



NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE
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Commissioner

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Gotham Center
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via electronic submission: nysoh.team@health.ny.gov

Re: New York Essential Plan Expansion (Section 1332 State Innovation Waiver)

Dear New York State of Health Administrators:

The City of New York (“NYC” or “the City”) appreciates the opportunity to respond to the New York State Department of Health’s (NYSDOH) Section 1332 State Innovation Waiver application, which proposes to expand Essential Plan (EP) eligibility to individuals with incomes up to 250% of the Federal Poverty Level (FPL). The City supports the proposed waiver’s intent to broaden affordable insurance access for low- and moderate-income New Yorkers. However, the City opposes the submission of this waiver without modification to include adults ages 19-64 who are currently ineligible for EP coverage because of immigration status.

Background

Insurance Coverage Landscape for Undocumented New Yorkers

Since passage of the Patient Protection and Affordable Care Act (ACA) in 2010 and subsequent launch of the New York State of Health (NYSOH) Marketplace in 2012, both New York State (NYS) and New York City have seen a steady reduction in the number of people without health insurance.¹ Between 2013 and 2019, the number of uninsured residents of all ages living in NYC declined by 50%.^{2,3} However, over 1 million New Yorkers (4.7% of state population), including nearly 570,000 NYC residents (6.9% of city population), remained uninsured in 2019. While continuous Medicaid coverage under the federal COVID-19 public health emergency dampened the impact of private coverage loss during the pandemic and contributed to a slight drop in city and state

¹ New York State of Health. “Bucking national trends, New York’s uninsured rate continues to decline, reaching a historic low of 4.7 percent [Press release].” 15 March 2019. <https://info.nystateofhealth.ny.gov/news/press-release-bucking-national-trends-new-yorks-uninsured-rate-continues-decline-reaching>

² U.S. Census Bureau. American Community Survey 1-Year Estimate Public Use Microdata Sample for 2019, as analyzed by New York City Department of Health and Mental Hygiene, Health Access and Policy Unit.

³ Note: We reference 2019 ACS data because 2021 estimates for uninsured rates are likely elevated by continuous Medicaid coverage under the Federal Public Health Emergency.

uninsured rates, a significant portion of New Yorkers remain ineligible for insurance in 2023 due to immigration status.⁴

New York State has the fourth largest undocumented population in the United States, the vast majority of whom live in New York City.⁵ The NYC Mayor's Office of Immigrant Affairs estimates that nearly 476,000 immigrants living in NYC are undocumented, of which 46% are uninsured and largely ineligible for coverage.⁶

In New York State, insurance coverage for undocumented populations is limited to pregnant people and children under age 19 living in low- to moderate-income households. Beginning in 2024, state Medicaid eligibility will expand to include low-income undocumented New Yorkers ages 65 and older – a change the City strongly supports. However, without further action, undocumented adults ages 19-64 remain ineligible for affordable coverage options and must rely on Emergency Medicaid, safety-net providers, and direct access programs to receive services and cover out-of-pocket costs.

Recent Budgetary Action

The State's FY23 Enacted Budget authorizes the NYS Commissioner of Health to seek a Section 1332 State Innovation Waiver to increase the upper income limit for EP eligibility from 200% FPL to 250% FPL. Despite previous and public indication that the expansion request would extend EP eligibility to undocumented New Yorkers,^{7,8} the proposed waiver application backtracks on such promises.⁹

Still, the waiver offers considerable value to moderate-income consumers who would otherwise be enrolled in a Qualified Health Plan (QHP). The Essential Plan offers year-round enrollment, meaning timelier access to coverage than with QHPs. Coverage also comes at minimal cost to the consumer, with no deductibles and \$0 premiums for those who qualify. Further, the scope of covered services is more comprehensive than most other affordable plans on the market; in 2022, both dental and vision were added as permanent benefits, with no cost-sharing.¹⁰

The waiver as it currently stands will improve coverage for some low- and middle-income New Yorkers, but it will also deepen longstanding inequities based on immigration status and continue to relegate the health needs of undocumented people – the single largest population of remaining uninsured New Yorkers.

