Actors Fund ○ African Service Committee ○ Children's Defense Fund-New York
Community Service Society of New York ○ Consumers Union ○ Empire Justice Center ○ Hispanic Federation
The Legal Aid Society ○ 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
South Asian Council for Social Services ○ Young Invincibles

June 29, 2021

Linda A. Lacewell, Superintendent
John Powell, Assistant Deputy Superintendent for Health
NYS Department of Financial Services
One Commerce Plaza
Albany, NY 12257

RE: Requested Rate Changes – MVP Health Plan – MVP-132816048

Dear Superintendent Lacewell and Assistant Deputy Powell:

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. HCFANY is grateful for the opportunity to submit comments on the 2022 rate requests submitted by New York's individual market carriers. We deeply appreciate the Department's annual efforts to keep rates as low as possible through its robust public prior approval process. Below are comments on the individual market applications as a whole followed by specific comments on MVP's request.

I. Market-wide Conditions

New York's individual market is one of the biggest and most competitive in the country. The number of carriers selling individual market plans through the New York State of Health Marketplace (the Marketplace) has stayed stable at 12 for several years, and every part of the state has a choice of carriers. The latest enrollment data shows that most people (60%) who purchase private individual market plans in New York receive federal premium subsidies to do so.[1]

During the pandemic, New York State moved quickly to ensure that people kept their health insurance as economic conditions changed. The Marketplace established a continuous open enrollment period through January 31, 2022 and enabled automatic renewals for most of its current enrollees. Nonetheless, enrollment in the individual market dropped by 20% from 323,000 in 2020 to 261,000 in early 2021. However, this enrollment decline in New York's individual market is

[1] NY State of Health, "At a Glance: 2020 Open Enrollment Report," https://info.nystateofhealth.ny.gov/sites/default/files/2020%20NY%20State%20of%20Health%20Open%20Enrollment%20Report.pdf.

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likely a temporary phenomenon related to the disruption caused by the Covid-19 pandemic when many New Yorkers experienced substantial disruption in employment and income. The temporary enrollment decline should not impact the 2022 rate setting process for two reasons.

First, New York's individual market has been profitable for several years, even during the pandemic. One measure of profitability is the carriers' medical loss ratios, which are getting lower every year. The average medical loss ratio for New York's health plans has declined from 92.3% in 2017 to 87.3% in 2020. In fact, despite receiving the lowest ever average rate increase of just 1.8% for 2021, the carriers rate submissions project an average MRL of 89.5%.[2] Two key pandemic-related factors driving this result are the continued suppressed utilization of health care and the exponential adoption of telehealth, a far cheaper modality of providing care.[3]

Second, the American Rescue Plan's provides for financial assistance to purchase coverage to higher income New Yorkers earning between 400% and 600% of the federal poverty level (individuals earning between \$51,520 - \$77,280).[4] It also increases the generosity of the premium assistance for people who are already eligible for coverage through the Marketplace. This additional assistance is estimated to both increase the size and the health of New York's individual market risk pool.

The 12 carriers selling individual market plans through the Marketplace requested an average rate increase of 8.6%, with a range of -3.9% from MetroPlus to Healthfirst's 34.4%. The average (8.6%) is lower than that of recent years, but still too high for New Yorkers to manage.[5] HCFANY asks that New York State consider the following additional policy changes recommended by the Brooking Institute to make individual market plans more affordable. These steps could ensure that enrollments return to normal levels as the economy improves:

- Provide state-level premium subsidies for people who are ineligible for federal subsidies;
- Provide state-funded subsidies to reduce deductibles and other cost-sharing; and
- Adopt inexpensive outreach and facilitated enrollment strategies to ensure that people know what assistance is available and how to enroll. [6]

HCFANY would be delighted to discuss any of these policy proposals to improve enrollment and affordability in New York's individual insurance market.

