

## **The New York Health Act: Is a Single-Payer Model the Future of Healthcare in the Empire State?**

On July 7, 2023, New York legislators introduced the latest version of the New York Health Act (“Health Act”), the most recent form of state single-payer health care reform legislation that has evolved over more than thirty years.<sup>1</sup> As lawmakers prepare to return to Albany for a new legislative session in January, advocates once again hope that health care reform will be top-of-mind, and that 2024 may finally be the year the Empire State is able to truly reform the health care system.

In this paper, I review the history of proposed single-payer health care reform bills in the state and analyze what its passage would mean for New Yorkers.

### **I. Legislative History and Context**

Richard Gottfried, who before his retirement in 2022 was the chair of the New York State Assembly Health Committee and the longest-serving member of the state legislature, first proposed a single-payer health care bill in 1992. The bill passed in the Assembly that year, but then stalled as national attention turned to federal healthcare reform in the next decades. In 2010, President Obama signed the Patient Protection and Affordable Care Act (“ACA”) – landmark federal healthcare legislation intended to provide quality, affordable care to all Americans.<sup>2</sup>

To comply with the ACA’s regulations, the state introduced New York State of Health (“Health Exchange”) as an option for New Yorkers to purchase a health insurance plan. Since the passage of the ACA, New York’s uninsured rate declined from 11.9% in 2010 to 5.2% in 2019.<sup>3</sup>

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<sup>1</sup> A07897/S07590. Reg. Sess. 2023-2024 (N.Y. 2023)

<sup>2</sup> Affordable Care Act, 42 U.S.C. § 18001 (2010).

<sup>3</sup> Elisabeth R. Benjamin et al. *Narrowing New York’s Health Insurance Coverage Gap*, report published by the Community Service Society and Citizens Budget Commission, January 2022.

Still, over 1 million New Yorkers lack health insurance, and far more are underinsured. Reform advocates argue that the private plans offered on New York’s Health Exchange often advertise lower than average premiums but come with high deductibles and out-of-pocket fees.<sup>4</sup> While the ACA has increased access for many New Yorkers, it has not increased affordability.

Gottfried attributed the renewal of interest in state single-payer reform to the deficiencies in the federal reform law. “People have seen that model and know it doesn’t work. The fundamental flaw of the Affordable Care Act is it leaves us in the hands of the insurance companies. We see rising premiums, skyrocketing deductibles, employers shifting more of the costs to the workers or dropping coverage entirely,” Gottfried explained.<sup>5</sup>

As a result of this renewed interest, the Assembly passed the Health Act by a vote of 92 to 52. Encouraged by the historic vote, lead sponsor Gottfried said passage would “elevate the issue on the public agenda and change the conversation from ‘it’s a great idea that will never happen’ to a truly achievable goal.”<sup>6</sup> The bill passed in the Assembly three more times in the consecutive years, but each time was unable to pass in the Republican-led State Senate. Advocates’ hope was renewed when Democrats took control of both houses of the state legislature in 2018, but to no avail. The Health Act has not come up for a vote in either house since 2018.

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<sup>4</sup> Brianna Paolicelli, *Single Payer and the Rising Cost of Health Care*, 15 Cardozo Pub. L. Pol’y & Ethics J. 143, (2017).

<sup>5</sup> Dan Goldberg, *For lawmakers, health initiatives are a long game*, POLITICO (Dec. 23, 2014), <https://www.politico.com/states/new-york/albany/story/2014/12/for-lawmakers-health-initiatives-are-a-long-game-000000>

<sup>6</sup> Press Release, Assembly Member Richard Gottfried, New York Assembly Passes Universal Healthcare Bill (May 27, 2015).

The latest version of the bill, introduced in July 2023, includes changes meant to assuage the concerns of public sector unions who have resisted passage of the Health Act in the past.<sup>7</sup> Advocates including State Senate Health Committee Chair Gustavo Rivera, Assembly Health Committee Chair Amy Paulin, and the now-retired Assembly Member Gottfried, hope that the new version can overcome the obstacles the bill has faced in the past and finally become law in 2024.

