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New York State Department of Financial Services
Testimony Delivered to the Legislative Fiscal Committees
on the State Budget - Health
February 8, 2022

Good afternoon, Chairs Krueger, Weinstein, Breslin, Cahill, Rivera, and Gottfried; Ranking Members; and all distinguished Members of the State Senate and Assembly.

Thank you for inviting me to testify today. My name is Adrienne Harris, and I am privileged to have been confirmed two weeks ago as Superintendent of the Department of Financial Services (DFS). DFS's broad mandate is to protect New York consumers, strengthen New York's financial services industries, and safeguard our markets from fraud and other illegal activity. The Department regulates the activities of approximately 3,000 banking, insurance, and other financial institutions with assets totaling more than \$9 trillion, including over 1,200 depository and non-depository financial service providers, and nearly 1,800 insurance companies. DFS fosters a safe and sound financial services market, while also providing important consumer protections. The Department's operating expenses are assessed to industry under section 206 of the Financial Services Law.

As Superintendent, I know that market growth and consumer protection are not competing concepts but must align to ensure that your constituents receive the best financial services in the nation, including health care coverage. I look forward to continuing to work with Governor Hochul, the Legislature, and other agencies to advance policies that support opportunity and access to quality, affordable health care for all New Yorkers. Today, I will

provide an overview of the insurance-focused health care initiatives in this year's Executive Budget, and I look forward to your questions. But first, I would like to say a few words about our continuing battle against the pandemic.

As you know all too well, the COVID-19 pandemic has taken a great toll on our fellow New Yorkers, with a disproportionate impact on marginalized communities. New Yorkers suffered through waves of infections and heartbreaking daily death tolls. The pandemic also caused widespread financial hardship. Business owners struggled to keep the lights on. Many workers lost their jobs. Everyone's mental well-being suffered.

As new, unexpected challenges emerge, DFS works diligently to serve New Yorkers. We coordinate daily with the Department of Health, insurers, hospitals, physicians, consumers, and other stakeholders to make sure people have access to the care and insurance coverage they need. We are still learning about and adjusting to this new world, and there is still more we can and must do to address these new challenges and the new normal in which we find ourselves.

As we continue to deal with the pandemic, addressing mental health and substance use disorder is a top priority. DFS has been fighting hard to ensure that New Yorkers have the mental health and substance use disorder treatment coverage they deserve – the coverage that they paid for. In 2020, DFS promulgated one of the most comprehensive mental health and substance use disorder parity regulations in the nation, requiring insurers to establish a parity compliance program, and we are conducting examinations to ensure their compliance. When insurers are not compliant, DFS will bring enforcement actions as I did just a couple of months ago, where we were able to assess a penalty, require remediation, and put money back in New Yorkers' pockets. The money from the penalties is reinvested in initiatives that will support further mental health parity implementation and enforcement on behalf of New Yorkers.

I'm excited to talk to you today about Governor Hochul's ambitious agenda to improve the quality and accessibility of health care for all New Yorkers and I want to highlight, in particular, a few DFS-driven initiatives.

Telehealth

The pandemic rapidly accelerated the adoption of telehealth services. Changes in health care delivery that we might otherwise have experienced over the next decade happened virtually overnight. Nationally, 38 times more telehealth claims were made in February 2021 than in February 2020. Telehealth has the potential to connect historically underserved communities – communities of color, rural communities, low-income communities – to providers that were previously out of reach. These services are particularly promising for mental health and substance use care, providing more immediate access to providers from the comfort of a patient's home. This is an exciting development, and New York is leading. Last year, DFS took action to remove barriers to telehealth access by issuing a regulation to require audio-only telehealth coverage.

This year's Executive Budget includes proposals to support access to telehealth services for more people in more communities.

First, it requires insurers to have an adequate network of telehealth health care providers. Currently, insurers are required to have sufficient in-network health care providers to deliver the benefits promised to their members in person, but there are no requirements regarding telehealth. Telehealth is here to stay, and insurers should be required to similarly provide sufficient telehealth providers to serve their customers.

Next, the Executive Budget incentivizes provider telehealth adoption by requiring commercial insurers to reimburse telehealth services on the same basis, at the same rate, and to the same extent that such services are reimbursed when delivered in person. This is a huge step toward improving quality of care and access to medical services in underserved areas.