⁴ Conway D, Mykyta L. Decline in share of people without health insurance driven by increase in public coverage in 36 states. 15 September 2022. U.S. Census Bureau. <https://www.census.gov/library/stories/2022/09/uninsured-rate-declined-in-28-states.html>

⁵ Pew Research Center. Unauthorized immigrant population trends for states, birth countries and regions. 12 June 2019. <https://www.pewresearch.org/hispanic/interactives/unauthorized-trends/>

⁶ NYC Mayor's Office of Immigrant Affairs. State of Our Immigrant City: Mayor's Office of Immigrant Affairs (MOIA) Annual Report for Calendar Year 2020. 2021. <https://www.nyc.gov/assets/immigrants/downloads/pdf/MOIA-Annual-Report-for-2020.pdf>

⁷ See: "Governor Hochul Announces Agreement on FY 2023 New York State Budget." 7 April 2022. Official YouTube Channel for Governor Kathy Hochul. <https://www.youtube.com/watch?v=Ysb38zrpx6Q&t=2066s>

⁸ New York State Department of Health. 2022-23 Enacted Medicaid Budget Briefing and Questions & Answers. April 2022. Office of Health Insurance Programs. https://www.health.ny.gov/health_care/medicaid/redesign/2022/docs/2022-23_enacted_budget_brief_qa.pdf

⁹ New York State Department of Health. New York Section 1332 Innovation Waiver Essential Plan Expansion: Draft for Public Comment. 9 February 2023. https://info.nystateofhealth.ny.gov/sites/default/files/NY_1332_Waiver_Draft_Application_Actuarial.pdf

¹⁰ New York State of Health. Fast Facts on the Essential Plan. 2022. <https://info.nystateofhealth.ny.gov/sites/default/files/Essential%20Plan%20Fact%20Sheet%202022%20-%20English.pdf>

Proposed Amendment – Justification and Impact

The City of New York strongly recommends that the draft waiver application be modified to expand coverage to adults ages 19-64 with incomes up to 250% FPL who are currently ineligible for Essential Plan coverage because of their immigration status. This recommendation aligns with the Hochul Administration's stated goal of reducing New York's uninsured population¹¹ and its earlier commitment to include undocumented individuals in expanding eligibility for the Essential Plan.^{7,8}

The proposed amendment comes at no cost to the State and is expected to yield savings for providers and consumers and improve health outcomes for over 245,000 historically underserved New Yorkers.

Insurance coverage improves health outcomes and can decrease health care costs over time

Insurance coverage is a strong predictor of access to care and improved health outcomes. Numerous studies indicate that having a primary care provider (PCP) or usual source of care – both of which are strongly influenced by insurance status¹² – improves continuity of and access to preventive services.¹³ Consequently, lack of insurance impedes a person's ability to access primary care and specialty services, including screenings and diagnostics linking patients to timely treatment and intervention.^{14,15} For individuals with chronic conditions that require ongoing clinical management, living without health insurance can have critical consequences for both health outcomes and financial stability.¹⁶ Indeed, barriers to primary care are associated with higher rates of preventable hospitalization and emergency department (ED) visits, which lead to greater costs for both patients and health care systems, especially when compared with regular primary care expenses.^{17,18}

The Oregon Health Insurance Experiment provides an excellent example of how addressing barriers to care – in this case through the expansion of Medicaid coverage – can lead to measurable increases in primary care use. In surveying program participants, the study found that Medicaid coverage increased the probability that people reported themselves to be in “good to excellent” health by 25%.¹⁹ The program also saw significant increases in critical preventive care services, including a 50% increase in cholesterol monitoring and a 100% increase in mammograms.²⁰

The NYC Department of Health and Mental Hygiene's (DOHMH) ActionHealthNYC program also demonstrated how removing barriers to care can improve meaningful health care utilization while driving down unnecessary costs. Between 2016 and 2017, DOHMH collaborated with the city's public hospital system, NYC Health + Hospitals (H+H), and several federally qualified health centers to

¹¹ Governor Kathy Hochul. 2022 State of the State. 2022. <https://www.governor.ny.gov/sites/default/files/2022-01/2022StateoftheStateBook.pdf>

¹² Glied S, Ma S, Borja A. Effect of the Affordable Care Act on health insurance access. 8 May 2017. The Commonwealth Fund. <https://www.commonwealthfund.org/publications/issue-briefs/2017/may/effect-affordable-care-act-health-care-access>

¹³ Blewett LA, Johnson PJ, Lee B, Scal PB. When a usual source of care and usual provider matter: adult prevention and screening services. *J Gen Intern Med.* 2008;23(9):1354–1360.

¹⁴ Bovbjerg RR, Hadley J. Why Health Insurance Is Important. Urban Institute. November 2007. DC-SPG no.1. <https://www.urban.org/sites/default/files/publication/46826/411569-Why-Health-Insurance-Is-Important.PDF>

¹⁵ Institute of Medicine Committee on the Consequences of Uninsurance. “Care without coverage: too little, too late.” Effects of Health Insurance on Health. Washington, DC: National Academies Press. 2002.

