Joint Legislative Hearing on the 2021 Health/Medicaid Executive Budget Proposal

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2021 Health/Medicaid Executive Budget Proposal

Children's Defense Fund-New York (CDF-NY) thanks the chairs of the Assembly Ways and Means Committee and the Senate Finance Committee for the opportunity to submit testimony on the proposed 2021 New York State Health/Medicaid Executive Budget Proposal.

CDF-NY works statewide to ensure that *every* child in New York has a Healthy Start, a Head Start, a Fair Start, a Safe Start, and a Moral Start in life. We provide a strong and independent voice for children because they cannot vote, lobby, or speak for themselves. We pay particular attention to the needs of poor children, children of color, and children with disabilities. CDF-NY strives to educate the public about the needs of children and advocates for investing in services that prevent children from getting sick, dropping out of school, getting into trouble, or suffering a family breakdown. For more information about CDF-NY, please visit our website at www.cdfny.org.

New York's progressive history with respect to children's health is at stake.
This year, we would like to use this opportunity to remind the Legislature just how far we have come in New York with respect to protecting and promoting the health and well-being of our children. Thanks to the leadership of the Governor and the Legislature, we have achieved historic coverage gains for children and adults. Today, more than 95 percent of adults and 98 percent of children in New York State have health coverage. New York has achieved these historic coverage gains through the Affordable Care Act, the Children's Health Insurance Program (CHIP) and—most prominently—Medicaid.

Medicaid provides comprehensive and affordable coverage to 50 percent of New York's children (more than 2 million). Children served by Medicaid live in low-income households, have special health care needs, or have been abused or neglected and are living in foster care. Medicaid is even more crucial for children under age 3 in New York, 60 percent of whom are covered by Medicaid. Most of these children are living in households earning less than 154% of the federal poverty level. In 2019, that translated to less than $39,660 for a family of 4. Medicaid is especially important for children of color, who are disproportionately poor.

Medicaid provides children with access to health and mental health services when they need them, thereby reducing or eliminating entirely the effects and costs of many childhood health conditions. Medicaid is a lifeline for children with disabilities and their families, serving a substantial portion of all children with special needs such as autism. For families struggling to provide the time and financial resources needed to care for disabled children, Medicaid is often the only viable source of financing for their health care needs, which can be extensive. Medicaid's guarantee also helps parents cope with their children's health needs even when they are forced to stop working to care for their children. For others, Medicaid supplements private coverage to allow children access to specialized medical equipment and devices (such as hearing aids and wheel chairs).

Child-serving systems, such as education and child welfare, benefit when children's health care needs are appropriately addressed so that children can succeed in school and receive the services they need while in foster care.

Medicaid remains one of the State's smartest investments. Research shows that children enrolled in Medicaid perform better in school than their non-eligible peers from other states, that children enrolled in Medicaid have higher lifetime earnings than their non-eligible peers from other states, and that every $1 spent on prenatal care saves $7.96 in associated costs over a child's life – $3.33 of which are saved immediately after birth.

New York still needs significant improvements in a number of areas of our health system. While most of New York's children have health coverage for the care and services they need, we still have significant work to do in a number of areas. Investments and policy changes are needed to eliminate childhood lead poisoning, provide developmental screenings for all young children, improve physical activity among children, develop a more robust and responsive primary care system, increase rates of adolescent well-child visits, improve access to children's behavioral health services, reduce the rate of potentially preventable pediatric hospitalizations, eliminate health disparities, address social determinants of health and center the needs of children and families in the health system. None of these objectives will be achievable if we harm access to care and services received through Medicaid.

Finally, while the focus of this testimony is the Executive Budget Proposal's most direct impacts on children, we know that children do not exist in a vacuum. Their livelihood and well-being are inextricably linked to the livelihood and well-being of their families, which includes adults, seniors and individuals with disabilities. With that in mind, we stand with all Medicaid beneficiaries when we call for the protection of care and services through Medicaid.

I will now address specific provisions in the Proposed Executive Budget and will identify additional options for the Legislature's consideration.

A. CDF-NY urges the Legislature to hold Medicaid beneficiaries harmless in this year's budget.

The first rule of medicine is "do no harm." We urge the Legislature to take this approach with respect to Medicaid beneficiaries in this year's budget. The Executive Budget Proposal identifies a $2 billion Medicaid "budget gap" that needs to be addressed. The identified gap is the difference between projected FY2021 expenses if no action is taken and the spending limit established by the Medicaid Global Cap index.

