cards and ID numbers out, you
13 know, we've run into many, many examples of where
14 that has been a great delay.
15 And, of course, the premium payment also.
16 How -- how prompt has the State been in terms
17 of providing the plans with information, in terms of
18 who has enrolled in their plans; and, thus, you
19 start the process for billing and setting up the
20 account?
21 SEAN DOOLAN, ESQ.: Yeah, I mean, I would say
22 in a condensed time period, you know, they have done
23 a good job.
24 Part of the issue was, you know, each plan
25 needed to go through a testing process, an IT

1 testing process, to make sure that the enrollment
2 fields and the actual enrollment, on what they call
3 the "834 form," matches up with the plan's process.
4 They went through that process and
5 standardizing it all amongst all of the plans.
6 That, obviously, was in a very short time
7 period.
8 The transfer of the files began, you know,
9 roughly, in December. It went through December.
10 So, in a very tight time frame, sure, they
11 met all their milestones, but then it made it very
12 difficult for the plans to turn around and meet
13 their milestones.
14 And, you know, that being said, the plans
15 have had challenges.
16 You know, the way the process is unfolding,
17 is that the plan gets the enrollment, they confirm
18 enrollment, and then they send out a bill.
19 They send out a bill, they get premium
20 payment back. The member, at that point, is
21 technically enrolled, but doesn't have an ID card.
22 You know, typically, this happens in, you
23 know, November -- October, November, and December,
24 so by the time January 1 rolls around, they've got
25 the card in hand.

1 Here, we're trying to do everything almost
2 simultaneously.
3 To adjust to that and address that issue, the
4 plans have done a couple of different things.
5 Number one, given consumers the ability to
6 download a temporary ID card off the web;
7 And, number two, give providers -- and this
8 actually came up on the provider panel, give
9 providers access to their provider web portal with
10 the plan, to determine whether an individual is
11 enrolled or not.
12 That's the concept.
13 Obviously, there are a lot of challenges.
14 You know, when you have thousands of people
15 trying to download temporary ID cards, you run into
16 bumps.
17 I think the fact that all the invoices, to
18 Donna's point, have gone out by the end of last
19 week, the process should start to improve.
20 We still have challenges ahead, though.
21 PAUL MACIELAK, ESQ.: And I would just echo
22 what John said, but I think the data flow from the
23 State to the plans, really, was as good as they
24 could do, in terms of the bulk of it.
25 As we went through the process, and we would

1 see in our weekly calls, we would see glitches, and
2 you would see, you know, a field that wasn't
3 identified, or a particular family status that would
4 have knocked somebody out of coverage, so the 834
5 wouldn't have been complete or would have been
6 rejected.
7 Those type of things came up, and we continue
8 to work through those kind of bumps.
9 SEAN DOOLAN, ESQ.: Yeah, and, obviously, as
10 the federal rules changed, you know, in December,
11 you know, that threw an additional monkey wrench in
12 resources.
13 And the perfect example, is this ability to
14 purchase catastrophic coverage --
15 PAUL MACIELAK, ESQ.: Right.
16 SEAN DOOLAN, ESQ.: -- you know, which came
17 down from the federal government.
18 The only catastrophic policy available is on
19 exchange.
20 And as I mentioned earlier, since the plans
21 have no ability to enroll, they pointed to the
22 exchange to facilitate enrollment.
23 While the exchange needed to verify whether
24 the individual was getting a federal waiver, and got
25 it punted back to the plans, and then the plans,

1 ultimately, are now, at least in this limited
2 circumstance, are allowed the ability to enroll
3 based on this.
4 But this all went down, you know, the last
5 ten days of the year. And, to operationalize it
6 was, obviously, challenging.
7 SENATOR HANNON: Yeah.
8 SENATOR SEWARD: Thank you.
9 SENATOR HANNON: Thank you very much.
10 SENATOR SEWARD: Our final panel, on public
11 health advocates and insurers:
12 Elisabeth Benjamin, who's the vice president
13 of health initiatives at Community Service Society
14 of New York;
15 James Lytle, Coalition of the New York State
16 Public Health Plans;
17 And, Mark Scherzer, health plan -- excuse me,
18 Health Care for All New York/New Yorkers for
19 Accessible Health Coverage.
20 We're going to ask Jim Lytle to go first.
21 JAMES LYTLE, ESQ.: All right.
22 Well -- and I will be very brief.
23 I think my client sort of bridges the
24 two last panels. They are the Coalition of
25 New York State Public Health Plans, which are the

