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

July 1, 2022

Adrienne A. Harris Superintendent
John Powell, Assistant Deputy Superintendent for Health
Frank Horn, Chief Actuary - Health
NYS Department of Financial Services
One Commerce Plaza
Albany, NY 12257

RE: Requested Rate Changes – MVP– MVPH-133225809

Dear Superintendent Harris, Assistant Deputy Powell, and Chief Actuary Horn:

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. New York's Individual Market

For the past two years, New York's individual market has covered approximately 260,000 people, down from 323,000 in 2019. The pandemic and resulting economic downturn caused a 19% decrease in enrollment in 2021, with many consumers migrating to the Essential Plan and Medicaid thanks to the State's progressive adoption of the federal Public Health Emergency provisions. Twelve carriers are planning to offer insurance in 2023 in the individual market. Only two of the carriers are payers into the risk adjustment program (Fidelis and Oscar), reflecting their relatively healthy enrollment. There were four payers in 2021 and five in 2020.

Table 1. On-Exchange Enrollment in New York's Individual Market, 2017-2022

	Number of People Enrolled	*Percent Change*
2017	309,195	-
2018	317,496	2.7%
2019	323,460	1.9%
2020	322,774	-0.2%

2021	261,242	-19.1%
2022	261,714	0.2%

The individual market carriers are requesting an average 18.2% premium increase (with a range from 6.9% by HealthPlus to 34.6% by the Health Insurance Plan of Greater New York—Emblem). These requests are significantly higher than in recent years. For example, the carriers requested average rate increases of 8.6% in 2022, 11.8% in 2021, and 9.7% in 2020.

Table 2. 2023 Individual Market Rate Requests	
Plan	*Request*
Emblem/HIP	34.6%
CDPHP	28.4%
NYQHC/Fidelis	23.2%
Highmark	20.5%
MVP	19.2%
United	16.1%
Oscar	14.6%
Excellus	14.0%
Healthfirst	13.0%
MetroPlus	12.8%
Independent Health	10.2%
HealthPlus	6.9%
Average	**18.7%**

The carriers' proposed rate increases are national outliers, far surpassing the requests coming in from carriers in other states (see Table 3 below) that have similar or significantly smaller risk pools. Washington and Michigan have comparable individual markets with similar numbers of carriers and risk pools, yet their carriers seek only 7.2% and 6.8% rate increases, respectively. Even the tiny neighboring state of Rhode Island, with just two carriers, is considering an 8% increase. The New York carriers offer no explanation to support relatively large rate increase proposals.

Table 3. Proposed 2023 Rate Increases in State Individual Markets			
	Average Request	*Number of People in Individual Market*	*Number of Carriers (including off-exchange)*
New York	18.8%	251,745	15
Vermont	14.7%	31,582	2
Maryland	11.0%	241,273	5
Rhode Island	8.0%	42,235	2
Washington	7.2%	245,174	14
Michigan	6.8%	339,181	12
Oregon	6.7%	177,813	6

Should the Department grant the proposed increases, New York's consumers would pay extremely high average monthly premiums of $778 (though many people enrolled in individual

market plans in New York receive premium subsidies that would insulate them from higher premiums). However, New York's individual market carriers have a history of asking for much larger premium increases than are ultimately approved (see Table 4 below). New York consumers urge the Department to maintain its laudable tradition of reducing the premiums in order to shield consumers from unsupported double digit premium increase requests.

Table 4. Requested Premium Increase vs. Approved Increase			
Year	*Requested Change*	*Approved Change*	*Difference*
2022	10.8%	3.6%	-66.7%
2021	8.1%	1.5%	-81.5%
2020	9.7%	7.5%	-22.6%
2019	16.9%	6.3%	-62.7%

A review of the carriers' applications suggests some areas in which the Department can fairly reduce the 2023 rate requests, including closely assessing: their medical loss ratio histories; their estimates about the impact of Covid-19; changes to federal premium subsidies; annual claims trend; administrative costs; and profits and surplus retention.

