

Half-a-Million and One Broken Promises

New Yorkers Still Waiting for Health Insurance
Promised more than Four Years Ago
Local Government Taxpayers Still Waiting for State
Relief for Medicaid Costs



Public Policy and Education Fund of New York

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Half-a-Million and One Broken Promises: New Yorkers Still Waiting for Health Coverage Promised More than Four Years Ago – Local Governments Still Waiting for State Relief from Medicaid Costs is a publication of the:

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Executive Summary

This report addresses two important policy issues in New York;

- Three million New Yorkers do not have any health coverage;
- The burden of high Medicaid costs on local government (counties and New York City) taxpayers.

The report looks at the relationship between these two issues through the financing of one program, Family Health Plus.

In 1999, New York State enacted HCRA 2000, legislation that established two new programs for the uninsured, Family Health Plus and Healthy New York, which were to be funded by a 55 cent/pack increase in cigarette taxes. At the press conference announcing the legislation Pataki, joined by Senate Majority Leader Joseph Bruno and Assembly Speaker Sheldon Silver, announced that the cigarette taxes were to cover up to one-million uninsured New Yorkers.

The new cigarette tax money was dedicated for the state portion of Family Health Plus, a program that expanded Medicaid to cover low-income adults. However, HCRA 2000 required local governments to pay half of the New York State cost of Family Health Plus, 25% of the total program. Three years later, those costs to local governments are estimated to be almost \$400 million a year. While this is still a very small portion of overall Medicaid costs in New York, less than 5%, the new program added one more weight on local governments already struggling to pay for Medicaid.

This report looks at whether New York State Government has kept the promise of Governor Pataki and legislative leaders to cover one-million uninsured New Yorkers with the new cigarette tax revenues. The report finds that as of April 1, 2004:

- ✓ \$1.773 billion of cigarette taxes have been collected.
- ✓ Only \$710 million (40%) of the cigarette tax collections have been spent on the programs for the uninsured and smoking prevention, the other announced purpose for the taxes, leaving a surplus of \$1.063 billion.
- ✓ Some 447,000 New Yorkers were newly covered, 397,000 by Family Health Plus and 50,000 by Healthy New York. As a result the programs are 550,000 short of the goal of covering one million uninsured New Yorkers.
- ✓ County governments and New York City have had to pay \$376 million for their share of Family Health Plus, even though those governments did not collect any of the new cigarette tax dollars. The unspent cigarette tax dollars are more than enough to have covered the cost of Family Health Plus to counties and New York City.

Despite the surplus in taxes, Governor Pataki and the Republican Senate majority are proposing cuts in coverage and benefits for Family Health Plus, in the 2004-2005 state budget. The cuts would cause low-income working families to lose health coverage, receive fewer benefits and pay more for care. The State Senate has also proposed that the state assume the local government cost of Family Health Plus, but only under conditions that are very unlikely to be met.

Based on the findings of this study, this reports recommends that instead of cutting Family Health Plus coverage, or creating a Hobbsian choice between health coverage and local

government tax relief, the surplus cigarette tax revenues should be used for their intended purpose : providing health coverage, including financing the local government share of Family Health Plus. Specifically the funds should be used to:

1. **Increase enrollment in Family Health Plus:**
 - a. Simplify the application requirements used for Family Health Plus, Child Health Plus and Medicaid, eliminating all application tests that are not required by the federal government;
 - b. Increase income eligibility for all adults (those with and without dependent children) in Family Health Plus to the same level as Child Health Plus, 250% of the federal poverty level;
 - c. Reject the Governor's proposals to cut eligibility, benefits and facilitated enrollment.
2. **Pay the local government share of Family Health Plus.** In addition to increasing enrollment, the State should use the cigarette tax "surplus" to cover the local government share of Family Health Plus. Counties are correct that they are forced to pay for Medicaid costs dictated by State government. PPEF recommends using a portion of the cigarette tax revenue to pick up the local government share of Family Health Plus

New York State should keep its pledge to the 550,000 uninsured New Yorkers who are still waiting for the health coverage promised in 1999. New York should also redress the wrong done to local taxpayers when the State raised new taxes to cover the State's share of paying for a new program for the uninsured, but forced local taxpayers to pick up the growing tab without a new funding source. With \$1.063 billion of cigarette taxes promised for the uninsured but not spent to provide coverage or smoking prevention, there is enough revenue to keep the promise and correct the wrong. In doing so, the Governor and Legislature would help restore public faith in government.