1 Medicaid mainstream plans in the state,
2 not-for-profit provider-sponsored plans, responsible
3 for enrolling 2.7 million people in the Medicaid
4 program.
5 Four of the plans in our coalition made the
6 decision to become active participants on the
7 exchange, which we felt was extremely important,
8 particularly for those individuals who may be
9 transitioning, from time to time, from Medicaid to
10 commercial insurance. And these four plans are now
11 part of the exchange, including some of the plans
12 that have been referenced earlier today: Fidelis,
13 Health First, and others.
14 The -- how successful they've been on the
15 exchange remains to be seen.
16 Today's "Crain's Health Pulse" has more data
17 than I've seen, but, Metro Plus, the city health and
18 hospitals corporation plan reports about
19 23,000 individuals have enrolled in their plan
20 through the exchange.
21 There are -- many of the issues that the
22 insurers just discussed are shared by the plans that
23 we represent.
24 It was, I suppose, in some ways, an even
25 greater challenge for some of the plans in our

1 coalition, because this was the first time they ever
2 had to submit premium proposals, and go through this
3 sort of more commercial side of selling insurance
4 than they had previously done in providing Medicaid
5 managed care, Family Health Plus, and children --
6 Child Health Plus insurance.
7 One of the things that the plans are
8 particularly proud of is their experience in
9 facilitating enrollment, in helping folks navigate
10 their way into health insurance, which they've done
11 for decades, or almost decades.
12 And, on the Medicaid side, they're pleased
13 that the State continues to believe in the
14 facilitated enrollment program, and the plans have
15 used their resources and their experience,
16 particularly in reaching out to populations that
17 are -- have been more vulnerable and less capable of
18 accessing health care, to try to make sure that,
19 whether it's language barriers or other barriers,
20 that information was provided as much as possible.
21 I would note, in comments of one of the
22 individuals from a small business who was worried
23 about their Fidelis coverage of one of their
24 employees, I think there's a presumption that the --
25 those plans that have historically provided Medicaid

1 coverage are -- present networks or present an array
2 of services to the people who are enrolled in their
3 plans, that are somehow less than what they may find
4 in the commercial market.
5 They're subject to the same tests, subject to
6 the same assessments, by the Department of Health,
7 as Sean was just testifying.
8 And, I think that sort of a best-kept secret
9 in New York is going to be how robust some of these
10 Medicaid managed-care plans, or historic
11 Medicaid-plans networks, actually are.
12 We appreciate there are issues about
13 out-of-network coverage.
14 I know that the Senator has scheduled another
15 hearing on that subject.
16 I think, in general, we think it's a little
17 too soon to tell exactly how significant those
18 barriers may be, but, it is something, particularly
19 the provider-sponsored plans are sensitive to and
20 are interested in exploring further with you.
21 We -- one of the points that you made on the
22 hearing announcement was the importance of access to
23 primary care, and whether we have a primary-care
24 infrastructure robust enough to meet the needs of
25 the exchange.

1 We pride ourselves, the plans do, on their
2 ability to build strong primary care networks,
3 relying on the historic primary-care infrastructure
4 of the state, many of whom were founded by community
5 health centers.
6 And -- but, we continue to work with the
7 State on issues like patient-centered medical homes
8 and health homes, to build an even stronger
9 primary-care infrastructure.
10 And with that I'll let the -- my consumer
11 colleagues take it from there.
12 SENATOR HANNON: You talked so slow.
13 JAMES LYTLE, ESQ.: I'm sorry? I talk so
14 slow?
15 I was trying to see if I could actually be
16 briefer than Mr. Doolan, so, I was doing my best.
17 SENATOR HANNON: Now, now for a real
18 slow-talker.
19 Ms. Benjamin.
20 ELISABETH BENJAMIN: Sure.
21 First of all, I want to thank you both very
22 much for letting me come and testify -- or, inviting
23 me to testify today.
24 Thank you, Senator Seward.
25 Thank you, Senator Hannon.

