

March 8, 2024

TO: MSSNY OFFICERS, COUNCILORS, AND TRUSTEES

FROM: GREGORY PINTO, MD
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RE: REPORT FROM THE DIVISION OF GOVERNMENTAL AFFAIRS

ALBANY

March Begins Budget "Crunch Time"- Please Urge Legislature to Reject Proposals Jeopardizing Patient Access to Community-Based Physician Care

With the Assembly and Senate close to advancing their respective "one-House" Budget proposals, the time is now for physicians to urge their legislators to reject the numerous adverse items contained in the FY 2024-25 Executive Budget that will make it even more difficult for patients to maintain access to community-based physician care. Physicians can use the tools available on MSSNY's Grassroots Action Center [_ \(p2a.co\)](https://p2a.co) to aid physicians in speaking out on these proposals.

MSSNY has noted to legislators some positive items in the Governor's Executive Budget, including investments in the Patient-centered Medical Home program, further medical student loan repayment programs, telehealth payment parity; and expanded health insurance subsidies for those purchasing coverage through New York's Health Insurance Exchange. However, these beneficial provisions are significantly outweighed by numerous other problematic initiatives that would harm patient access to care by limiting available physicians to deliver care. These include:

- ***Opposing CPH Elimination.*** Opposing a proposal in Part L of the HMH Art. 7 Budget bill to repeal authorization for the MSSNY's Committee for Physicians Health (CPH) program. [CPH-Repeal-Oppose\(mssny.org\)](https://cphepealoppose.mssny.org). CPH has for over 40 years provided needed treatment services for thousands of physicians facing behavioral health or addiction issues. Last year, the State Legislature and the Governor agreed to continue this essential program for an additional 5 years. CPH is not funded out of the General Fund but through a \$30 set-aside through the physicians' biennial registration fee that results in an annual appropriation to CPH of \$990,000.

Please send a letter to your legislators here to preserve the essential services provided by the CPH program: [Restore Funding for CPH Program \(p2a.co\)](https://p2a.co)

- ***Opposing Huge Cost Imposition for Excess Medical Malpractice Insurance Coverage.*** Opposing a proposal in Part K of the Art. 7 HMH Budget bill that would impose thousands to tens of thousands of dollars in new costs on the nearly 16,000 physicians enrolled in the Excess Medical Malpractice Insurance program, by requiring physicians to pay 50% of the coverage cost [Excess Change Oppose \(mssny.org\)](https://excesschangeoppose.mssny.org). This is a nearly \$40 million hit to community-

based physicians across the state who already pay among the highest medical liability insurance costs in the nation. For many downstate surgeons, this cost will be in tens of thousands of dollars!! Many physicians will face no choice but to decline the coverage because of lack of affordability.

Please send a letter to your legislators here to oppose this unfair cost imposition: [Reject Cost-Share for Excess Insurance Program \(p2a.co\)](#)

- ***Opposing Repeal of Physicians' Right to Appeal Claim Underpayments.*** Opposing a proposal in Part H of the Art. 7 HMM Budget bill that would repeal the ability of physicians to bring claim disputes with Medicaid Managed Care plans to the Independent Dispute resolution (IDR) process [IDR-Repeal-Oppose \(mssny.org\)](#). This change, which would overturn a recent action by DFS to permit the right to appeal these claims through IDR, will lead to steep health insurer payment cuts and network reductions, and discourage many physician specialists from providing essential on-call emergency department care.

Please urge that these changes be rejected: [Retain Right to IDR \(p2a.co\)](#)

- ***Protect Physician-Led Team Care.*** Opposing a series of scope expansion proposals in Part Q of the Art. 7 HMM Budget bill to permit Physicians Assistants (PAs) to practice without any physician supervision or collaboration after 8,000 clinical hours if they practice in primary care or are employed by a hospital; Permitting dentists to perform screening tests for HIV, Hepatitis and Diabetes; and authorizing pharmacists dispensing PrEP on a non-patient specific prescription basis, and to extend the law that permits Nurse Practitioners with more than 3,600 hours of practice to deliver care without any physician collaboration. [Protect Physician-Led Team Care \(mssny.org\)](#)

Please send a letter to your legislators urging them to [Preserve Physician-led, Team-based Healthcare \(p2a.co\)](#)

- ***Protecting Patient Access to Needed Medications and Treatments.*** Opposing proposals in Part I of the Art. 7 HMM Budget bill that would increase prior authorization hassles for Medicaid prescriptions by repealing "prescriber prevails" protections and give power to Medicaid to reimburse physicians for injectable medications at amounts even less than what the physician office paid to acquire the injectable medication.