HCFANY also urges the Department to incorporate its own complaint and quality information into the rate review process. The Department publishes the New York Consumer Guide to Health Insurers each year so that consumers can see which plans perform the best.[1] The report provides data on how many complaints the Department receives for each company, how many coverage appeals are filed and what proportion result in reversals of the plan's decisions, and how often appeals are escalated outside of the company to the State's External Appeal program. When plans have high reversal rates, it sometimes means that they are denying care without any basis and then spending administrative resources on appeals that should not be necessary. The report also shows how well the companies do on performance measures such as access to preventive care or ensuring people with chronic conditions are receiving the care they need. The state should integrate these independent measures of product value into its prior approval review. If plan members are unable to access care, that company should be asked to improve in advance of authorizing large rate increases.

1. **Medical Loss Ratios**

Similar to plans around the country, New York plans experienced very high profits in 2020, followed by much lower profits in 2021.[2] The plans' medical loss ratios (MLRs) show how much revenue they spent on health care for members as opposed to administrative costs and profit. In 2020, the average MLR was only 85.8% and four plans were at or below the state's minimum 82% (below which the plan must pay rebates). In 2021, the average MLR jumped to 99.8%, and five plans reported an MLR over 100%. That means the plan spent more on health care services than it brought in.

MLRs are assessed over three years for the purposes of calculating rebates, so any rebates the carriers owe individual market consumers in 2022 will be based on MLRs for 2019, 2020, and 2021. When smoothed over three years, the carriers' MLRs are an average of 91.3% (see Table 5 below). Most of the carriers project more typical MLRs for 2022 (an average of 93.6%)

and are proposing an average MLR of 87.6% in 2023. The Department approved an average MLR of 87.5% for the 2022 rates. It should continue to reject rate proposals resulting in MLRs below this for 2023.

Table 5. Medical Loss Ratios in New York's Individual Market, 2019-2021				
Plan	*2019*	*2020*	*2021*	*Average*
CDPHP	92.4%	95.5%	104.3%	97.4%
Health Insurance Plan of Greater New York	87.6%	82.0%	93.9%	87.8%
Excellus	83.0%	84.0%	97.5%	88.2%
Fidelis	78.0%	79.6%	91.7%	83.1%
Healthfirst	87.3%	84.5%	103.2%	91.7%
HealthPlus	88.3%	68.3%	83.1%	79.9%
Highmark	90.8%	90.8%	110.1%	97.2%
IHBC	74.6%	77.2%	104.8%	85.5%
MetroPlus	85.4%	87.7%	113.8%	95.6%
MVP	95.5%	101.1%	99.4%	98.7%
Oscar	96.0%	90.8%	99.2%	95.3%
UnitedHealthCare	99.8%	88.1%	96.7%	94.9%
Average	**88.2%**	**85.8%**	**99.8%**	**91.3%**

2. **Impact of Covid-19**

Overall, the carriers are reducing rates by 1.7% to reflect projected lower costs related to Covid-19. These downward adjustments are necessary because the claims data being used to estimate 2023 rates is from 2021, and likely includes direct and indirect Covid-related costs that will differ in 2023. All of the carriers expect that direct Covid-19 claims, those related to testing and treatment, will decrease in 2023 as compared to 2021. This is because Covid-19 vaccinations did not become available to all people until several months into 2021 and there are also now treatments that lessen the severity of the disease and reduce complications. Indirect Covid-19 claims are those related to deferred care, which would lower 2021 claims costs for at least part of the year.

The carriers vary widely in how they think possible deferred care in 2021 should be factored into their 2023 rates. Six carriers are adjusting their 2023 rates upwards in relation to indirect Covid-19 costs, which means they believe 2021 claims costs were lower than normal because people were continuing to avoid the health care system. Four of those adjustments are less than 1%. Four carriers include no adjustment, and three include a downward adjustment. Those carriers may assume that their 2021 claims costs were inflated because of people receiving care deferred during 2020. Some of these overall adjustments are much larger than others. For example, Fidelis is adjusting premiums downwards by 5.7%.