Introduction

County governments in New York have forcefully put the high cost of Medicaid at the top of their political agenda in 2004, arguing that while county taxpayers cover an average of 16% portion of most Medicaid services, New York State government sets the rules for who is eligible and what services to provide.¹ Democratic Albany County Executive Michael Breslin says: “The Medicaid crisis in New York has forced double digit property tax increases, critical service cuts and layoffs on many counties in the State. According to Republican Chemung County Executive Thomas Santulli, “If something’s not done about the Medicaid dilemma – especially the local share cost – counties will be bankrupt.”²

The New York State Association of Counties (NYSAC) has asked the Governor and Legislature to “support a cap on the local share of Medicaid and hold counties harmless for any enhancements to the program in order to stabilize and reduce local real property taxes and assure the economic competitiveness of New York State”.³

Faced with a budget deficit and demands by the counties for Medicaid savings, Governor Pataki submitted a 2004-2005 budget proposal that included proposals for \$801 million in savings to the state budget from cuts and taxes on Medicaid and an additional \$139 million in cuts to programs funded under the Health Care Reform Act (HCRA); these cuts would also reduce county spending on Medicaid by hundreds of millions of dollars. The Governor also proposed that the state pick up \$24 million in local share of Medicaid spending, but only if certain other savings could be achieved.⁴

By far the largest share of Medicaid spending in New York is on care for the aged, blind and disabled. These populations make up 30% of Medicaid recipients but account for 78% of Medicaid spending, a total of \$32 billion in 2003 (including payments by the federal, state and local governments.⁵) The remaining 70% of Medicaid recipients (47% children and 23% low-income adults) account for only 22% of Medicaid spending, \$9 billion in 2003. (including payments by the federal, state and local governments.⁶)

¹ Report of the Senate Medicaid Reform Task Force, December 2003

² Press release from Senator Hillary Rodham Clinton, November 2002.

³ New York State Association of Counties website: www.nyac.org; 5/10/04.

⁴ 2004-2005 Budget Analysis, Office of the Comptroller, February, 2004

⁵ Report of the Senate Medicaid Reform Task Force, December 2003.

⁶ Report of the Senate Medicaid Reform Task Force, December 2003.

While most Medicaid spending is on the aged and disabled, a great deal of attention recently has been on spending under the newest Medicaid program, Family Health Plus. Family Health Plus began in the fall of 2001 to provide coverage for low-income adults through an expansion in Medicaid. In the first two years of the program, the county share was \$54 million. In 2003, the county share rose to \$233 million. However, even though more people are being enrolled in Family Health Plus, the program is not the leading reason that local governments face ever-higher costs for Medicaid because it is still a small portion of the overall Medicaid budget. In 2003, Family Health Plus accounted for only \$931 million out of the \$41 billion Medicaid budget, or 2.3%. The county share of Medicaid averages 16%, which resulted in increased local spending of almost \$450 million in 2003, or about two times the *total* local government share (not just the increase) for Family Health Plus.

While the leading cause of the growth in local government spending on Medicaid is not Family Health Plus, the fact that the success of the new program has added \$376 million to local governments' costs since the program's inception has, nevertheless, focused attention on Family Health Plus costs. The Governor's proposed budget included \$45 million in state saving from reducing benefits and changing eligibility to Family Health Plus. These cuts would also result in saving to local governments as well. Family Health Plus was launched in 1999 as part of a promise by the Governor and Legislature to use an increase in cigarette taxes to provide health coverage for up to one-million uninsured New Yorkers. However, none of that money was provided to counties to cover the local share of Medicaid. *Now, more than four years later there are some 550,000 New Yorkers still waiting for promised health coverage. At the same time, New York State has collected better than one billion dollars more in new revenue than it has spent on health coverage, enough money to expand Family Health Plus, and pay for the local government share of Family Health Plus.*

The Promise

Family Health Plus was enacted in 1999 and began providing health coverage in 2001. At a joint press conference with Senate Majority Leader Joseph Bruno and Assembly Speaker Sheldon Silver, Governor George E. Pataki called the legislation "an historic health care initiative." In his December 17, 1999 press release the Governor said: "*This historic legislation will mean a healthier New York, providing the most comprehensive health care plan in the*

nation for those who need it most. Up to a million New Yorkers, many who work hard to provide a better life for their families, will now get the health insurance they need and deserve.”