## **II. What does the Health Act mean for New Yorkers?**

The New York Health Act would amend the public health and state finance laws to establish a “universal health plan for every New Yorker, funded by broad-based revenue based on ability to pay.”<sup>8</sup> The Health Act would overhaul the current system, replacing the current multi-payer system of employer-based insurance, individually purchased insurance, and federally sponsored programs with a single plan funded and facilitated by the state. The New York Health Plan, which would be established by passage of the Health Act, would finance medically necessary care and comprehensive coverage to all New York residents regardless of health, age, income, employment, wealth, or status. The Health Act would eliminate premiums, deductibles, co-pays and prescription costs, and provide access to primary care, specialists, vision, dental, hearing, mental health, reproductive care, substance abuse, maternal care, and long-term care.<sup>9</sup>

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<sup>7</sup> Rebecca C. Lewis, *Lawmakers introduce latest version of single-payer health care bill*, City & State New York (Jul. 7, 2023) <https://www.cityandstateny.com/policy/2023/07/lawmakers-introduce-latest-version-single-payer-health-care-bill/388304/>

<sup>8</sup> A07897/S07590. Reg. Sess. 2023-2024 (N.Y. 2023)

<sup>9</sup> Assemblyman Richard N. Gottfried, *We Can Do Better: “The New York Health Act” Can Bring Us All Better Health Care, Better Coverage, at Lower Cost*, Office of Assemblyman Richard Gottfried (July 2015).

Over 1 million New Yorkers are uninsured or underinsured, and the average New Yorker spends over \$10,000 on healthcare per year.<sup>10</sup> Therefore, it is not surprising that the idea of reform is popular among the population. A change as radical as the one proposed by the New York Health Act, has never truly been accomplished, and requires careful consideration and analysis.

#### **A. Funding & Anticipated Savings**

The New York Health program would rely in part of federal funds and other subsidies that would – in the current system – be used to fund the state’s Medicare, Medicaid, CHIP, and other programs. If granted approval, those funds would instead be deposited into the New York Health Trust, merging all federal funds and subsidies to partially fund the operation of New York Health’s single-payer system. Federal law has historically prohibited states from interfering with employer-sponsored private health coverage, but more recently, the idea of supporting state single-payer options has become more popular at the federal level.<sup>11</sup> California Representative Ro Khanna (CA-17), has introduced legislation that would support state-based universal health care, opening the door for states to develop their own plans to utilize federal funding in a way that extends affordable healthcare universally.<sup>12</sup>

Beyond those federal funds, the program would be funded by assessments by the State based on ability to pay. The “payroll assessment” would derive revenue based on a progressively graduated assessment on all payroll and self-employed income, paid by employers, employees, and those who are self-employed. Additionally, the second assessment, or “non-payroll

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<sup>10</sup> Campaign for New York Health, <https://www.nyhcampaign.org/aboutnyha> (last visited Dec. 15, 2023).

<sup>11</sup> Elenore Wade, *Health Injustice in the Laboratories of Democracy*, 29 Geo. J. on Poverty L. & Pol’y 177 (2022).

<sup>12</sup> Press Release, Rep. Ro Khanna, Rep. Ro Khanna Introduces Legislation to Support State-Based Universal Health Care (November 8, 2023).

assessment” would be based on taxable income like interest, dividends, and capital gains.<sup>13</sup>

Advocates argue that these sources would fund health care in New York while reducing the burden on the sick, the poor, and the middle class. A study conducted in 2015 found that, “[w]hile the largest savings would go to working households earning less than \$75,000, over 98% of New York households would spend less on health care under the Act than they do now.”<sup>14</sup>

The study, conducted by Dr. Gerald Friedman of the University of Massachusetts at Amherst, attributed the savings to a variety of factors dealing the elimination of administrative and billing duties, reduced fraud, and increased bargaining power to reduce price distortions. More specifically, Dr. Friedman estimates that private health insurers spend over 15% of premiums on administrative activities, “including inflated managerial salaries, redundant bill reviews, medical review programs, and other overhead, plus profit.”<sup>15</sup>

For physicians, hospitals and other health care providers, there would be a significant savings on billing and insurance related expenses. Physicians in the United States spend one-sixth of their work hours on administration, far more than their counterparts in other countries with universal healthcare coverage programs. In New York, physicians and providers spend even more on administrative processes than the national average.<sup>16</sup> By eliminating the billing and insurance processes, physicians could save several hours each week, and devote that time to providing quality care for more people.

