

# Medical Society of the State of New York (MSSNY)

## 2022-23 Legislative Priorities

### MSSNY Supports Range of Health Care Initiatives in Governor Hochul’s Proposed Budget; Voices Concern Over Host of Other Potential Changes

Governor Hochul’s proposed Budget for FY 2022-23 lays out a roadmap for how New York state will spend approximately \$216.3 billion in the next year and introduces a number of comprehensive initiatives to help support both New York’s health care system, and its health care workers, who are weary from multiple years of responding to the COVID crisis that first overwhelmed the state in March of 2020. The Budget also makes significant investments to guarantee more patients have comprehensive health insurance coverage to access the quality medical care they need and deserved.

MSSNY looks forward to working with the Governor and Legislature as they negotiate the details for the final budget. The following highlights MSSNY’s position on a range of these funding proposals.

### MSSNY SUPPORTS— BUDGET

#### Telehealth Payment Parity

MSSNY supports requiring health insurers to pay physicians for Telehealth Services at the same levels as the services would be paid if they were provided in-person. MSSNY also strongly supports similar legislation A.6256/S.5505, which would establish payment parity for services provided by physicians via Telehealth. According to a survey by the NY chapter of the Medical Group Managers Association (MGMA), remarkably only 23% of all health plans across New York State pay patient Telehealth services equal to what they pay community-based physicians for comparable in-office patient care. Investment in telehealth services is essential to helping ensure patients can get the care they need, particularly those with limited mobility and/or those facing co-morbid conditions.

#### Increasing Opportunities for the Physicians of Tomorrow

MSSNY supports increasing from \$9M to \$15M funding for the Doctors Across New York (DANY) Program to provide loan forgiveness up to \$120,000 for physicians who work in underserved areas for three years. According to the Association of American Medical Colleges (AAMC), the average medical school debt for students who graduated in 2020 was \$200,000.

MSSNY supports expanding the SUNY Pre-Medical Opportunity Program & the Diversity in Medicine Program, which recruits and trains a diverse healthcare workforce to represent the diversity of the patients in underserved communities.

