children's defense fund new york

Testimony for the

Joint Legislative Hearing on the 2024-2025 New York State Health/Medicaid Executive Budget

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About the Children's Defense Fund – New York

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 2024 – 2025 New York State Health/Medicaid Executive Budget Proposal.

CDF-NY is a non-profit child advocacy organization that works statewide to ensure every child in New York has a Healthy Start, a Head Start, a Fair Start, a Safe Start and a Moral Start in life and a successful passage to adulthood with the help of caring families and communities. As the New York office of the Children's Defense Fund (CDF), a national organization with roots in the Civil Rights Movement, we are committed to advancing racial equity and to leveling the playing field for marginalized New York children, young people, and their families and communities. We envision a state – and a nation – where marginalized children flourish, leaders prioritize their well-being and communities wield the power to ensure they thrive. CDF-NY provides a strong, effective, and independent voice for children. We pay particular attention to the needs of children living in poverty, children of color and those with disabilities. CDF-NY strives to improve conditions for children, young people, and their families and communities through research, public education, policy development, direct service, organizing, and advocacy in direct partnership with the communities we serve. We are focused on building community, in order that all young people grow up with dignity, hope, and joy. Our policy priorities are racial justice, health equity, education justice, child welfare, youth justice and economic mobility. To learn more about CDF-NY, please visit www.cdfny.org.

New York must prioritize the health and wellbeing of its most marginalized children, youth, families, and communities.

The COVID-19 pandemic compromised the health, safety, and stability of our children, young people, and their families and communities. It also highlighted and exacerbated long-standing inequities disparately affecting communities of color. As New Yorkers continue to experience a myriad of critical health issues brought on by and compounded by the COVID-19 pandemic, prioritizing the health and wellbeing of our State's marginalized children, young people, and their families and communities is more urgent than ever before. This directive is especially critical given that, pre-pandemic, one in five children in New York – that's nearly 800,000 children – lived in poverty, with Black and Latinx children more than twice as likely as white children to live in poverty statewide.[1] We must act with urgency to center the needs of our most vulnerable population - our youngest New Yorkers - and to create a State where marginalized children and youth can not only grow but do so thriving with dignity, hope, and joy.

CDF-NY has long believed that budgets are moral documents that convey a society's priorities. The focus of this testimony is the Health/Medicaid Executive Budget Proposal's impacts on marginalized children, young people, and their families and communities. Children and young people's health, livelihoods and well-being are inextricably linked to the health, livelihoods and well-being of their families and communities. Healthy adults and caregivers are better able to provide for their children and families – which, for so many New York families, is more critical than ever. We thereby stand alongside our partners in calling for a State Budget that improves the health and wellbeing of New York's most marginalized populations.

We will lay out the following budget priorities from CDF – NY within this testimony:

1. Investments to **end childhood lead exposure and poisoning in New York**, which threatens the health and wellbeing of the youngest New Yorkers.
2. Investments to **ensure equity, access, and quality of telehealth service** provision statewide.
3. **Repeal New York's Medicaid Global Cap**.
4. Investments to **expand health coverage for children and families** in New York.
5. Investments to establish an independent office to **produce racial and ethnic impact statements for all proposed rules and all legislation leaving committee**, in order to address health disparities in New York's policymaking process.
6. Investments to **increase rates for Early Intervention (EI) service providers** and to eradicate racial disparities in EI service provision.

[1] U.S. Census Bureau, American Community Survey 5-Year Detailed Estimates.
To view CDF-NY's county data profiles, please visit https://cdfny.org/county-profiles/.

7. Investments to **expand funding for our State's school-based health centers** (SBHCs).
8. Investments to **expand school health services**, which includes expanding the population of students that can receive Medicaid-covered school health services and ensuring that all children have access to school-based health services.
9. Investments to **address New York's Black maternal and infant health crisis**.
10. Investments to **fully fund Healthy School Meals for All.**
11. **Protect New York's Families from Medical Debt.**

I. Childhood lead exposure and poisoning threaten the health and wellbeing of the youngest New Yorkers.

The Executive Budget does not make adequate investments towards combatting childhood lead poisoning in New York. Childhood lead poisoning is an urgent – albeit entirely preventable – moral crisis in our State, undoubtedly one of the greatest public health threats to New York's children and youth. New York has more known cases of children with elevated blood lead levels than any other state in our nation, [2] with childhood lead exposure rates for many communities across our State and in New York City five to six times higher than those in Flint, Michigan at the peak of its water crisis. [3] New York's older housing stock – our State carries the oldest housing inventory among the 50 states – places our residents at a particularly high risk of exposure to lead hazards. [4] The COVID-19 pandemic has only worsened the burdens of childhood lead exposure and poisoning, with children spending increased amounts of time in homes where they may be exposed to lead and amidst declines in well-child visits, where lead tests are typically administered to young children. [5] Furthermore, at the height of the pandemic, many of our State's county health departments were forced to redirect already-scare childhood lead poisoning prevention resources to pandemic response efforts.

The health effects of childhood lead exposure are irreversible and there is no known safe level of lead in children, a fact affirmed by the Centers for Disease Control and Prevention's reduction of the blood lead reference value from 5 µg / dL to 3.5 µg / dL in October 2021.[6] An estimated 28,820 New York children born in 2019 (approximately 12 percent of our State's birth cohort for that year) will have blood lead levels above 2 µg / dL,

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[2] "Blood Lead Levels (µg / DL) among U.S. Children < 72 Months of Age, by State, Year, and Blood Lead Level (BLL) Group", Centers for Disease Control and Prevention, accessed November 10, 2021, https://www.cdc.gov/nceh/lead/docs/cbls-national-data-table-508.pdf.

[3] "Special Report: Despite Progress, Lead Hazards Vex New York," *Reuters,* November 14, 2017, https://www.reuters.com/investigates/special-report/usa-lead-newyork/.

[4] Katrina Smith Korfmacher, Emily A. Benfer and Matthew Chachère, "Lead Laws and Environmental Justice in New York," *The New York Environmental Lawyer,* Vol. 39, No. 1 (November 22, 2019), https://ssrn.com/abstract=3492119.

[5] "More Childhood Lead Poisoning Is a Side Effect of Covid Lockdowns," *The New York Times*, March 11, 2021, https://www.nytimes.com/2021/03/11/health/virus-lead-poisoning-children.html.

[6] Ruckart PZ, Jones RL, Courtney JG, et al. Update of the Blood Lead Reference Value — United States, 2021. MMWR Morb Mortal Wkly Rep 2021; 70:1509–1512. DOI: http://dx.doi.org/10.15585/mmwr.mm7043a4.

the lowest level at which the effects of childhood lead exposure are well documented. [7] Even low levels of lead in the blood have been shown to affect children's intelligence quotient (IQ), academic achievement, ability to concentrate, hearing and speech.

Each year, over 18,000 New York children are identified as having blood lead levels at or above 5 µg / dL. Such lead exposure can result in serious neurological and physical damage to children, impacting lifelong health and educational attainment and causing anemia, hypertension, immunotoxicity, renal impairment and toxicity to reproductive organs. [8] Further acute and chronic effects of an elevated blood lead level include appetite loss, constipation, abdominal colic, behavioral issues, hearing and balance issues, encephalopathy, growth retardation, delayed sexual maturation, increased dental caries and cardiovascular and renal diseases. [9] Lead exposure is particularly dangerous for pregnant women, and can cause gestational hypertension, low birth weight and impaired fetal development.

a. Childhood lead exposure and poisoning are racial and environmental injustices.