The Governor’s press release explained that money to cover the uninsured, and for anti-smoking efforts would be raised by “*a 55-cent additional tax on cigarettes.*”

The Governor’s announcement was headline news the next day in papers around New York. *New York Times* reporter Ray Hernandez led off his story: “*Gov. George E. Pataki and legislative leaders from both major parties agreed today to raise the state's cigarette tax by 55 cents a pack in an ambitious effort to provide health care coverage for as many as one million uninsured New Yorkers.*”

The news was greeted with widespread approval but county governments were unhappy to learn that they would be paying 25% of the cost of Family Health Plus. The original Family Health Plus legislation, passed by the Assembly in June of 1999, did not require local governments to pay a share of Family Health Plus. However, participants in the legislative negotiations report that Governor Pataki insisted that counties pick up the traditional 25% share for Medicaid, despite objections by both Assembly Speaker Sheldon Silver and Senate Majority Leader Joseph Bruno. So while New York State would receive the new revenue from cigarette taxes to pay for its 25% share (the remaining 50% would be paid by the federal government), New York counties (which includes New York City) would be required to pay for Family Health Plus without a new revenue source. Over the loud objections of county governments, the agreement between the Governor and Legislature became law by the end of 1999 as part of the Health Care Reform Act of 2000 (HCRA 2000). Several other programs were also included in HCRA 2000 to reduce the number of uninsured.

Three and a half years into the program, where does New York stand on keeping the promise made to taxpayers to use the new cigarette tax revenues to cover one-million uninsured New Yorkers? While \$1.8 billion in new tax revenues were collected from March 2000 through March 2004, the number of New Yorkers insured by the new programs was 447,000 by March of 2004. Some 550,000 New York families still wait for promised health coverage. A significant amount of the cigarette tax revenues have been siphoned off for other purposes. County taxpayers pay higher sales and property taxes to cover their share of Family Health Plus. Still worse, this year Governor Pataki is asking the Legislature to reduce eligibility and benefits for Family Health Plus.

By the Numbers: Taxes, spending and coverage under HCRA 2000

The Governor's December 1999 press release, and the HCRA 2000 law, relied on four programs to reach the coverage goals:

- ✓ **Healthy New York for small business**, a new program offering a less than comprehensive benefits package to businesses that have fewer than 50 employees. Employees must be of low to moderate income.
- ✓ **Healthy New York for individuals**, a new program that provides the same benefit package to individuals who work for employers who do not offer health benefits.
- ✓ **Subsidies for direct pay individuals**, expanded funding for an existing program that lowers the cost of health insurance sold to individuals in New York.
- ✓ **Family Health Plus**, a new program that would expand the Child Health Plus program to low-income adults. As enacted in HCRA 2000, adults without dependent children are eligible up to 100% of the federal poverty level (FPL) and adults with dependent children up to 150% of the FPL.⁷

All but the direct pay subsidies were new programs, established in HCRA 2000. Where do we stand now on revenues raised by the 55-cent cigarette tax increase, money spent on these programs and number of newly uninsured individuals?

Money raised from 55 cent/pack increase in cigarette taxes raised in HCRA 2000:

The Fiscal Policy Institute (FPI) did an analysis of the amount of revenues generated by the 55 cent/pack increase in cigarette taxes from 2000 through March 2004. To get this figure, FPI had to extract that tax from a second cigarette tax increase of 39 cents a pack that went into effect in April 2002 as part of amendments to HCRA, known as HCRA 2002. Through its analysis, FPI calculated that New York collected \$1.773 billion through March 2004 from the 55 cents/pack tax.⁸

1. Money spent on uninsured programs established in HCRA 2000:

The Public Policy and Education Fund (PPEF) published a cost analysis of the uninsured for the report, *800,001 Broken Promises: New Yorkers Still Waiting for Health Insurance Promised More than Three Years Ago*, in April 2003. For the current report, we have updated the figures through March 31, 2004, as follows:

- ✓ **Family Health Plus:** Total spending on Family Health Plus, for all payors, through March 2004, was \$1.503 billion, including all payers. The price tag of the 25% New York State government share, January 2000 through March 2004, was \$376 million.

