Testimony of the New York Health Plan Association

to the

Senate Finance Committee
and the Assembly Ways & Means Committee

on the subject of

2018-2019 Executive Budget Proposal on Health Care Taxes

February 8, 2018

INTRODUCTION

The New York Health Plan Association (HPA), comprised of 28 health plans that provide comprehensive health care services to more than eight million fully-insured New Yorkers, appreciates the opportunity to present its members' views on the Governor's budget proposals. We are here today specifically to address the Governor's proposal to create a new tax on some health insurers.

Our member health plans have long partnered with the state in achieving its health care goals, including collaborating on efforts to develop affordable coverage options for individuals, families and small businesses, providing access to care that exceeds national quality benchmarks for both commercial and government program enrollees, and improving access to quality care in its government programs. HPA members include plans that offer a full range of health insurance and managed care products (HMO, PPO, POS, etc.), public health plans (PHPs) and managed long term care (MLTC) plans. The New Yorkers who rely on these plans are enrolled through employers, as individuals, or through government sponsored programs — Medicaid Managed Care, Child Health Plus — and through New York's exchange, the NY State of Health (NYSOH).

HEALTH CARE INSURANCE "WINDFALL PROFIT" FEE

As noted above, we focusing today on the Governor's proposal to impose a new 14 percent surcharge on health plan earnings, which we strongly oppose.

The Governor justifies this surcharge – or, more simply put, tax – on health insurers' profits arguing those companies are receiving a "windfall" due to changes to the corporate tax code. The new tax is intended to generate $140 million that he claims he would use to offset possible reductions in federal funding to the state.

In reality, the federal health care “reductions” the Governor is seeking to guard against are not going to occur. Funding for the Child Health Insurance Program (CHIP) was included in the Continuing Resolution approved by Congress in January, extending the program for six years. The latest short-term funding measure now being considered will fund community health centers for two years, and it appears funding cuts to Disproportionate Share Hospitals will also be restored.

The reduction in the federal corporate tax rate from 35 percent to 21 percent applies to all corporations, regardless of industry. It makes little sense to tax just one sector of the state’s economy when many others also benefit from the federal tax change. However, taxing a specific industry with the intention to support state health care programs, simply because it is related to their line of business, is bad public policy. It sets a dangerous precedent to shift additional government costs to the private sector when the state faces its next budget deficit.

In addition, the 14 percent tax proposal also fails to take into account other changes in the federal tax law that mitigate the corporate tax reduction. Numerous federal base broadening provisions – such as a cap on the business interest expense tax deduction – will offset the supposed benefit of the corporate tax cut.

In his recent budget address, Governor Cuomo equated the changes to the federal tax law to a missile aimed directly at New York. However, the best missile defense would be a strategy aimed at reducing taxes not creating new ones.

NEW YORK'S TAX CLIMATE

It is important to note that this new tax is on top of New York's existing health plan taxes, which are already significant. Health care taxes in New York include:

- Nearly $5 billion collected annually through Health Care Reform Act (HCRA) patient services assessment, a tax on inpatient and outpatient hospital charges as well as numerous other health care services ($3.8B), and covered lives assessment, a sales tax placed on every policy sold in New York State ($1.1B);
- A 1.75% premium tax on commercial health insurance policies that is directed to the general fund, which raised an estimated $350 million in 2015; and
- Section 206 "assessments" that fund the Department of Financial Services' operations, proposed to total $366 million in this budget, which is an increase of $15M.

These taxes do not include the hundreds of millions of dollars in taxes health plans pay such as payroll taxes on wages to employees, and state and local withholdings taxes. Adding a new tax is troubling enough, but adding to the concern is the fact that at this time it is unclear how this new tax interacts with other taxes on plans, and what the basis is for the 14 percent rate.

Additionally, the revenues from the 14 percent tax would be deposited into HCRA. The problem with this, however, is the continued lack of transparency about how HCRA dollars are spent. We have serious concerns with putting more money into a budget line absent clearer information of where or how that money will be allocated.

Collectively, among all of the taxes collected by New York State, taxes on private health insurance rank third highest. Only personal income taxes and sales taxes are higher, which means the taxes imposed on the privately insured rank as the single largest business tax in New York. Looking at overall tax burden, the "2018 State Business Tax Climate Index" by the Tax Foundation, the nation's leading independent tax policy research organization, New York is ranked 49th with only New Jersey being worse. The Governor's proposal will only exacerbate this situation.

HEALTH PLANS' CONTRIBUTIONS TO NEW YORK'S ECONOMY

The Governor's tax proposal also ignores the important role that health plans play in the state's economy and the billions in economic activity annually they contribute to New York. Health plans employ tens of thousands of residents throughout the entire state, including in many upstate communities where New York has struggled to attract good paying jobs. These companies and their employees make a direct impact on the economic vitality of their local communities. At the same time, health plans support local organizations and their community-based initiatives while also investing in programs that improve the health and wellness of New York residents.

Adding to the cost of doing business for these plans makes it harder for plans to operate. It also makes it less likely they will continue to invest in our state and their local communities.

CONCLUSION

We recognize the significant fiscal challenges facing the state. However, the answer is not adding new costs that make it more difficult for health care companies to operate in New York and ultimately threaten the affordability of and access to health coverage for millions of New Yorkers. Instead, the focus needs to be on reforming state programs to make them more efficient, sustainable and innovative, and addressing the underlying factors driving health care costs.

HPA and its member plans are proud of the role they continue to play in helping New York improve access to affordable health coverage and quality of care for its residents, and plans remain committed to working with you and your colleagues on initiatives that keep New York moving forward on this course. New and increased taxes impede these efforts. For these reasons, we respectfully request that you reject the proposed 14 percent tax on for-profit health plans in the Governor's budget.

We thank you for the opportunity to share our views today.