Pervasive racial and socioeconomic disparities exist in New York's burden of childhood lead poisoning, with our State's children of color and low-income children disparately affected. New York's children of color and low-income children are most likely to live in high lead-risk housing (pre-1978 housing in poor condition) and to live in households that may lack the financial capacity to reduce lead hazards. In 2005, more than half of New York children identified with blood lead levels over 10 µg / dL lived in just 68 of the over 1600 zip codes in our State, most of which encompassed communities of color in older urban areas. [10] The majority of New York zip codes with the highest proportion of lead poisoning cases are located within Buffalo, a city whose population is mostly comprised of communities of color [11] and a city in which children from neighborhoods of color are twelve times as likely as children from predominantly white neighborhoods to have elevated blood lead levels. [12]

A study of Rochester children found that even after adjusting for environmental exposures, behaviors, socioeconomic status, and dietary intake, Black children were at higher

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[7] "Value of Lead Prevention," Altarum, accessed November 10, 2021, http://valueofleadprevention.org/calculations.php?state=New+York.

[8] Cindy Mann, Kinda Serafi, Arielle Taub, "Leveraging CHIP to Protect Low-Income Children from Lead," Manatt Health, January 2017, https://www.shvs.org/wp-content/uploads/2017/01/SHVS-Manatt-Leveraging-CHIP-to-Protect-Low-Income-Children-from-Lead-January-2017.pdf.

[9] Kent Bennett, Jennifer Lowry, Nicholas Newman, "Lead Poisoning: What's New About an Old Problem?," *Contemporary Pediatrics*, 32 (April 1, 2015), https://www.contemporarypediatrics.com/view/lead-poisoning-whats-new-about-old-problem-0.

[10] Katrina Smith Korfmacher, Emily A. Benfer and Matthew Chachère, "Lead Laws and Environmental Justice in New York," *The New York Environmental Lawyer,* Vol. 39, No. 1 (November 22, 2019), https://ssrn.com/abstract=3492119.

[11] "Eliminating Lead Poisoning in New York: A National Survey of Strategies to Protect Children," Columbia Law School Health Justice Advocacy Clinic, October 2019, https://web.law.columbia.edu/sites/default/files/microsites/clinics/health-advocacy/final_lead_poisoning_prevention_best_practices_report_october_2019_final.pdf.

[12] "The Racial Equity Dividend: Buffalo's Great Opportunity," University at Buffalo Regional Institute and Make Communities, 2018, http://racialequitybuffalo.org/files/documents/report/theequitydividendfinaljune2018.pdf.

risk of elevated blood lead than their peers of other races. By 24 months of age, Black children's blood lead concentration was approximately 62.6 percent (3.1 µg / dL) higher than white children's blood lead concentration after controlling for these other risk factors. [13] **New York's clear distribution of childhood lead poisoning along racial and socioeconomic lines affirms lead poisoning as grave racial and environmental injustices – and makes the need to act swiftly to prevent it even more of a moral imperative.**

b. Childhood lead exposure and poisoning hinder New York's economic viability.

In addition to the dangerous health effects and stark racial and socioeconomic injustices of childhood lead exposure, lead exposure poses a significant financial burden on our families and our State. Childhood lead exposure among New York children born in 2019 is projected to cost our State $6.4 billion through reduced lifetime productivity, premature mortality and increased spending on health care utilization, education, and social assistance, [14] and also contributes to costs associated with juvenile and adult incarceration.

Aside from these societal costs of childhood lead poisoning, families of lead-exposed children face substantial immediate and long-term costs. Potential costs to families include costs associated with immediate medical intervention, costs associated with treatment of lead-related attention deficit hyperactivity disorder (ADHD) and special education services for lead-poisoned children, and parental work loss due to time taken off to care for a lead-poisoned child. Families are sometimes forced to spend enormous sums on chelation therapy which ultimately may not result in total rehabilitation. Furthermore, families whose children are poisoned by lead do not always have the ability to move out of an unsafe home and into one that is free from lead hazards. Currently, lead-impacted New York families are unable to even file claims to recoup their financial losses because their landlords' insurance policies do not cover lead paint risk exposure.

Improving New York State's lead poisoning prevention policies will help prevent the harmful lifelong impacts of lead poisoning as well as help our taxpayers realize economic gains. The financial burden of childhood lead poisoning to our State and its families must be carefully weighed against any money saved in the short term by underfunding our capacity to address such a tragically long-standing and entirely preventable health crisis.

New York must make bold investments to combat childhood lead poisoning.

In order to once and for all make childhood lead poisoning a disease of the past, New York must make bold investments in its children, youth and families. Accordingly, the Lead

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[13] Bruce P. Lanphear, Richard Hornung, Mona Ho, Cynthia R. Howard, Shirley Eberly, Karen Knauf, "Environmental Lead Exposure During Early Childhood," 140, no. 1 (2002): 40 – 47, https://dx.doi.org/10.1067/mpd.2002.120513.

[14] "Value of Lead Prevention," Altarum, accessed November 10, 2021, http://valueofleadprevention.org/calculations.php?state=New+York..

Free Kids New York (LFKNY) coalition, which CDF-NY co-founded and co-leads, recommends that our State act swiftly by taking the following actions in the Budget:

i. Allocate an additional $50 million to support the existing and additional counties within the Childhood Lead Poisoning Primary and Secondary Prevention Programs

An additional $50 million in funding will enable New York State's Childhood Lead Poisoning Primary and Secondary Prevention Programs to expand and continue to implement programs to bolster lead poisoning prevention efforts to prevent elevated blood lead levels in children. These increased funds will cover the hardest hit communities engaging in primary prevention activities. Additionally, this allocation will cover the costs for counties to conduct secondary prevention activities by providing timely case management and follow-up services to children identified as having elevated blood lead levels, including $36 million to cover costs for children with blood lead levels of 5 µg / dL.

The number of New York State counties tasked with conducting primary prevention of childhood lead poisoning recently rose from 15 to 20, with no additional funds allocated to account for this increased number of counties. Functionally, this has meant cuts to all existing programs – even those with significant successes, like the City of Rochester. Furthermore, the sharp rise in inflation has meant that without an increase in funding, programs have had to make the difficult decision of either keeping wages stagnant or employing fewer staff. It is thereby critical to increase the allocated funding to adequately support the Childhood Lead Poisoning Primary and Secondary Prevention Programs.

ii. Implement FY23-24 HMH Part T/Public Health Law 1377

Last year, the New York State budget included the creation of a new Rental Registry and Proactive Inspection Program to identify lead hazards for multi-family rental dwellings in communities of concern outside of New York City, adopted as Part T of FY 2023-24's HMH Article VII budget bill (now codified at NY Public Health Law section 1377). We strongly support the premise of this pilot program, and believe the creation and implementation of this new Program could be a seminal moment in turning around New York's long-stalled effort to *prevent* lead poisoning from lead-based paint, rather than waiting until a child is harmed and then retroactively cleaning up lead paint hazards.

However, this program will only fulfill its promise if it is well-implemented *and* well-funded. The NYS Department of Health (NYSDOH) is now developing regulations to implement, administer, coordinate, and enforce the new Program. These regulations are crucial to the success of the Program and while the NYSDOH must be good stewards of the state's money, it should not be hamstrung in developing a meaningful, enforceable program due to artificial budget constraints. As noted below, society is paying enormous financial costs due to children's exposure to lead-based paint hazards, not even taking into account the social costs and the environmental injustice inherent in the demographics of lead poisonings. It would be penny-wise and pound-foolish to short-shift funding of this important effort.

As part of this program, the State last year allocated $20M to services and expenses of a lead abatement program to be administered through the housing trust fund corporation all over the state. This funding should be renewed, and the Legislature should ensure that these funds are only available to landlords that have financial need and are engaging in abatement activities, which will eliminate lead as a long-term concern, and not just for efforts like maintaining painted surfaces.