The Department should adopt a consistent policy regarding Covid-19 adjustments across all plans. It should consider whether the other plans have reduced premiums sufficiently to reflect reductions in the impact of Covid-19. It should also look at the methodologies carriers are

using to determine the effect deferred care in 2021 will have on 2023 rates, given the variation in their estimates.

Table 6. Covid-related Rate Adjustments			
	Direct Covid	*Indirect Covid*	*Combined*
CDPHP	-0.3%	-0.5%	-0.8%
HIP/Emblem	-2.5%	0	-2.5%
Excellus	-0.7%	0	-0.7%
Fidelis	-1.1%	-4.6	-5.7%
Healthfirst	-2.0%	0	-2.0%
HealthPlus	-5.1%	1.9%	-3.2%
Highmark	-2.8%	0.6%	-2.2%
IHBC	-0.4%	0	-0.4%
MetroPlus	-1.4%	0.8%	-0.6%
MVP	-0.54%	-0.92	-1.5%
Oscar	-4.5%	3.4%	-1.1%
United	-8.3%	8.7%	0.4%
Average	**-2.5%**	**0.8%**	**-1.7%**

3. **Enhanced Federal Subsidies**

The American Rescue Plan Act (ARPA) increased the amount of premiums available for people purchasing individual market plans and for the first time extended premium subsidies to people earning between 400% and 600% of the federal poverty level. In New York, that meant 147,000 people paid much less for individual market plans than before—the average increase in subsidies was over $1,000.[3] Carriers reduced their 2022 rates in anticipation that increased subsidies would bring new customers and improve the risk pool, on average by 3.7%. Some carriers likely benefited more than others from the larger subsidies.

The enhanced subsidies provided through ARPA are set to sunset in 2023. Some of the carriers have built in rate increases in anticipation of losing customers once their premium costs go up (see Table 7 below). The Department should not allow adjustments made based on speculative judgments about future federal policy changes that may not happen.

If the Department allows these adjustments, it should ensure that these rate increases are based on the carrier's actual experience with the enhanced subsidies. For example, HealthPlus included an upward adjustment of 1%. However, HealthPlus is an HMO and the most expensive plan on the market. It seems unlikely that price sensitive consumers would flock to HealthPlus in significant numbers due to increased subsidies that would not have covered the cost of its plans.

Table 7. Effect of the Loss of Federal Subsidies	
Plan	*Percent Change in Premium Costs*
CDPHP	1.7%
HIP/Emblem	0
Excellus	0.2%

Fidelis	3%
Healthfirst	0
HealthPlus	1%
Highmark	0
IHBC	0
MetroPlus	-1.3%
MVP	0
Oscar	3.0%
United	0
Average	**0.6%**

The Department should also consider that any impact of the potential termination of the ARPA subsidies will likely be more than offset by new enrollment related to the end of the Public Health Emergency. Many of the people who left the individual market in 2020 ended up in Medicaid plans. When the public health emergency ends, Medicaid redeterminations will begin again for the first time in over two years. People whose 2023 income makes them ineligible for Medicaid will likely enroll in individual market coverage. In fact, the UnitedHealthcare submission estimates that Medicaid redeterminations will increase enrollment by 20% and includes a downwards adjustment to its rate request of 1.1%.

4. **Medical Trend**

New York's carriers provide a variety of estimates of medical trend, which is an estimate of how much their claims will increase based on changes in prices and utilization. On average, New York's individual market carriers seek a 7.3% medical trend.

