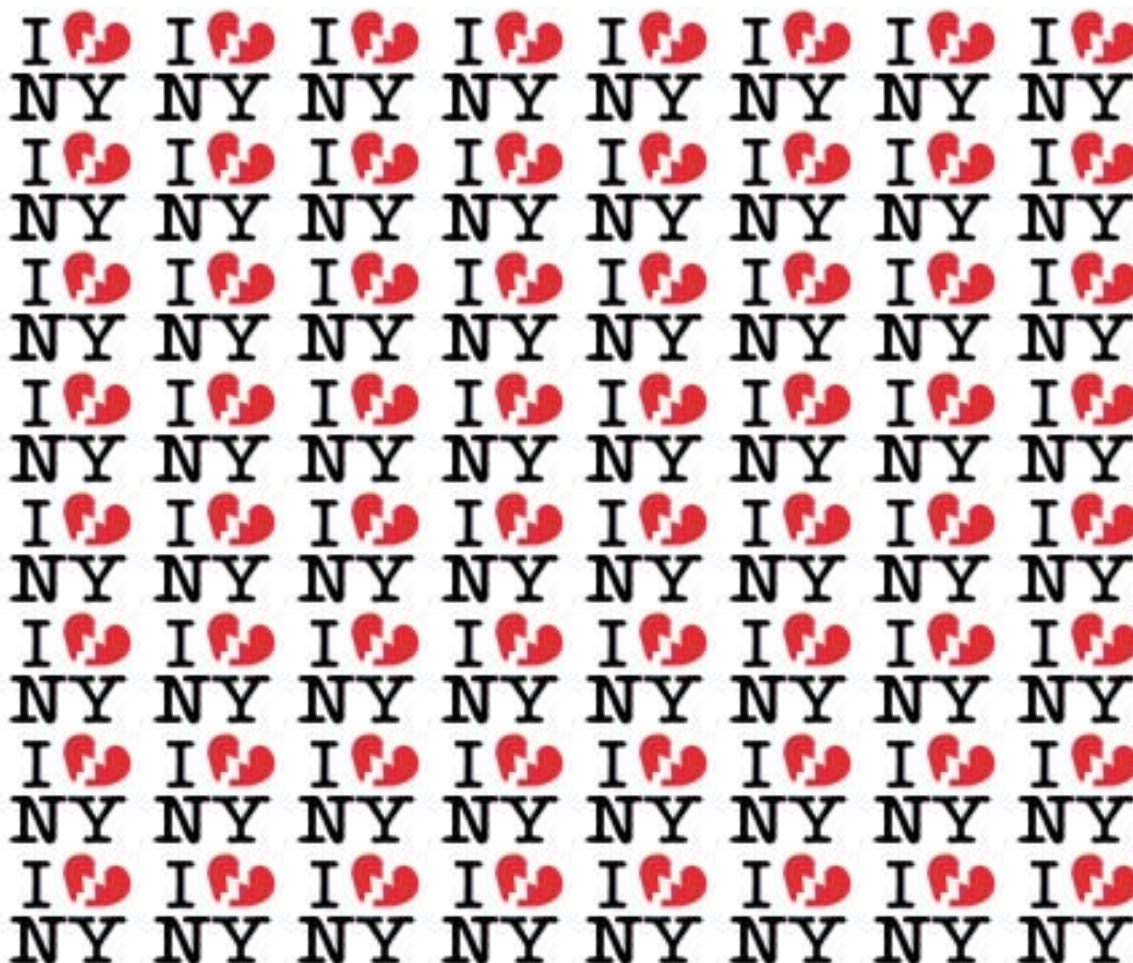


# 800,001 Broken Promises

**New Yorkers Still Waiting for Health Insurance  
Promised more than Three Years Ago**

A Report by the  
Public Policy and Education Fund of New York  
April 2003



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# 800,001 Broken Promises

## New Yorkers Still Waiting for Health Insurance Promised more than Three Years Ago

### The Promise to insure one million with money from cigarette taxes

On December 17, 1999 Governor Pataki announced agreement on “an historic health care initiative.” 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. Here’s how *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 *Albany Times Union* reported: “In an agreement that keeps New York’s health care system in the national forefront, Governor George Pataki and legislative leaders unveiled a sweeping package ...that will offer medical benefits to nearly 1 million uninsured residents while adding a new 55-cent-per-pack tax on cigarettes.”