We urge NYSDOH to tie use of state funds for remediation of lead paint hazards on private property to measures that ensure that lead remediation does not drive housing instability. While this is not a complete list of necessary measures to prevent housing instability linked to lead remediation, we urge NYSDOH to require that for any dwelling for which lead remediation is funded (in whole or part) with government funds, tenants who are in place when lead paint hazards are identified must be allowed to return to the dwelling, and to remain there for at least five years (if they choose). In addition, for units remediated with any government funding, there should be a five-year cap on rent increases associated with the remediation (if partially government funded), and a five-year prohibition on rent increases that are tied to the remediation work if the remediation was entirely government funded.

Last year the State allocated $268,000 (pages 409-410) for staff time spent on lead abatement and $18,536,000 (page 326) for contractual services for programs that reduce risk of lead exposure in rental properties and in the State Operations Budget.[15] It created a pool of funding to support landlords with costs associated with testing and remediation in the Capital Projects Appropriations Bill (pages 380-381)[16]. We urge you to fund these programs at *least* the same levels in the FY 2024-25 budget.

iii. Increase funding for the New York State Children's Environmental Health Centers (NYSCHECK) from $4 million to $5 million

The New York State Children's Environmental Health Centers (NYSCHECK) were launched in 2017 by the New York State Department of Health to meet the environmental health needs of families and communities in all 62 counties in New York State. It is critical to allocate an additional $1 million in funding for the New York State Children's Environmental Health Centers (NYSCHECK) with the Environmental Protection Fund, so that the funding of these Centers can reach $5 million. An increase is critical, as the Governor has proposed to cut it instead.

iv. Provide $10 million to the Division of Housing and Community Renewal (DHCR) as grants to landlords to conduct lead abatement

The State must retain its $10 million investment to the Division of Housing and Community Renewal (DHCR) as grants to landlords to conduct lead abatement. These funds must be tied to protections for renters and reserved for landlords with demonstrated financial need engaged in comprehensive abatement activities to

[15] https://nystatewatch.net/www/NY/23R/PDF/NY23RAB03004FIL.pdf

[16] https://nystatewatch.net/www/NY/23R/PDF/NY23RAB03004FIL.pdf

eliminate lead as a long-term concern, extending beyond the maintenance of painted services.

v. Provide $325 million to facilitate lead hazard testing and program administration.

In SFY2023, the State allocated $325 million in to facilitate lead hazard testing and program administration. These funds must be retained in the FY2024-2025 budget to ensure continued efforts in addressing lead hazards in marginalized children and protecting public health.

vi. Clean Water and Infrastructure Funding

Lead pipe identification and removal is extremely important for the health of New Yorkers. We appreciate the work that has already been done identifying lead pipes within the state and removal that is already in queue, but there is still much more work to be done.

The federal Environmental Protection Agency estimates that there are 494,000 Lead service lines in NYS. According to the NYS Department of Health, lead service line replacement should cost at most $10,000 per line. Therefore roughly $5B will be needed to address this issue. $500M has already been secure through the federal Bipartisan Infrastructure Fund, leaving a $4.5B gap in funding. We would like to see at least $100 million of Clean Water Infrastructure Act funding dedicated to lead service line replacement in the FY 2024-25 budget.

We believe that a 10-year phase out of lead pipes across the whole state would be enough time to plan and execute the removal of all lead pipes around the state. In order to do this, there would need to be an additional $4.5B or $450M over 10 years in the budget through a combination of existing state funding streams (i.e., 2022 Clean Water, Clean Air, and Green Jobs, Environmental Bond Act, Clean Water Infrastructure Act, Water Infrastructure Improvement Act, Drinking Water State Revolving Fund) as well as federal funding streams (i.e., American Rescue Plan Act (ARPA), Water Infrastructure Finance & Innovation Act, Water Infrastructure Improvements for the Nation). The funding sources are there; what we need is the political will to make this happen.

vii. Intertwine Energy Retrofitting with Green Renovations That Remediate Indoor Health Hazards Such as Lead Paint Hazards

In 2022, the Governor made a promise that the State would make 2 million of its homes electric or ready to be electrified, with 800,000 of these homes promised to be affordable housing. While this is an exciting promise, it is vital that energy efficiency and electrification upgrades be combined with remediation of toxic hazards and implement programs that will reach low- to moderate-income households and buildings. It is vital that energy efficiency and electrification upgrades be combined with abatement of environmental health hazards like lead, mold, and asbestos. These abatements would improve the health outcomes for workers and tenants, as well as increase the speed at which we can meet New York's aggressive climate goals.

Unfortunately, in many disinvested communities, home owners (including landlords) will be unable to take advantage of these programs because of existing hazards or deficiencies in their homes. For owners of older homes who are able to take advantage of these programs, the work may disrupt lead paint that is in the building and create a hazard for workers and occupants.

Additionally, it may be possible to expend fewer overall dollars to bring older homes into electrification and ensure they're properly weatherized *and* eliminate hazards like lead, mold, and asbestos, when these programs are integrated and packaged together.

Therefore, we have two recommendations:

1. Ensure that contractors who undertake renovations and repairs to upgrade buildings for energy efficiency and electrification be trained in and use lead-safe work practices.
2. Leverage existing funds and programs to intertwine hazard abatement with these "green" improvements.

Not only is this critical for the health of New Yorkers, but we also believe there is already significant funding to accomplish this. New York State's Clean Air, Clean Water, Green Jobs Environmental Bond Act, approved by voters, commits $4.2 billion over the next five years to environmental projects and environmental justice issues. We urge that those dollars integrate climate and toxics goals, including addressing lead in paint and pipes, weatherization projects that are free of toxic materials like vinyl, and more funds being allocated to lead abatement.

In addition, we urge you to create a Green Affordable Pre-Electrification (GAP) Fund to provide grant funding for low- to moderate-income homeowners, renters, building owners, and public housing authorities to address deferred maintenance and environmental health hazards indoors.

The GAP Fund will direct funding to help households address deferred maintenance issues and eliminate legacy environmental hazards like lead, mold, old roofs, and poor ventilation.

viii. Pass Landlord Insurance for Lead Based Paint | *S. 88* (Ryan) / *A. 1687* (Rivera)

New York's landlords and insurance companies have been let off the hook for childhood lead poisoning in rental properties for far too long. *S. 88* (Ryan) / *A. 1687* (Rivera) would prohibit insurers providing liability coverage to rental property owners from excluding coverage for losses or damages caused by exposure to lead-based paint. Prohibiting the exclusion of coverage for losses or damages caused by exposure to lead-based paint would, in turn, ensure that lead poisoning victims are able to be adequately compensated for their medical bills and other lead-exposure related expenses and damages. *S. 88 / A. 1687* thereby prohibits insurance companies from denying claims for when children are poisoned by lead in their own homes, through no fault of their own. Furthermore, the bill would proactively encourage landlords to prevent lead-related harm from occurring in the first place by

incentivizing them to find and fix lead hazards in their properties without fearing the repercussions of accidental exposures.

ix. Pass the Lead-Based Paint Disclosure Act | *S. 2353* (Kavanagh) / *A. 4820* (Rivera)

While federal law requires sellers or lessors of pre-1978 housing to disclose to buyers or renters any knowledge of lead-based paint in the dwelling, it does not require them to investigate for lead paint in the home – and there is no incentive to do so. Consequently, purchasers and renters are unwittingly moving into hazardous homes, perpetuating the childhood lead crisis. If enacted, *S. 2353* (Kavanagh) / *A. 4820* (Rivera) would close this gap by requiring residential property owners to test for lead-based paint before selling or leasing their property (if it has not been done previously) and to file a report with the New York State Department of Health to better track and address lead poisoning. Mandated disclosure of lead-paint test results would ensure that New York's tenants and homeowners can choose to move into buildings free of unknown lead hazards. Furthermore, by making such information public, the private market will incentivize proactive repair and maintenance to address lead paint hazards.

x. Pass the Renovation, Repair and Painting Act | *S. 2191* (Bailey) / A. 434 (Bronson)