Table 8. Estimated 2023 Medical Trend by Carrier, New York	
Carrier	*Estimated Medical Trend*
HIP/Emblem	14.8%
United	8.4%
CDPHP	8.3%
MetroPlus	7.8%
HealthPlus	7.2%
Fidelis	7.0%
Highmark	7.0%
MVP	6.9%
Healthfirst	5.6%
Oscar	5.6%
Excellus	4.7%
IHBC	3.9%
Average	**7.3%**

New York carriers' trend projections are significantly higher than what carriers are projecting in the other states for which this information is available (see Table 9 below). Even

the far less competitive market of Vermont, which has just two individual market carriers, projects a lower average medical trend than New York.

Table 9. Estimated 2023 Medical Trend by State	
State	*Estimated Medical Trend*
New York	7.3%
Vermont	7.0%
Washington	6.0%
Oregon	5.7%
Maryland	4.5%

The Department has an important role in controlling medical cost inflation. To this end, it should impose greater standardization in medical trend estimates within New York. There is significant variation in the trend estimates among the carriers, from 3.9% to 14.8% (see Table 8 above). The carrier estimating the lowest trend, Independent Health, is one that might be expected to have one of the higher trend estimates because it is an EPO and serves a relatively small number of consumers. The carrier with the highest estimated medical trend, the Health Insurance Plan of Greater New York (Emblem), is a major New York City HMO that covers hundreds of thousands of City employees and should be able to better control its individual market business trend given its enormous negotiating power with providers.

In setting the 2022 rates, the Department protected consumers' interests by approving an average trend rate of 5.9%. It should consider capping medical trend at this level for 2023 to be more in line with other states. That would mean reducing rate increases for eight plans, since four plans already estimate trends under 5.9%.

5. **Administrative Costs and Profit**

Administrative costs and profit are another area in which there is excessive variation in carriers' rate applications. On average, the carriers expect 11.3% of their rates to go toward administrative costs (see Table 10 below). Independent Health expects the biggest proportion to go toward administrative costs, at 15.9%. MetroPlus expects the lowest, at 7.4%. For 2022, the Department allowed administrative requests as high as 14%. This is too high. It should consider instead capping administrative costs at 11.3%, the average.

Table 10. Administrative Costs vs Profit		
Carrier	*Projected Administrative Costs*	*Requested Profit/Surplus*
Independent Health	15.9%	1.0%
Healthfirst	14.7%	0.5%
HIP/Emblem	13.2%	2.0%
Fidelis	12.4%	1.5%
Excellus	12.2%	1.5%
CDPHP	11.5%	1.0%
United	9.8%	1.5%

HealthPlus	9.6%	2.0%
Highmark	9.0%	1.0%
Oscar	8.3%	3.0%
MetroPlus	7.4%	0.5%
Average	**11.3%**	**-**

Profit and surplus requests range from 3% to 0.5%. The Department capped profit and surplus at 0.5% for the 2022 rates. It should do the same for 2023.

II. MVP

MVP is a non-profit health insurer that offers HMO and POS plans in New York's individual market. In 2022, it has 24,967 members, down 13% from 2021. Its individual market plans serve the Albany, Buffalo, Mid-Hudson, New York City, Rochester, Syracuse, and Utica Watertown regions. MVP expects to receive a small payment (0.4%) from the federal risk adjustment program in 2023.

MVP seeks a 19.2% average rate increase for 2023, higher than the average 18.2% request. HCFANY asks that the Department scrutinize MVP's application carefully absent a detailed justification for such a large rate increase. If approved in full, it will mean MVP's 2023 rates are $728 a month before subsidies.

In its review of the MVP rate submission, HCFANY asks the Department to consider the following mitigating factors: MVP's stabilizing MLR, elevated administrative costs and surplus request, large adjustment for reduced Covid-19 costs, and inflated medical trend. The Department should also indicate to MVP that its public submissions do not include an adequate explanation of why it needs such a large rate increase. A 19.2% increase will create hardship for its members and likely force some to disenroll. Absent a detailed justification that is publicly reviewable, such a major rate increase is unwarranted.