MSSNY has been working with specialty societies and other physician groups to send joint communications to the entire State Legislature raising our collective concerns with each of these proposals, and the urging the Legislature to instead advance proposals that will incentivize physicians to remain in practice in New York.

MSSNY Pushing to Make Payment Parity for Insurer Telehealth Coverage Permanent

MSSNY is working to win support from lawmakers to make parity in payments for Telehealth services permanent in the final state budget for FY2024-25. A provision was included in the final budget for FY2022-23 but this health insurer requirement is scheduled to expire on April 1, 2024. Governor Hochul included a proposal in her budget for FY2024-25 to extend the law for one year.

At the height of the COVID-19 crisis, the use of Telehealth dramatically increased and became an essential way for physicians to provide care to their patients. Even with the end of the public health emergency, there is still enormous use of telehealth modalities to deliver essential patient care, particularly for behavioral healthcare services. We are concerned that elimination of this requirement for fair payment will result in a significantly diminished availability of a new method for delivering care that is beneficial for many patients.

MSSNY is working closely with the New York State Psychiatric Association (NYSPA) and a range of other specialty physician organizations to advocate for permanency in the budget and we will update members as negotiations progress.

Support Continuation of Veterans Mental Health Training Initiative in State Budget

[Click the link here](#) to show your legislators that you support the continued funding of the Veterans Mental Health Training Initiative in the 2024-2025 budget. Funded since 2009 through the New York State budget, MSSNY has been providing training for primary care physicians and health practitioners from across the primary care specialties, on veterans-specific mental health issues including combat and service-related post-traumatic stress disorder, traumatic brain injury, suicide in veterans, substance use, military culture, women veterans' mental health conditions including the impact of military sexual trauma and burn pits.

The US Department of Veterans Affairs launched a new initiative in January 2023 to allow veterans in crisis to obtain care in practices and facilities outside of the VA. While this initiative will increase access to services, it will place an even greater reliance on private practices and community mental health practitioners for services not provided by the VA or when the VA is unable to meet the demand. For the above reasons MSSNY, The New York State Psychiatric Association (NYSPA), New York State Chapter of the National Association of Social Workers (NASW-NYS) urge the final budget for 2024-25 to include the \$350,000 appropriation for the VMHTI.

Prior funding for the VMHTI has allowed the VMHTI to successfully train over 5,400 primary care physicians and psychiatric practitioners through the MSSNY & NYSPA programs, and over 15,000 social workers and community mental health providers, including LMFTs, LMHCs, and licensed psychologists through the NASW-NYS program. Show your support today!

Prior Authorization Burden Reduction Legislation Advances in Senate

The New York State Senate Health Committee agenda has advanced legislation (S.3400, Breslin) to the Senate Finance Committee supported by MSSNY and many other patient advocacy organizations [S3400 \(mssny.org\)](#) that would help to reduce excessive health insurer prior authorization requirements, including prohibiting repeat prior authorization requirements after an initial prior authorization for needed patient treatment has been granted by a health insurer. Identical legislation (A.7268, Weprin) is before the Assembly Insurance Committee. Physicians can send a letter in support here: [Urge Your Legislators to Support Prior Authorization Reform! \(p2a.co\)](#).

NYS DFS Announces Proposed Regulation Requiring Insurers to Provide Increased Access for Mental Health & Substance Use Disorder Services:

DFS has announced [DFS Proposed Regulation \(ny.gov\)](#) proposed regulations to create network adequacy standards for behavioral health services, including establishing wait time limits for behavioral health care f. commercial insurance coverage. Furthermore, when an in-network provider is not available within those

wait times standards, the regulation will require insurers to allow access to an out-of-network provider who can meet those standards, at no additional cost.

The announcement comes on the heels of Governor Hochul's recent efforts to increase access to mental health services by making provider directories easier to navigate, establishing provider network adequacy requirements related to appointment wait times and initiating other important consumer protections. The DFS regulation will also specific information to be included in provider directories, including provider affiliations with facilities and restrictions on a provider's scope of services, such as age of patients or mental health conditions treated; as well as requiring insurers to submit to DFS an annual certification regarding an insurer's access plan that must include collection of data and monitoring of its behavioral health network.