A significant number of childhood lead poisoning cases in New York can be attributed to home renovation, repair and painting (RRP) activities performed in homes containing lead-based paint, which can easily spread toxic dust if not performed safely. While federal law requires lead-safe work practices and training for RRP work in pre-1978 dwellings, the United States Environmental Protection Agency's (EPA) enforcement capacity in New York is quite limited. In fact, only 3.5 EPA inspectors currently oversee Region 2, a vast geographic area that encompasses New Jersey, Puerto Rico, and the Virgin Islands in addition to New York – including over 6.4 million homes in our State alone. In 2019, the EPA completed just seven RRP enforcement actions in New York. [17] *S. 2191* (Bailey) / *A. 434* (Bronson) would enable New York to assume administration of RRP rules and to conduct training, certification, and enforcement of the RRP. It would also enable New York to collect contractor fees (currently paid to the EPA) to cover costs and strengthen enforcement. In doing so, New York would join a growing number of states that are currently authorized to administer and enforce RRP rules in their states and who have tailored their RRP programs to meet their individual needs. Enacting this policy is estimated to protect approximately 140,000 New York children under the age of six and 483,600 New York homes undergoing renovation from lead exposure each year. [18]

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[17] "Lead-Safe Renovation, Repair, and Painting Activities in New York State: Analysis of the Proposal for State Management of the RRP Rule," Community Foundation for Greater Buffalo, February 2020, https://ppgbuffalo.org/files/documents/lead_rrp_activities_in_nys.pdf.

[18] "Lead-Safe Renovation, Repair, and Painting Activities in New York State: Analysis of the Proposal for State Management of the RRP Rule," Community Foundation for Greater Buffalo, February 2020, https://ppgbuffalo.org/files/documents/lead_rrp_activities_in_nys.pdf.

New York must fully leverage CHIP funding as a path forward.

In order to successfully combat the childhood lead poisoning crisis, New York must fully leverage every potential funding stream. A Children's Health Insurance Program (CHIP) Health Services Initiative (HSI) is a policy tool that would enable New York to triple its current state spending on childhood lead poisoning prevention by drawing down additional federal funding through CHIP for our State and its localities to use on lead poisoning prevention efforts. [19] Lead exposure testing, prevention, and abatement initiatives to protect low-income children are authorized uses of HSIs under CHIP authority. [20] In recent years, a number of states have successfully implemented HSIs for precisely this purpose, paving the way for New York to also take action. A New York HSI totaling $75 million per year could fund a comprehensive lead hazard reduction strategy with components including lead testing and abatement, case management, lead rental certification, workforce development and legal assistance for tenant families whose child has an elevated blood lead level.

II. New York must ensure equity, access, and quality of telehealth service provision statewide.

Telehealth holds great potential to improve access to critical health services throughout the duration of the pandemic and beyond, particularly for New Yorkers facing barriers to in-person visits and those living in areas with provider shortages. As New Yorkers increasingly turn to telehealth to meet their health needs, it is incumbent upon our State to ensure equity, access, and quality of telehealth service provision.

While telehealth can increase access to health services for many New Yorkers, CDF-NY urges the Legislature to remember that the digital divide continues to plague communities across our State and disproportionately impacts New Yorkers of color. In New York City, nearly 60 percent of Black and Latinx households (compared to over 80 percent of white households) have a computer in the home, with broadband usage lower in Black and Latinx homes than in white homes. Around a quarter of Black and Latinx New York City households can only access the Internet via their smartphones. [21] These families may find themselves at the mercy of homes and neighborhoods with limited connectivity. The inequity of New York's technological divide is even more stark for Black and Latinx families living in poverty and deep poverty. Only 54 percent of all New York City households with incomes under $20,000 have internet in the home [22] and such disparities are echoed throughout our State, making telehealth services likely unattainable for the most

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[19] "Leveraging CHIP to Protect Low-Income Children from Lead," State Health Value Strategies, January 2017, https://www.shvs.org/wp-content/uploads/2017/01/SHVS-Manatt-Leveraging-CHIP-to-Protect-Low-Income-Children-from-Lead-January-2017.pdf.

[20] "Frequently Asked Questions (FAQs): Health Services Initiative," Centers for Medicare & Medicaid Services, January 12, 2017, https://www.medicaid.gov/federal-policy-guidance/downloads/faq11217.pdf.

[21] "The State of Black New York," New York Urban League, November 2020, https://ad1a3eae-9408-4799-abeb-aa6ebc798f5b.usrfiles.com/ugd/ccf12e_06a44ca4995a40d7944b361219f9a6d8.pdf.

[22] "The State of Black New York," New York Urban League, November 2020, https://ad1a3eae-9408-4799-abeb-aa6ebc798f5b.usrfiles.com/ugd/ccf12e_06a44ca4995a40d7944b361219f9a6d8.pdf.

marginalized New Yorkers. For families struggling to pay rent or put food on the table, the internet may simply be out of reach – meaning marginalized New York families will still need access to high quality in-person health services. Telehealth also poses language barriers to individuals with limited language proficiency, and is not always fully accessible for individuals with disabilities. Furthermore, telehealth may lead to increased cost-shifting to patients, as patients may end up paying 'duplicate' copays for health episodes where a telehealth visit results directly in an in-person follow-up visit.

Furthermore, it is important that the State recognize the patient privacy concerns that can be posed by telehealth visits. A lack of secure housing, or a lack of privacy in a difficult home environment, can serve as strong barriers to adolescents seeking out behavioral or reproductive health care services via telehealth, particularly for those who share rooms with siblings or lack access to their own electronic devices, or for those whose home environments are the reason they are seeking out such services in the first place. For youth experiencing abuse at the hands of individuals living in their home, telehealth is simply an unthinkable option, leaving them without any emotional support and amplifying the mental trauma of the abuse. It is critical that our State increase access to in-person behavioral health services for these young people, or designate and fund community safe spaces where they can privately and confidentially utilize telehealth services, particularly given the troubling recent increases in suicide attempts and psychiatric emergencies among young New Yorkers generally [23] and among Black youth in particular, [24] and the alarm that the Surgeon General, American Academy of Pediatrics (AAP) and American Academy of Child and Adolescent Psychiatry (AACAP) have sounded on child and adolescent mental health. [25]

CDF-NY urges the State to fund an independent evaluation of telehealth equity, access, and quality.

As our State's children and families increasingly turn to telehealth to meet their healthcare needs, CDF-NY urges the Legislature to provide funding for an independent analysis of equity, access and quality of telehealth services being delivered across our State, particularly with regards to behavioral health services for young people. We must also remain vigilant to potential issues with the quality of telehealth service provision that replaces in-person care, particularly for Early Intervention (EI) services, and how telehealth could affect integrated practices.

Additionally, the State should eliminate copays for telehealth visits which directly result in in-person office visits, so that patients are not required to pay two copays for the same visit reason.

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[23] "In COVID-Era New York, Suicidal Kids Spend Days Waiting for Hospital Beds," Center for New York City Affairs, January 2021, https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/601775c3f0007e386c5924e0/1612150213177/1_In+Covid-Era+New+York%2C+Suicidal+Kids+Spend+Days+Waiting+for+Hospital+Beds.pdf.

[24] "Black Youth Suicide in New York: An Urgent Crisis," Children's Defense Fund – New York, March 2021, https://www.cdfny.org/wp-content/uploads/sites/3/2021/05/Black-Youth-Suicide-in-New-York-An-Urgent-Crisis.pdf.

[25] "AAP-AACAP-CHA Declaration of a National Emergency in Child and Adolescent Mental Health," American Academy of Pediatrics, October 19, 2021, https://www.aap.org/en/advocacy/child-and-adolescent-healthy-mental-development/aap-aacap-cha-declaration-of-a-national-emergency-in-child-and-adolescent-mental-health/.

