Legislation Details (With Text)

File #:	Res 0591-2023	**Version:**	*	**Name:**	Protect New York State's safety net providers and Special Needs Plans by eliminating the Medicaid pharmacy carve-out.
Type:	Resolution			**Status:**	Filed (End of Session)
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Title:	Resolution calling on the New York State Legislature to pass, and the Governor to sign, legislation to protect New York State's safety net providers and Special Needs Plans by eliminating the Medicaid pharmacy carve-out.				
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Attachments:	1. Res. No. 591, 2. April 27, 2023 - Stated Meeting Agenda, 3. Hearing Transcript - Stated Meeting 4-27-23, 4. Minutes of the Stated Meeting - April 27, 2023, 5. Committee Report 6/12/23, 6. Hearing Testimony 6/12/23, 7. Hearing Transcript 6/12/23				

Date	Ver.	Action By	Action	Result
4/27/2023	*	City Council	Introduced by Council	
4/27/2023	*	City Council	Referred to Comm by Council	
6/12/2023	*	Committee on Health	Hearing Held by Committee	
6/12/2023	*	Committee on Health	Laid Over by Committee	
6/12/2023	*	Committee on Women and Gender Equity	Hearing Held by Committee	
6/12/2023	*	Committee on Women and Gender Equity	Laid Over by Committee	
12/31/2023	*	City Council	Filed (End of Session)	

Res. No. 591

Resolution calling on the New York State Legislature to pass, and the Governor to sign, legislation to protect New York State's safety net providers and Special Needs Plans by eliminating the Medicaid pharmacy carve-out.

By Council Members Schulman, Lee, Louis, Restler, Hudson, Ung and Sanchez

Whereas, In 1990, Congress created the Medicaid rebate program, which lowered the cost of drugs for Medicaid programs by requiring participating manufacturers to pay rebates to state Medicaid programs for covered outpatient drugs; and

Whereas, In 1992, Congress extended the same Medicaid pharmacy benefits to safety net providers by

enacting Section 340B of the Public Health Service Act (the 340B program); and

Whereas, The 340B program requires pharmaceutical manufacturers participating in Medicaid to provide front-end discounts on covered outpatient drugs purchased by specified Managed Care providers that serve low-income and uninsured patients; and

Whereas, Managed Care providers include critical access hospitals (CAHs), sole community hospitals (SCHs), rural referral centers (RRCs), and public and nonprofit disproportionate share hospitals (DSH) that serve low-income and indigent populations; and

Whereas, Managed Care providers also include Special Needs Plans (SNPs), such as HIV SNPs, which provide specialized services for people living with HIV/AIDS; and

Whereas, According to the Medicaid and CHIP Payment and Access Commission (MACPAC), states may offer Medicaid benefits on either a fee-for-service (FFS) basis or through Managed Care, or both; and

Whereas, In April 2020, Governor Cuomo and the New York State Legislature passed a budget that included a plan to transition Medicaid pharmacy benefits from the Managed Care model to a fee-for-service (FFS) model, replacing 340B with NYRx starting April 1, 2023; and

Whereas, Since April 1, 2023, NYRx has carved out pharmacy benefits for an estimated 8 million New Yorkers enrolled in Medicaid Managed Care plans, including Health and Recovery Plans (HARPs) and HIV-Special Needs Plans (HIV-SNPs); and

Whereas, According to the New York State Department of Health (NYSDOH), NYRx allows New York State to pay pharmacies directly for the drugs and supplies of Medicaid members, which gives the State "complete visibility into the underlying cost of prescription drugs and greater control to manage overall prescription drug spending"; and

Whereas, The Medicaid pharmacy carve-out harms 340B providers, including community health centers, HIV providers, sexual health clinics, many rural hospitals, and other safety net providers, by eliminating their ability to purchase prescription drugs at a significantly reduced price; and

Whereas, While NYRx has allowed the State and Federal governments to receive more rebates, it has taken away hundreds of millions of dollars from safety net providers who previously used savings from drug discounts, through 340B, for patient care; and

Whereas, According to NYSDOH, prior to this shift, there were 209 Managed Care providers under the 340B program, totaling 2,191 sites across New York State; and

Whereas, These providers relied on the savings from the 340B program to provide numerous services addressing social determinants of health and health inequities, including transportation assistance, sexually transmitted infection (STI) screenings, nurse triage and education services, care coordination and patient navigation for chronically ill patients, free oncology services, and insurance assistance and enrollment services; and

Whereas, Providers also used these funds to operate food pantries and mental health and wellness programs, including nutrition and diabetes education and harm reduction programs; and

Whereas, Save New York's Safety Net, a statewide coalition of clinics, community-based organizations, and HIV health plans, estimates that the pharmacy benefit carve-out will result in an estimated $240 million a year in lost revenue for 340B entities, causing many critical medical and supportive services to be reduced and eliminated for vulnerable New Yorkers; and

Whereas, According to the Community Healthcare Association of New York State, extensive harm will occur to community health centers as a result of the pharmacy carve-out, including health center closures, lay-offs of hundreds of staff, and losses of over $100 million in client services; and

Whereas, The End AIDS NY Coalition surveyed 15 of its member organizations that operate HIV clinics, and these 15 organizations alone reported that they will lose $56.1 million in annual revenue due to the pharmacy carve-out; and

Whereas, According to a letter that hospital leaders sent to former Governor Cuomo and former NYSDOH Commissioner Zucker, about 100 hospitals serving low-income and indigent populations across New

York State will lose more than $87 million in 2024 as a result of this change, in addition to over $25 billion in losses and expenses incurred due to COVID-19; and

Whereas, New York City (NYC) Commissioner of Health & Mental Hygiene, Ashwin Vasan, warns that NYC Health + Hospitals is expected to lose at least $123 million per year due to the Medicaid pharmacy carve-out; and

Whereas, Along with Evergreen Health in Buffalo, Heritage Health and Housing in Harlem, which serves approximately 5,500 Black and Latino patients-half of which identify as LGBTQ-has filed a lawsuit against NYSDOH to block NYRx, arguing that 340B funds finance substance abuse and HIV prevention and care services that otherwise might not get funded; and

Whereas, To continue providing essential services to our most venerable population, advocates, including safety net providers and HIV SNPs, are calling for the carve-out to be eliminated; and

Whereas, Given the disproportionate impact of COVID-19 on vulnerable communities and the providers that serve them, eliminating the carve-out is necessary to protect these New Yorkers who need it most; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, legislation to protect New York State's safety net providers and Special Needs Plans by eliminating the Medicaid pharmacy carve-out.

Session 12
MB
LS 11728
LS 12887
04/19/2023

Session 11
EB
Res. No. 1529-2021