



## NEW YORK STATE ASSOCIATION OF HEALTH UNDERWRITERS

### 2023 ISSUES LIST

We appreciate your consideration of our views on the following bills and issues; should you have questions or concerns regarding these issues we're happy to have our Legislative Counsel, Thomas W. Faist, Esq. [(518) 573-4508; [tfaist@aol.com](mailto:tfaist@aol.com)] contact you to discuss them in greater detail.

1. **NY Single-Payer Health Act** - the bill would create a government-run, Single-Payer health plan to provide comprehensive health and long-term care insurance coverage for all New York residents, financed by new payroll and income tax surcharges, and would outlaw private health insurance. [**S.5474 (Rivera) / A.6058 (Gottfried) (2022) - Not yet reintroduced**]
  - **Costs of Single-Payer** - several fiscal studies have shown that passage of the NY Health Act, would require massive State tax increases of up to \$250 Billion annually (or \$11,500 in additional annual taxes for every adult and child resident in New York) which would literally double the size of the entire New York State Budget. Implementation of a NY Single-Payer Plan by multistate employers would be an administrative nightmare. The costs of doing so would crush the State's economy, yet do nothing to reduce the actual, underlying costs of providing healthcare.
  - **STRONGLY OPPOSE** - the NY Single-Payer Health Act as it would eliminate consumer choice in the healthcare system, would stifle innovative claims cost controls in the insurance marketplace, would lack oversight of healthcare providers, would lead to an increase in fraudulent billings, would drastically cut healthcare provider reimbursement rates, and, in the absence of free-market controls, would ultimately lead to bureaucratic rationing of medical care as the only means to contain costs.

As alternatives to Single-Payer, we present the following ideas to enact healthcare cost-containment methods or mechanisms that will reduce health plan rates/health insurance premiums:

- **Creation of Hybrid High-Risk Pool / Reinsurance** – to provide a financial back stop to health insurance carriers that issue policies in the individual and small group markets to high-risk persons, as studies have shown that 1.2% of claimants account for 31% of healthcare spending, thus serving as a stabilizer to such insurance markets (funding could come from HCRA assessments and federal ACA Section 1332 State Relief and Empowerment Waivers)
  - **NYSAHU STRONGLY SUPPORTS legislation creating a NY Hybrid High-Risk Pool [NYSAHU is drafting a Model Bill & Sponsor’s Memorandum]**
  - **Value-Based Payments** – to reward good healthcare outcomes and reduce the amounts spent on unnecessary healthcare
  - **Expansion of Managed Care** – to continue to “bend down the curve” in underlying costs of providing healthcare, as lowered costs cannot be achieved with unlimited access to healthcare.
  - **NYSAHU SUPPORTS legislation that would permit modified community rating with tiered age-rating bands, or composite/blended rates (such as found in MA or NC).**
  - **Management of Chronic Conditions** – such as obesity and diabetes, via greater emphasis on public health spending and effective wellness programs to promote better patient outcomes, which present the most significant areas for potential reduction in the medical costs of chronic care (accounting for 53% of claims) and acute care (accounting for 47% of claims)
  - **Elimination of Fee-for-Service Healthcare** – by establishing Capitation and Global Budgeting to restrain unnecessary spending
  - **Continuation of Affordable Care Act (ACA) Provisions** – that eliminate pre-existing conditions exclusions, continue advance premium tax credit (APTC) subsidies, and expand Medicaid coverage, all of which have greatly contributed to the reduction in the number of uninsured New Yorkers
  - **Reduce Redundant Medical Facilities** – by reinstating Regional Health Planning Councils and better use of the Certificate of Need (CON) Program
  - **Control of Prescription Drug Pricing** – by reducing excessive pharmaceutical profits
2. **Universal Health Coverage** – that is best achieved by integrating existing public plans and market-based solutions that concentrate on driving down the cost of health care. New York has achieved near-universal coverage, since over 95% of its residents are currently covered under a combination of existing public health plans and commercial health insurance coverage.
- **“Coverage 4 All”** – to extend healthcare coverage to the remaining 5% of New York residents that are still bare, NYSAHU supports legislation that would expand eligibility for the NY Essential Plan to individuals who currently face barriers to healthcare coverage due to their immigration status. **[S.2237 (Rivera) / A.3020 (Gonzalez-Rojas)]**

- **Expansion of Essential Plan** – provisions in the Executive State Budget would expand eligibility for the Essential Plan from 200% to 250% of the federal poverty level (FPL), in support of the State’s recent Affordable Care Act (ACA) Section 1332 “State Innovation Plan” waiver application to the federal Centers for Medicare and Medicaid Services (CMS). If the Sec. 1332 waiver is approved, about 25,000 more New Yorkers can obtain healthcare coverage under the Essential Plan. [S.4007-A (Budget) / A.3007-A (Budget), Part H, Health & Mental Hygiene (HMH) Article VII Budget Bill]

