



**Department  
of Health**

**Office of  
Health Insurance  
Programs**

# **Essential Plan New York's Basic Health Program**

**Annual Report to the Governor and Legislature  
December 2019**

The Essential Plan, New York's Basic Health Program (BHP), has been extremely successful. It has provided more than 770,000 New Yorkers with affordable comprehensive health insurance contributing to a significant reduction in the number of uninsured. According to the Centers for Disease Control and Prevention (CDC), the number of uninsured in New York has declined from 10 percent in 2013 when the Marketplace opened to below 5 percent in 2018.<sup>1</sup>

In addition, the decision to implement a BHP has generated \$1 billion in State savings. As compared to a Qualified Health Plan, the Essential Plan reduces both premium and out-of-pocket costs for these individuals by over \$1,485 a year, saving New Yorkers an estimated \$719 million a year. The Essential Plan has demonstrated since its inception that individuals will enroll in health insurance if it is affordable, easy to access and provides comprehensive benefits.

The Essential Plan was first available through NY State of Health beginning November 1, 2015 for coverage beginning January 1, 2016. Subdivision (9) of Section 369-gg of the Social Services Law, as enacted by Section 28-a of Part B of Chapter 57 of the Laws of 2015, requires the Department of Health to prepare an annual report by the end of each year. This annual report describes program enrollment as of October 2019, including the income and immigration status of program participants. As required by statute, it also describes the impact of the Essential Plan on the marketplace and the financial interest of the State, including the Medicaid Global Spending Cap.

## **Background**

Section 1331(a) of the Affordable Care Act (ACA) directs the Secretary of Health and Human Services to establish a BHP that provides an option for states to offer health coverage for individuals with family incomes between 138 and 200 percent of the Federal Poverty Level (FPL), and for individuals with family incomes below 138 percent FPL who are lawfully present in the United States but do not qualify for federally financed Medicaid due to their immigration status. The BHP is intended to offer a more affordable coverage option for individuals than the Qualified Health Plans (QHP) available through existing State and Federal health insurance marketplaces. In March 2014, The Centers for Medicare and Medicaid Services (CMS) issued final regulations governing the Basic Health Program.

The BHP was established by law in New York in 2015. The Department of Health submitted a Blueprint to the federal government describing administration of the BHP trust fund, eligibility and enrollment, standard health plan contracting, premiums and cost-sharing, and program operations. The State received federal approval to establish a BHP on March 27, 2015. The program is branded as the Essential Plan in New York.

The Essential Plan is available to consumers under age 65, not eligible for Medicaid or the Children's Health Insurance Program (CHIP), without access to affordable Minimum Essential Coverage, and who have income at or below 200 percent of the FPL (\$24,980 for a household of one; \$51,500 for a household of four in 2019). Consumers with income at or below 150 percent of the FPL (\$18,735 for a household of one; \$38,625 for a household of four in 2019) have no monthly premium. Those with income greater than 150 percent of the FPL, but at or below 200 percent of the FPL have a monthly premium of \$20. In accordance with federal

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<sup>1</sup> CDC. Health insurance coverage: Early release of estimates from the National Health Interview Survey, 2018. National Center for Health Statistics, May 2019. Available <https://www.cdc.gov/nchs/data/nhis/earlyrelease/insur201905.pdf>

requirements, all plans cover essential health benefits including inpatient and outpatient care, physician services, diagnostic services and prescription drugs among others. In New York, Essential Plan coverage is provided with no annual deductible and low out-of-pocket costs. Preventive care such as routine office visits and recommended screenings have no out-of-pocket cost to enrollees.

New York began the transition to the Essential Plan on April 1, 2015. Lawfully present non-citizens with incomes at or below 138 percent of the Federal Poverty Level (FPL) who were enrolled in Medicaid, but not eligible for Federal Financial Participation (FFP), were transitioned to the Essential Plan. During the transition period from April 1 through December 31, 2015, these individuals were permitted to remain in their Medicaid managed care plans. On January 1, 2016, they were transitioned to the Essential Plan and with few, if any, exceptions could opt to remain enrolled with the same insurer.

During 2019, nearly all remaining Essential Plan enrollees in WMS transitioned to NY State of Health. Due to systems limitations that are expected to be upgraded in 2020, a small number of Essential Plan enrollees continue to transition.

New Yorkers with incomes above 138 percent of poverty began enrolling in the Essential Plan during the 2016 NY State of Health open enrollment period which began on November 1, 2015 for coverage effective January 1, 2016. Relative to the cost of Qualified Health Plan coverage, the Essential Plan has lower monthly premium costs and out-of-pocket costs when consumers receive services. Enrollment in the Essential Plan is available through the Marketplace website, by telephone with a customer service representative or in-person with one of thousands of trained and certified Marketplace assistors across the state.

There are four categories of Essential Plan enrollees by their income eligibility:

- **Essential Plan 1** – Individuals with income greater than 150 percent of the FPL and less than or equal to 200 percent of the FPL.
- **Essential Plan 2** – Individuals with income greater than 138 percent of the FPL and less than or equal to 150 percent of the FPL.
- **Essential Plan 3** – Individuals with income equal to or greater than 100 percent of the FPL and less than or equal to 138 percent of the FPL and not eligible for Medicaid due to immigration status.
- **Essential Plan 4** – Individuals with income below 100 percent of the FPL and not eligible for Medicaid due to immigration status.

Eligible Applicants, including tax filers and non-tax filers, may enroll in the Essential Plan at any time during the year. Eligibility for tax filers is determined using the Modified Adjusted Gross Income (MAGI) rules for Advance Premium Tax Credits (APTC) eligibility, while Medicaid non-filer rules are used for applicants who do not plan to file taxes.