CDF-NY has long held the position that *federal* block grants and per capita caps are a dangerous way to finance Medicaid because they shift significant costs and risks from the federal government back to the states, counties and Medicaid recipients. Some of the federal Medicaid block grants and per capita caps proposed in 2017 and 2018 would have operated by setting federal spending limits in the same manner as New York's Medicaid Global Cap does at the state

level. CDF-NY has warned that these financing mechanisms fail to properly account for growth in health care costs, demographic changes from an aging population, and population needs during epidemics or natural disasters.

So it comes without surprise that New York's Medicaid Global Cap failed to properly account for demographic changes from an aging population, and may be misaligned with the true growth in health care costs. Rather than upholding the promise of Medicaid as a federal entitlement for Medicaid's beneficiaries, the Executive Budget Proposal seeks to shift the entire burden away from the State – an approach that will harm Medicaid beneficiaries. With a potential coronavirus epidemic on the horizon and continued growth expected in New York's aging population, future Medicaid budget gaps will become a regular occurrence if the Medicaid Global Cap remains in place.

Accordingly, we call on the Legislature to protect Medicaid beneficiaries by:

1. Eliminating the Medicaid Global Cap;
2. Raising revenue to balance the budget;
3. Making smart, long-term investments that are more likely to substantially bend the Medicaid cost curve; and
4. Ensuring that Medicaid consumers and independent consumer advocates comprise a substantial portion (more than one-third) of any body making recommendations regarding Medicaid policy and budget goals.

B. Budget legislation is needed to protect Medicaid consumers by ensuring their interests are represented in Medicaid Redesign Team II (MRT) decisions.

CDF-NY is gravely disappointed that the Medicaid Redesign Team II (MRT) was called without advance notice to the public, and may not include any Medicaid consumers or consumer advocates. While the possibility that the MRT would be called had been publicly suggested, it was never presented as a certainty. The lack of notice prevented Medicaid consumers and the general public from having any input into the composition of the MRT. The lack of consideration for Medicaid consumers and taxpayers in this process is particularly alarming given that the Department of Health and Division of the Budget had known about the growing budget gap since at least March 2019, and had sufficient opportunity to engage consumers in the process. Accordingly, the Legislature should insist on passing a FY2021 budget that includes consumer protections ensuring that any future Medicaid Redesign Teams or other stakeholder bodies charged with making Medicaid budget recommendations consist of a substantial number of Medicaid consumers or independent consumer advocates (at least one-third of the total body's composition).

C. CDF-NY urges the Legislature to take substantial steps toward ending childhood lead poisoning in New York.

New York has more children with elevated blood lead levels than any other state in the U.S. In some parts of the State, lead exposure rates are 5 to 6 times higher than they were in Flint, Michigan during the peak of its water crisis. The primary exposure pathway for lead in children in New York is lead paint and its dust in housing.

i. New York should allocate $50 million for targeted, effective primary prevention efforts this year.

In most parts of New York State, children continue to be treated like canaries in a coal mine. Rather than finding and fixing lead hazards before they harm children, we wait for a child's blood test results to tell us there is a problem. But by then, it is too late. While childhood lead exposure is completely preventable, the effects are irreversible and last a lifetime.

Research indicates that there is no safe level of lead in children. Even low-level lead exposure can cause permanent neurological damage and behavioral disorders. There are over 18,000 children under age 6 in New York with confirmed blood lead levels of at least 5 micrograms per deciliter (µg/dL), the lowest level that can be conclusively detected by all New York laboratories at this time. Only 4 other states (Louisiana, Pennsylvania, Vermont and Wisconsin) have higher rates of children with elevated blood lead levels than Upstate New York. Eliminating all lead exposure for children born in 2018 nationwide would yield $84 billion in economic benefits. Improving New York State lead poisoning prevention policy and funding will prevent harmful lifelong impacts and help taxpayers realize economic gains.

With this in mind, CDF-NY advocates that New York adopt an approach similar to those undertaken by other states and municipalities who have significantly reduced their lead exposure rates. A successful lead hazard reduction strategy should include investment across several program areas that reinforce one another. Below is a list of program components that New York should either fund or increase the funding currently available for.

- **Lead Abatement and Testing**

Primary prevention relies on making existing housing units lead-safe for children and families before lead exposure occurs. Existing funding for lead hazard control through the Department of Housing and Urban Development (HUD) and other sources is limited and largely dependent on secondary prevention measures (intervention after a poisoning has occurred).