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[2] https://www.dfs.ny.gov/reports_and_publications/press_releases/pr202008132
[3] J. Cantor et al (Rand), "Who Is (and Isn't) Receiving Telemedicine Care During the COVID-19 Pandemic," American Journal of Preventive Medicine, (Mar. 6, 2021).
[4] Congressional Budget Office Cost Estimate, American Rescue Plan, February 17, 2021, https://www.cbo.gov/system/files/2021-02/hwaysandmeansreconciliation.pdf.
[5] The average request was 11,8% for 2021, 9.7% for 2020, and 16.9% for 2019.
[6] Jason Levitis and Daniel Meuse, "The America Rescue Plan's Premium Tax Credit Expansion – State Policy Considerations, USC-Brookings Schaeffer on Health Policy, April 2021, https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2021/04/19/what-does-the-american-rescue-plans-premium-tax-credit-expansion-and-the-uncertainty-around-it-mean-for-state-health-policy/.

Additionally, HCFANY asks that the Department carefully consider the following issues as it reviews the rate request applications for 2022:

1. **The American Rescue Plan's increased premium subsidies will likely reduce premiums more than New York's plans are estimating.**

Increased subsidies mean more people will enroll in the individual market, creating a bigger, and healthier, pool that should lead to a decline in health costs and premiums. All but one of the plans reduced their rate request in anticipation of the additional members they will enroll in 2022 because of the American Rescue Plan. These reductions ranged from 1% to 6.7%.

The Department should consider reducing the rate requests further in response to the increased tax subsidies, or at the very least, adopting a 6.7% reduction to all the plans' rate proposals. The Urban Institute estimates that the additional premium subsidies created by the American Rescue Plan could reduce the number of uninsured in New York by 15% if they were made permanent and by 14% nationally.[7] That would mean about 163,000 currently uninsured New Yorkers would enroll into individual market plans, which would more than offset last year's pandemic-related decline. In 2021, there are 261,000 people in New York's individual market, so if the Urban Institute's estimate is correct it would increase by 62% to 424,000. Nationally, they estimate that the enrollment increases caused by permanent premium subsidy enhancements would reduce premiums by 15%.

The Urban Institute's estimate is higher than the Congressional Budget Office's estimate of 1.3 million fewer uninsured people nationally under the law as written, with the new subsidies ending in 2023.[8] Making the American Rescue Plan's changes permanent would eliminate any confusion or reluctance to enroll for those who are uncertain about buying individual market insurance. Whether this happens or not, proposals to reduce rates by just 1% or 2% are underestimating how much the new tax subsidies will help New York's risk pool. It is likely that consumers in states like New York which have high-performing enrollment assistance programs will experience less confusion than those in other states even with temporary subsidy increases. Thus, the Department should consider increasing the reductions each plan is incorporating into their 2022 rates to reflect the benefits of the new federal subsidies.

2. **The Department should consider disallowing medical trends over 6.0% this year**.

Medical trend is an important component of a carrier's rate proposal. It is an estimate of how much costs will go up for the medical care plans pay for on behalf of members. It includes changes in prices for medical services and changes in how often members obtain health care services.

[7] Banthin et al., "What if the American Rescue Plan's Enhanced Marketplace Subsidies Were Made Permanent? Estimates for 2022," The Urban Institute and the Robert Wood Johnson Foundation, https://www.urban.org/sites/default/files/publication/104072/what-if-the-american-rescue-plans-enhanced-marketplace-subsidies-were-made-permanent-estimates-for-2022_0_0.pdf.

[8] Congressional Budget Office Cost Estimate, American Rescue Plan, February 17, 2021, https://www.cbo.gov/system/files/2021-02/hwaysandmeansreconciliation.pdf.

Controlling medical trend, for example by negotiating good prices with health care providers, is the key function of health insurance.

The Department has disallowed medical trends over 7.5% for several years. While HCFANY appreciates the Department's approach of establishing a medical trend ceiling, 7.5% is much higher than the actual medical trend reported by the major firms that track medical trend. For example, Segal reports that the actual medical trend for HMOs was only 6.6% for 2019 and 6.0% in 2018 (see Table 1). PwC reported an actual medical trend of just 5.7% for both years. This suggests that the Department could have safely set a lower cap for medical trend in those years.