#### Coverage Expansion and Patient Access Protection Provisions

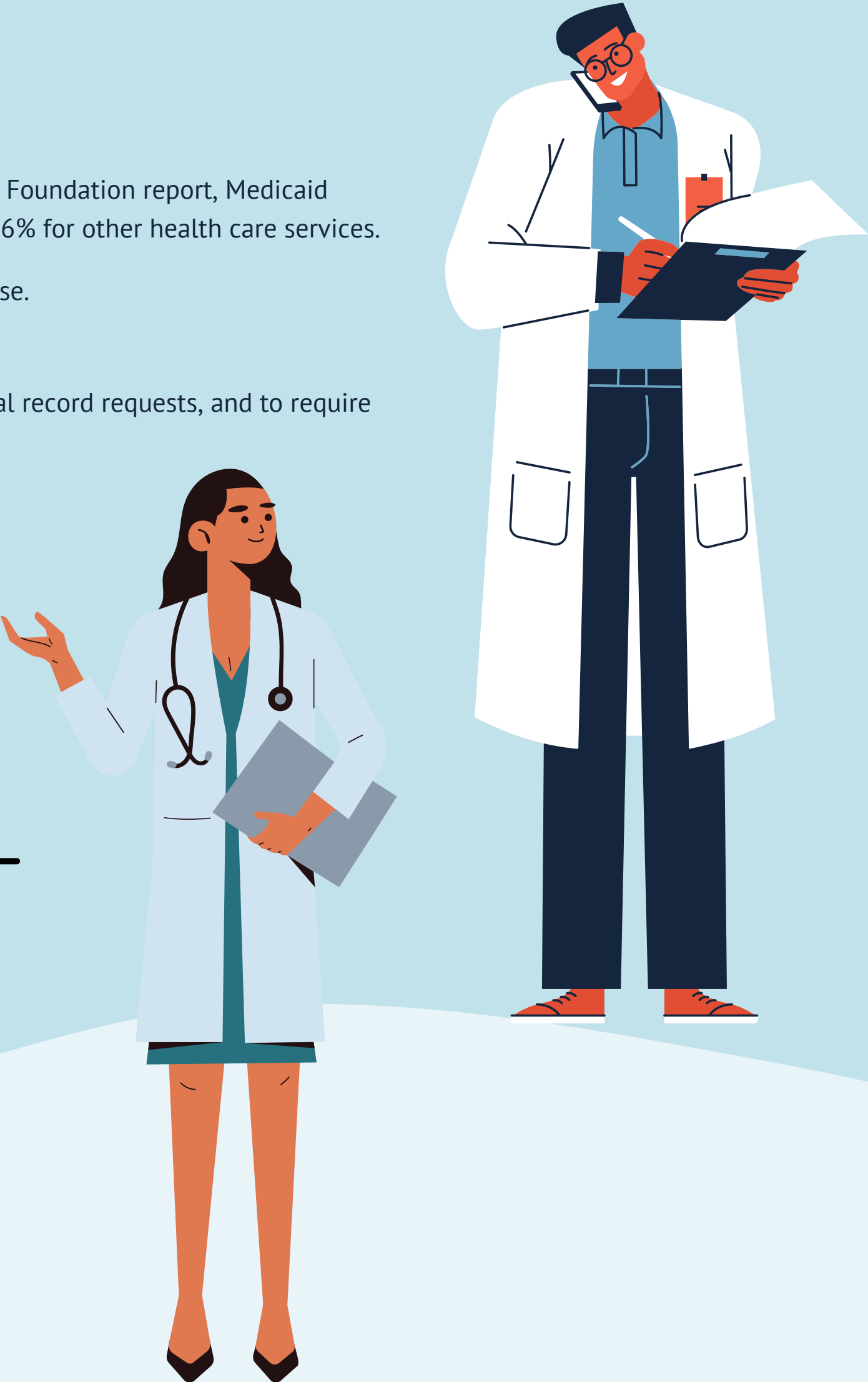
- Expanding eligibility for New York’s Essential Plan from 200% of the Federal Poverty Level (FPL) to 250% FPL, to give those who make too much to qualify for Medicaid, affordable access to comprehensive health insurance.
- Elimination of premium for CHIP coverage for children in families between 160% FPL and 222% FPL
- Expansion of Medicaid coverage for postpartum care for up to one year after birth.
- Increasing payment for Medicaid E&M codes to 70% of Medicare. According to a recent Kaiser Family Foundation report, Medicaid currently only pays New York physicians 44% of the Medicare fee schedule for primary care services and 56% for other health care services.
- Restoration of the FY 2020-21 1.5% cut to Medicaid payment & a 1% increase across the board increase.

#### Insurance Reform

MSSNY supports providing DFS additional powers to protect against some excessive health insurer medical record requests, and to require 60-day deadline for all New York regulated health plans to review physician credentialing applications.

#### Care for Veterans Mental Health Needs

MSSNY also urges the Legislature to add to the Budget \$150,000 in funding for MSSNY’s Veterans Mental Health Initiative (VMHTI). For several years, the VMHTI was funded through a legislative add-on to provide skills, development, and education to those working in the mental health field with service members and their families. This initiative is a partnership between the Medical Society of the State of New York, The New York State Psychiatric Association & the National Association of Social Workers-New York State.



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While not contained in the Executive Budget, MSSNY strongly supports the following bills to limit excessive and unnecessary health insurer prior authorization requirements and to help ensure patients can obtain the care they need.

### MSSNY SUPPORTS— OTHER HEALTH INSURANCE REFORM ISSUES

**A.7129-A (Gottfried)/S.6435-A (Breslin)**

Reduces the time frames for health insurers to review prior authorization (PA) requests, requires use of evidence-based and peer reviewed clinical review for PA for certain health care services, and eliminates need to obtain repeat prior authorization.

**S.8299 (Breslin)**

Establishes a “Gold Card” program in which insurers exempt physicians, and other care providers, for six months from Prior Authorization (PA) requirements if they receive at least 90% approvals for PA for that specific health care treatment. Renewal is based on same criteria as original acceptance. The bill is modeled after a first-in-nation law that was implemented in Texas in 2021.