⁷ Coverage for adults with dependent children ramped up, under HCRA 2000, from 120% of FPL as of 1/1/01; to 133% of FPL as of 10/1/01; to 150% of FPL as of 10/1/02.

⁸ FPI analysis from data in Appendix II of the Executive Budget.

- ✓ **Healthy New York:** According to figures from the New York State Comptroller, the amount spent on Healthy New York since it was launched in January 2001 through March 2004 was \$18 million. This includes both the small business and individual Healthy New York programs.
- ✓ **Direct Pay:** The Direct Pay program, which was established before HCRA 2000, spent the full amount money allocated in the State budget, a total of \$160 million from January 2000 through March 2004.

The total spent by New York State on the HCRA 2000 programs for the uninsured, through March 2004, was \$554 million, which is \$1.219 billion *less* than the \$1.773 billion collected by the State in cigarette taxes.

2. Number of newly insured New Yorkers under HCRA 2000:

- ✓ **Family Health Plus:** Family Health Plus did not begin enrolling New Yorkers until October of 2001. Since that time, enrollment has increased steadily. As of April 1, 2004 Family Health Plus enrollment was at 397,268. That is a little more than half (55%) of the 720,000 individuals that the Department of Health says are eligible for the program.
- ✓ **Healthy New York:** While both Healthy New York programs began as scheduled in January of 2001, enrollment for the first several years was anemic. Changes made to the program by the State Insurance Department in 2003 increased the pace of enrollment. The program grew from 22,000 in early 2003 to 39,000 by the end of 2003 and to 50,000 by March of 2004.⁹ Still, Healthy New York enrollment is only 13% of the number enrolled in Family Health Plus.
- ✓ **Direct Pay Subsidies:** Unlike Family Health Plus and Healthy New York, the direct pay program was not created under HCRA 2000. The subsidies for private insurance policies were designed to stabilize the existing market and prevent more people from dropping individual insurance because of the high price. Enrollment in the direct pay market is at 119,000, about the same as when HCRA 2000 was enacted.¹⁰

The Bottom Line:

- **New York State collected \$1.773 billion of revenue from the 55 cent/pack portion of the tax, from March 2000 through March 2004.**
- **New York State spent \$554 million on the HCRA 2000 programs for the uninsured through March 2004, less than one-third (31%) of the \$1.773 billion collected by the State in cigarette taxes.**

⁹ Healthy New York enrollment data in 2003 from State Insurance Department. Current 50,000 figure from *Albany Times Union*, Red tape called a bitter pill, by Matt Pacenza, April 12, 2004.

¹⁰ Health Insurance Market in New York State: Strategies for Affordable Coverage, Senator James L. Seward, February 2004.

- **There are approximately 450,000 newly insured New Yorkers enrolled in the programs established under HCRA 2000. As a result, the programs are 5500,000 short of the promised number of uninsured covered by the programs.**

Keeping the Promise to the Uninsured and Taxpayers

What happened with the cigarette tax revenue that was raised but not spent on the uninsured? The cigarette tax money, and money from the settlement with tobacco companies, go into HCRA's Tobacco Control and Insurance Initiatives Pool, which funds other programs in addition to smoking prevention and the new programs for the uninsured. HCRA 2000 allows all funds *not* spent from the Tobacco Pool to go into another large pool, entitled the Indigent Care/Health Care Initiatives Pool. Most of the money in the Indigent Care Pool is given to hospitals for indigent care; the pool also funds Child Health Plus.

The HCRA health budget and the general state budget are intertwined. This was dramatically illustrated last year when the Governor and Legislature agreed to take \$4.5 billion to close the budget gap by pledging future tobacco settlement funds. The passage of HCRA 2000 marked the first time that New York had raised new revenues for HCRA through taxes not directly placed on health care providers or insurers. HCRA now pays for many programs that were once funded with general state revenues, including the Medicaid portions of Child Health Plus and Family Health Plus and the EPIC prescription drug program for seniors. As a result, the Executive has the ability, through control of HCRA funded programs, to limit spending, direct spending to other areas and generate relief for the general state budget.