III. New York must repeal its Medicaid Global Cap.

The Governor's Executive Budget reflects the continuation of the Medicaid Global Cap enacted in FY 2012 and recommends funding consistent with last year's update to the allowable growth calculation. Due to this update, the Cap is calculated by basing it on the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by the Centers for Medicare and Medicaid Services (CMS) actuary. The FY 2025 Executive Budget reflects $11 billion in additional Medicaid spending growth between FY 2023 and 2027 as compared to the prior Global Cap growth metric. While this change was intended to allow for growth and account for age and acuity of enrollees, it ultimately keeps the Cap in place, which is in and of itself problematic.

CDF-NY has long warned that our State's Medicaid Global Cap creates an arbitrary and artificial shortfall for vital services that enable New Yorkers to remain healthy and independent members of society and to provide for themselves and their families. The Cap fails to properly account for the true growth in health care costs, predictable demographic shifts due to an aging population and increased health needs during natural disasters or pandemics, such as the one we are currently in. The nine months following the COVID-19 pandemic's arrival in New York saw a 12 percent growth in Medicaid enrollment with over 700,000 new enrollees – a strong affirmation of Medicaid's important role in responding to population health demands during times of economic downturn.

If the Medicaid Global Cap remains in place, future Medicaid budget 'gaps' will become a regular occurrence and could result in additional drastic cuts to our State's Medicaid program, such as those enacted in the Fiscal Year 2021 Budget. Furthermore, it is important to note that the Medicaid Global Cap effectively limits the amount of federal funding New York can receive for its Medicaid program.

CDF-NY thereby calls on the Legislature to protect our State's Medicaid beneficiaries – including more than two million children, one out of every three New Yorkers and one out of every two births in New York – by:

(1) Eliminating the Medicaid Global Cap and replacing it with a global budgeting system that is based on demand for services;

(2) Raising revenue to balance our State 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 anybody making recommendations regarding Medicaid policy and budget goals.

IV. Our State must expand health coverage for New Yorkers.

Despite the coverage gains our State has made in recent years, too many New York families – and disproportionately families of color – still lack affordable and comprehensive health coverage, harming both their mental well-being in addition to their physical health.

While passing the New York Health Act would provide universal coverage for all New Yorkers, health coverage for children and families can and must be improved – and racial disparities reduced – by:

Expanding Immigrant Health Coverage

Immigrant New Yorkers have been at the forefront of New York's fight against COVID-19, comprising one-third of our State's essential workers and playing a key role in all sectors of our battle against the pandemic. This ongoing exposure has contributed to disparate outcomes in COVID-19 infection and death, which have disproportionately afflicted immigrant communities of color. Another important driver of this inequity is the ongoing disparity in access to health care caused by the exclusion of undocumented New Yorkers from health insurance coverage due to their immigration status.

The FY25 Executive Budget authorizes the state to allocate $315 million per year in 1332 Waiver surplus pass-through funds to support premium subsidies and cost sharing reductions for individuals who are purchasing insurance through the New York State of Health Marketplace. The Budget is silent on using passthrough funding for expanding coverage to immigrants whose immigrant status renders them ineligible for coverage. CDF-NY urges the Legislature to authorize both measures in the FY25 Budget by using the $7.8 billion surplus to improve affordability of coverage for those that are already eligible and to offer it to those who are not.

There will be $7.8 billion in surplus funds at the end of the Waiver term in 2028. The cost of offering the subsidies, assuming 6% annual medical inflation, will be $1.378 billion. The costs of offering coverage to up to 150,000 low-income immigrants who are otherwise ineligible for coverage would be $4.972 billion. Together, these two provisions total $6.350 billion, leaving $790 million in surplus funding to spare.

In February of 2023, New York issued a draft federal 1332 waiver which other states have used to cover excluded immigrants. NY is CDF-NY is grateful that the Hochul Administration amended its Wavier proposal in November of 2023 to include coverage for immigrants who have Deferred Action for Childhood Arrival status. But our State can and should do more. Colorado, Washington, and California all have extended broad-based coverage to their undocumented immigrant population. New York should follow suit.

New York can offer coverage for all low-income immigrants without spending one state dollar. Moreover, in doing so, the state would ensure that all children and families have access to health care as well as *save* as much as $500 million State dollars used to pay for the costs of Emergency Medicaid for this same group of people.

CDF-NY strongly urges the Legislature to take this opportunity to use federal funds to offer coverage to immigrant, low-income New Yorkers. This step will improve the health of all New Yorkers, at no cost to the State.

Implementing Continuous Medicaid and Child Health Plus Eligibility Through Age 6

Nearly half of all children and over three-quarters of children living in poverty in New York receive health coverage under Medicaid and Child Health Plus. Our State can safeguard the health of the youngest New Yorkers (and particularly, of our young New Yorkers of color), protect children against insurance churn and coverage losses, and offer continuity of care during a period of critical growth and development by implementing continuous Medicaid and Child Health Plus eligibility for children through the age of 6. Doing so would increase access to care for the youngest New Yorkers, including behavioral health services and timely preventive care services such as vaccinations. This would ensure that no child in need misses out on critical health care services due to a lapse in health insurance coverage. Furthermore, the burden of enrolling a child in care during those years would be lifted from parents and renewal processing for managed care organizations and state systems would be reduced.

The Executive Budget amends the law to provide continuous Medicaid and Children's Health Insurance Program coverage for any eligible child under six years old. Allowing children under age six to access continuous health care coverage ensures that no child in need misses out on critical health care services due to a lapse in health insurance coverage. CDF-NY urges the Legislature to include coverage for any eligible child under age six in the final budget.

New York should increase funding for enrollment assistance and outreach.

Over 100,000 New York children are currently uninsured. While most of these children are eligible for health coverage, their families are often unaware of the free or affordable coverage options available to them. Furthermore, even when New Yorkers are aware of coverage options, fragmented and confusing plan options often create barriers for consumers. Navigators, who can provide in-person assistance to families seeking health coverage and clarify often-complicated enrollment procedures, have helped over 300,000 New Yorkers enroll in coverage since 2013. The 2023-24 Budget included a one-year cost-of-living increase of $300,000, which increased the total allocation to the Navigator program to $27.5 million in Fiscal Year 2024. However, the Navigator program has not received more than a single year cost-of-living adjustment since 2013. Under this essentially flat funding scenario, the Navigator programs have had to lose more and more staff to keep up with inflation.

More must be done for our navigators. The State must increase the health insurance navigator budget from $27.2 million to $38 million to guarantee high-quality enrollment services for New Yorkers and to reflect ten years without appropriate increases. The State must also allocate $5 million to fund community-based organizations so that they are able to conduct outreach in communities with high uninsured rates and educate consumers about coverage options. This is particularly important in immigrant communities where policies like public charge have left a chilling effect.

V. New York Must Establish and Independent Office to Produce Racial and Ethnic Impact Statements for *All* Proposed Rules and *All* Legislation Leaving Committee

New York's pervasive racial and ethnic disparities harm our State and must be urgently addressed through meaningful systemic change. The COVID-19 pandemic has provided irrefutable evidence of the long-standing, deeply-rooted racial inequities that have caused increasingly disparate outcomes in New York State and throughout the nation for far too long. These wide-ranging and long-standing inequities, encompassing such areas as healthcare access, involvement in the child welfare and youth justice systems, economic security, educational opportunity, access to safe and healthy housing, and workforce disparities, continue to harm New York's most marginalized children, youth, families, and communities. In fact, in a national comparison of state structural inequities, New York was recently classified as having among the highest structural racism and income inequality indexes in the United States.[26]

The clear urgency of taking decisive action to end New York's entrenched racial inequalities is particularly evident with regards to the racial and ethnic disparities in New York's alarmingly high poverty and child poverty rates. As noted in a report released by New York State Comptroller DiNapoli last December, almost 2.7 million New Yorkers, or 13.9 percent of our State's population, lived in poverty in 2021, compared to 12.8 percent of all Americans. Poverty rates are more than double for Hispanic New Yorkers compared to white, non-Hispanics, with one-fifth of New York's Hispanic population living below the poverty level in 2021. Black, Native Hawaiian and other Pacific Islander and American Indian New Yorkers experienced poverty at twice the rate of white New Yorkers in 2021.[27] Racial and ethnic disparities are particularly pervasive in New York's immoral child poverty crisis, with Black and Latinx children more than twice as likely as white children to live in poverty statewide and 10 to 13 times more likely than white children to live in poverty in Manhattan.[28] Asian Americans have the highest poverty rates in New York City, with Asian children 5 times more likely to live in poverty than white children in Manhattan.[29] Syracuse carries the highest child poverty rate in the nation among cities with at least 100,000 people (48.4 percent), with Buffalo and Rochester also ranking within the top ten list of large U.S. cities with the highest child poverty rates. These are but a few of the pervasive, wide-ranging, and long-standing disparities and

[26] Patricia Honan, Tyson H. Brown, and Brittany King. August 6, 2021." Structural Intersectionality as a New Direction for Health Disparities Research." *Journal of Health and Social Behavior*, 62(3), https://doi.org/10.1177/00221465211032947.