1 I also really want to thank the staff of the
2 exchange, and, actually, the larger health-delivery
3 community.
4 I think the plans, the providers, the docs,
5 we've all -- the consumers, we've all really tried
6 to pull together and make this process, this very,
7 very significant transition, work as best as
8 possible for the consumers, and the State of
9 New York, along with elected officials.
10 And, it's been a really exciting, and
11 sometimes crazy-making period, but, it's been
12 really, you know, a real honor to be part of this
13 whole process.
14 And I think it's a real testament to how hard
15 we all are trying to work and communicate with each
16 other, that it has gone as smoothly for New York.
17 I think probably smoother in New York than
18 anywhere else in the country.
19 And, you know, there's a lot of great people
20 all really trying to pull together.
21 SENATOR HANNON: As incredible as it seems,
22 I read this morning, that there is one exchange,
23 maybe there's more, in the nation that's not even
24 open yet.
25 ELISABETH BENJAMIN: Yeah. Vermont is not

1 doing well, as I understand it from my colleagues
2 there.
3 You know, Oregon is still having a tough
4 time.
5 It's really troublesome.
6 But, New York is not -- I mean, really,
7 New York has an exemplary exchange. And, especially
8 because we do this one-stop shopping that I think
9 Donna was trying to talk about.
10 You know, we really are trying to do small
11 group, and public insurance, and the qualified
12 health plans, all in one house.
13 And from the consumers' perspective, that's
14 incredibly helpful, because we do have consumers
15 that are trying to sort through which bucket they
16 should be following -- falling in, and our exchange
17 actually does make it very easy to figure that out.
18 But, I'll just try to be brief.
19 You know, Community Services Society, one of
20 these old philanthropies, has been around for many,
21 many years. 170 years in New York.
22 We both do -- we have the largest state
23 navigator program. We're in 61 out of 62 counties
24 through our network of 38 community-based
25 organizations and chambers of commerce and

1 business-serving groups.
2 It's a robust network, we're really proud of
3 it.
4 We also -- so that's for our enrollment
5 services, but we also work to help people,
6 post eligibility, post enrollment, through the state
7 Consumer Assistance Program, our community
8 health-advocates program, try to navigate when
9 glitches do arrive, after having been enrolled in
10 coverage.
11 So, I'd like to talk about both of those
12 programs, super briefly, because I know you guys, I
13 can't believe you're still sitting there,
14 Senator Seward.
15 My hat's off to you.
16 But, anyway, so, I'll go fast.
17 I noticed there were some questions in the
18 hearing about: "What are navigators?" And, "How is
19 it working?"
20 Navigators, under the Affordable Care Act,
21 are designed to sort of be distinct from brokers in
22 the sense that, we're neutral. We do not receive
23 commissions from carriers.
24 I would say that's our biggest distinction.
25 We are supposed to be culturally competent.

1 We're supposed to have many multi-lingual capacity.
2 I think the idea was, that we would really be
3 sort of local trusted groups.
4 And I think, in New York, we've really
5 achieved that. There are 48 lead navigator
6 agencies.
7 So, like me, I have 47 lead agencies that are
8 companions.
9 Under my network, I have another 38 chambers
10 and community-based groups.
11 So, we really do try to be in all communities
12 in the state of New York.
13 And, I'm pleased to report, and maybe Donna
14 touched upon this, there are at least two navigator
15 groups in every single county of New York State,
16 with 572 full-time equivalent-trained navigators.
17 We've all gone through three-day intensive
18 trainings. We're pretty -- you know, on a variety
19 of topics.
20 You know, privacy is security. I think
21 you've touched about that, is a very important part
22 of our training.
23 In order to -- I mean, I can talk about all
24 the protections in the exchange itself, to make sure
25 that our -- you know, anything we have access to is

1 kept very secure.
2 And, I can get into that if you want to.
3 The navigators are really helpful in rural
4 communities where, you know, you only have dial-up.
5 A navigator group can come in and really help people
6 that are in rural areas.
7 A lot of us are former facilitated enrollers.
8 We're really, really comfortable at working people
9 through eligibility systems.
10 And, you know, I can go through our
11 activities, but I'm going to try to be short because
12 I'm cognizant of time.
13 I think the importance of navigators is not
14 to be underestimated in the wake of a recent
15 "Health Affairs" article that came out two weeks --
16 about a month ago, but it's in this month's
17 "Health Affairs" article, that says, 60 percent of
18 Americans do not understand basic insurance
19 concepts.
20 We're talking about deductibles,
21 co-insurance, co-payments.
22 And navigators really are there to help
23 people understand:
24 What's in the net -- what's a net --
25 in-network?

