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**Testimony Before the New York State Joint Legislative Hearing on Health
of the Community Service Society of New York on the 2020 Proposed Executive Budget**
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The Community Service Society of New York (CSS) would like to thank the Chairs and members of the Senate and Assembly Health Committees for the opportunity to comment on the proposed 2020 Executive Budget. CSS is a 175-year-old non-profit dedicated to fighting poverty and improving the lives of working New Yorkers. Our health programs help New Yorkers enroll into health insurance coverage, find healthcare if they are ineligible or cannot afford coverage, and help them use their coverage or otherwise access the healthcare system. We do this through a live-answer helpline and through our partnerships with over 50 community-based organizations working in every county of New York State. Annually, CSS and its partners serve approximately 130,000 New Yorkers.

While there is much about the Governor's budget proposal that would help New York's health care consumers, CSS is concerned that there is little in the budget that would address the profound problem of health care affordability in our state. In a recent statewide survey, over 50 percent of New Yorkers indicated that they had experienced a medical affordability burden in the prior year, including forgoing visits to the doctor, cutting their pills, or paying for care through a credit card.¹

The Governor's budget proposal does not provide visionary solutions to these issues in the way of either: (1) a coverage expansion for immigrants who are unable to benefit from the Essential Plan or the financial assistance offered through the Affordable Care Act; or (2) a state premium assistance program to help more New Yorkers secure care. Last year, California took both of these steps.

In addition, CSS is concerned that instead of adopting a systemic health care cost containment program along the lines of Massachusetts or Maryland, the Governor proposes to establish a Medicaid Redesign Team led and comprised of industry stakeholders to make decisions that would typically be addressed with electorally-accountable legislators through our state's budget making process. It is important to note that the number of beneficiaries in the Medicaid program has been the same for the past five years: what has increased is the amount of spending. While CSS is gratified that the Governor has charged the "MRT 2.0" team to do no

harm to beneficiaries, CSS is concerned that this will not be the outcome, especially since the leadership does not reflect the most important constituency of all – the consumers or community members likely to be most affected by any Medicaid cost controlling regime. Accordingly, we urge the Legislature to follow the lead of other states and establish a global budgeting approach and reject the establishment of a MRT 2.0 that fails to meaningfully include consumer representation.

Patient Medical Debt Protection Act

CSS is grateful that several provisions of the Patient Medical Debt Protection Act (S. 6757/A. 8639) appear in the Executive Budget proposal. More New Yorkers have health insurance than ever before, but they also have higher deductibles and cost-sharing than ever before. Between 2008 and 2016, premiums and deductibles increased from 5.5 percent to 7.7 percent of the median household incomes.² This increasing share of responsibility for medical costs means that consumers receive more medical bills that their insurance company would have paid in the past.

At the same time, hospital bills are rapidly increasing. One study found that hospital prices grew 42% between 2007 and 2014, while doctor prices grew 18 percent.³ Provider price increases are the main driver of growing health care costs in New York – especially inpatient prices, which grew twice as much in New York (32%) than nationally (16%).⁴ These price increases occurred during a period when *actual inpatient utilization declined by 2 percent*. Of all of New York’s health care stakeholders, individual consumers are the least able to accommodate these high prices, but consumers have little to no access to the cost and quality information that would allow them to shop for better deals.

CSS is grateful that the Executive Budget would enact the following items that are part of the bill:

- Address unscrupulous billing practices for medical debt. A CSS investigation has found that New York’s so-called not-for-profit hospitals have filed nearly 30,000 lawsuits against their patients – and that’s just in the first twelve counties we have reviewed. Consumers are at an enormous disadvantage when trying to defend themselves from these lawsuits. The Governor’s budget addresses these aggressive collections in two ways:

² “The Rising Cost Burden of Employer-Sponsored Insurance in New York,” New York State Health Foundation, March 2018. Nationally, deductibles grew 55% nationally between 2010 and 2016. Leonard Davis Institute of Health Economics, “The Burden of Health Care Costs for Working Families: A State-Level Analysis,” April 2019, available at <https://ldi.upenn.edu/brief/burden-health-care-costs-working-families>.