[27] New York State Comptroller Thomas P. DiNapoli, "New Yorkers in Need: A Look at Poverty Trends in New York State for the Last Decade," December 2022, https://www.osc.state.ny.us/files/reports/pdf/new-yorkers-in-need-poverty-trends.pdf.

[28] U.S. Census Bureau, American Community Survey 5-Year Detailed Estimates. To view CDF-NY's county data profiles, please visit https://cdfny.org/county-profiles/.

inequities that assault people and communities of color in our State and around the nation due to the racist impact of our policies and regulations.

Our State can lead the nation in embarking on the path to achieving equity in all policies by establishing an independent office to ensure that we no longer pass legislation or adopt rules without first examining whether these policies have the potential to create, eliminate, or perpetuate racial and ethnic disparities. Enacting new legislation and rules without first evaluating their potential to disproportionately impact our communities of color only perpetuates these disparities. In the absence of racial and ethnic impact assessment, legislation that "appears" race-neutral at face value can, in practice, adversely – and disparately – affect New York's children and families of color. Just as our State legislators consider the fiscal and environmental impacts of new laws, so too must they examine the potential racial and ethnic impact of *all* legislation and rule-making activity through the preparation of racial impact statements. By doing so, New York would join the growing rank of states who have acted to center racial equity in legislating by passing racial impact statement legislation [30] and would build on progress made in advancing racial equity in New York City through such efforts as EquityNYC and the racial justice ballot proposals spearheaded by the New York City Racial Justice Commission.

In order to implement this approach, our State will need to invest more resources in its legislative and rule-making processes. Furthermore, the evaluation of racial and ethnic impact needs to be insulated from politics – meaning the office producing the impact statements should be independent from both the Legislature and the Governor. Maintaining this independence will ensure that meaningful, unbiased impact statements are faithfully and consistently produced at an optimal level.

Undoing generations of racial and ethnic disparities and institutionalized harm demands an anti-racist approach that actively examines the role of legislative and regulatory action in perpetuating inequality in New York. In order to ensure that our laws truly advance racial and ethnic equity and in order to begin to dismantle systemic racism, New York should adopt:

(1) The establishment of an independent office or entity tasked with producing racial and ethnic impact statements.

(2) A requirement that all bills advancing out of committee in the legislature and amendments to bills must be accompanied by a racial and ethnic impact statement.

(3) A requirement that all proposed rules must be accompanied by a racial and ethnic impact statement upon introduction.

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[29] U.S. Census Bureau, American Community Survey 5-Year Detailed Estimates. To view CDF-NY's county data profiles, please visit https://cdfny.org/county-profiles/.

[30] Children's Defense Fund – New York, "Leveraging Racial & Ethnic Impact Statements to Achieve Equity in *All* Policies: National Context," July 22, 2022, https://cdfny.org/wp-content/uploads/sites/3/2022/07/Racial-Ethnic-Impact-Statement-Legislation-National-Context-Updated-July-2022-1.pdf.

(4) A requirement that racial and ethnic impact statements must include an estimate of the impact of the proposed bill, proposed amendment or proposed rule on racial and ethnic minorities, and the basis for the estimate, including any specific data or other information relied upon.

(5) A prohibition against enacting legislation or proposing rules that are found to increase racial or ethnic disparities.

VI. New York must make investments to increase rates for Early Intervention (EI) service providers and to eradicate racial disparities in EI service provision.

Our State's livelihood depends on the health and well-being of *all* of our children, including infants and toddlers with developmental delays and disabilities. These children continue to experience difficulties accessing federally mandated, state-administered Early Intervention (EI) services that could enable them to catch up to their peers or prevent their delays from worsening during a time when such services are most impactful and cost-effective.

New York's EI payment rates are currently lower than they were in the mid-1990s, forcing experienced, high-quality providers to close their doors or to stop taking EI clients. Due to provider shortages, an alarming number of children identified as needing EI services have less access to quality services and face waitlists and delays, despite the fact that federal law requires timely EI service delivery. The COVID-19 pandemic has only exacerbated these access issues, causing disruption of in-person EI services and inequities in accessing teletherapy services. Furthermore, our State's children of color do not have the same access to services as compared to their White peers. Non-Hispanic white children are more likely to be referred to the EI program at a younger age than children of most other races and ethnicities, more likely to have their EI services initiated within 30 days and less likely to have services delayed by a discountable reason. [31]

I urge you to be a champion for young children by ensuring the following proposals are included in New York State's 2024-2025 budget:

1. New York State should provide an 11% increase in reimbursement rates for all Early Intervention services delivered in person. The Executive Budget proposal is for a 5% reimbursement rate increase. However, our children need an 11% increase. The primary cause of the delays and lack of in-person services is a severe shortage of therapists and other Early Intervention professionals, a result of decades of stagnant payment rates coupled with a payment system that is not providing increased compensation for the added costs, such as transportation and travel time, of delivering services in person at a child's home or child care program. We encourage you to support an 11% rate

[31] New York State Department of Health, Bureau of Early Intervention, "Executive Summary: Early Intervention Program Data: Race and Ethnicity For the Period July 2017-June 2020," August 2021, https://www.health.ny.gov/community/infants_children/early_intervention/docs/summary_eidata_race_ethnicity.pdf.

increase, so New York's children get the services they need, when they need them.

2. New York State should reform the method for Early Intervention reimbursement rates, as the current method is outdated and inadequate. The current method for determining rates is based on a formula largely unchanged since the mid-1990s. New York State must re-imagine its Early Intervention program to better serve families and children. While a rate increase is urgently needed now, the State should also conduct a comprehensive assessment of the methodology used to determine payment for all evaluations, services and service coordination and publish a report within 12 months. The report must include a plan to revise rates so that the program can attract and retain providers sufficient to meet the needs of all eligible families and comply with federal law.
3. New York State should create a student loan forgiveness program to attract new Early Intervention providers. To address the growing waitlists and workforce challenges plaguing Early Intervention, the State should incentivize recruitment of providers by offering a student loan forgiveness program for graduates of higher education institutions preparing Early Intervention professionals. The program should offer loan forgiveness to providers willing to provide in-person Early Intervention services in Medically Underserved (MUA) and/or Health Care Provider Shortage Areas (HPSAs).

All of New York's children deserve a chance to thrive and grow to their full potential. CDF-NY encourages you to support these long overdue reforms to the Early Intervention program.

VII. Investments to expand funding for our State's school-based health centers (SBHCs).

There must be sufficient investment to New York's school-based health centers (SBHCs), in order to ensure their long-term financial stability and to ensure that every child and young person that needs to access SBHCs for their mental wellness are able to do so. The State must also maintain general fund (non-Medicaid) revenues for SBHCs including a Legislative Add, and increase wraparound funding to School-Based Mental Health Clinics so services can be more comprehensive, inclusive, and effective.