Essential Plan enrollees can select from a wide choice of health insurers. Sixteen issuers were certified by the Department of Health to offer the Essential Plan for the 2019 coverage year.

They are:

- Affinity
- CDPHP (new to the Essential Plan in 2019)
- Crystal Run Health Plan (through August 2019)
- Excellus (also Univera Healthcare)
- EmblemHealth
- Fidelis Care
- Empire Blue Cross Blue Shield HealthPlus
- Healthfirst
- HealthNow New York, Inc
- Independent Health
- MetroPlus Health Plan
- Molina Healthcare
- MVP Health Care
- United Healthcare
- Wellcare of New York
- YourCare Health Plan

To help ensure a smooth transition of consumers should their eligibility change from Medicaid to the Essential Plan or vice versa, the Department encourages plans to participate across programs. Of the sixteen issuers offering the Essential Plan, all but five offer Medicaid, Child Health Plus and Qualified Health Plans (QHP).<sup>2</sup>

### Essential Plan Enrollment

As of October 12, 2019, 765,125 individuals were enrolled in the Essential Plan through NY State of Health. The income distribution of Essential Plan enrollees is shown below:

Essential Plan Level	Percent of Enrollees
Essential Plan 1 (150-200% of FPL)	50%
Essential Plan 2 (138-150% of FPL)	14%
Essential Plan 3 (100-138% of FPL)	11%
Essential Plan 4 (<100% of FPL)	26%
Total	100%

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<sup>2</sup> CDPHP, which offers Medicaid, Child Health Plus and QHPs joined the Essential Plan market in 2019. Oscar, which offers QHPs in 2019 did not participate in the Essential Plan for 2019. Affinity, Crystal Run, Molina Healthcare, WellCare and YourCare are not offering QHPs in 2019.

About 37 percent of Essential Plan enrollees are lawfully present immigrants who are not eligible for federal financial participation through Medicaid, but would be eligible for federal tax credits if enrolled in a Qualified Health Plan in accordance with federal law.

### **Essential Plan Costs and Impact on Financial Plan**

The Essential Plan is funded primarily by federal funds with some State funding. The BHP statute requires the federal funds calculation to be based on 95 percent of the tax credits and cost-sharing reductions that individuals would have received if they enrolled in QHPs. In State Fiscal Year (SFY) 2015-16, federal funds covered 98 percent of program costs, with State funding covering 2 percent of the costs. The percentage of federal funds decreased to 91 percent in SFY 2016-17 as QHP enrollees transition to the Essential Plan. State funds and consumer premium contributions accounted for 2 percent of costs in SFY 2018-19 and are expected to account for less than 2 percent of total Essential Plan costs going forward. Program administration costs must be financed with State dollars. In SFY 2017-18, and on an annual basis thereafter, the State Medicaid program is projected to save over \$1 billion from the transition of lawfully residing non-citizens from Medicaid to the Essential Plan.

It is estimated that more than 770,000 New Yorkers will continue to be enrolled in the Essential Plan in 2020. More than half of these individuals would have otherwise been eligible for a QHP, 37% would have been eligible for state-only Medicaid, but not necessarily enrolled.

On October 12, 2017, the federal administration announced that it would no longer make cost sharing reduction (CSR) subsidy payments to QHPs for qualified individuals in the individual marketplace. On November 21, 2017, CMS informed the Department of Health that it would not be making payment of CSR funds starting with the January-March 2018 calendar quarter – reducing federal payments to the BHP Trust Fund by approximately \$266 million in that quarter and growing to \$1.1 billion in State Fiscal Year (SFY) 2018-19 and \$1.2 billion in SFY 2019-20. The Attorney General represented New York in three court cases involving the CSR funding. Two cases– *House v. Hargan* and *State of California v. Trump* involved CSR funding for health plans. The third case, *State of New York & State of Minnesota v U.S. Department of Health and Human Services* was filed in January 2018 seeking restoration of the CSR portion of the BHP payments to the states. All three cases have been resolved. CMS issued a revised BHP Payment Methodology<sup>3</sup> for calendar year 2018 to account for the elimination of the CSR portion of the payments as part of the resolution of the case. New York received \$574 million for the first three quarters of 2018 under the settlement. This was in addition to the payments already received for those quarters. The fourth quarter payment in the amount of \$1.1 billion was issued using the new methodology.

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<sup>3</sup> Final Administrative Order, August 24, 2018. Available at <https://www.medicaid.gov/basic-health-program/downloads/final-admin-order-2018-revised-payment-methodology.pdf>

On November 5, 2019, CMS issued a final BHP Federal Funding Methodology for Program Years 2019 and 2020.<sup>4</sup> Under the rule, CMS continues to follow the 2018 BHP Payment Methodology for program year 2019. For 2020, CMS added an additional factor to the payment methodology further reducing payments based on the estimated number of individuals with premium tax credits enrolling in free Bronze level QHP plans.<sup>5</sup>

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<sup>4</sup> Final Rule, Basic Health Program: Federal Funding Methodology for Program Years 2019 and 2020, November 5, 2019, 84 FR 59529. Available at [https://www.govinfo.gov/content/pkg/FR-2019-11-05/pdf/2019-24064.pdf?utm\\_medium=email&utm\\_campaign=subscription+mailing+list&utm\\_source=federalregister.gov](https://www.govinfo.gov/content/pkg/FR-2019-11-05/pdf/2019-24064.pdf?utm_medium=email&utm_campaign=subscription+mailing+list&utm_source=federalregister.gov)

<sup>5</sup> The addition of this factor is estimated to reduce the BHP payment to New York by approximately \$150 million beginning in calendar year 2020.