Finally, to make it easier for New Yorkers to find the assistance they need, the Executive Budget requires insurers to provide up-to-date information in their provider directories about which providers offer telehealth services.

Protecting Consumers Against Surprise Medical Bills

Turning to another important topic, surprise medical bills create crushing financial and emotional stresses for people just as they are dealing with a health issue. In 2015, New York became the first state to implement a comprehensive Surprise Medical Bill law, and DFS has been working to enforce and strengthen those protections every day. Governor Hochul's 2022 agenda includes multiple proposals to strengthen protections against Surprise Bills and combat crushing medical debt.

They include:

- Expanding protections against Surprise Bills, including bills for all emergency services.

New York's Independent Dispute Resolution (IDR) process holds consumers harmless when there are disagreements among doctors, hospitals, and insurers about bills for certain emergency services or when consumers obtain care from a doctor who is not in their insurer's network and receive a Surprise Bill. In just its first few years, this program has saved New Yorkers hundreds of millions of dollars. The Executive Budget expands

the IDR process beyond just physicians, some hospitals, and certain emergency services to include all health care providers, hospitals, and emergency services.

- Limiting out-of-pocket costs. Currently, New Yorkers are protected from paying more than their in-network costs for certain Surprise Bills and bills for emergency services. The Executive Budget extends these protections by ensuring that consumers who get any bill for emergency services or a Surprise Bill from an out-of-network provider won't incur out-of-pocket costs greater than what they would have paid to an in-network provider.
- Protecting continuity of care. Governor Hochul also has proposed important protections for consumers when their provider leaves their network. The Executive Budget requires insurers to give consumers written notice of when a provider is no longer affiliated with their network. Additionally, consumers will be permitted to receive continuing care services from their provider for 90 days after the disaffiliation, or for the duration of their pregnancy, at in-network costs. Making sure that consumers have the information they need is also vital, and to that end, the Executive Budget includes:
- Protection against provider directory misinformation. Consumers who rely on information from an insurer that a provider is in-network should not be penalized when it turns out that the provider is, in fact, out-of-network. DFS will adopt a new regulation to protect New Yorkers from surprise out-of-network costs under several circumstances: when a health care provider is incorrectly listed as in-network in the insurer's provider directory; when an insurer provides incorrect information about a provider's network participation status in response to a request from a consumer; or when the insurer fails to respond to a consumer's request for such information.

With these comprehensive proposals, New York will continue to lead the nation on protecting consumers from Surprise Bills and medical debt.

Health Care Modernization and Simplification

I firmly believe that as a modern, forward-thinking regulator, DFS can support consumers and the safety and soundness of our regulated businesses at the same time. A great example is implementing the recommendations of the Administrative Simplification Workgroup, which are intended to eliminate cumbersome inefficiencies for health care providers and unnecessary health insurance costs. In 2020, the Legislature established the Administrative Simplification Workgroup – a diverse group of health care experts tasked with proposing reforms that would reduce administrative costs and better serve consumers. Administrative costs are estimated to be as much as 30% of total health care costs. Reducing administrative inefficiencies and lowering costs will benefit all health care stakeholders, especially consumers.

The Workgroup provided a unique opportunity for health care leaders from a variety of disciplines to come together to address administrative simplification. Participants included representatives from consumer advocacy organizations, hospitals, physicians, behavioral health providers, health insurers, brokers, and unions. DFS chaired the Workgroup, and the Department of Health, the Office of Mental Health, and the Office of Addiction Services and Support participated as well. I thank all the participants for rolling up their sleeves to get this extraordinary work under way.

After a year-long effort, the Workgroup issued its report to the legislature on October 1, 2021. The report included a total of 25 recommendations in ten different areas, including preauthorization practices, provider credentialing, access to electronic medical records, claim submission and payment, and insurance eligibility verification. This Administration is not

wasting any time putting these ideas into action. Governor Hochul's proposed budget includes key reforms just three months after these proposals were submitted.

As recommended by the Workgroup, the Executive Budget ensures that new providers and facilities can more easily and quickly join insurer networks. Currently, only some insurers are required to credential only certain categories of providers within a limited time frame. The Executive Budget applies these time frames to the credentialing of all providers, including facilities, and to all insurers.

Further, the Executive Budget eliminates excessive data requests to providers. When requesting medical records from providers, insurers will be required to limit their requests to only those records needed to verify that health care services are medically necessary.

A number of the Workgroup's other recommendations do not require statutory action, and DFS and the Department of Health will move quickly to implement them.

