



American Cancer Society ☞ Children's Defense Fund-New York ☞ Community Service Society of New York  
Consumers Union ☞ Empire Justice Center ☞ Make the Road New York ☞ Medicare Rights Center  
Metro New York Health Care for All Campaign ☞ New Yorkers for Accessible Health Coverage ☞  
New York Immigration Coalition ☞ Project CHARGE  
Public Policy and Education Fund of New York/Citizen Action of New York  
Raising Women's Voices-New York ☞ Schuyler Center for Analysis and Advocacy  
Small Business Majority

## HEALTH CARE FOR ALL NEW YORK **Budget Commentary**

2016-17 New York State Executive Budget  
Part B, §5 Health and Mental Hygiene Article VII Legislation

S06407, Part B, §37 and §38

MARCH 22, 2016

Health Care for All New York (HCFANY) is a statewide coalition of over 170 organizations dedicated to achieving quality, affordable health coverage for all New Yorkers. We strive to bring consumer voices to the policy conversation, ensuring that the concerns of real New Yorkers are heard and reflected. HCFANY supports efforts to keep medications affordable. Two proposals, one in the Executive Budget and one in Senate Bill 06407, attempt to do so by creating State review processes for drug prices. However, HCFANY believes that such efforts should also protect access and increase transparency.

It is difficult for those who pay for medications, including the Medicaid program, to assess when drug prices are fair. Some of the causes of rising drug costs are well known – for example, there are fewer generics coming to market. But there is little transparency about other factors affecting drug prices, including development and manufacturing costs.

The Governor's Budget Bill seeks to address this problem by creating a mechanism for identifying drugs that are critical to public health and for which there may be significant negative impacts from high prices. When drugs are deemed critical, the Department of Health would create a ceiling price based on information provided by drug manufacturers about the costs of producing the drug. This includes research and development, marketing, the prices charged in other countries, the number of entities manufacturing the drug, and other information. When the Medicaid program is charged more than this ceiling price, the manufacturers would be asked to provide rebates.



The Senate's one-house Budget Bill also provides for State review, which would be triggered when the drug's wholesale acquisition cost increases by one hundred percent or more over a year. If the review determines that the manufacturer has raised the price excessively, the State would authorize Medicaid managed care plans to require prior authorization for its use, and refer the issue to the Attorney General. The case may also be referred to the appropriate court, who may issue a fine of up to \$25,000 or order restitution to consumers.

HCFANY opposes the prior authorization enforcement mechanism because it may restrict access. Any proposal meant to control drug costs should ensure that consumers have access to medically-necessary drugs, as determined by their provider. Efforts to reign in unfair drug price hikes should not penalize consumers.

However, HCFANY generally supports government action to moderate drug prices, as do the majority of Americans from both parties.<sup>1</sup> Increasing price transparency and limiting unfair price hikes would help keep vital medications available to people who need them. Transparency about the costs of researching and manufacturing drugs would protect manufacturers of drugs whose costs have truly increased.

HCFANY recommends three actions on drug prices that were not included in either proposal. First, information reported by drug manufacturers for State review should be posted online for public consumption.

Second, the State should establish a multi-stakeholder task force or working group to develop guidelines for priority drugs in need of state review. This group should include providers, payers, pharmaceutical representatives, and consumers in equal proportion. A working group process could ensure that whatever action the State ultimately takes is consumer-friendly and effective.

Finally, the State should mandate the establishment of a website that helps consumers compare the costs and effectiveness of different medications, and allows consumers to report problems with drug prices. There are a couple of examples that could serve as models. Humana's IntelligentRx service allows physicians to see what their patients will pay for a new prescription and suggests alternatives when available.<sup>2</sup> FAIR Health, which was established as part of a settlement between the Attorney General and New York's health insurers, uses charge data to help consumers estimate medical costs.<sup>3</sup> A similar site should be created that performs this service for consumers managing prescriptions.

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<sup>1</sup> Henry J. Kaiser Family Foundation, *Kaiser Health Tracking Poll: October 2015*, (October 28, 2015), <http://kff.org/health-costs/poll-finding/kaiser-health-tracking-poll-october-2015/>.

<sup>2</sup> Michael Johnson, *Is Humana's new Rx price tool a game changer?* (October 22, 2015), Drug Store News, <http://www.drugstorenews.com/article/humanas-new-prescription-price-tool-game-changer>.

<sup>3</sup> *FAIR Health Consumer Cost Look-Up: FAQs*, <http://fairhealthconsumer.org/faq.php>.