The agreement between the Governor and Legislature became law by the end of 1999, known as the Health Care Reform Act of 2000 (HCRA 2000).

The Governor’s press release made it clear that the goal of covering one million uninsured was to come from new programs, rather than continued growth of the State’s Child Health Plus program: “The Healthy New York package to make affordable health insurance benefits accessible to up to one million New Yorkers at a 3.5-year cost of \$626 million in state funds has four key components, including a Family Health Plus component.”

The release then described each of the four components:

**Healthy New York for small business** is based on offering a less comprehensive benefits package to businesses that have fewer than 50 employees. Employees must be of low to moderate income.

**Healthy New York for individuals** provides the same benefit package to individuals who work for employers who do not offer health benefits.

**Subsidies for direct pay individuals**, aimed at lowering 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.<sup>1</sup>

### **The Promise was not quite what it seemed**

While the press release, reflected in the press's reporting of the announcement, 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. In addition to the \$626 million for the new programs for the uninsured, the funds allocated to the Tobacco Use Prevention and Control Program in the legislation was \$130 million. So a total of \$756 million from January 2000 through June 2003 was actually allocated in the legislation for the uninsured programs and tobacco use prevention.

The 55 cent per pack hike in cigarette taxes has raised considerably more than \$756 million. According to the State Division of the Budget the cigarette tax hike enacted as part of HCRA 2000 will have generated \$1.5 billion dollars in revenue from January 2000 through June 2003. In other words, the cigarette tax will raise two times the amount allocated for the new programs for the uninsured and for smoking cessation.

What happened to that extra three-quarters of a billion dollars? The cigarette tax money, and money from the settlement with tobacco companies, go into the Tobacco Control and Insurance Initiatives Pool which funds many other programs than smoking prevention and the new program 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 this pool is given to hospitals for indigent care. The pool also funds Child Health Plus.

### **So how much of the cigarette tax money has been spent on the uninsured?**

The Governor's press release specified that \$626 billion would be spent under HCRA 2000 for the uninsured under the four specified programs. We analyzed how much was actually spent January 2000 through December 2002. The money budgeted for the uninsured during that time period was \$442 billion. The following are estimates of the amount spent under each program from January 2000 through December 2002:

**Family Health Plus:** HCRA 2000 budgeted \$186 million of **state** funds through December 2002 for Family Health Plus. By the end of 2002, Family Health Plus had spent a total of \$217 million on coverage,<sup>2</sup> including the federal share (50%), the state share (25%) and the local share (25%). So the amount actually spent by New York State was \$54 million. **In other words, New York State spent \$132 million less than was budgeted for Family Health Plus.**

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<sup>1</sup> 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.

<sup>2</sup> This figure is the total number of enrolled lives each month from October 2001 through December 2002 (685,399) multiplied by the weighted average Family Health Plus premium (\$316.36).

**Healthy New York:** HCRA 2000 budgeted \$146 million of state funds through December 2002 for the two Healthy New York programs. A study done for the New York State Insurance Department estimates that only \$5 million will be spent on Healthy New York through the end of **2003**, 2% of the budgeted funds<sup>3</sup>. Applying the 2% figure to the amount budgeted through 2002 results in expected spending of \$3 million. **In other words, New York State spent \$143 million less than it budgeted for Healthy New York.**

**Direct Pay:** HCRA 2000 budgeted \$110 million on subsidies for direct pay individuals, all of which was spent.

**The Bottom Line on Spending on the Uninsured:** Of the \$442 million budgeted under HCRA 2000 for the uninsured, New York State has spent only \$168.5 million. Despite collecting \$1.3 billion in taxes, almost all of which Governor Pataki said he'd spend on the uninsured, and actually budgeting \$442 to spend on the uninsured, New York State has spent only \$168.5 billion. **New York spent \$275 million less than was budgeted for the uninsured.**

<u>HCRA 2000 – January 2000 through December 2002</u>	
<b>Cigarette taxes raised to cover the uninsured:</b>	<b>\$1,300 million</b>
<b>Amount budgeted for the uninsured:</b>	<b>\$442 million</b>
<b>Amount spent on the uninsured:</b>	<b>\$167 million</b>
<b>Budgeted amount not spent on the uninsured:</b>	<b>\$275 million</b>
<b>No. of uninsured promised to be newly covered:</b>	<b>1,000,000</b>
<b>No. of uninsured actually covered:</b>	<b>200,000</b>
<b>No. of uninsured Governor Pataki proposes to cut in budget:</b>	<b>47,000</b>

**So where are we on the promise to cover 1 million uninsured?**

The central reason that the State hasn't spent the money budgeted for the uninsured is because the new programs have fallen well short of their enrollment targets:

**Family Health Plus:** As of January 1, 2003 Family Health Plus enrollment was at 160,162. That is only 22% of the 720,000 that the Department of Health says are eligible for the program.