- **Lead Rental Certification**

New York City and Rochester are currently the only cities in New York that require lead testing and certification for rental properties. This is a best practice that should be expanded to other high-risk areas in the State.

- **Workforce Development**

Hiring and training will support increased activities in lead abatement, testing, and enforcement.

- **Legal Assistance**

For tenant families with a child who has an elevated blood lead level, landlords are required to abate lead hazards per existing law. Funding is needed to provide legal support to families in this situation.

While additional funding is needed for these activities in all counties across the state, CDF-NY recommends beginning with a $50 million investment that could be targeted for use in the highest need communities in the highest need counties. Alternatively, New York could leverage $25 million in existing lead poisoning prevention program funding to draw down an additional $50 million in federal funds through a CHIP Health Services Initiative (HSI), for a total of $75 million in state and federal funds. This year, New York could add up to $105 million total in state and federal funds to its CHIP budget under federal guidelines for HSIs.

CDF-NY notes that the Executive Budget Proposal recommends shifting multiple public health programs (but not lead poisoning prevention funds) into CHIP HSIs to draw down federal funds and realize savings in state funds. CDF-NY is seeking additional information from the Governor's Office regarding these proposals and will continue to evaluate the effectiveness of those programs and explore options for their sustained funding. Nonetheless, a CHIP HSI is ideally suited for funding lead hazard repairs because many other current housing programs do not have the flexibility CHIP does when it comes to funding repairs in private dwellings. A CHIP HSI could also help defray county costs for increased case management loads from last year's change in the definition of elevated blood lead levels. Additional information regarding funding primary prevention efforts through a CHIP HSI is attached at the end of this testimony.

ii. Whether partially funded through a CHIP HSI or otherwise, counties need a total of $46 million to provide case management services to children with elevated blood lead levels.

During the 2019 legislative session, the Legislature changed the definition of elevated blood lead levels and lowered the action level in the Childhood Lead Poisoning Prevention Program to align with the level set by the Centers for Disease Control and Prevention (CDC) in 2012. CDF-NY pushed for and applauded this action because it ensures that more children will get the services they need to address the effects of lead exposure.

Many activities of the Childhood Lead Poisoning Prevention Program are performed by county health departments. Accordingly, when the action level was lowered, the state also allocated an additional $9.4 million to Article VI state aid. Last year's enacted budget and this year's Executive Budget Proposal fall short of the total $46 million ($30.3 million for counties outside of New York City) in funding needed.

To ensure that counties have the funding necessary to implement the law, we recommend that the budget:

1. Allocate $46 million of unrestricted, flexible funding to local health departments so that they have the resources needed to protect children with elevated blood lead levels;
2. Appropriate all current and future funding for implementing the 2019 changes in law into the Lead Poisoning Prevention Program of the New York State Department of Health; and
3. Distribute the funding to the local health departments through existing grant mechanisms to support implementation of the expanded mandate.

D. The budget should allocate $532 million to provide all New Yorkers health coverage, regardless of their immigration status.

Over 400,000 New Yorkers currently cannot obtain health coverage due to their immigration status. Consequently, they are often forced to delay necessary medical treatment as well as to forgo important preventive care services. By allocating $532 million to create a state-funded Essential Plan – a type of coverage already available through the State's marketplace – the budget could provide everyone living at or below 200 percent of the federal poverty level with comprehensive, affordable health care coverage. Estimates show that at most 110,000 individuals currently excluded from the health system would enroll in this Plan, thereby reducing the overall number of uninsured New Yorkers by over 25 percent.

The benefits of having health coverage are numerous and well-documented, for both the individuals gaining coverage and for society at large. People without coverage are more likely than their insured counterparts to delay seeking care, incur medical debt or file for bankruptcy, and experience higher rates of morbidity and mortality because of their inability to access preventive care services as well as treatment for serious and chronic health conditions. Such outcomes can cause undocumented immigrant families – an already marginalized population – to lose caretakers, providers, and other essential members of their support systems. While undocumented children already qualify for free or affordable healthcare coverage in our state, if their adult family members lack access to medical care, they thereby still suffer under current policy.

Individuals – and by extension, their families – are certainly not the only people in our State who are affected by adult undocumented immigrants being uninsured. Our health care providers bear an annual $130 million burden for unreimbursed care provided to uninsured patients. When uninsured adults fall ill and are forced to seek care, often via hospital emergency rooms, the losses experienced by our health care system are ultimately offset by higher charges for privately insured patients, as well as by ever-increasing indigent care funding. In fact, the New York State Indigent Care Pool (ICP) currently distributes nearly $800 million to hospitals annually. If more New Yorkers gained health insurance, less funding would be needed for indigent care.