1 What's out-of-network?
2 You know, what's in a formulary?
3 How do co-payments work?
4 What are these tiers?
5 Cost-sharings: How a cost-sharing reduction
6 can actually be sort of like a -- I like to think of
7 it as an upgrade. An airline upgrade.
8 So, kind of walking through these concepts
9 with people.
10 And, you know, after we help enroll people,
11 they're incredibly and intensely gratified.
12 We had one woman say, you know: Health
13 care's what I wanted for coverage, and I have it.
14 And, I have so many stories of people that
15 have -- we have helped enroll in coverage, that are
16 so very, very pleased to have it, and really feel
17 like the New York State of Health has offered them
18 an extraordinary option.
19 I think, just turning -- pivoting for a
20 second, the Community Service Society, along with
21 our partners at the Medicare Rights Center,
22 Empire Justice Center, and the Legal Aid Society,
23 have administered, traditionally, the state
24 Consumer Assistance Program for the last
25 three years, under Section 1002 of the Affordable

1 Care Act.
2 Thank you very much, in the past, you all
3 have helped us secure dry appropriations, so that
4 when federal consumer-assistance program funding has
5 come through, we've been able to access that.
6 And, I would just encourage you all to
7 continue to find a sustainable source of funding for
8 that program.
9 We are experiencing boomerang clients;
10 clients who, after enrollment, come back and have
11 questions, and need help kind of getting through
12 their new systems of care.
13 It is a new system.
14 People need help getting through it.
15 They need help with prior approval, they
16 need -- or, prior authorization.
17 They need help with, you know, random bills.
18 They need help, you know, as they sort of get
19 used to coverage.
20 And, I would really encourage you all to
21 continue your support in the past for that program.
22 It's an exciting program.
23 At its height, we were able to serve
24 65,000 consumers a year.
25 I know, for the help line, we run the

1 help-line component of that Consumer Assistance
2 Program, and our call volume has gone up, from
3 around 125 calls a week, to over 600 calls a week,
4 and we are struggling, with a cobbling together, you
5 know, attorneys, paralegals, and a lot of volunteers
6 that we train to handle that call volume.
7 So, your continued support would be
8 incredibly, you know, well received from our end.
9 I can answer more questions if you want, but
10 I was trying to be brief, because I know you guys
11 have been here for a while.
12 SENATOR HANNON: Earlier today,
13 Senator Larkin was talking about finding out the
14 navigator in his -- one of his counties.
15 ELISABETH BENJAMIN: Uh-huh.
16 SENATOR HANNON: So I just, while you were
17 talking, and I didn't have much time, because you
18 talked fast --
19 ELISABETH BENJAMIN: I'm sorry.
20 SENATOR HANNON: -- I went to the state
21 health site, and looked -- I started to look for
22 navigators, and to see if I could find out a
23 navigator in my home county.
24 ELISABETH BENJAMIN: Nassau.
25 SENATOR HANNON: I couldn't find it.

1 I did find out there's an application process
2 to become a navigator.
3 ELISABETH BENJAMIN: You mean on the state
4 website? I'm surprised.
5 SENATOR HANNON: I'm on the state website.
6 ELISABETH BENJAMIN: Oh, well, I mean, I know
7 that --
8 SENATOR HANNON: Then I went to the "Search,"
9 and I went to search for "navigators," I came back
10 to what I already had.
11 Then I went to the "Search," "Nassau County
12 Navigators" and it just stopped.
13 So, the point is, I'm Joe Jones. I'm in the
14 county of Suffolk. I'm interested. I can't figure
15 it out. So, where do I go to find a navigator, and
16 how do I access the list of navigators?
17 ELISABETH BENJAMIN: Sure.
18 You go onto website, you're there now, it
19 says "Get Help." There's a "Get Help" button.
20 And then you can -- you'll be able to get --
21 you type in, there's a "search" function, by county.
22 I've done it a lot, 'cause I, you know, have
23 to help clients select myself, actually, as a
24 navigator.
25 I personally have done over 65 enrollments in

1 the last, 2, 2 1/2 months. And, it's been really
2 fun to kind of do the process with people.
3 And exciting, actually.
4 I mean, to be able to get people coverage has
5 been sort of the --
6 SENATOR SEWARD: You mean, after the hearing,
7 you'll be able to help --
8 ELISABETH BENJAMIN: Yeah, I'll do it.
9 I mean, it's really -- you can appoint me,
10 Kemp. I can be your navigator.
11 [Laughter.]
12 ELISABETH BENJAMIN: But it is doable.
13 And then, also, as you're going there through
14 the application, you can stop, on the left-hand
15 side, it says "Get a Navigator," and you can go that
16 way, too, if you're doing --
17 I mean, I wish I had -- I can show you on my
18 iPad, afterwards.
19 Kemp?
20 Senator Hannon?
21 We've lost him.
22 SENATOR HANNON: So, three times I've put in
23 the search for "navigator." The first two --
24 ELISABETH BENJAMIN: Not the "Search"
25 function.