Table 1. Average Approved Medical Trend for On-Exchange Individual Plans in New York Compared to Nationally Reported Actual Trends

	NY On-Exchange Plans	PwC	Segal HMOs
2020	6.7%	6.0%	N/A
2019	6.8%	5.7%	6.6%
2018	6.4%	5.7%	6.0%
2017	6.9%	5.5%	6.6%

For 2022, the most recent estimates by PwC and Segal are both lower than 7.5%. PwC estimates 6.5% for 2022 for employer-sponsored plans, of which 0.5% is associated with Covid-19 costs.[9] The Segal Trend Survey of plans across the country reports an expected medical trend of 6.6% for HMOs, which is the type of plan offered by most of New York's individual market carriers.[10]

Five of the carriers are estimating a 2022 medical trend in New York of 6.0% or less. The average medical trend estimate for the carriers was only 6.2%, and one carrier, Independent Health, estimates that medical trend in its region will only be 2%. This real-world trend history should meaningfully inform the Department's trend benchmark. As it maintains its fiscal stewardship for New York's consumers, HCFANY urges the Department to establish a benchmark ceiling trend of no more than 6% this year.

3. **The Department should consider whether plans need an additional rate increase due to Covid-19 costs.**

Health insurers are required to cover Covid-19 vaccinations and testing without cost-sharing for all members. Most of the plans increased rates by less than 1% to account for these costs and five plans said that Covid-19 would not raise their claim costs above what is already reflected in their claims experience to date.

[99] PwC Health Research Institute, "Medical cost trend: Behind the numbers," June 2021,

[10] Segal, "2021 Medical Plan Cost Trends Similar to Pre-COVID-19 Levels," October 2020, available here: Medical Cost Trend, 2021 Health Plan Cost Trend Survey | Segal (segalco.com).

HCFANY requests that the Department disallow Covid-19 related premium increases for all plans following the lead of these five carriers. Most plans that included a Covid-19 increase cited vaccination costs; however, for the foreseeable future the federal government is covering much of this cost by allowing providers to submit claims directly to it instead of insurers. It is also unclear what type of vaccination schedule will be required for Covid-19. Accordingly, HCFANY urges the Department to disallow any premium rate increases related to unsubstantiated speculation about the scheduling and distribution of Covid-19 vaccinations and booster shots.

4. Actuarial Memos should be more detailed.

The applications that carriers submit as part of New York's public rate review process are a meaningful mechanism to educate consumers about health insurance in New York and to ensure transparency in our health insurance markets. Ever-skyrocketing premium increases based on mysterious and opaque health plan submissions hurt consumers and erode public trust that the State is doing what it can to keep health insurance affordable in New York. The rate change applications should make a strong public case for rate increases.

Since the restoration of the State's public prior approval process, HCFANY has urged the Department to use its regulatory authority to establish a standardized and transparent set of guidelines for the narrative summaries and the Actuarial Memos. These are the parts of the applications that should be most useful for lay people evaluating the plans' claims. Most of the plans use the Actuarial Memos to simply repeat the numbers already provided in Exhibit 18.

Some plans like Excellus provide step-by-step explanations for things like medical trend, while others like Oscar provide very little information about how they arrived at their various rate adjustments. It would be impossible for an enrollee—or even an expert—reading Oscar's Actuarial Memo or other application materials to understand its case for a 19% rate increase. This is unfair to the public and plans like Excellus that open themselves up to public critique by providing more detail.

Moving forward, the Department should provide a strict outline that all plans must follow for their Actuarial Memos and narrative summaries, and that requires an actual narrative explanation of the factors included in Exhibit 18. In order to ensure high-quality submissions, the Department should deny in full any rate increase that is proposed by a carrier with a non-compliant Actuarial Memo that fails to transparently detail the basis for the proposed increase. All carriers should:

- Make a detailed breakdown and description of their medical trend estimates by type of service (e.g. hospital, provider, pharmacy) and the strategies the plan will use to control medical trend.
- Include detailed information about the size of the carrier's provider networks and the provider consolidation cited in most applications as a factor that increases costs. Most plans simply state that costs are increasing because of provider consolidation without any further explanation. Consumers need to know more about the provider landscape insurers face when negotiating prices, both to understand what is happening with their own health

insurance and to understand what policy solutions New York should pursue to reduce health care costs. If provider consolidation is part of the case for increasing premiums, carriers should explain what that consolidation looks like.