Our State's 255 SBHCs provide vital physical and mental health care services to over 250,000 New York children and youth statewide, the majority of whom are Medicaid recipients. These Centers fill care gaps in our State's most medically underserved communities, where children may have limited access to comprehensive health services due to financial, geographical, and other barriers to care. SBHCs are staffed with a team of health care professionals and provide a wide range of preventive, 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. For some youth, SBHCs are their only source for counseling, health screenings, reproductive care, and immunizations. SBHCs are a powerful tool for reducing racial and ethnic disparities. According to the New York State Department of Health, 12 percent of youth served by SBHCs are uninsured, 44 percent are Latinx, and 27 percent are Black or African American. Sufficiently funding SBHCs is a racial justice issue.

SBHCs prevent unnecessary hospitalizations, reduce emergency room visits, improve school attendance, and avoid lost workdays for parents. SBHCs thereby improve both health and educational outcomes by helping to identify health barriers to learning (HBLs) – medical issues that when missed or undermanaged, can hinder children's ability to learn and succeed in school. SBHCs also save our State money. It is critical that the State increase its investment in SBHCs and consequently, in the health of New York children.

VIII. New York must expand the population of students that can receive Medicaid-covered school health services.

During this time of especially great need, our State must seize every opportunity to reach our children where they are and to provide them with access to critical, lifesaving and sustaining health and mental health services. Amidst the national decline in children receiving primary and preventive care services during the pandemic, bolstering the capacity of New York schools to meet the health needs of our students is imperative. New York can expand access to critical health services for thousands of additional students by submitting a Medicaid State Plan Amendment (SPA) to the Centers for Medicare and Medicaid Services (CMS) to permit public schools to bill Medicaid for health services delivered to all Medicaid-covered students, not just those with Individualized Education Programs (IEPs). Doing so would enable New York to not only expand its population of students accessing Medicaid-reimbursable school health services, but also to join California, Massachusetts, Connecticut and the growing rank of states currently leveraging federal Medicaid dollars to provide needed health services to students.[32] By enabling more students – particularly poor students of color in crisis – to receive high quality health services at school, this policy change would also enable New York to address the persistent health disparities that have been magnified by the COVID-19 pandemic.

IX. Pregnancy and Reproductive Health Care

Black maternal and infant mortality. We support Governor Hochul's efforts to address New York State's black maternal and infant mortality crisis by including in the Executive Budget includes several initiatives to improve access to care and health equity for pregnant New Yorkers: expanding New York's Paid Family Leave policy to include 40 hours of paid leave to attend prenatal medical appointments – making New York the first state in the nation to establish statewide coverage for prenatal care; expanding access to doula care through standing order, which would allow New Yorkers to utilize doula services without a referral from a physician, thereby, eliminating an unnecessary hurdle for pregnant mothers to cross, especially low-income mothers who rely on Medicaid for health insurance coverage; eliminating cost-sharing – including co-pays and other out-of-pocket costs – for pregnancy-related benefits for any New Yorker enrolled in the Essential Plan or Qualified Health Plans; launching new initiatives to reduce the rate of unnecessary C-sections, which will include

[32] "Schools Are Key to Improving Children's Health: How States Can Leverage Medicaid Funds to Expand School-Based Health Services," Healthy Schools Campaign, January 2020, https://healthyschoolscampaign.org/dev/wp-content/uploads/2020/02/Policy-Brief-1-28-20.pdf.

new oversight measures to identify physicians whose behavior is out of line with clinical best practices, allowing the Department of Health to hold providers – including those overutilizing C-sections – accountable, and it also includes a new Medicaid financial incentives for hospitals to reduce the number of unnecessary C-sections; addressing maternal mental health and post-partum depression through mental health supports; and reducing the risk of Sudden Unexpected Infant Deaths (SUID) by providing funding for the distribution of portable cribs for under resourced New Yorkers at no cost. CDF-NY urges the Legislature to include these initiatives in the final FY25 Budget.

X. Fully Fund Healthy School Meals for All

New York took an important first step when last year's state budget included $134.6 million for increased access to free school meals for students. Thanks to this investment, over 300,000 additional students in 1,100 schools across New York are able to receive breakfast and lunch at no cost.

But we need to finish the job. An estimated 750 schools serving 360,000 students across New York still lack free school breakfast and lunch for all students. The schools left behind are not "affluent" schools. In fact, across these 750 excluded schools, one in five students are economically disadvantaged. Families in these largely suburban communities are struggling as costs of living continue to rise, yet they lack the support that neighboring communities have from a free school meals for all program. Providing statewide Healthy School Meals for All is a tangible way to make New York more affordable for all families.

One in six children in New York experience hunger and many families who struggle to make ends meet do not qualify for free school meals under the current rules. Students who do qualify still fall through the cracks because of poverty stigma, and administrative and language barriers that prevent families from applying for free school meals. No student in New York – no matter the school they attend – should struggle with hunger.

Funding Healthy School Meals for All in the FY2025 state budget is a concrete, evidence-based step to reduce child hunger and advance equity in health and education across the state. Studies show a direct link between access to universal school meals and improved academic performance, attendance, and classroom behavior. Every dollar invested in providing healthy meals for students leads to at least two dollars in health, economic, equity, and environmental benefits. This policy will also broaden the scope of the growing Farm to School movement in New York. In short, this investment is a win-win for children, families, communities, and the State's economy.

New York can and must join the eight states leading the way with Healthy School Meals for All policies, including our neighbors in Vermont and Massachusetts, along with Maine, Minnesota, Michigan, Colorado, New Mexico, and California.

The time is now to make free school meals available to every student in New York. We respectfully and urgently request you fully fund Healthy Schools Meal for All in this year's budget.

XI. Protecting New York's Families from Medical Debt

The issue of medical debt is a marginalized family issue, as over 740,000 New Yorkers have medical debt in collections.[33] Researchers at the Community Service Society have identified over 75,000 medical debt cases brought by non-profit and government-operated hospitals against New Yorkers since 2015. An analysis of random samples of these cases indicates that a disproportionate amount of medical debt lawsuits is brought in zip codes where residents are people of color, low-income, or both.[34] In 2023, Urban Institute researchers found that the areas of New York with high rates of medical debt are often hotspots for hospital lawsuits against patients.[35] Three-quarters of some or all medical debt is owed to hospitals .Uniquely amongst all other states, New York annually provides around $1 billion through its Indigent Care Pool to its hospitals, with the intention of incentivizing them to comply with the State Hospital Financial Assistance Law (HFAL). The HFAL which requires hospitals to offer financial assistance to patients with incomes up to 300% of FPL. But the evidence cited above indicates that this system has failed New Yorkers miserably. The Executive Budget provides three excellent starting points to reform our State's broken medical debt regime.

A. Age Legislature Should Adopt and Improve The Executive Budget's Proposal to Improve the Hospital Financial Assistance

CDF-NY commends the Governor for seeking to substantially reform New York's HFAL. In addition to supporting these changes, the Legislature should improve upon the HFAL by adopting several provisions from the Ounce of Prevention Act's (S1366B/A6027A), detailed below. The following provisions of the Executive Budget should be adopted:

- Increasing the income eligibility for hospital financial assistance. The Executive Budget suggests increasing the eligibility from 300-400% of FPL. CDF-NY urges the Legislature to go further and offer discounts to patients with incomes up to 600% of FPL.
- Both the Executive Budget and the Legislature propose the following reforms be made and HCFANY urges that they be adopted in the final FY25 Budget:

    - Discount schedules should be pegged off of the Medicaid rate.
    - Monthly payments plans should be capped at 5% of a patient's gross family income. CDF-NY urges the Legislature to adopt this change.
    - The existing law's asset test only for poor patients should be eliminated.
    - Patients should be able to apply for hospital financial assistance at any time during the collections process instead of the current law's 90-day time limit.