1 It says -- when you're on the home page, it
2 says "Get Help."
3 Do you see that?
4 SENATOR HANNON: No, it's -- yeah, but
5 there's a "Search" function.
6 What would do you -- what would you do with a
7 "Search" function, ignore it?
8 ELISABETH BENJAMIN: Well, I think --
9 SENATOR HANNON: So I push -- the third time
10 I pushed "navigator," I got, it does show you,
11 someplace, there's site locations for New York State
12 Health, and it also got me to the DEC navigator.
13 ELISABETH BENJAMIN: Okay, no, no.
14 SENATOR HANNON: And it got me to the
15 New York City Department of Health and Mental
16 Hygiene.
17 ELISABETH BENJAMIN: But you're in the -- can
18 you just go back to the home page?
19 If you go to the home page, and it says,
20 "Individuals and Families," you click on that, and
21 then it says "Get Help."
22 SENATOR HANNON: I do websites a lot.
23 ELISABETH BENJAMIN: Okay.
24 SENATOR HANNON: I buy a lot of things.
25 ELISABETH BENJAMIN: Uh-huh.

1 SENATOR HANNON: It's not a great website.
2 ELISABETH BENJAMIN: You know, I would
3 disagree.
4 I mean, because, I think --
5 SENATOR HANNON: The point is, there's no
6 list.
7 Why can't there be a list of navigator, by
8 county?
9 ELISABETH BENJAMIN: I think there is a list
10 of navigator, by county, but I will show it to you.
11 It's hard to describe without knowing exactly
12 where you are.
13 But, if you go under "Individual" -- on the
14 home page, you go to "Individuals and Families," it
15 says "Get Help." There's a little blue box in the
16 middle of the page. It's pretty prominent.
17 SENATOR HANNON: You know, I saw it before,
18 but why would you have "Search," and then
19 "Get Help"?
20 ELISABETH BENJAMIN: I mean, I think -- well,
21 you know, I don't design websites, so...
22 I would suggest that you talk to the exchange
23 about --
24 SENATOR HANNON: And under "Get Help," it
25 says "Site Locations"; but why have "Search"?

1 ELISABETH BENJAMIN: I'm sorry?
2 SENATOR HANNON: It says -- yes, I can see
3 now that it came up "Navigator Site Locations."
4 ELISABETH BENJAMIN: So you got it?
5 SENATOR HANNON: And then you gotta go to
6 another page to find out lists.
7 It's still clunky.
8 ELISABETH BENJAMIN: Yeah.
9 SENATOR HANNON: It's still clunky.
10 You know?
11 ELISABETH BENJAMIN: I mean, I think
12 everybody was working really fast to get it up, and
13 it's -- you know, it's a lot to do on a little time.
14 SENATOR HANNON: All right.
15 SENATOR SEWARD: Mark?
16 MARK SCHERZER, ESQ.: Thank you,
17 Senator Hannon and Senator Seward for the
18 invitation.
19 I'm not going spend your precious time
20 echoing everything Elisabeth said, except to say,
21 I echo everything Elisabeth said about how
22 wonderfully the exchange staff had performed, and
23 the other regulatory agencies, and the stakeholders,
24 working together to make this work.
25 I'm talking on behalf of Health Care for All

1 New York, which is a -- represents over
2 160 organizations.
3 We're dedicated to winning quality,
4 affordable health coverage for all in New York, and
5 we've been very anxious to see the ACA
6 implementation work smoothly.
7 We talked about affordability earlier.
8 We're completely convinced that, certainly,
9 was -- within the design of the ACA, that those who
10 would be most helped with affordability are at the
11 lowest end, above Medicaid, on the income scale.
12 And we know they've been the ones who are -- been
13 most likely to be uninsured, because of cost
14 considerations.
15 They're the ones who are certainly going to
16 see a lot of benefit.
17 We have talked a lot today about the, maybe,
18 decreased premiums but increased cost-sharing, and,
19 whether that really is an improvement in
20 affordability.
21 I think one thing we haven't focus on at all,
22 and we ought to acknowledge, is that the ACA builds
23 in an out-of-pocket maximum into all policies, that
24 includes your co-payments, something that never
25 really existed before.

