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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
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September 27, 2017

The Honorable Andrew M. Cuomo
Governor
State of New York
State Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

The Senate Committee on Homeland Security and Governmental Affairs is examining the Patient Protection and Affordable Care Act's (ACA) Medicaid expansion. The State of New York's expansion enrollment has soared far beyond initial projections, and per-enrollee spending is rising exponentially. Accordingly, I write to respectfully request information about New York's Medicaid policies and procedures.

Federal Medicaid expenditures totaled \$246 billion in fiscal year 2009, increased to \$299 billion in fiscal year 2014 and are projected to rise 96 percent to \$588 billion by 2025.¹ A primary cause of this increase is the ACA Medicaid expansion.² Current data from the Centers for Medicare & Medicaid Services (CMS) and other sources show original Medicaid expansion per-enrollee spending and overall enrollment projections were significantly understated. In 2014, CMS predicted per-enrollee spending on newly eligible adults in 2015 would be \$4,281,³ but the actual amount was \$6,365 (49 percent higher).⁴ Accordingly, CMS increased per-enrollee projections for fiscal year 2023 from \$5,076 to \$7,027 (38 percent higher).⁵

In many expansion states, enrollment has also significantly exceeded original estimates. CMS data show that enrollment for newly eligible enrollees in New York rose from 202,684 in

¹ OFF. OF THE ACTUARY, U.S. DEP'T. OF HEALTH & HUM. SERVS., 2016 ACTUARIAL REPORT ON THE FINANCIAL OUTLOOK FOR MEDICAID 15 tbl.3 (2016), <https://www.cms.gov/Research-Statistics-Data-and-Systems/Research/ActuarialStudies/Downloads/MedicaidReport2016.pdf>.

² See Robin Rudowitz, *Understanding How States Access the ACA Enhanced Medicaid Match Rates*, KAISER FAM. FOUND. (Sept. 29, 2014), <http://www.kff.org/medicaid/issue-brief/understanding-how-states-access-the-aca-enhanced-medicare-match-rates/> (Medicaid is jointly funded by the federal government and states, and the traditional federal matching rate ranges from 50 percent to as high as 73 percent. For people made newly eligible for Medicaid under the ACA, the federal match rate rose to 100 percent through 2016, before phasing down to 90 percent in 2020 and beyond).

³ OFF. OF THE ACTUARY, U.S. DEP'T. OF HEALTH & HUM. SERVS., 2014 ACTUARIAL REPORT ON THE FINANCIAL OUTLOOK FOR MEDICAID 62 tbl.16 (2014), <https://www.cms.gov/Research-Statistics-Data-and-Systems/Research/ActuarialStudies/Downloads/MedicaidReport2014.pdf>.

⁴ OFF. OF THE ACTUARY, U.S. DEP'T. OF HEALTH & HUM. SERVS., *supra* note 1, at 62 tbl.19.

⁵ Compare OFF. OF THE ACTUARY, U.S. DEP'T. OF HEALTH & HUM. SERVS., *supra* note 3, at 62 tbl.16, with OFF. OF THE ACTUARY, U.S. DEP'T. OF HEALTH & HUM. SERVS., *supra* note 1, at 62 tbl.19.

2014 to 285,564 in 2015 – a 41 percent single-year increase.⁶ By December 2015, New York’s newly eligible enrollment was 276 percent over what had been projected.⁷ Costs per-enrollee are also surging in New York, going from \$2,187 in 2014 to \$3,996 in 2015 – an 83 percent increase.⁸

I am seeking to better understand these rising costs and higher-than-expected enrollment, especially in states where costs or enrollment are increasing especially quickly. Accordingly, I respectfully request that you please provide the following information and material:

1. Please provide the following data relating to Medicaid expansion in New York:
 - a. Enrollment of VIII Group Newly Eligible Enrollees under the ACA Medicaid expansion for calendar year 2016;
 - b. Per-enrollee spending on newly eligible adults under the ACA Medicaid expansion for calendar year 2016;
 - c. Enrollment of VIII Group Newly Eligible Enrollees under the ACA Medicaid expansion for calendar year 2017 to date; and
 - d. Any quarterly reports for calendar year 2017 on enrollment figures and per-enrollee spending.
2. Please explain why newly eligible enrollment under the ACA Medicaid expansion is rising so much faster in New York than projected and why per-enrollee costs under that expansion are rapidly increasing. Has New York taken any steps to control these costs and, if so, what are those steps?
3. Please explain New York’s methodology for determining the eligibility thresholds for newly eligible enrollees under the ACA Medicaid expansion. Please also explain how New York verifies that applications are accurate and that the enrollees qualify for the enhanced federal match rate for the expansion population.