¹⁶ Hatch B, Marino M, Killerby M, et al. Medicaid's impact on chronic disease biomarkers: a cohort study of community health center patients. *J Gen Intern Med.* 2017;32(8):940–947.

¹⁷ Rosano A, Loha CA, Falvo R, et al. The relationship between avoidable hospitalization and accessibility to primary care: a systematic review. *Eur J Public Health.* 2013;23(3):356–360.

¹⁸ Parchman ML, Culler S. Primary care physicians and avoidable hospitalizations. *J Fam Pract.* 1994;39(2):123–128.

¹⁹ Finkelstein A et al. The Oregon Health Insurance Experiment: Evidence from the First Year. *Quarterly Journal of Economics.* 2012;127(3):1057-1106.

²⁰ Baicker K, Finkelstein A. Oregon Health Insurance Experiment. National Bureau of Economic Research. July 2011.

provide direct access to primary care and coordination services for over 1,300 insurance-ineligible New Yorkers. The program was highly successful: After the program year, participants were more likely than their counterparts to report having utilized primary care,²¹ having a PCP, or seeing a health care provider within the last 9 months. A more recent analysis found that the program was also successful in reducing ED visits for primary care-treatable conditions by 23%, driven by a 32% reduction in high-risk individuals.²²

Many of the learnings of ActionHealthNYC were subsequently implemented in NYC Care, NYC Health + Hospitals' health care access program for New York City residents who are ineligible for health insurance or cannot afford the health insurance for which they are eligible. The program has maintained over 100,000 enrollees since fall 2021 while performing health insurance eligibility screenings annually. Preliminary analyses have shown that after six months in the program, 53% of enrollees with diabetes have seen an improvement in their hemoglobin A1C readings, and 40% of enrollees with hypertension have seen an improvement in their blood pressure. A preliminary analysis showed that patients enrolled in NYC Care utilized the emergency room 21% less than the non-NYC Care NYC Health + Hospitals patients.

Immigrants tend to be healthier than U.S.-born individuals

ActionHealthNYC and NYC Care's outcomes are even more compelling when applied to an almost entirely undocumented patient population. A wealth of literature supports the notion that immigrants tend to be healthier than most U.S.-born people. This is captured in a phenomenon called "the healthy immigrant effect," wherein recent immigrants assess their health status more favorably and utilize fewer or comparable health care resources than U.S.-born populations.^{23,24} In one study, researchers in California found that undocumented Mexicans had 1.6 fewer physician visits compared to U.S.-born Mexicans; other undocumented Latinos had 2.1 fewer visits compared to U.S.-born counterparts.²⁵

These data directly refute the misconception that immigrants tend to overuse health care resources and that expanding insurance coverage to previously ineligible populations yields a spike in unnecessary utilization. Indeed, we would anticipate welcome growth in primary care use as a result of expanded access and decreased rates of unnecessary and costly utilization. Moreover, noting that roughly three-quarters of undocumented people in NYS reside in NYC, we expect that a significant portion of individuals who would benefit from more inclusive EP eligibility will have already established a pattern of primary care use through the NYC Care initiative. This means that expanding coverage to this population is unlikely to result in a sudden wave of acute health care needs or disproportionate utilization.

From a health economics perspective, expanding insurance access to a relatively healthy population is unlikely to incur disproportionate costs. On the contrary, it would ultimately yield savings through more meaningful health care use and better long-term health outcomes. A recent report from New

²¹ Sood RK, Bae JY, Sabety A, Chan PY, Heindrichs C., ActionHealthNYC: Effectiveness of a health care access program for the uninsured, 2016-2017. *AJPH*. 2021;111(7):1318-1327.

²² Sabety A, Gruber J, Bae JY, Sood RK., Reducing Frictions in Healthcare Access: The ActionHealthNYC experiment for Undocumented Immigrants, 2023. Forthcoming. *American Economic Review: Insights*. <https://www.aeaweb.org/articles?id=10.1257/aeri.20220126>

²³ Hamilton TG. The healthy immigrant (migrant) effect: in search of a better native-born comparison group. *Social Science Research*. 2015;54:353-365.

²⁴ DeAnne K et al. The impact and implications of undocumented immigration on individual and collective health in the United States. *Nursing Outlook*. 2015;63(1):86-94.