3. **Healthcare Consumer Transparency Acts – NYSAHU STRONGLY SUPPORTS implementation of data-driven transparency tools to reduce the costs of healthcare, by introducing consumer market forces to evaluate quality of care outcomes via transparent provider pricing practices in the provision of healthcare services.**

- **Rx Pricing Transparency** – provisions in the Executive State Budget would enact the Prescription Drug Price and Supply Chain Transparency Act to prevent drug manufacturers or wholesalers from charging a price increase on the wholesale acquisition cost (WAC), average wholesale price (AWP) or other such metric without prior notification to the Department of Financial Services (DFS). DFS would then be required to publish a report of any such price increases within 15 business days of receiving notice. [S.4007-A (Budget) / A.3007-A (Budget), Part Y, Subpart B, Health & Mental Hygiene (HMH) Article VII Budget Bill]
- **The NYS of Health Transparency Act** - would empower New York consumers to choose a health insurance policy that best suit their needs. [A.3779 (Byrne) (2022) - Not yet reintroduced]

The bill would require insurance companies to share information with consumers in a clear manner for use in comparing plans, plan coverage, and plan premiums; healthcare provider availability; exclusions from coverage; medication deductible fees/payments; the specific price or percentage for co-pays; the availability of specific medications; the process of reversing a denial of a health plan decision; and details on out-of-network coverage.

4. **Wellness Premium Discounts** - in relation to making actuarially appropriate reductions in health insurance premiums in return for an enrollee’s or insured’s participation in a qualified wellness program.

- **NYSAHU STRONGLY SUPPORTS legislation allowing accident & health insurance carriers and HMOs to offer premium discounts or other benefits or enhancements for participation in disease and lifestyle management wellness programs approved by the Superintendent of Financial Services. By allowing health plans to offer, but not mandate, actuarially appropriate reductions for participation in bona fide wellness programs, the State would begin to “bend down the curve” by making New Yorkers healthier and thus lower the number of healthcare claims. [S.4435 (Fernandez) / No Assembly bill]**

5. **Allow Self-Funding with Stop Loss Insurance** – for mid-sized groups in the 51-100 range of full-time equivalent (FTE) employees or members.

- Since 2016, New York is one of only four states (CA, CO, NY, VT) that have not changed the definition of “small group” health insurance back to 1-50 full-time equivalent (FTE) employees or members in accordance with the federal PACE Act. An unintended consequence of that decision is that stop loss insurance cannot be sold to a small group, which now also encompasses the 51-100 FTE market. The inability to purchase stop loss insurance has thus eliminated a viable option for mid-sized employers and union groups, as well as municipal, school and library consortiums, to self-fund their health plans.
- These 51-100 mid-sized groups are now faced with buying a small group community-rated product, generally at a significantly higher premiums, moving into a Professional Employer Organization (PEO), or writing a policy out of another state with a small group definition of 1-50, if they have an office in such state. (For instance, two of our neighboring states, New Jersey and Connecticut, allow employers to self-fund with stop loss down to 10 FTEs, even though their small group definition is 1-50.) This has caused a major disruption in New York’s 51-100 mid-sized health insurance market.
- **NYSAHU STRONGLY SUPPORTS allowing for a broader choice of self-funded health plans with stop loss insurance to mid-sized employer and union groups, as well as municipal, school and library consortiums, by amending Section 3231(h)(1) of the Insurance Law to allow stop loss insurance to be sold to mid-sized groups with 51-100 FTE employees or members [NYSAHU is drafting a Model Bill & Sponsor’s Memorandum]**

6. **Health Guaranty Fund** – the Executive State Budget contains language to create a Health Guaranty Fund that would add commercial health insurers to the existing Life Guaranty Fund for life insurers. Under this proposal, health carriers would pay 50% of the total guaranty fund to cover potential insurer insolvencies, including for long-term care insurance (LTCi) that may be written by life insurers.

**NYSAHU OPPOSES creation of the Health Guaranty Fund, since NY health plans and carriers must already obtain prior approval of rates that are actuarially sound from DFS. Moreover, health plans and carriers must maintain significant reserve funds in order to adequately cover adverse claims. Assessments against health plans and carriers paid into the Guaranty Fund in the event of an insolvency, will inevitably raise health insurance rates making coverage less affordable to New York consumers. [S.4007-A (Budget) / A.3007-A (Budget), Part Y, Subpart D, Health and Mental Hygiene (HMH) Article VII Budget Bill]**

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