[33] Karpman, Michael, et al. Urban Institute, 2023, *Medical Debt in New York State and Its Unequal Burden across Communities*, https://www.urban.org/research/publication/medical-debt-new-york-state-and-its-unequal-burden-across-communities.
[34] Community Service Society of New York, *Discharged Into Debt* (March 2020); *Discharged into Debt: A Pandemic Update* (January 2021); *Discharged Into Debt: Racial Disparities and Medical Debt in Albany County* (March 2021); *Discharged Into Debt: Nonprofit Hospitals File Liens on Patients' Homes* (November 2021); *Discharged Into Debt: Hospital Profile – Upstate University Hospital* (2022); and *Discharged Into Debt: New York's Nonprofit Hospitals Garnish Patients' Wages* (July 2022); *An Ounce of Prevention: Reforming the Hospital Financial Assistance Law Could Save Pounds of Patient Debt* (April 2023).
[35] Karpman, Michael, et al. Urban Institute, 2023, *Medical Debt in New York State and Its Unequal Burden across Communities*, https://www.urban.org/research/publication/medical-debt-new-york-state-and-its-unequal-burden-across-communities.

- Hospitals should be required to report the race, ethnicity, gender, age, and insurance status of patients who apply for, receive, and are denied financial assistance.
  Written notification of hospital financial assistance should be required during intake, registration, and discharge.

The Legislature should also incorporate the following provisions from its Ounce of Prevention Act (S1366B/A6027A):

- The HFAL should apply to ALL New York State hospitals, not just those participating in the Indigent Care Pool.
- The Ounce of Prevention also includes time-limited debt repayment plans to prevent New Yorkers from being strapped with medical debt for the rest of their lives. Individuals with incomes from 200 to 400 % of FPL would have their debts forgiven after 36 months of payments the same would be true for individuals with incomes from 400 to 600 % of FPL after 60 months of payments. All providers at the hospital should follow the hospital's HFA policy, not just those employed by the hospital.
- Hospitals should not require deposits for medically necessary care.

The Legislature Should Adopt the Executive Budget's Proposal to Limit Hospitals' Ability to Sue Low-Income Patients Medical Debt

The Executive Budget prohibits hospitals from suing patients with incomes below 400% of FPL. CDF-NY strongly supports this prohibition as these lawsuits are damaging to the wellbeing of New Yorkers, many of whom are low-income. CDF-NY urges the Legislature to additionally prohibit state-operated hospitals from suing patients for medical debt by adopting the provisions of the Stop Suny Suing Bill (A8170/S7778).

Hospitals are always represented by debt collection attorneys while patients—who as described above are typically low-income people—rarely have representation. A systematic sample of over 31,000 New York medical debt lawsuit court files found that the median judgment amount was just $1,900 and that 98% of cases were won by default.[36] A judgment will stay on a patient's record for 20 years, further contributing to the devastating and lasting impact of a medical debt lawsuit.[37]

The five State-operated hospitals that are the subject of (A8170/S7778) have sued over 15,000 patients since 2019. By contrast, most of the 210 other hospitals in New York State do not sue their patients at all or only do so very rarely. Nationally and in New York, many hospitals are discontinuing or reducing the practice of suing patients or erasing patients'

[36] Dunker, Amanda, and Elisabeth R Benjamin. "Discharged into Debt: New York's Nonprofit Hospitals Garnish Patients' Wages." Discharged Into Debt: New York's Nonprofit Hospitals Garnish Patients' Wages | Community Service Society of New York, www.cssny.org/publications/entry/discharged-into-debt-new-yorks-nonprofit-hospitals-garnish-patients-wages.

[37] New York State Unified Court System. "Judgments." *Judgments | NY CourtHelp*, nycourts.gov/courthelp/goingtocourt/judgments.shtml.

medical debt.[38] The five State-operated hospitals receive over $530 million annually in Disproportionate Share Hospital (DSH) funding – while the other 200 hospitals in the State receive far less funds to offset their uncompensated care losses.

Suing patients does little to offset the State-run hospitals' margins. For example, the total amount SUNY Upstate sued patients for in one year is an estimated $16 million. SUNY Upstate's annual operating budget was $1.5 billion, indicating its life-ruining practice of suing its patients will do little to ameliorate its bottom line.[39] CDF-NY urges the Legislature to prohibit State-run hospitals from suing patients for medical debt by adopting the provisions of the Stop SUNY Suing Bill (A8170/S7778) in the Final FY25 Budget.

Other Medical Debt Protections Should be Reviewed and Potentially Adopted in the FY25 Budget

The Executive Budget also includes two other important medical debt protections that the Legislature should adopt: (1) informed consent for payment; and (2) medical credit card reform.

The Executive Budget seeks to address the common practice of providers requiring patients to agree to pay all the costs in advance of being provided treatment—without knowing what those costs will be. This does a disservice to patients who routinely have no idea how much of or even whether their insurance will cover the procedure. CDF-NY is still reviewing the Executive Budget's technical language, but strongly endorses the conceptual framework being proposed.

Similarly, CDF-NY is aware that more and more providers are offering their patients' medical credit cards without fully disclosing the predatory nature of these financial products, whose interest rates are as much as 26 percent. HCFANY is still reviewing the Executive Budget's technical language, but strongly endorses the conceptual framework being proposed.

Conclusion

By following the priorities laid out in this testimony, New York will be on track to improve the lives of its most vulnerable, its children.

1. Investments to **end childhood lead exposure and poisoning in New York**, which threatens the health and wellbeing of the youngest New Yorkers.

[38] Jay Hancock, Elizabeth Lucas, and Kaiser Health News, "UVA Health System revamps aggressive debt collection practices after report," September 13, 2019, https://www.washingtonpost.com/health/uva-health-system-revamps-aggressive-debt-collection-practices-after-story/2019/09/13/4a381a0a-d629-11e9-9343-40db57cf6abd_story.html; Wendi C. Thomas, "Methodist Le Bonheur erases debts of more than 6,500 patients it sued," MLK50 Memphis, September 24, 2019, https://mlk50.com/we-reported-on-methodist-le-bonheur-suing-patients-it-erased-the-debts-of-more-than-6-500-patients-ade13e8e2e6d; Wendi C. Thomas, "The US hospitals suing the poor over bills they can't afford," MLK50, June 27, 2019, https://www.theguardian.com/us-news/2019/jun/27/us-hospitals-lawsuits-medical-bills.

[39] Dunker, Amanda, and Elisabeth Ryden Benjamin. "Discharged into Debt: Hospital Profile - Upstate University Hospital." Discharged Into Debt: Hospital Profile - Upstate University Hospital | Community Service Society of New York, Dec. 2022, www.cssny.org/publications/entry/discharged-into-debt-hospital-profile-upstate-university-hospital.

2. Investments to **ensure equity, access, and quality of telehealth service** provision statewide.
3. **Repeal New York's Medicaid Global Cap**.
4. Investments to **expand health coverage for children and families** in New York.
5. Investments to establish an independent office to **produce racial and ethnic impact statements for all proposed rules and all legislation leaving committee**, in order to address health disparities in New York's policymaking process.
6. Investments to **increase rates for Early Intervention (EI) service providers** and to eradicate racial disparities in EI service provision.
7. Investments to **expand funding for our State's school-based health centers** (SBHCs).
8. Investments to **expand school health services**, which includes expanding the population of students that can receive Medicaid-covered school health services and ensuring that all children have access to school-based health services.
9. Investments to **address New York's Black maternal and infant health crisis**.
10. Investments to **fully fund Healthy School Meals for All**
11. **Protect New York's Families from Medical Debt**

Thank you for your time and consideration. The Children's Defense Fund – New York looks forward to working with you on a State budget that improves the health and well-being of children, young people, and their families and communities in marginalized communities in New York.