No New Yorker should ever have to save up for months to afford a single refill of a necessary prescription, go without care for a treatable illness, or experience preventable complications of a chronic condition simply because age and immigration status disqualify him or her from obtaining coverage. By committing funds in FY2021 to an Essential Plan that is available to all New Yorkers, the Legislature can reaffirm New York's historic commitment to immigrants and progressive values, as well as support the vital economic engine of health care by limiting both providers' and payers' exposure to uncompensated care costs.

E. CDF-NY urges the permanent restoration of $5 million in school-based health center (SBHC) funds.

CDF-NY applauds the proposed budget's inclusion of $17 million in sustained funding for New York's school-based health centers (SBHCs), and its refrain from cuts to these integral sites for care and services. However, an additional $5 million in permanent funding is needed to restore specific FY2018-19 budget cuts and ensure the long-term financial stability of those previously cut programs. SBHCs provide vital services to over 210,000 of our State's youth and, by extension, fill care gaps in our State's most medically underserved communities. Many SBHCs are staffed with a team of health care professionals and provide a wide range of primary care, emergency, dental, mental health, and reproductive health services to students. Services are provided on-site in schools to all students at no cost and regardless of insurance coverage or immigration status. SBHCs prevent unnecessary hospitalizations, reduce emergency room visits, improve school attendance and educational outcomes, and avoid lost workdays for parents. Research shows that SBHCs improve child health outcomes and save our state money. It is thereby critical that the Legislature increase its investment in SBHCs and consequently, in the health of our State's children.

F. CDF-NY applauds proposing additional steps towards improving commercial health insurance reimbursement for early intervention (EI) services, but our children require more.

The future livelihood of our State depends on the health and well-being of *all* of our children. New York's approximately 65,000 infants and toddlers with developmental delays and disabilities continue to experience difficulties in accessing vital state-administered Early Intervention (EI) services that could enable them to catch up to their peers or prevent their delays from worsening.

Ever since drastic cuts were made to provider reimbursement rates for EI services in 2011, these rates have remained stagnant, forcing experienced, high-quality EI providers to either close their doors or to stop taking EI clients. Consequently, an alarming number of children identified as being in need of EI services have less access to quality services and are currently sitting on wait lists due to a shortage of providers. Improving provider reimbursement is crucial to ensuring that

more EI providers remain in the system and that new providers join the system. Maximizing funding from commercial insurance plans is an integral part of ensuring that commercial insurers pay their fair share of EI services.

While Medicaid pays a high percentage of claims submitted for EI, commercial insurance plans currently deny over 70 percent of EI claims. A substantial majority of the claims denied by commercial plans are denied for reasons of *lack of medical necessity*, *lack of prior authorization*, *benefits not covered*, or *provider is out of network* – even though all EI services have been deemed necessary by the State and are approved within the EI system through a rigorous individualized family service planning process. While the estimated $400,000 total net savings of the "Pay and Pursue" Executive Budget Proposal is certainly a step in the right direction, these funds will likely have marginal impact even if they are directly reinvested into the EI program (and it is not clear that they will be). Prohibiting *all* of the claim denial reasons stated above is a means of ensuring that commercial insurers pay their fair share of EI services.

Alternatively, the budget could enact a 'covered lives' assessment to save commercial payers and EI providers administrative time and expense. An amount in excess of $40 million would more fairly represent the value of commercial insurance claims for these services.

Conclusion

We thank you for your time and consideration, and look forward to working with you on a budget that improves the health and well-being of children and families in New York.

Leveraging CHIP to Reduce Child Lead Exposure in New York

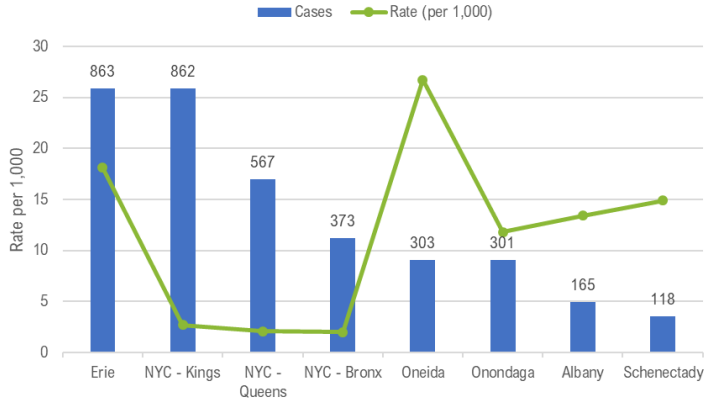
The CHIP Health Services Initiative (HSI) is a policy tool that would allow New York to take advantage of enhanced federal match to vastly reduce child lead exposure in the state. In recent years a number of states (Michigan, Maryland, Ohio, Indiana, Wisconsin) have successfully implemented HSIs to do just this, paving the way for New York to also take action. This document outlines what a lead focused HSI could look like in New York, based on preliminary discussions and analysis by the Federal Payers & Lead (Pb) Advisory Group led by the Children's Defense Fund-New York and with support from the Green & Healthy Homes Initiative.