1 So, someone who's a big user of health care,
2 every time they went to the specialist it would be a
3 $50 co-pay, $50 co-pay, $50 co-pay. Even if you
4 went every day, it never stopped.
5 That -- now it stops. Now there is an
6 out-of-pocket maximum, which protects people at the
7 back end who face serious health conditions.
8 That's an element of affordability that is a
9 tremendous improvement, from the standpoint of
10 people who face big medical bills.
11 I'm -- I heard, with great interest, the
12 person from Kwik-Kut Manufacturing earlier, though,
13 who talked about how she was very concerned, that if
14 she had bought a tax-credit policy as a group, that
15 her employees still could not afford their
16 50 percent of even a small premium at the level of
17 people who are earning sixteen, seventeen thousand
18 dollars a year.
19 She's similarly concerned about them going
20 into the exchange, because, can they afford a
21 $100-a-month premium that they'll be asked to pay,
22 along -- you know, that they haven't been asked to
23 pay in the past?
24 And we recognize, fully, that that's a
25 significant issue of affordability for people in

1 that income bracket.
2 We think the State does have an excellent
3 remedy for the affordability in that -- from that
4 perspective; and that is to enact the basic health
5 plan, which we urge you strongly to consider, which
6 would enable coverage for people between 138 and
7 200 percent of poverty level.
8 It would, actually, likely save the State
9 money because it would bring in federal funds for
10 certain classes of immigrants that the State has
11 been paying for, of a State-only money, to date.
12 And, it would put people in the -- in that
13 income bracket, that -- those Kwik-Kut employees, in
14 a no-premium and very low co-payment situation.
15 That's a way to address affordability that's
16 well within your discretion to do, and we strongly
17 urge your consideration for doing it.
18 We think there -- we've heard a lot about
19 transitional enrollment problems that need to be
20 addressed, today.
21 And, Senator Hannon, I think you pointed out
22 earlier, a lot of those are not really problems of
23 the exchange, or state officials. They're problems
24 at the plans.
25 And we think that there are -- you know, we

1 could talk a lot about specific remedies for
2 different things, like billing, and whatever, but we
3 strongly suggest that plans be required to set up
4 some point people who have to respond immediately to
5 these consumer problems of, say, identifying whether
6 you're in the plan or not, immediately.
7 We also would like to see a remediation
8 program enacted.
9 So, for people who have received misadvice,
10 very often, insurance-company employees, about what
11 they have the right to enroll in and what they don't
12 have the right to enroll in, if they can show that
13 they're in the -- ended up in the wrong place
14 because of that misadvice, there's some retroactive
15 correction system in place for them to take
16 advantage of.
17 I've -- I'll rely on my written testimony for
18 the rest of what I had to say, except for going into
19 some detail on the two topics that have most
20 consumed us this morning: Sole proprietor -- the
21 sole-proprietor coverage, and the issue,
22 out-of-network coverage, which are closely
23 interrelated.
24 I think I come at this from a slightly
25 different perspective regarding the sole

1 proprietors, because we've heard a lot to suggest
2 that there's something unfair about treating
3 sole proprietors as individuals rather than as
4 businesses.
5 And while there be issues about the
6 two-person firm, that happen to be married to one
7 another, not qualifying as a small group, it's
8 really hard for me to see why it's unfair for an
9 individual who happens to have a business, being
10 treated very differently from an individual who, for
11 example, may once have had a business, but has
12 become disabled by illness and no longer can operate
13 that business.
14 Why is it unfair to put those together as
15 individuals in a market, and not -- not -- and treat
16 them differently from small groups, if you have
17 those two categories of coverage?
18 And, I'm going to come back to that, "if you
19 have those two categories of coverage," because
20 I think it's important --
21 SENATOR HANNON: There's -- because the
22 answer is -- "Why?" -- is because we, earlier this
23 year, ratified the PEOs, which allow individuals
24 to join these organizations.
25 And, conceptually, I don't know the

1 difference between individuals in those
2 organizations, and the individuals who were part of
3 the two-person group.
4 MARK SCHERZER, ESQ.: Well, and I think --
5 but you -- Senator Hannon, I think the question is:
6 Why are any of these individuals different from any
7 other individuals?
8 I think you could view our traditional
9 approach to the sole-proprietor coverage as having
10 provided artificial price protection to
11 sole proprietors who were pegged at 15 percent above
12 the group rate, no matter what the sole proprietor
13 experience was.
14 SENATOR HANNON: And that gets you into the
15 philosophy of, why does anybody get anything less
16 than total equality?
17 But --
18 MARK SCHERZER, ESQ.: Well, and that's the --
19 I think that's exciting [unintelligible] --
20 SENATOR HANNON: -- [unintelligible] that
21 people with risky behaviors should not be getting
22 away with the same time type of premium that people
23 who lead exemplary, healthy lives.
24 MARK SCHERZER, ESQ.: But -- well, we're not
25 necessarily talking about whether people who have