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<sup>13</sup> Gerald Friedman, PhD, *Economic Analysis of the New York Health Act* (April 2015) (on file with the University of Massachusetts at Amherst Library).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

In a single-payer system, there would be significantly less resources wasted on policing eligibility for public safety-net programs, since all New Yorkers would be eligible. Additionally, implementing the Health Act would reduce fraud by eliminating the possibility of duplicate billing, streamlining the process of tracking bills, and providing public authorities with easier access to information to monitor and stop potential fraud. Dr. Friedman’s study suggests this combination of factors has the potential to save New York an estimated five billion dollars in costs.<sup>17</sup>

Additionally, by taking power away from for-profit insurance carriers and pharmaceutical companies, a single-payer system would result in reduced prescription drug price costs by increasing bargaining power for the consumer. In 2007, a study by the McKinsey Global Institute found that drug prices are about 60% higher in the United States than in Europe or Canada.<sup>18</sup> In a single-payer scheme, a single state agency dedicated to negotiating prices on behalf of all new Yorkers should be able to negotiate dramatically lower prescription drug prices for consumers, as is evidenced by drastic variations in price points across different markets.

## **B. Opposition and Challenges**

The Health Plan, of course, is not without its critics. Opponents argue that the new system will result in loss of jobs, will limit the consumer’s choosing power in selecting health care providers, will result in decreased quality of care or long wait times, and will only result in the same affordability issue, only in the form of higher taxes. Arguments, however, can be made for the exact opposite as well. For example, under New York Health, there would be no more “in-network/out-of-network” distinctions, so patients would actually have more power to choose

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<sup>17</sup> *Id.*

<sup>18</sup> McKinsey Global Institute, “Accounting for the Cost of Health Care in the United States” 56, January 2007, available at <https://www.mckinsey.com/mgi>.

physicians without restrictions. While implementing a single-payer system would eliminate jobs in insurance administration and billing roles, private employers would be able to allocate resources they once used for health insurance administration to create new jobs. In fact, Dr. Friedman’s analysis estimates that the Plan would create more than 200,000 new jobs, more than replacing those lost in insurance companies and in billing and administrative activities within hospitals and health care provider offices.<sup>19</sup>

While the criticisms aren’t all meritless, it is worth noting that the biggest opponents of the single-payer model are the insurance and drug companies who have the most to lose by providing more accessible and affordable health care. Wendell Potter, an insurance industry whistleblower testified to Congress that while employed as head of corporate communications at a large health insurance company, he “was part of a never-ending effort to defame the NHS, usually by citing a few anecdotes about Brits who claimed to endure long waits for needed care.”<sup>20</sup> Mr. Potter described this work as “industry propaganda,” and said that the media and the public seemed to accept this justification against single-payer programs “despite evidence suggesting that the British enjoy a more efficient and affordable system.”<sup>21</sup> It is clear that insurance and pharmaceutical companies wield massive amounts of power in the United States political process and public mindset, and don’t want to disrupt the status quo.

Alternatively, some critics argue that state single-payer systems will worsen disparities in healthcare and dampen momentum toward a national single-payer program.<sup>22</sup> However, it is hard

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<sup>19</sup> Gerald Friedman, *supra*.

<sup>20</sup> *Testimony of Wendell Potter*, Bill Moyers Journal (July 10, 2009), [https://www.pbs.org/moyers/journal/07102009/potter\\_testimony.html](https://www.pbs.org/moyers/journal/07102009/potter_testimony.html).

<sup>21</sup> Wendell Potter, ‘Socialized’ or Not, *Britain’s Health Care System Is Superior*, The Center for Public Integrity (Feb. 23, 2015), <https://publicintegrity.org/health/socialized-or-not-britains-health-care-system-is-superior/>.

<sup>22</sup> Eleanor Wade, *supra*.

to imagine that a national single-payer program is truly realistic, when even the ACA, a far less progressive reform effort has been under attack since its passage.

### **III. Conclusion**

There is no simple answer to the challenges presented by an issue as complex as health care, but passage of the New York Health Act would make health care more accessible and affordable to millions of New Yorkers. Health care providers not tied down with administrative and billing responsibilities can focus on providing quality care to New Yorkers. Employers, no longer responsible for administering health benefits to their employees, will be able to use those resources to create new jobs. A streamlined system will make it easier for New Yorkers to find the care they need, and will encourage consumers to utilize preventative care services that can vastly improve public health overall.

A single-payer plan is hardly unheard of in the United States. More than 65 million Americans are enrolled in Medicare, a single-payer plan that has been implemented successfully to insure the elderly and disabled for more than fifty years.<sup>23</sup> New York has an opportunity to step up and provide health care for its people as a public service, and in doing so, become a shining example for the nation.

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<sup>23</sup> Center for Medicare Advocacy (Jun. 29, 2023), <https://medicareadvocacy.org/medicare-enrollment-numbers/>