

February 25, 2021

**Testimony of Health Justice Director Amber Khan, Esq.,
on behalf of New York Lawyers for the Public Interest
before the Joint Legislative Budget Hearing on Health and Medicaid**

Thank you for the opportunity to present testimony regarding the Executive Budget’s proposed changes to the Essential Plan, telehealth and the elimination of barriers for gender designation on identity documents and name changes for transgender and gender non-conforming New Yorkers.

New York Lawyers for the Public Interest (NYLPI) is a community-driven civil rights organization with a Health Justice Program that brings a racial equity and immigrant justice focus to healthcare advocacy. We work to connect undocumented and uninsured immigrants with serious health conditions to state-funded healthcare, provide direct legal services to transgender, gender-nonconforming, intersex (TGNCI) and undocumented individuals living with HIV by filing for viable immigration relief, advocate for healthcare coverage for all New Yorkers, and work to address the social determinants of health. We believe health justice affects all parts of New Yorkers’ lives.

The Essential Plan

The proposed elimination of Essential Plan premiums “for enrollees with income levels between 150 and 200 percent of the Federal Poverty Level (\$39,300 to \$52,400 for a family of four in 2021)” is a positive step towards making healthcare more affordable for New Yorkers. However, it is not nearly enough. For the 400,000 immigrant New Yorkers who are undocumented and uninsured, access to healthcare itself is deeply limited; they rely primarily on expensive visits to the emergency room — or simply go without medical care entirely. Due to the spread of Covid-19, this situation has become most dire, especially for people suffering from serious and chronic illnesses. NYLPI has long supported accessible healthcare for *all* New Yorkers, including immigrants.

We strongly support Senate bill 2549 / Assembly bill 1585, which would temporarily extend Essential Plan coverage to income-eligible New Yorkers who have had confirmed or suspected cases of COVID-19 and who are otherwise ineligible for coverage because of their immigration status.

Immigrant New Yorkers have been at the forefront of the state’s fight against COVID-19, representing one-third of the state’s essential workers and playing a key role in all sectors of our battle against the pandemic, from food production and delivery, to construction, to providing

frontline health care. This ongoing exposure has contributed to higher levels of COVID-19 infection and death, which have disproportionately afflicted immigrant communities of color. The single greatest predictor of mortality among people who contract COVID-19 is the existence of an underlying health condition. Having health insurance is an important predictor of having regular access to care and controlled chronic health conditions. The connection is clear – by failing to provide meaningful ongoing access to affordable health services through coverage, the state is exacerbating the COVID-19 crisis. The pandemic presents a grim opportunity to see the life-and-death consequences of this inaction. Senate bill 2549/Assembly bill 1585 offer an opportunity for New York State to seize the moment and take a step toward equity in health care access for the communities suffering most acutely from this crisis, by ensuring access to affordable health insurance coverage.

We appreciate the Governor’s interest in supporting affordable healthcare. To truly deliver that care for all New Yorkers, accessibility - particularly during a public-health crisis – must be prioritized.

Comprehensive Telehealth Reform

The proposal to codify and make permanent certain COVID-19 related expansions to telehealth services is again a positive step towards ensuring access to healthcare for more New Yorkers. However, the telehealth services themselves must be assessed and improved to ensure they are in fact accessible for all New Yorkers, including people with disabilities.

Nearly one million New Yorkers self-identify as people with disabilities.¹ Many already faced physical barriers to basic health services at their doctors’ offices, clinics, or hospitals, including inaccessible entrances and unusable basic medical equipment such as examination tables. NYLPI has a long history of working to ensure medical access for people with disabilities, has published reports on the topic and represented individuals facing barriers to accessible medical care. We pursue systemic improvements and work with a coalition of advocates and City and State civil rights enforcement agencies, connecting with community members to educate them about their rights to accessible medical equipment, accessible facilities, reasonable accommodations, and how to file complaints.

During COVID-19, telemedicine, a valuable tool in the effort to control the spread of COVID-19, has grown exponentially. However, certain people with disabilities are unable to benefit from this necessary health care option.² Having a disability, in some instances, increases the threat of

¹ See <https://www.nyhealthandhospitals.org/new-york-city-council-oversight-hearing-the-delivery-of-culturally-competent-equitable-health-care-services-in-new-york-city-hospitals/>.