1 cancer, or whatever, have led risky lives.
2 Sometimes it's just the luck of the draw
3 whether you get ill or not.
4 SENATOR HANNON: I'm not going to name them,
5 but, those -- that's an illness.
6 There are people who have risky behaviors who
7 endanger themselves; and, therefore, greater medical
8 costs.
9 And, should everybody else be subsiding them?
10 MARK SCHERZER, ESQ.: Okay, well, I --
11 let's -- I think that's a big philosophical
12 question.
13 I'd like to look at a practical solution to
14 the problem of sole proprietors, which is within our
15 grasp.
16 I would disagree with Dan Colacino who said
17 earlier that you could roll back the practice in
18 New York to define "sole proprietors" as businesses
19 rather than individuals.
20 I think the ACA dictates they must be viewed
21 as individuals.
22 But I think what we can do is --
23 SENATOR HANNON: There are ways that you can
24 do it.
25 I mean, we were -- we looked at the

1 freelancers, and thought that that was unfair to
2 pull the rug out from under that group.
3 So, yet, we allowed the others to have rug
4 pulled out from under that group.
5 MARK SCHERZER, ESQ.: I -- we have two --
6 SENATOR HANNON: So the point is, how do you
7 go forward and try to find things for people?
8 And then there's the other part of it is:
9 Will the people who want to pay, now that they're
10 single, find something they -- that's worthwhile of
11 their purchase?
12 MARK SCHERZER, ESQ.: And I think we need to
13 talk about both of those issues, as opposed to price
14 and the out-of-network access. And they're both
15 solvable, we believe.
16 The "price issue," the fair way to resolve
17 it, we believe, and which something we've advocated
18 for for several years now, is merging the individual
19 and small-group markets, which the ACA permits
20 states to do. That's absolutely within your purview
21 to do.
22 And, it's something that Massachusetts did as
23 part of its reform. For risk purposes, it has
24 merged the two markets.
25 That way, is it a question of: Whether

1 you're a two-person firm or a one-person firm? Is
2 it, whether you're a firm or not a firm?
3 It all becomes irrelevant. Everyone is in
4 the same risk pool.
5 Merging the markets is, we think, the
6 solution to fairness in pricing without ping-ponging
7 the sole proprietors back and forth between the
8 high-cost individual market and the low-cost group
9 market.
10 That seems to me to be somewhat intuitive,
11 that we can average them out, by -- and not have any
12 questions of what's fair and what's not, by just
13 saying everyone's in the same pool.
14 With respect to out-of-network coverage,
15 first of all, I think we should recognize that there
16 is nothing in the ACA that dictated that New York
17 had to abolish its requirement that plans offer
18 out-of-network coverage to individuals.
19 One of the great advantages of having
20 colleges with winter break, is that I've had a
21 wonderful intern with me for the last week and a
22 half, Alec Tevevo [ph.] from Haverford College, who
23 I tasked with surveying the other states and what's
24 available in the individual markets.
25 And a copy of his report is annexed to my

1 testimony here.

2 He found with relative ease, that individual
3 coverage with out-of-network benefits is relatively
4 available in 47 states and the District of Columbia.

5 It's only New York, New Hampshire, and, we
6 think Massachusetts, although we're not sure, that
7 don't have that available to individuals.

8 So, there is nothing in the ACA that says
9 that you can't have out-of-network coverage in the
10 individual market.

11 And, Senator Hannon --

12 SENATOR HANNON: Okay, but, I agree, and
13 I know there's not there.

14 It's the tendency to -- two things: Save
15 costs, and, to try to go after people who were
16 making some outrageous billing under out-of-network.

17 MARK SCHERZER, ESQ.: Well, and you have to
18 view, first of all, I mean, there's two separate
19 questions here, because the question of
20 out-of-network surprise bills is something you need
21 to deal with with general legislation.