³ Zack Cooper, Stuart Craig, Martin Gaynor, Nir J. Harish, Harlan M. Krumholz, and John Van Reenen, “Hospital Prices Grew Substantially Faster Than Physician Prices for Hospital-Based Care in 2007–14,” *Health Affairs* Vol. 38, No. 2, February 2019.

⁴ Health Care Cost Institute and New York State Health Foundation, “Health Care Spending, Prices, and Utilization for Employer-Sponsored Insurance in New York,” July 2019, available at <https://nyshealthfoundation.org/2019/07/30/health-care-spending-in-new-york-growing-faster-than-rest-of-u-s/>.

- First, it reduces the number of years (or the statute of limitations) hospitals have to sue their patients from six years to three. Hospitals currently have up to six years to sue a patient for an unpaid medical bill. By the end of six years, many consumers will have changed insurance companies or lost copies of bills and other records relating to their medical care. Part J, section 18 of the Executive Budget's Health and Mental Hygiene VII legislation proposes to reduce this statute of limitations to three years. This matches the practice in most other states and gives consumers a much better chance of defending themselves.
- Second, it reduces the amount of interest a not-for-profit hospital can pursue from the commercial rate of 9 percent to the one-year treasury rate. This would have a profound impact on patients' lives. For example, one uninsured woman in the Bronx was sued for \$1,800 after visiting the emergency department while experiencing a heart arrhythmia. The final judgement against her included over \$500 in interest. Part T of the Executive Budget's Public Protection and General Government Article VII legislation includes language that would limit the annual interest that can accrue on a civil judgment or claim to the one-year United States Treasury bill rate. For 2020, the Treasury rate is only 1.54 percent.
- Third the bill would prohibit balance billing in emergencies. New York State's surprise bill law prohibits out-of-network providers from balance billing patients in most situations, which means they may not send bills to consumers when unhappy with a health plan's payment. Instead, they must hold the consumer harmless and settle their dispute with the health plan using an independent dispute resolution process created through the original law. Part J, section 15 of the Health and Mental Hygiene Article VII legislation extends the prohibition against balance billing to out-of-network providers who care for a patient during in-patient stays following emergency department visits. As in other situations covered by the surprise bill law, the out-of-network provider may seek some payment from the patient but only what the patient would have owed if the provider had been in-network.

CSS asks that the legislature consider expanding the scope of some of these provisions and enact other components of the Patient Medical Debt Protections Act that are missing from the Executive Budget.

- Patients should be held harmless from out-of-network bills incurred because of misinformation provided by a health plan or provider. One patient that turned to CSS for help received an out-of-network bill for over \$100,000 after choosing a surgeon from her plan's provider directory. Part G of the Patient Medical Debt Protection Act would hold consumers harmless from out-of-network bills if they relied upon information provided in their plan provider directory, their plan's website, or an oral or written statement by their health plan.
- Patients should not be responsible for paying facility fees, which are fees charged by hospitals and increasingly by out-patient clinics that have been purchased by hospital systems with no relation to the medical care received. CSS helped one patient that was

charged a \$149 facility fee for a mammogram, even though such a preventive test is required to be covered without cost-sharing by the Affordable Care Act. Part B of the Patient Medical Debt Protection Act defines facility fees and prohibits hospitals from charging patients for facility fees after receiving preventive services recommended by the United State Preventive Services Task Force.

- Hospitals should use one standard financial assistance application and a standard appeals process to ensure that eligible patients receive financial assistance. Some hospitals are not making the financial assistance application process accessible to all eligible patients despite being required to do so by law.⁵ Part E of the Patient Medical Debt Protection Act would require all hospitals to use one standard application and appeals process for financial assistance. This would make it easier for patients to apply and receive the financial assistance hospitals are required to provide.