- Provide information about reserve requirements and how much the plan has in reserve in comparison to what is required. Many plans cite these requirements when determining how much profit or surplus they will add to administrative costs. These assertions are not helpful without financial information about their current reserves and how their requested reserve contribution will affect those reserves.
- Finally, the carriers should be required to provide a description of savings related to the widespread adoption of telehealth. Are the carriers paying the providers the same rates as in-person health, or are they reimbursing them at a lower rate? If so, how much of that reduction is being passed on in rate savings to consumers?

5. Profits and surplus should be capped at 0.5% for 2022.

For the 2021 rates, the Department reduced all profit and surplus requests to 0.5%. HCFANY requests that the Department take the same action this year. Health insurers are currently reporting strong financial performances. For example, Empire's parent company Anthem says that net income is up by 9.5% in the first quarter of 2021, for a total of $1.7 billion in profits.[11] UnitedHealth Group is reporting profits of $4.9 billion, an increase of 44% from the first quarter of 2020.[12] Centene, which owns Fidelis, reported a revenue increase of 15% and that its net income has increased by over ten times what it was in March 2020.[13]

Meanwhile, New York State's economy is recovering slower than the rest of the country, especially employment.[14] Unemployment in New York City is twice unemployment in the rest of the country.[15] As pandemic protections end, New Yorkers will have to start paying medical bills, back rent, and other debt that piled up as they struggled to survive pandemic restrictions. It is only fair to expect these companies to sacrifice some profitability in their individual market book of business in order to make health insurance more affordable for New Yorkers.

[11] Anthem, "Anthem Reports First Quarter 2021 Results, Raises Full Year Outlook," April 21, 2021, https://ir.antheminc.com/news-releases/news-release-details/anthem-reports-first-quarter-2021-results-raises-full-year?field_nir_news_date_value[min]=

[12] Amanda Holpuch, "US health insurers reports billions in first quarter as small providers face stress," The Guardian, May 8, 2021, https://www.theguardian.com/business/2021/may/08/us-health-insurance-companies-2021-first-quarter

[13] Centene Corporation, "Centene Corporation Reports First Quarter 2021 Results and Increases 2021 Guidance," April 27, 2021, https://investors.centene.com/news-releases/news-release-details/centene-corporation-reports-first-quarter-2021-results-and.

[14] TOP Agency, "Pandemic Recovery Rankings Across the U.S.," June 8, 2021, https://topagency.com/report/pandemic-recovery/.

[15] Schwartz et al., "New York Faces Lasting Economic Toll Even as Pandemic Passes," New York Times, June 21, 2021, https://www.nytimes.com/2021/06/20/business/economy/new-york-city-economy-coronavirus.html

II. Specific Issues in MVP's Application

MVP is a non-profit that offers HMO and POS plans in New York's individual market. In 2021, it has 28,792 members, down from almost 35,000 in 2020 (a 17.5% decline). Its individual market plans serve all regions except Long Island. MVP expects to make a small payment into the federal risk adjustment program in 2022.

MVP seeks a 16.9% average rate increase for 2022, higher than the average 10.8% and the third highest request of all the major individual market plans. HCFANY asks that the Department scrutinize MVP's application carefully absent a detailed justification for such a large rate increase. Other issues for MVP are its high profit request, low adjustment for the American Rescue Plan subsidy increases, payments to brokers, and Covid-19 cost adjustment.

1. **MVP's Actuarial Memo and other application exhibits do not sufficiently explain why such a large rate increase is needed.**

A rate increase of 16.9% would impose a substantial burden on members and should be rejected absent a detailed description from MVP about the cause for such a substantial increase and any steps MVP has taken to mitigate it.

One potential explanation for MVP's large rate increase is its reported MLR of 104.4% in 2020, which would typically indicate that its premiums were too low. But MVP does not discuss this MLR in its Actuarial Memo, and it would be aberrant to have had such a substantial one in 2020, when nearly all carriers described drastically fewer claims filed because of the disruption in care caused by the pandemic. MVP predicts an MLR of 86.6% for 2021 which would seem to indicate that its current premiums are sufficient to manage claims. Absent any explanation, for its MLR swings, no increase should be granted based upon its 2020 performance.