²⁵ Ortega A et al. Health Care Access, Use of Services, and Experiences Among Undocumented Mexicans and Other Latinos. *JAMA Internal Medicine*. 2007;167(21):2354-2360.

York City Comptroller, Brad Lander, also found that expanding EP eligibility to undocumented people would provide an estimated \$710 million in economic benefits.²⁶

Essential Plan coverage shifts costs away from the City and State

In addition to lower hospitalization and ED utilization rates, the waiver application and our proposed amendment would shift costs away from state and local governments. Essential Plan coverage is federally funded through the Basic Health Plan Trust, which presently has an \$8 billion surplus only to be used for coverage costs.²⁷ Consequently, the State would not bear any costs in expanding EP coverage to undocumented people.

New York City would also expect to see a financial benefit as Emergency Medicaid recipients and NYC Care enrollees transition to comprehensive Essential Plan coverage, allowing the City to recapture its local contributions to Emergency Medicaid (over \$200 million annually) and lower NYC Care program costs.

Increasing access to insurance coverage for undocumented individuals would also bolster the state's safety net system. Providers would see a drop in uncompensated care costs (\$1,174 per person covered each year), allowing more flexibility with resources,²⁸ and visits for EP-insured patients would afford higher reimbursement rates for the same services compared with Emergency Medicaid. The additional revenue would be helpful for essential safety net providers like NYC Health + Hospitals, which operate on the slimmest of financial margins.

Expanding coverage to undocumented people has public support and precedent in other jurisdictions

Finally, expanding insurance coverage to undocumented populations via the 1332 waiver pathway is not new. Other states, including Colorado and Washington, have already received permission from the Centers for Medicare and Medicaid Services to cover people regardless of immigration status.^{29,30}

In addition to these historic precedents, public opinion also supports expansion of coverage for undocumented New Yorkers, with 8 out of 10 New Yorkers supporting quality health care for immigrants across all regions and political party affiliations, per a March 2022 poll conducted by non-partisan research firm PerryUndem.³¹

²⁶ New York City Comptroller Brad Lander. "Economic Benefits of Coverage For All." 15 March 2022.

<https://comptroller.nyc.gov/newsroom/nyc-comptrollers-office-estimates-710-million-in-annual-economic-benefits-from-expanding-health-coverage-for-immigrant-new-yorkers/>

²⁷ Hammond B. "The Essential Plan's accumulated surplus balloons to \$8 billion, with no fix in sight." Empire Center. 8 September 2022. <https://www.empirecenter.org/publications/the-essential-plan-surplus-balloons-to-8-billion/>

²⁸ Blumberg L, Cuetthens M, Holahan J. How would state-based individual mandates affect health insurance coverage and premium costs? The Urban Institute. July 2018. https://www.urban.org/sites/default/files/publication/98805/2001925_state_based_individual_mandates.pdf

²⁹ Villeda K. "Washington's 1332 waiver presents opportunities for health equity." 23 January 2023. Community Catalyst. <https://communitycatalyst.org/posts/washingtons-1332-waiver-presents-opportunities-for-health-equity/>

³⁰ Monahan C, Giovanelli J, Lucia K. "HHS Approves Nation's First Section 1332 Waiver for a Public Option-Style Health Care Plan in Colorado." 12 July 2022. The Commonwealth Fund. <https://www.commonwealthfund.org/blog/2022/hhs-approves-nations-first-section-1332-waiver-public-option-plan-colorado>

³¹ "Results from a Statewide Survey: How New Yorkers Feel About Affordability and Healthcare Reform." May 2022. Prepared by PerryUndem for the Robert Wood Johnson Foundation. <https://nyhealthfoundation.org/wp-content/uploads/2022/05/PerryUndem-Presentation-Slides.pdf>

Conclusion

The City of New York strongly urges the New York State Department of Health to modify its existing waiver application to include eligibility for adults ages 19-64 who are currently ineligible because of their immigration status. The action comes at no cost to the State and will have a positive impact on health system efficiencies and patient outcomes. It would also contribute to the obligation we collectively have as the City and State to dismantle longstanding structural barriers, rooted in racism and bias, that perpetuate disparate health outcomes in immigrant communities.

The City is deeply committed to expanding insurance access and eliminating barriers to care for all New Yorkers. An investment in the health of a neighbor is an investment in the health of the community. The public health of all New Yorkers is better when everyone has access to comprehensive coverage – it is a question of public health preparedness as well as a question of rights.

We thank the State again for the opportunity to comment and look forward to working together to fulfill this mission.

Sincerely,

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