We also note that the Governor's December 19, 1999 press release was misleading on the use of the cigarette taxes. While the press release promised to spend all the cigarette tax money on programs for the uninsured and tobacco use prevention, the actual money allocated for these programs was considerably less than what was to be raised by the cigarette taxes. Adding the original allocations in HCRA 2000 and modifications in HCRA 2002, the actual amount allocated to cover the uninsured was \$852 million. Another \$156 million was allocated to the Tobacco Use Prevention and Control Program. So a total of \$1.008 billion from 2000 through March 2004 was actually allocated in the legislation for the uninsured programs and tobacco use prevention.

As the tables below summarize, from January 2000 through March 2004 New York State collected \$1.773 billion in new cigarette taxes promised to cover one million uninsured and fund tobacco prevention. However, the Governor and Legislature only allocated \$1.008 billion for these uses (\$852 million on the uninsured plus \$156 million on smoking prevention), diverting \$765 million (43%) to other purposes. And while all the tobacco prevention funds were spent, the State spent \$298 million less (35%) on the uninsured than it allocated. Thus the State spent only \$710 million (40%) of the \$1.773 billion in taxes on the uninsured and tobacco, leaving a surplus of \$1.063 billion in new cigarette taxes. By comparison, local governments have spent \$376 million on Family Health Plus, without receiving any of the cigarette tax revenue.

January 2000 through April 2004	
Taxes Collected for the Uninsured & Smoking Prevention	\$1,773,000,000
Money Spent on the Uninsured/Smoking	\$ 710,000,000
Taxes Collected but not spent on the Uninsured/Smoking	\$1,063,000,000

HCRA – January 2000 through March 2004			
	<u>Taxes raised to pay for the Uninsured</u>	<u>Spending on the uninsured</u>	<u>Uninsured covered</u>
Promises Made	\$1,773,000,000	\$ 852,000,000	1,000,000
Promises Kept	\$1,773,000,000	\$ 554,000,000	450,000
Promises Broken	None	\$ 298,000,000	550,000

Proposed cuts in Family Health Plus in Governor's 2004-2005 Budget

With the state budget in deficit again in the 2004-2005 budget year, Governor Pataki has proposed cuts in Family Health Plus. The Governor's proposals would make it harder for working families to get health insurance coverage by:

- ✓ Reducing the number of people on Family Health Plus:
 - Denying eligibility for FHP to adults with more than nominal savings. This provision makes it impossible for low-income families to have virtually any cash savings, forcing them to either remain in poverty or lose health coverage;
 - Denying FHP eligibility, in many instances, until one is uninsured for a full year after losing employer health insurance, even if the person is living at or near the poverty level;
 - Cutting eligibility for FHP if adults work for local, state, or federal government or a private employer that has more than 50 workers, punishing the worker for the failure of the employer to provide health coverage;
 - Eliminating facilitated enrollers for FHP; requiring people to go to county Social Service offices rather than apply with the help of community-based organizations. Facilitated enrollment is consumer-friendly and much more effective.
- ✓ Cutting FHP benefits:
 - Eliminating FHP coverage for vision and dental services. These are essential health services that enable low-income, working families to stay healthy and remain in the work force. Low-income people do not have the financial resources to pay for these services out-of-pocket.
 - Charging low-income people on FHP co-payments for medical services, even though studies have shown that co-payments for poor people lead them to avoid care all together.¹¹ The *Wall Street Journal* reported on May 10th, 2004 that the Pitney Bowes company found that **lowering** co-payments saved the company money. A study for the company found that even for its employees -- who earn much more than people on FHP -- the burden of co-payments resulted in omitting needed medications. As a result, the firm ended up with higher health care costs from treating the more severe conditions caused by the failure of employees to take required medications.

State Senate Cuts: The State Senate passed a Medicaid reform bill in June 2004 that includes the Governor's proposed cuts and makes an additional cut, further reducing the Family

¹¹ Charging the Poor More for Health Care: Cost Sharing in Medicaid, Center on Budget and Policy Priorities, May, 2003.