New York's Burden of Child Lead Exposure

NYSDOH estimates that 18,200 children have an elevated blood lead level across the state (defined as above 5 µg/dL effective April 2019). Because New York's housing stock is the oldest in the country by percentage of homes built before 1960 and number of homes (over 4 million housing units),[i] we can expect that lead exposure will continue unless there is substantial new investment in reducing child lead exposure.

Five counties and New York City see the greatest prevalence of lead exposure each year; we propose that an HSI target activities in these counties and New York City. Total cases and rates shown in Exhibit 1 are across 2014 to 2016.

Ex. 1 NYC and 5 NY Counties with Highest Prevalence of Lead Exposure, 2014-2016



Available HSI Funding

Because HSI spending must fall under a 10% cap of CHIP administrative spending, we estimate that there is $105 million of "cap space" under which an HSI could operate. We propose that a New York lead HSI could total $75 million per year, leaving $30 million of room for other discretionary CHIP administrative spending. Table 1 and Table 2 show estimated figures based on the FFY2017-2018 CHIP spending projections that were used for the previous HSI lead analysis. Table 2 shows the federal/state share based on a 76.5% enhanced FMAP. Other states like Maryland have moved existing program spending under the HSI to count towards state match, thus alleviating the need for new state match; this is something that New York should explore as well.

Table 1. Available HSI Cost Ceiling (millions)

10% Admin Cost Ceilng	$140
Total Allocated Admin Expense	($35)
New HSI Cost Ceiling	$105

Table 2. Fed/State Share for $75M HSI (millions)

Federal Share (76.5% EFMAP)	$57.4
State Share	$17.6
New HSI Cost	$75.0

HSI Program Components

A successful lead hazard reduction strategy should include investment across several program areas that reinforce one another. Below is a list of program components that an HSI could fund. Table 3 shows a potential budget for each component.

Table 3. Potential HSI Program Budget (millions)

Testing and Abatement	$44.5
County Case Mgmt/Env Mgmt	$15.5
Rental Certification	$5.0
Workforce Development	$5.0
Legal Assistance	$5.0
Total	$75.0

- **Lead abatement and testing:** Primary prevention relies on making existing housing units lead safe for children and families before lead exposure occurs. Existing funding for lead hazard control through HUD and other sources is limited and largely dependent on secondary prevention measures (intervention after a poisoning has occurred).
- **Case management:** In April 2019 New York changed its definition of elevated blood level from 10 to 5 µg/dL to align with the CDC level of action. As a result, many local health departments across the state will see a surge in caseload for children who meet this threshold. We propose that funding from an HSI defray 50% of expected additional costs for providing care coordination, case management, and environmental management for these additional children.
- **Lead rental certification:** New York City and Rochester are currently the only cities in New York that require lead testing and certification for rental properties. This is a best practice that could be expanded to other high-risk areas in the state.
- **Workforce development:** Hiring and training will support increased activities in lead abatement, testing, and enforcement.
- **Legal assistance:** For tenant families with a child who has an EBLL, landlords are required to abate lead hazards per existing law. This HSI will provide support to families in this situation.

HSI Implementation

Based on existing capacities of state and local agencies, the Federal Payers & Lead (Pb) Advisory Group discussed the potential for NYS Homes and Community Renewal to manage the HSI program except for case management services that NYSDOH and local health departments already operate. This model is consistent with Maryland's approved HSI where scope of services is divided between the state's Department of Housing the Community Development for abatement and testing (DHCD also administers the state's HUD program) and local health departments for case management.

For more information please contact:
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[i] 2017 American Community Survey 1-Year Estimates: Physical Housing Characteristics for Occupied Housing Units, U.S. CENSUS BUREAU, https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk (last visited September 19, 2019).