² See <https://mhealthintelligence.com/news/nyc-hospitals-create-blueprint-for-covid-19-triage-by-telehealth>. See also <https://www.mdpi.com/1010-660X/56/9/461/htm> (“The advantages of telemedicine in assessing and managing Covid-19 have been highlighted here, but when deciding whether this approach is the right one for an individual patient, it is important to consider the drawbacks. Telehealth is only possible if the patient has literacy in the modality used for delivery and if the internet or phone connection is of reasonable quality. Bandwidth, software or other technical issues may interfere with data transmission and obstruct visual and/or auditory aspects of communication. This problem may be encountered more commonly in rural areas and in socioeconomic disadvantaged environments with limited access to technology. Privacy and confidentiality may also be an issue for

COVID-19;³ many with disabilities have underlying conditions which are known to increase the serious health risks associated with contracting COVID-19.⁴ In fact, adults with disabilities are three times more likely than those without disabilities to have heart disease, stroke, diabetes, or cancer.⁵ Furthermore, a large percentage of people with disabilities live below the poverty line; without baseline technology devices and broadband internet, the telehealth platform is not useful. Certain people with disabilities may also not possess the level of technology literacy necessary to utilize telemedicine. Additionally, people with disabilities with communication impairments may not be able to use the technology without the assistance of an interpreter. The lack of in-person connection between the medical providers and people with disabilities risks the delivery of a lower level of care.

To address these access barriers, appropriate funding must be allocated to ensure that users possess adequate technology devices and internet services, trainings must be provided to raise technology literacy levels when appropriate, and procedures must be instituted to address the risks of diminished quality of care when treating people with disabilities through telemedicine.

Elimination of Barriers for Gender Designation on Identity Documents and Name Changes for Transgender and Gender Non-conforming New Yorkers

For many of the clients and communities NYLPI works with, legal gender affirmation is critical to their health and well-being. Tragically, the legal name change process can be lengthy, arduous, and dangerous.⁶ More and more states are changing their laws to allow residents to more easily change the gender marker and name on government identification.⁷ A recent study found that legal “gender affirmation was significantly associated with lower reports of depression, anxiety, stigmatization, global psychiatric distress, and upsetting responses to gender-based mistreatment.” Further, the “[f]indings bolster calls to increase structural support for trans individuals, including enactment of state policies easing legal gender affirmation.”⁸ NYLPI is supportive of the Governor’s proposal to meet this need.

In 2020, NYLPI launched a new project, UndocuCare TGNCI+, aimed to break down two major barriers to accessing health care: lack of immigration status and risk of detention. Undocumented TGNCI individuals, doubly marginalized due to citizenship status and gender

patients using equipment in areas frequented by other household members. Use of headphones by the patient may be helpful, but do not guarantee privacy. Persons with barriers to use of technology such as visual or hearing impairments may require in-person visits, although specialized communication platforms can make telecare feasible in some circumstances. Without the in-person encounter, the feeling of a personal connection and establishment of a provider-patient relationship with the key elements of trust and mutual respect is more difficult.”)

³ See <https://www.thecity.nyc/2020/8/5/21356516/homes-for-people-with-disabilities-isolate-covid> (“Emerging research suggests people with developmental disabilities are far more vulnerable to COVID-19 than the general population.”)

⁴ See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-disabilities.html>.

⁵ *Id.*

⁶ National Center for Transgender Equality, *Name changes and forced outing: a small victory* (Nov. 19, 2019), <https://transequality.org/blog/name-changes-and-forced-outing-a-small-victory>.

⁷ Arjee Restar et al., *Legal gender marker and name change is associated with lower negative emotional response to gender-based mistreatment and improve mental health outcomes among trans populations*, 11 *Population Health* 1-9 (2020).

⁸ *Id.*

identity, face particular challenges, including discrimination in health care, verbal harassment and refusal of treatment. Disparities in care are multiply compounded when a person is undocumented and, as a result, uninsured. Through UndocuCare TGNCI+, NYLPI has committed to confronting these barriers to healthcare access by providing immigration representation and connecting individuals to life-affirming and life-saving healthcare as well as comprehensive services, including assistance with legal name petitions. We are hopeful this proposed change will support our clients, as it is crucial for many of them to have legal names and identity documents that match their gender identities.

Thank you for your consideration. I can be reached at akhan@nylpi.org.

About New York Lawyers for the Public Interest

For over 40 years, New York Lawyers for the Public Interest (NYLPI) has been a leading civil rights advocate for New Yorkers marginalized by race, poverty, disability, and immigration status. Through our community lawyering model, we bridge the gap between traditional civil legal services and civil rights, building strength and capacity for both individual solutions and long-term impact. Our work integrates the power of individual representation, impact litigation, and comprehensive organizing and policy campaigns. Guided by the priorities of our communities, we strive to achieve equality of opportunity and self-determination for people with disabilities, create equal access to health care, ensure immigrant opportunity, strengthen local nonprofits, and secure environmental justice for low-income communities of color.

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