Health Plus benefit package to that of Healthy New York. The Healthy New York benefit package is very limited, particularly given the resources of low-income people. For instance, Healthy New York provides either very limited or no prescription drug coverage. Healthy New York also does not provide outpatient mental health, physical therapy and a number of other benefits.

The Senate Medicaid bill offers a fig leaf proposal to have the state take over the local government share of Family Health Plus. Under the Senate proposal, the State would phase in picking up local government costs for Family Health Plus *only* if: 1) there are no restorations of the Family Health cuts or other changes to Medicaid made in the Senate Medicaid bill; 2) Medicaid savings from Family Health Plus cuts and other proposed Medicaid savings in the bill are sufficient to pay for the cost of the state takeover in each and every future year.

Recommendations

The Governor and Legislative leaders should keep the promise made more than three years ago to use the new funds raised by the 55 cent/pack increase in cigarette taxes to provide health coverage to one million New Yorkers. Moreover, the Governor and Legislative leaders should redress the wrong done to counties by forcing local government taxpayers to pay for Family Health Plus, without sharing the new state tobacco tax revenues with local governments.

New York should use the cigarette tax funds to:

1. **Increase enrollment in Family Health Plus:**
 - d. Increase income eligibility for all adults (those with and without dependent children) in Family Health Plus to the same level as Child Health Plus, 250% of the FPL. As with Child Health Plus, adults who earn more than 160% of FPL would pay a monthly premium for Family Health Plus;
 - e. Simplify the application requirements used for Family Health Plus, Child Health Plus and Medicaid, eliminating all application tests that are not required by the federal government.
 - f. Reject the Governor's proposals to cut eligibility, benefits and facilitated enrollment.
2. **Increase subsidies for the direct pay market:** The direct pay market –under which New York HMOs sell state-mandated insurance policies to individuals – is an important source of coverage to people who do not get employment-based coverage. However the HCRA allocation for the direct pay market covers barely half the eligible claims in this market. Doubling the allocation would cover all the eligible claims, allowing lower premiums and expanding coverage to more people.

New York should pay the local government share of Family Health Plus:

3. The State should use the cigarette tax “surplus” to cover the local government share of Family Health Plus. Counties are correct that they are forced to pay for Medicaid costs dictated by State government. Funding for Medicaid, outside of New York City, which has an income tax, comes entirely from regressive sales and property taxes. A portion of the cigarette tax revenue should be used to pick up the local government share of Family Health Plus.
4. **In addition, to be sure that the funds allocated for the uninsured are used effectively New York should combine Family Health Plus and Healthy New York budget allocations:** Instead of having two separate funding streams for Family Health Plus and Healthy New York, the Governor and Legislature should combine the funds in one pool of money and allow both programs to draw from the pool as needed. Under the current separation of funding streams, money not spent on one program will not be available if the other program runs short of funds. The experience of the first two years indicates that Healthy New York is likely to spend only a small fraction of budgeted funds while Family Health Plus has more potential to expand coverage towards the one million promised. By combining the funding streams, and allowing both programs to draw funds as needed, there is much less likelihood of funds remaining idle while uninsured New Yorkers wait for coverage.

Conclusion

It is not surprising that the Governor and Legislature were willing to raise cigarette taxes to fund health coverage for the uninsured. Public opinion polls regularly find support for expanding government programs for this purpose. Polls also show support for some types of taxes, those that are seen as fair, and opposition to other taxes, those that are seen as regressive. These are not contradictory impulses. The public is correct in supporting the use of equitable taxes for public purposes that expand access to vital services. And taxpayers are also right to resent being forced to choose between paying higher, unfair taxes, like county sales and property taxes, for programs they support, like covering the uninsured.

New York State should keep its pledge to the 550,000 uninsured New Yorkers who are still waiting for the health coverage promised in 1999. New York should also redress the wrong done to local taxpayers when the State raised new taxes to cover the State’s share of paying for a new program for the uninsured, but forced local taxpayers to pick up the growing tab without a new funding source. With \$1.063 billion of cigarette taxes promised for the uninsured but not spent to provide coverage or prevent smoking, there is enough revenue to keep the promise and correct the wrong.