1. MVP experienced high MLRs in 2019, 2020, and 2021 but expects a reasonable 88.1% MLR in 2022, which shows that it is stabilizing.

MVP's three-year average MLR from 2019-2021 was 98.7%, which means it spent almost all of its revenue on medical claims for its members. However, it projects that its 2022 MLR will be 88.1%, indicating that its premium revenue is now adequately covering its members health care and leaving a reasonable proportion for administrative costs and surplus.

2. MVP is aiming for a surplus of 1.5% and administrative costs of 11.9%.

MVP's administrative costs are average for New York's individual market. However, it should make an effort to reduce administrative costs before getting such a large rate increase. There are five carriers in the individual market who report administrative costs under 10%.

MVP also asks for 1.5% in surplus. This should be decreased to 0.5% as the Department has done previously. The Department should also evaluate whether it is necessary for MVP to provide any additional contributions to its surplus this year.

3. MVP is adjusting rates downward by 1.5% overall to account for reduced claims related to Covid-19.

MVP estimates that its Covid-19 related claims costs will be 30% lower in 2023 than in the 2021 claims on which it is building its 2023 rates. This is below the average 2.5% requested by the other carriers. However, there is no explanation for how MVP arrived at the 30% estimate. The Department should consider whether MVP is using sound methodology and if it should make a larger adjustment.

4. MVP estimates medical trend of 6.9%, lower than the 7.3% average.

MVP's trend estimate is 6.9%, slightly lower than the average 7.3%. MVP provides little justification for such a high trend. In fact, in the past few years MVP past medical trends were much lower (6.4% in 2021 and 5.8% in 2022). The Department should not authorize a medical trend above 5.9% in 2023 for all carriers to control health care cost inflation statewide.

5. MVP's complaint and quality data

The Department should integrate MVP's complaint and quality performance measures into its rate review process. MVP appears to do relatively well on consumer complaints and external reviews—less than half (42%) of appeals are reversed by an external medical expert according to the Department's decision data base.[1] MVP ranks well in resolving prompt payment complaints (2 out of 5 for HMO products and 5 out of 15 for its EPO/PPO plans).[2]

In terms of quality of care, MVP has an average performance on access to care measures for its HMO products, but above average for its PPO lines of business—indicating that its networks may not be adequately serving its membership.[3] MVP performs well on well child adolescent preventive care measures in its PPO products, but again, is below average or average on these measures for its HMO line of business.[4] A similar pattern plays out on the women's health and diabetes care measures, indicating quality issues with its HMO product line.[5] Underscoring the network adequacy concern, MVP's HMO product has a below average or average performance rank for customer satisfaction with the quality of its provider compared to above average marks on the same indicators for its PPO product.[6] The Department should consider and integrate these patient-centered factors into its rate decisions and potentially refer

[1] New York Department of Financial Services external appeals database. MVP also ranks 5 out of 15 in overall customer complaints according to the Department's Consumer Guide.
[2] https://www.dfs.ny.gov/system/files/documents/2021/08/ny_consumer_guide_health_insurers_2021.pdf (page 10-11).
[3] https://www.dfs.ny.gov/system/files/documents/2021/08/ny_consumer_guide_health_insurers_2021.pdf (pages 30-31).
[4] https://www.dfs.ny.gov/system/files/documents/2021/08/ny_consumer_guide_health_insurers_2021.pdf (page 34-36).
[5] https://www.dfs.ny.gov/system/files/documents/2021/08/ny_consumer_guide_health_insurers_2021.pdf (page 43-44 and 58-60).
[6] https://www.dfs.ny.gov/system/files/documents/2021/08/ny_consumer_guide_health_insurers_2021.pdf (page 61-63).

MVP to the Department of Health for a closer investigation into the adequacy of its HMO network.

Thank you for your attention.

Very truly yours,

Amanda Dunker
Health Policy Director
Community Service Society of New York