**A.1741 (Gottfried)/S.5299 (Rivera)**

Ensures patients can continue to use pharmaceutical discounting programs towards meeting their often-enormous insurance deductibles for receiving needed prescription medications.

### MSSNY OPPOSES – BUDGET

**Oppose Inclusion of QPA**

While MSSNY agrees with most of the Budget provisions to conform New York’s “Surprise Billing” law to make it is consistent with new federal law protections, we are very concerned with the provision that would expressly permit the Independent Dispute Resolution (IDR) entity’s consideration of insurer self-determined median payments in arriving at IDR decisions for payment, which is not required by the federal law, and could disrupt the current balance in the IDR process. New York’s IDR process was established with the goal of protecting patients while also ensuring hospital emergency departments were able to maintain sufficient on-call specialty care services.

**Protecting Physician-Led Team Care/Opposing Inappropriate Scope Expansion.**

MSSNY opposes allowing pharmacists to perform dozens of “limited services” lab test authorized by FDA, without any required coordination with the patient’s treating physicians or other care providers. These tests include those that test for serious medical conditions such as diabetes, HIV and STDs.

- MSSNY opposes elimination of the statutory requirement for experienced primary care nurse practitioners (NPs) to maintain collaboration arrangements with a physician in the same specialty. MSSNY is also opposed to separate legislation A.1535/S.3056, which goes even further than Governor Hochul’s budget proposal by completely eliminating the remaining statutory physician collaboration requirements for all NPs, including newly licensed NPs.
- In a recent MSSNY survey, nearly 2/3 of the physician respondents indicated that advanced care practitioners working independently during the pandemic under the Governor’s Executive Orders (waiving physician collaboration and/or supervision requirements) had committed an error while treating a patient; over 80% indicated that the error could have been prevented had there been physician oversight.
- In a 2021 survey of random New York voters conducted by the American Medical Association, 75% of respondents indicated that it was very important for physicians to be involved in diagnosis and treatment decisions.

**Opposing New Prior Auth Requirements**

MSSNY opposes elimination of “prescriber prevails” protections in Medicaid and for several classes of prescriptions in Medicaid managed care. Physicians should have the last word on what treatment is best for patients, especially among vulnerable groups like Medicaid beneficiaries.





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The following are issues that MSSNY is still weighing and having discussions with a host of stakeholders both internal and external.

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### OTHER ITEMS OF CONCERN

#### Excess Medical Malpractice Insurance Program Changes.

MSSNY is pleased to see that the proposed budget once again includes \$102 million for the state’s Excess Medical Malpractice Insurance Program, which provides physicians with a supplemental layer of liability coverage to help protects patients and protect physician practices for New York’s excessive liability risk.

We are also thankful that the Governor’s “30-day Budget amendments” eliminated the proposed requirement for the physician to purchase the coverage upfront and then be reimbursed in 2 separate installments. However, we remain concerned with proposal to break up the funding to insurance carriers over two years, which may have unintended consequences for the long-term sustainability of the program.

Absent comprehensive liability reform to bring down the exorbitant cost of medical liability insurance in New York, this program remains absolutely essential to the stability of New York’s health care system.

#### Interstate Medical Licensure Compact

Adding New York to the list of states who have joined the Interstate Medical Licensure Compact. Currently, 30 states belong to the Compact. While the Compact could potentially further enable a New York physician to continue to treat patients who once worked in New York State but who now telecommute out of State, there are also concerns that health insurers may take advantage and seek to meet network adequacy requirements with out of state physicians and drop community physicians from their networks.

#### Change Health Professions Oversight to DOH

Transferring oversight of all Education Law regulated health care providers from New York Department of Education to DOH. There has been little information offered for how such transition to DOH would occur.

#### Community Paramedicine

Updating the definition of “emergency medical services” to include community paramedicine, which permits EMTs to provide some non-emergency health care services.

#### Restrictive Covenant Changes

Placing limitations on the use of Restrictive Covenants by employers. While this is generally positive, the proposal does not go far enough in preventing excessive post-employment limitations often imposed on employed physicians that could harm continuity of care for patients.