The Workgroup brought together diverse voices to develop solutions, and it provides a successful framework for continued collaboration on these important issues.

Combatting High Prescription Drug Prices

Rising prescription drug prices is among the most challenging issues New Yorkers face, representing the largest driver of health insurance premium increases. For years, DFS has been committed to expanding our ability to respond to the seemingly never-ending increases in the cost of prescription drugs. Our authority started with authorization to investigate significant spikes in the cost of prescription drugs, which was passed as part of the Budget in 2020. This authority empowers DFS to make drug manufacturers account for the price increases they implement and justify those increases to New Yorkers. DFS already has launched several

investigations of price increases and, with the advice and guidance of the Drug Accountability Board, continues to monitor drug price spikes. Just last week, I announced our first conclusion of one of these investigations. DFS uncovered errors in the reporting of drug prices by a manufacturer that led to publication of incorrect information about a drug's price. We confirmed that no consumers were harmed by the mistakes, and we secured commitments from the manufacturer to implement greater internal controls going forward.

Looking ahead, we are thrilled that the Legislature passed and Governor Hochul signed legislation giving DFS the authority to regulate pharmacy benefit managers (PBMs). Regulation of this industry has been a priority of DFS for years, as it is a critical component in addressing the cost of drugs and the impact of those costs on health insurance premiums. As you know, PBMs are key intermediaries in the prescription drug supply chain. They have long controlled the price of drugs for health plans, as well as reimbursement rates for pharmacies, all while operating without regulatory oversight. This is an industry that has been accused of rampant conflicts of interest and questionable business practices, and for too long existed in a regulatory "black box." Thanks to you, those days are over. PBMs are now subject to comprehensive regulation and oversight led by DFS.

To implement this landmark legislation, DFS is creating a new Pharmacy Benefits Bureau within the Department. The Bureau is responsible for registering and licensing PBMs and establishing critical regulations setting forth standards of conduct for this industry for the first time. We also are building a team of investigators to monitor PBM business practices and review complaints of misconduct from consumers and pharmacies. With the creation of this new bureau, the Executive Budget supports DFS's efforts to regulate this opaque industry. DFS begins a two-pronged approach to controlling drug spending: we will now have a dedicated staff and the

statutory authority to regulate PBMs, while continuing to monitor drug pricing and investigate drug price spikes from manufacturers. We are already beginning outreach to interested parties and working quickly to staff the Bureau. We look forward to continuing to partner with you on this important effort to reduce New Yorkers' drug costs.

Women's Health

Finally, I would like to talk about women's health. As you know, last month marked the 49th anniversary of Roe v. Wade. Women's reproductive choices are facing the biggest threat in a generation. The Supreme Court could set back progress in women's health, especially for women of color and those in low-income communities.

New York continues to lead the nation in protecting women's health care and reproductive choices. Governor Hochul has proposed codifying in statute a DFS regulation that guarantees insurance coverage for abortion services without cost sharing. This is an important step to protect women's reproductive rights and women's access to these essential health services as they remain under attack throughout the country.

These are some of the critical health care initiatives included in Governor Hochul's agenda that DFS is proud to help advance in close collaboration with the Legislature. The Department also looks forward to working on other important initiatives on the Governor's agenda with government and community stakeholders to help promote economic growth and create a more fair, inclusive, and sustainable financial system. They include strengthening the Statewide Office of Financial Inclusion and Empowerment to expand access to safe and affordable financial services and support opportunity for all New Yorkers. As many of you are aware, we are also part of a multiagency and Legislative effort to bring stability to and

modernize a critical transportation option for underserved communities that lowers operational costs without sacrificing ridership safety through transparency. And, we will take on student debt by providing millions in grants for student loan assistance counseling; streamlining the process for public servants to apply for debt forgiveness; and prohibiting schools from withholding transcripts because of outstanding debts.

I appreciate this opportunity to appear before you today to discuss the health insurance items in the Executive Budget. New York faces many challenges, and the Governor has laid out a bold agenda that I look forward to discussing further today. I am so honored that I have been given the opportunity to serve at this important time.

As I said when I saw many of you at my confirmation hearing two weeks ago, I think DFS can best serve New Yorkers by working closely and collaboratively with all of you. I enjoyed meeting with so many of you during the last few months, and I look forward to today's hearing and the conversations we will continue throughout this budget process and into the future.