22 That's something that people are, you know,
23 not protected from, even though, for example, we
24 have the exchange negotiating with plans, to say, if
25 someone doesn't have an adequate expert in-network,

1 they get to go out-of-network for it.
2 You're right, that could be an elusory
3 protection, both, because you have to fight your
4 plan; but also because, if you're in the EPO market
5 outside the exchange, you don't have that protection
6 still.
7 There are a lot of -- there are millions of
8 people in the state who don't have that protection,
9 no matter what you do in the context of the
10 exchange, or the implementation of the
11 Affordable Care Act.
12 That's just a question of state law that the
13 Legislature needs to resolve.
14 SENATOR HANNON: Just a question.
15 MARK SCHERZER, ESQ.: Just a question.
16 [Laughter.]
17 MARK SCHERZER, ESQ.: And we think, that
18 Assemblymember Cahill actually has some interesting
19 thoughts he's been given to, how to set a price
20 benchmark, that we think may -- we -- may be able to
21 sort of thread the needle between where the plans
22 are and where the doctors are on what the cost ought
23 to be when people are stuck with surprise
24 out-of-network bills, and that has to be arbitrated.
25 You're absolutely right, Senator Hannon,

1 though, that the price on a rider can be separately
2 set, so that it's a voluntary thing. It's not going
3 to affect the base price within the market if you do
4 require that that be offered.
5 I think the other issue that guided the
6 decision not to have out-of-network coverage in our
7 new market, was the desire to get the PHSPs into
8 the marketplace -- into the exchange marketplace,
9 and, the concern of the health plans, that if the
10 PHSPs were in, and they didn't know how to do
11 out-of-network coverage, and they didn't have to do
12 out-of-network coverage, then the health insurers
13 would be sort of the magnets for the adverse risk
14 that wanted to buy the out-of-network coverage.
15 We think the resolution there is two-fold:
16 One is, you give a transitional period to the
17 PHSPs, to learn how to do the out-of-network
18 coverage;
19 And, second, that you do more robust risk
20 adjustment in the meantime so that nobody gets stuck
21 with disproportionate risk.
22 For the sole proprietors who, in the
23 immediate term, have lost out-of-network coverage
24 that they had, and can't replace it, you have an
25 easy fix in the short term.

1 The easy fix is, that, in order to protect
2 the individuals in the direct-pay market, who had
3 out-of-network coverage, and were about to lose it
4 at the end of last session, you enacted a law that
5 grandfathered them, allowed them to buy a rider on a
6 Platinum plan, in the out-of-network --
7 out-of-exchange marketplace.
8 You could allow the sole proprietors who are
9 now going into the individual market to buy that
10 very same pre-existing product.
11 There's no, like, startup effort here
12 required. It's there; just allow them to buy it,
13 too.
14 That would be a quick fix for those who are
15 losing coverage right now.
16 The longer-term bill, along the lines that
17 you have proposed, we think is a very good way to
18 go.
19 There may need to be, again, issues
20 addressing what -- 'cause you're, as I understand
21 6207, it addresses just the Article 43s and the
22 Article 32s.
23 There may be other categories that need to be
24 transitioned into that in order to make it work in a
25 fair way.

1 So, I think that there needs to be
2 consideration given there.
3 But, we think the fix is, to a lot of these
4 problems, are within your legislative control, and,
5 we welcome the chance to discuss them with you
6 further.
7 SENATOR HANNON: Well, thank you.
8 And I found it.
9 [Laughter.]
10 SENATOR HANNON: But, it actually went off
11 the -- it got locked in to -- just went off to
12 another site.
13 But the third time, it was right there.
14 ELISABETH BENJAMIN: Good, I'm glad you found
15 it.
16 I mean, because -- and we have, I think,
17 four colleagues, four of our subcontractors, are in
18 Nassau County, Senator Hannon.
19 SENATOR HANNON: No, I can see it. It's on
20 the list.
21 ELISABETH BENJAMIN: Yeah, so we have -- not
22 to mention, you know, the other navigators.
23 SENATOR HANNON: Thank you.
24 ELISABETH BENJAMIN: Thank you both for
25 hanging in there.

1 I'm completely impressed that you guys stayed
2 there.
3 Thank you very much.
4 SENATOR SEWARD: Well, thank you very much.
5 We've had an interesting and insightful
6 hearing, and we'll continue to, not only monitor,
7 but be involved in these issues.
8 Thank you.
9 ELISABETH BENJAMIN: Thank you.
10 (Whereupon, at approximately 2:30 p.m.,
11 the joint public hearing held before the
12 New York State Senate Standing Committee on Health
13 and the Senate Standing Committee on Insurance
14 concluded, and adjourned.)
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