Consumer Assistance Programs

CSS is also grateful that the Executive Budget includes funding for independent consumer assistance programs. New York State is a leader in providing this type of assistance to consumers and its models for providing consumer assistance have been lauded nationally by groups such as the National Governors Association, the Kaiser Family Foundation, and the US Department of Health and Human Services.

- Community Health Advocates (CHA): CHA helps consumers understand their insurance, resolve billing issues and coverage denials, secure prior authorizations, and access hospital financial assistance. The program helps over 30,000 New Yorkers every year and has saved consumers around \$47 million since launching in 2010. Every dollar invested in CHA yields an estimated \$1.31 in savings for consumers.

At its height, CHA was funded at \$7 million. The Executive Budget provides \$2.5 million. CSS asks that the Assembly and Senate provide an additional \$2.5 million for a total of \$5 million.

- Community Health Access to Addiction and Mental Healthcare Project (CHAMP): CHAMP is a first-in-the-nation independent consumer assistance program created for people in need of substance use disorder or mental health treatment. We enthusiastically support the Governor's proposal to establish the Behavioral Health Parity Compliance Fund to encourage a strong regulatory infrastructure. Any enforcement activities would support this fund and the first \$1.5 million would be earmarked expand the CHAMP program. We strongly support the proposal to create a regulatory framework that will strengthen parity enforcement. However, the mental health and addiction crisis is urgent and New Yorkers with mental health and addiction needs need help now. Accordingly, CSS urges the Legislature to provide an additional \$1.5 million, for a total \$3 million

⁵ Community Service Society of New York, "Unintended Consequences: How New York State Patients and Safety-Net Hospitals Are Short-Changed," January 2018, https://www.cssny.org/publications/entry/unintended_consequences.

appropriation to address the complex insurance needs of residents in other counties that have been affected by opioid and suicide epidemics in this coming year.

Fair Hospital Funding

CSS applauds Governor Cuomo for allowing the indigent care pool transition collar to sunset at the end of this year. CSS would prefer that the transition collar end immediately but appreciates that there is now an end date. The transition collar rewards hospitals for practices that the State determined were unfair years ago, namely their practice of claiming bad debt as charity care when in fact continuing to seek payment from those patients.

CSS is disappointed that the Executive Budget does not include language that would improve the way that New York distributes money to hospitals for the care they provide to uninsured or Medicaid-insured patients. Removing the transition collar is a good start to making this distribution fair. However, the funds that flow from the indigent care pool should go to those hospitals that provide the most care to low-income New Yorkers. Even without the transition collar, the formula still short-changes New York's true safety-net hospitals by distributing funding to all hospital regardless of the care they provide to low-income patients. As described above, many of New York's hospitals fail to provide even the financial assistance they are required to provide patients by law – but this failure has no impact on their ability to receive funding from the indigent care pool. A bill in the legislature, **S5546-A/A6677B**, would target this funding to the hospitals that carry the most weight. CSS urges the legislature to include this language in its own budget proposal.

Article VI Funding

CSS is disappointed that the Executive Budget does not restore Article VI funds that were cut by Governor Cuomo and the Legislature by 16 percent for FY2020. Only NYC was targeted for this reduction in matching funds. These funds are critical for programs that help address public health crises such as HIV, viral hepatitis, TB, STIs that affect predominantly low-income, immigrant New Yorkers, and communities of color. The Mayor and City Council agreed to cover the gap temporarily with an additional \$6 million dollars in this year's city budget. City programs and CBOs who provide vital health services will face again a devastating reduction in matching funds next year if the State doesn't restore the 16% in funding that was cut last year.

Thank you again for considering our comments. Should you have any questions or seek further elaboration, please do hesitate to contact me at: adunker@cssny.org or 212-614-5312.