**Healthy New York:** Healthy New York enrollment, as of March 2003, was reported to be 22,000<sup>4</sup>.

**Direct Pay Subsidies:** Unlike Family Health Plus and Healthy New York, the direct pay program was not newly created under HCRA 2000. The subsidies to enrollment were designed to stabilize the existing market and prevent more

<sup>3</sup> Report on the Healthy New York Program, The Lewin Group in Partnership with Empire Health Advisors, December 31, 2001.

<sup>4</sup> According to Michelle Clearly, Special Assistant to the New York State Superintendent of Insurance, at a public forum held in Albany, New York on March 10, 2003.

people from dropping direct pay because of the high price of insurance. The funding in HCRA resulted in lowering premiums by between \$25 and \$45 per month. Enrollment in the direct pay market is at 107,000, about the same when HRCA 2000 was enacted. There has been no increase in the number of insured under this program.

**Bottom Line on Covering the Uninsured:** There are approximately 200,000 newly insured New Yorkers enrolled in the programs established under HCRA 2000. As a result, the programs are 800,000 short of reaching their goals.

### **What's the problem with enrollment?**

**Family Health Plus:** Family Health Plus fell short of reaching its enrollment targets due to two reasons: a late start and delays in processing applications.

A Late Start: HCRA 2000 stipulated that Family Health Plus (FHP) was to start on January 1, 2001. However, a dispute between New York State and the federal Department of Health and Human Services was not resolved until late May of 2001. Once agreement to start the program was reached, New York State took an four additional months, until October 2001, to begin coverage outside of New York City. The World Trade Center attack, on September 11, 2001, destroyed the computer system used for enrollment in Family Health Plus in New York City; as a result the program was not implemented there until February 1, 2002<sup>5</sup>.

Delays in Processing Applications: There are significant delays in processing Family Health Plus applications. According to a recent report by the New York State Coalition of Prepaid Health Services Plans, whose members provide Family Health Plus coverage, the applications take much longer to approve than the mandate under State and federal law to enroll eligible adults within 45 days of applying.<sup>6</sup> Data from one of the largest health plans in New York City found that only 11% of applicants had their coverage in place within the 45 day legal limit. The study found that fully two-third of applicants waited for 90 days, more than two times the legal limit.

The good news is that Family Health Plus *is* an attractive program, which has had steady increases in enrollment since it began. Despite an overly complicated application process, Family Health Plus is – like Child Health Plus – an effective way to provide health coverage to uninsured New Yorkers.

**Healthy New York:** Unlike Family Health Plus, the Healthy New York program started on time: January 1, 2001. The State Insurance Department (SID) has heavily promoted the program; however few of those who have asked for information from SID have actually enrolled. The Lewin study<sup>7</sup> for SID identified significant flaws in the design of Healthy New York that have led to low enrollment, “most notably, premium affordability and eligibility requirements.”

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<sup>5</sup> From October 2001 through January 2002 New York City enrolled people into the Disaster Relief Medicaid program which included people eligible for Medicaid, Child Health Plus and Family Health Plus. Therefore, some portion of Medicaid spending on this program was for people eligible for Family Health Plus.

<sup>6</sup> From Application to Enrollment: A Critique of New York's Public Health Insurance Maze. A Report of the New York State Coalition of PHSPs, New York State Coalition of Prepaid Health Services Plans, March 2003.

<sup>7</sup> Op cit.

## **So what does the Governor propose to do about the uninsured?**

Governor Pataki's 2003-2004 budget proposal includes one major change regarding the uninsured; **lowering the eligibility for enrollment in Family Health Plus**. The Governor's budget proposes reducing eligibility for Family Health Plus, to new applicants, from 150% of the FPL to 133% of the FPL for adults with dependent children. The Governor also proposes to roll back measures enacted as part of HCRA 2002 that would make it easier to enroll in Family Health Plus and other health coverage programs.

