NYS LATINO HEALTH ACTION NETWORK

March 11, 2021

Senator Andrea Stewart-Cousins
President Pro Tempore and Majority Leader
New York State Senate
Albany Office
188 State Street
Legislative Office Building, Room 907
Albany, NY 12247

District Office
28 Wells Avenue, Building #3
Yonkers, NY 10701

Assembly Member Carl E. Heastie
Assembly Speaker
Albany Office
Legislative Office Building, Room 932
Albany, NY 12248

District Office
1446 East Gun Hill Road
Bronx, NY 10469

RE: Repealing the NYS Medicaid Spending Cap. Legislation introduced by Assembly Member Gottfried and Senator Rivera to repeal the Cap. A.226 /S.5255.

Honorable Senate Majority Leader and Assembly Speaker,

The New York State Latino Health Action Network is urging for a Repeal of the NYS Medicaid Spending Cap because of the impact that it is having in our communities and asking for its repeal. The network is made up by hundreds of Latino-led and Latino-serving community based organizations in New York State—convened by the Hispanic Health Network and Latino Commission AIDS— that come together to craft recommendation and community actions on how to improve the health outcomes of the diverse Hispanic/Latinx communities in the state.

New York's Medicaid spending cap has been in place since 2011. It was presented as a mechanism to limit growth in Medicaid spending and bring all sectors of the health care community together to seek cross-sector solutions to the drivers of poor health outcomes. The cap was set at a random, fixed moment in time and not designed to keep pace with program innovations, growth in enrolment and community health needs. With time, the global spending cap reached the point of diminishing returns and the arbitrary nature of the cap became increasingly apparent. This came to a head in the spring of 2019, when

Governor Cuomo's administration quietly postponed $1.7 billion in Medicaid payments from the 2018-19 fiscal year to the 2019-20 fiscal year – a step it said was necessary to avoid breaking the spending cap.[1]

Many communities have found themselves ravaged by the COVID-19 epidemic, in addition to the existing pandemics that include HIV, viral Hepatitis and other chronic and prevalent health conditions within many of our most vulnerable populations. The 2021-22 Executive budget would extend the cap for an additional two years. We need to repeal the Medicaid Spending cap for the following reasons:

- The cap was not designed to be responsive to increases in the number of people covered by the program or the cost of health care services.
- The cap was set arbitrarily and has not been adjusted to account for growth in the program. A certain amount of growth should be expected and predictable, for example, to accommodate an aging population that will turn to Medicaid to cover long-term services and supports, particularly in home- and community-based settings.
- Due to the economic downturn and job loss associated with the pandemic, over 700,000 new enrollees turned to Medicaid between March and November of 2020. This demonstrates the benefit of Medicaid being responsive and flexible, assuring that people do not lose access to health care when they lose employer-based health insurance. That is exactly how Medicaid should respond to economic downturns.
- The cap provides a platform for the Executive to frame Medicaid growth as a problem that requires austerity, when in fact; a strong Medicaid program provides a system that allows people to have access to health care when they need it.
- The statute that created the cap grants authority to the Division of the Budget to unilaterally cut the Medicaid budget mid-year to keep spending under the cap. The NYS Legislature has no oversight over those cuts.
- Significant sums of public funds have been distributed outside the annual budget process at the Governor's discretion and determined to be 'cap neutral,' without explanation, to justify the expenditures.
- State Medicaid spending draws a federal match; it is the State's largest source of federal funding. By capping state spending, the global cap also effectively caps the amount of federal funding the State can receive for its Medicaid program, which is illogical during a health and financial crisis.
- Medicaid cuts that the Executive claims essential for remaining under the cap disproportionately impact:
    - People with disabilities and seniors reliant on community-based services and supports;
    - Safety-net hospitals and community-based providers, like community health centers providing primary care and community mental health centers; and
    - Historically under-resourced communities of color.
- It has been argued that if the cap were repealed, an alternate fiscal mechanism would be necessary to provide structure and discipline in Medicaid budgeting. No alternative is necessary. The Medicaid budget would once again be negotiated and enacted through the annual budget process set forth by the State Constitution.

[1] Hammond, Bill, Busting the Cap: Why New York is losing control on its Medicaid spending again (Issue Brief), Empire Center for Public Policy. December 2020

- Originally intended to spur cross-sector solutions and drive innovation, the arbitrary nature of the cap has more recently functioned as a competition between sectors for diminishing resources.

The undersigned NYS community-based organizations and community providers believe that more than money is at stake. Much of the inefficiency of New York's Medicaid program is a symptom of underlying mismanagement – of programs that deliver fragmented, wasteful care, put the interests of providers ahead of patients and leave the State vulnerable to abuse and fraud. Medicaid plays a critical role in the lives of millions of New Yorkers, including its most disabled and vulnerable citizens. We urge officials to repeal the Medicaid Spending Cap immediately and identify other sources of revenue in dealing with budget deficits in our State. Please contact Luis Scaccabarrozzi at LScaccabarrozzi@latinoaids.org or 908-764-6513.

Sincerely,

Guillermo Chacon
On behalf of the NYS Latino Health Action Network
President, Latino Commission on AIDS
Founder, Hispanic Health Network

C/C:

Assembly Member Helene Weinstein, Chair of Ways and Means, Albany Office: LOB 923, Albany, NY 12248; District Office, 3520 Nostrand Avenue, Brooklyn, NY 11229

Richard N. Gottfried, Chair of Health, Albany Office, LOB 822 Albany, NY 12248; 214 West 29th Street Suite 1002, New York, NY 10001

Senator Liz Krueger, Chair of Finance, Albany Office, 172 State Street, Capitol Building Room 416 CAP Albany, NY 12247; District Office, 211 E 43rd Street Suite 1201, New York, NY 10017

Senator Gustavo Rivera, Chair of Health, Albany Office, 172 State Street, Capitol Building 502C, Albany, NY 12247; District Office, 2432 Grand Concourse, Suite 506, Bronx, NY 10458

Undersigned organizations in Alphabetical Order

AID FOR AIDS
Hispanic Federation
Hispanic Health Network
Latino Commission on AIDS