⁶ Compare Ctrs. for Medicare & Medicaid Servs., *Total Medicaid Enrollees – VIII Group Break Out Report: December 2014*, CTRS. FOR MEDICARE & MEDICAID SERVS. 1 (December 2016), <https://www.medicaid.gov/medicaid/program-information/downloads/cms-64-enrollment-report-oct-dec-2014.pdf>, with Ctrs. for Medicare & Medicaid Servs., *Total Medicaid Enrollees – VIII Group Break Out Report: December 2015*, CTRS. FOR MEDICARE & MEDICAID SERVS. 5 (July 2017), <https://www.medicaid.gov/medicaid/program-information/downloads/cms-64-enrollment-report-oct-dec-2015.pdf> (New York’s enrollment numbers came from state quarterly Medicaid enrollment reports submitted to CMS).

⁷ Jonathan Ingram & Nicholas Horton, *ObamaCare Expansion Enrollment is Shattering Projections: Taxpayers and the Truly Needy Will Pay the Price*, FOUND. FOR GOV’T ACCOUNTABILITY 3 (Nov. 16, 2016), <https://thefga.org/wp-content/uploads/2016/12/ObamaCare-Enrollment-is-Shattering-Projections.pdf>.

⁸ Staff calculated the per-enrollee costs from quarterly state expenditure reports submitted to CMS. See Ctrs. for Medicare & Medicaid Servs., *Expenditure Reports from MBES/CBES*, <https://www.medicaid.gov/medicaid/financing-and-reimbursement/state-expenditure-reporting/expenditure-reports/index.html> (last visited Sept. 15, 2017). The sum of “Total Computable VIII Group Newly Eligible Expenditures” in each quarterly report yields the aggregate expenditure figures for calendar years 2014 and 2015. These figures, divided by the total enrollment numbers for each year, produce the per-enrollee cost for each respective year. This methodology mirrors the methodology that CMS used to calculate per-enrollee costs in a document provided to the Committee in July 2017. On September 18, 2017, Committee staff provided CMS with updated calculations and the supporting data. CMS did not dispute either

4. Please explain whether New York has commissioned or contemplated any audits to examine why the state's ACA Medicaid expansion costs are rising and whether any individuals have been misclassified as newly eligible. Please produce any such audits and all related documents and communications.
5. Please produce all documents and communications between or among employees or contractors of New York referring or relating to the determination of eligibility for the "newly eligible" population under the ACA Medicaid expansion.
6. Please produce all documents and communications between or among employees or contractors of New York and employees or contractors of insurance companies referring or relating to payment rates for insurance companies under the ACA Medicaid expansion.

I respectfully ask that you please provide this information as soon as possible, but no later than 5:00 p.m. on October 11, 2017.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and effectiveness of all agencies and departments of the Government."⁹ Additionally, Rule XXV authorizes the Committee to study "the intergovernmental relationships between the United States and the States and municipalities."¹⁰ When delivering the information, please produce to the Majority staff in room 340 of the Dirksen Senate Office Building and to the Minority staff in room 442 of the Hart Senate Office Building. For purposes of this request, please refer to the due definitions and instructions in the enclosure.

If you have any questions about this request, please contact me or ask your staff to contact Jerry Markon of the Committee staff at (202) 224-4751. Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Chairman

cc: The Honorable Claire McCaskill
Ranking Member

⁹ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

¹⁰ *Id.*

The Honorable Andrew M. Cuomo

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cc: The Honorable Howard A. Zucker
Commissioner
Department of Health
State of New York

Enclosure