After reading the narrative above, this may come as a surprise to the reader. After all, the Governor has spent only 38% of the money budgeted for the uninsured, leaving him a surplus of \$275 million. And that's being generous, because he's spent only 13% of the cigarette tax money that he raised with the promise it would cover one million uninsured.

So why does the Governor propose cutting eligibility? To save money for the hard pressed state budget. The eligibility cut, which would impact up to 47,000 people, would save New York \$20 million in the 2003-2004 budget year.

The Governor, through the SID, also took steps in March of 2003 to increase enrollment in Healthy New York. SID issued amendments to the Healthy New York regulations aimed at lowering some of these barriers<sup>8</sup>. The most significant change is the ability to offer a product without prescription drug coverage, which is expected to lower premiums from 10% to 15%. However, it is not clear whether this change will actually boost enrollment because experience with similar insurance products in other states indicates a lack of interest in insurance that does not provide comprehensive benefits. In any event, while the changes may help increase enrollment in Healthy New York, there is absolutely no doubt that the program is much less effective than Family Health Plus in providing health coverage to uninsured New Yorkers.

And what of the unspent surplus in Healthy New York? Rather than using it to replace the \$20 million cut to Family Health Plus, Governor Pataki proposes transferring \$175 million from Healthy New York to help close the State budget deficit.<sup>9</sup>

## **Keeping the promise to 800,000 uninsured New Yorkers**

Governor Pataki has broken 800,001 promises. One broken promise was to New York taxpayers, who were told that cigarette tax money was to be spent on providing health coverage to one million New Yorkers; 800,000 broken promises are to the New Yorkers who are still waiting for affordable health coverage. (Note: there are a total of three million uninsured New Yorkers.)

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<sup>8</sup> New York State Insurance Department, Second Amendment to Regulation No. 171 (11 NYCRR 362) the Healthy New York Program & the Direct Payment Stop Loss Relief Program.

<sup>9</sup> Technically, in the 2002-2003 state budget, \$200 million was loaned from HCRA to the general fund. In the 2003-2004 budget proposal, \$175 million of this loan is forgiven.

Rather than cutting eligibility for Family Health Plus, the Governor should keep his promise and make it easier to enroll in Family Health Plus. To increase enrollment in Family Health Plus, the Governor and Legislature should:

1. 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;
2. 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.
3. Streamline the application process to as closely follow that used for Child Health Plus B, the non-Medicaid part of Child Health Plus. Child Health Plus B applications are processed within one to six weeks.

Clearly, it is difficult to predict how much money will be spent on programs for the uninsured. Therefore, we propose that 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 (2%) 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.

We would recommend one more use for the uninsured tax surplus; increased support for the direct pay market in order to maintain price stability. 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. The Governor has proposed continuing the current level of funding in his 2003-2004 budget; however, with the continued steep rise in insurance premiums this is likely to result in higher rates, forcing some people to drop coverage. Instead, we recommend a 20% increase in the direct pay subsidies in order to avoid steep premium increases.

## **Conclusion**

The Governor and State Legislature are grappling with the passage of a state budget and the expiration of HCRA, on June 30, 2003. As the Governor's 2003-2004 budget proposal makes clear, the HCRA health budget and the general state budget are intertwined. The passage of HCRA 2000 marked the first time that New York had raised new revenues, through taxes not directly placed on health care providers or insurers, for HCRA. HCRA now pays for many programs that had once been 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.

New York voters and taxpayers have a right to expect that the Governor will be straight with them, particularly when he makes an explicit promise to raise taxes for a popular program. However, Governor Pataki appears to have used the popular goal of covering the uninsured, first, to mask the full purpose of raising taxes and then, to divert tax money to other purposes.

The clear losers in this Albany shell game are 800,000 uninsured New Yorkers, virtually all of whom are working, who still can not afford health coverage. For these New Yorkers, the lack of coverage means constant worry, avoiding primary and preventive care, an increased chance of ending up in the hospital with advanced cases of otherwise preventable diseases, or with a life-threatening illness that should have been caught much earlier, and the threat that a health crisis could lead to a financial crisis.