Similarly, MVP appears to seek a 5.9% increase due to an inaccurate projection for earlier risk adjustment payments. While this adjustment is mentioned in the narrative summary, it does not appear in Exhibit 18. MVP also states that it has "experienced benefit buy-down in this population which has resulted in a reduction to risk transfer results that is not met by an offsetting reduction to claim expense." It would be helpful for MVP to add a paragraph or two explaining the connection between members buying leaner benefits, a trend that has occurred throughout New York's individual market, and the reasons this led MVP to an inaccurate risk adjustment estimate. The risk adjustment program has been in place for many years, so it is concerning that a methodology issue could require such a large one-year spike in rates. HCFANY would like to understand whether this happened because of a problem with the risk adjustment program or an error on MVP's part to understand the rationale for this portion of the rate increase. HCFANY would also need information about why MVP's members are enrolling in leaner plans to such an extent, since the other plans do not appear to need large rate adjustments despite experiencing the same enrollment patterns.[16]

[16] NY State of Health, "At a Glance: 2020 Open Enrollment Report," https://info.nystateofhealth.ny.gov/sites/default/files/2020%20NY%20State%20of%20Health%20Open%20Enrollment%20Report.pdf.

MVP also fails to provide an adequate explanation for the 1.1% increase for non-claim expense items mentioned in the narrative. Exhibit 13 reports that MVP's administrative costs will be the same in 2022 as they are in 2021 so it is unclear where this 1.1% appears in the exhibits. MVP's administrative costs should not increase over time and if they are, this should be clear in all its materials.

2. **MVP is asking for a profit of 1.5% which should be reduced to 0.5%.**

HCFANY respectfully urges the Department to cap profits for the individual market participants at 0.5%, as it did last year to protect consumers during a difficult economic time. This is especially important for the carriers like MVP which are requesting double-digit rate increases. The Department could reduce MVP's rate increase by 1% by imposing this cap on profits.

3. **MVP's approach to the increase in premium subsidies is unclear. It should reduce its rate adjustment by 6.7% following the lead of Emblem/HIP.**

MVP's submission does not address the additional premium subsidies under the American Rescue Plan that will be available in 2022 in either its narrative summary or Actuarial Memo. Some plans included this adjustment as a morbidity improvement on line 22 of Exhibit 18. MVP includes a -1.2% adjustment on this line explained by "benefit changes and membership changes observed since the end of the experience period," so it does not appear that this morbidity adjustment includes any improvement expected as a result of the premium subsidies.

HCFANY has asked the Department to impose a 6.7% decrease for all plans to account for the risk pool improvements that will happen when more people enroll using their increased premium subsidies. Even if the Department finds does not apply a flat decrease across all carriers, it is unreasonable for MVP to ignore the new subsidies in their entirety and the Department should make an appropriate downward adjustment in reflection of this policy.

4. **MVP should not use premiums to pay brokers.**

Broker costs are a small part of MVP's rates (0.8%), but HCFANY feels broker costs are an inappropriate use of premium dollars. New York State provides exceptional marketing for the individual market plans and makes researching plans and enrolling as simple as possible at nystateofhealth.ny.gov. New York also provides a robust network of enrollment assistance in all parts of the state where New Yorkers can learn about the different plans available to them. Consumers should not also pay brokers to duplicate these services.

5. **MVP is asking for a very small Covid-19 adjustment (0.03%), but HCFANY asks the Department to review whether any adjustment is needed for Covid-19 in 2022.**

While this adjustment is small, there were five individual market plans that made no Covid-19 related increase at all (Emblem/HIP, Fidelis, Healthfirst, Independent Health, and MetroPlus). This increase should be zeroed out if the Department finds that the Covid-19 increases plans have requested are either already reflected in their claims experience or are speculation related to unknowns about future vaccination schedules.

Thank you for your attention.

Very truly yours,

Amanda Dunker
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