The New York State Department of Health (DOH) recently proposed an identical regulation for health maintenance organizations (HMOs), including Medicaid managed care plans, child health plus, and the Essential Plan.

MSSNY will continue to track this issue and update members on new policies.

WASHINGTON

New York Physicians Urge Congress to Restore Medicare Cuts and Increase Future Physician Pipeline

MSSNY physician leaders and staff conducted numerous meetings with members of the New York Congressional Delegation in Washington DC in February to discuss a range of federal legislative issues to help protect and expand patient access to community-based physician care. Among the issues discussed:

- Restoring the 3.37% Medicare cut that went into effect on January 1, as well as additional legislative proposals to reform the process by which physicians are paid by Medicare. Medicare payments to physicians have been cut by nearly 10% in the last 4 years. (Legislation to partially restore the cut was likely to be included as part of a federal Budget package to be considered by Congress in early March [Congress' spending bill: Doc pay bump, delayed DSH cuts and more \(fiercehealthcare.com\)](#))
- Bipartisan Graduate Medical Education and physician workforce legislation to increase residency training slots and reform immigration policies to eliminate physician shortages and serve the growing aging population.
- Legislation introduced by Reps. Greg Murphy, MD (R-N.C.), Morgan Griffith (R-Va.), Mariannette Miller-Meeks, MD (R-Iowa), Ami Bera, MD (D-Calif.), Kim Schrier, MD (D-Wash.) and Derek Kilmer (D-Wash.) would bar health plans and vendors from charging physicians unnecessary fees for electronic fund transfer (EFT) payment transactions.

MSSNY physician leaders that participated in the Hill visits and the American Medical Association's (AMA) annual National Advocacy Conference (NAC) included Dr. Tom Madejski, past president of MSSNY, MSSNY Councilor Dr. Anna Heffron, Dr. Erick Eiting, and Dr. Sophia Spadafore.

Here is the [full action kit](#) for the AMA's NAC conference.

AMA Statement on Change Healthcare Debacle

As the cyber-takedown of Change Healthcare has forced medical practices to go without revenue for a twelfth day, the American Medical Association (AMA) urged U.S. Department of Health and Human Services (HHS) Secretary Xavier Becerra to use all its available authorities to ensure that physician practices can continue to function, and patients can continue to receive the care that they need.

An AMA [letter](#) (PDF) sent to Secretary Becerra outlines ongoing concerns of physicians amidst the cybersecurity incident that has impacted Change Healthcare and the unprecedented disruptions that have severely hampered physicians' ability to care for patients.

"This massive breach and its wide-ranging repercussions have hit physician practices across the country, risking patients' access to their doctors and straining viability of medical practices themselves," said AMA President Jesse M. Ehrenfeld, M.D., M.P.H. "Against the backdrop of persistent Medicare cuts, rising practice costs and spiraling regulatory burdens, this unparalleled cyberattack and disruption threatens the viability of many practices, particularly small practices and those in rural and underserved areas. This is an immense crisis demanding immediate attention."

According to an [estimate](#) from First Health Advisory, a digital health risk assurance firm, the outage is costing health care providers over \$100 million daily, posing severe financial challenges for medical practices already strained for liquidity. Given the combined financial impact of the Change Healthcare hack and Medicare payment cuts to physicians, the AMA urged HHS "to utilize any available emergency funds and authorities to provide critical financial resources to physicians, ensuring they can continue to deliver essential health care services during these challenging times."

CMS Finalizes Prior Authorization Rules for Medicare Advantage Plans

In January, the Center for Medicare & Medicaid Services (CMS) finalized a new rule that sets some standards for prior authorizations used in Medicare and Medicaid managed care plans. The rules will require these plans to respond to prior authorization requests within 7 days, and 72 hours for urgent requests, provide specific reasons for denials and provide public information about approved and denied prior authorization requests. [CMS Finalizes Rule | HHS.gov](#)

These rules are similar to what New York already requires of New York-regulated health plans, which require a decision on prior authorization requests within 3 business days of a pre-authorization request and provide a clinical rationale when an adverse determination is issued. The New York DFS issues a report every year that details the utilization review requests denied and use of the external appeal mechanism to appeal these decisions. [NYSDFS: 2023 New York State Consumer Guide to Health Insurers](#)

MSSNY is also pushing legislation together with several other patient advocacy groups [S3400/A7268 \(mssny.org\)](#) in support of legislation that would reduce timeframes for prior authorization decisions, and prohibiting repeat prior authorization requests by health plans.