The County Perspective

2023 Federal Priorities

New York State Association of Counties

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Rural Cellular Coverage
Many areas of New York are either underserved or not served at all by cellular phone carriers, preventing access to education, economic advancement, and emergency services.

Americans are increasingly dependent on cellular phones. According to a study released in 2017 by the Center for Disease Control, 50.8% of US households rely solely on cellular phones—up from 24.5% in 2009. The percentage is even higher for of young adults (25-29) and renters at 72.7%. Still, many rural areas throughout the United States remain either unserved or underserved by cellular carriers.

Cell phones and the requisite cell coverage are often the first link of our emergency response chain. Americans who live in or travel to these areas cannot reach emergency services when they need them.

The Federal Communications Commission (FCC) designates the Universal Service Administrative Company (USAC) to administer the Universal Service Fund. The USAC established the High-Cost Program to provide funding to telecommunications carriers to deliver service to rural areas where the market alone cannot support the cost to provide telecommunications services.

Recommendation
The federal government must prioritize and incentivize rural cellular deployment to increase equity across the nation.
Preserve the Affordable Care Act and the State/Federal Medicaid Partnership

Federal entitlement reform is always under consideration in Washington, and in the 115th Congress the Affordable Care Act and Medicaid were targeted for cuts. Major health legislation introduced in 2017 would have cut federal funding for Medicaid by one-fourth, or $800 billion over a decade. While these efforts were ultimately unsuccessful, they normalized methods for changing the Medicaid program through models such as a per capita funding cap or a fixed dollar block grant.

Under a per capita cap, states would receive a fixed amount of federal funding per beneficiary category. Under a block grant, states would receive a fixed amount of federal funding each year, regardless of changes in program enrollment and mandates. If these cuts had been implemented it would have been devastating to the finances of New York’s counties and New York City, as the burden of caring for the low income and disabled populations would fall directly on them.

In New York, counties and New York City are required to contribute $7.6 billion annually to pay for the costs of Medicaid. This annual contribution (not including disproportionate share matching payments to health facilities) is more than all counties combined nationally spend for direct Medicaid program costs. In addition, New York City and several counties maintain public hospitals that provide care for the indigent and needy. More than a dozen counties and New York City maintain and operate 22 nursing homes that are often a provider of last resort for the needy in their communities.

Recommendations

Oppose Block Grants and Per Capita Caps or Other Federal Funding Cuts to Medicaid

New York counties support protecting the federal-state partnership structure for financing and delivering Medicaid services while maximizing flexibility to support local systems of care. Counties are opposed to measures that would further shift Medicaid costs from the federal government to states and counties, including proposals to institute block grants or per capita caps.

Support Stabilizing the Affordable Care Act and Maintaining Enhanced Federal Medicaid Matching

New York and its counties have benefited fiscally from the provisions of the Affordable Care Act related to the enhanced federal Medicaid match. New York has seen a significant reduction in the number of uninsured due to the provisions of the Affordable Care Act. The uninsured rate in 2020 was just under five percent statewide, less than half of what it was before the Affordable Care Act (ACA) was enacted, and premiums in the individual market have remained significantly lower, after adjusting for inflation and before the application of federal tax credits, than they were before the ACA. Counties oppose federal actions that undermine the stability of the health insurance marketplaces established under the Affordable Care Act.
Strengthen the 10th Amendment Through Entrusting States (STATES) Act

Nearly three dozen states have legalized medical cannabis or the recreational use of cannabis for adults. New York State has approved both. Legalization is anticipated to have implications for public health, public safety, criminal justice, the economy, and even the environment. Because marijuana is illegal under federal law, the banking industry is restricted from working with the burgeoning industry. The industry is cash-intensive, and this makes “cannabusinesses” a target for internal and external theft and hinders its development as a regulated and accepted business—if a state so chooses to legalize the industry within its borders.

Recommendation

New York counties support the enactment of legislation that allows the banking sector to become more involved like the Strengthening the Tenth Amendment Through Entrusting States (STATES) Act and the Secure and Fair Enforcement (SAFE) Banking Act to resolve the disconnect between federal and state laws. These bills will help ensure the legalization of cannabis in New York, and other states, is done under a process that facilitates a regulated and safe environment that balances public health and safety concerns while supporting economic development opportunities.

The Secure and Fair Enforcement (SAFE) Banking Act would solve a key logistical and public safety problem in states that have legalized medicinal or recreational cannabis and prevent federal banking regulators from: (1) prohibiting, penalizing or discouraging a bank from providing financial services to a legitimate state-sanctioned and regulated cannabis business, or an associated business (such as a lawyer or landlord providing services to a legal cannabis business); (2) terminating or limiting a bank’s federal deposit insurance solely because the bank is providing services to a state-sanctioned cannabis business or associated business; (3) recommending or incentivizing a bank to halt or downgrade providing any kind of banking services to these businesses; or (4) taking any action on a loan to an owner or operator of a cannabis-related business.

The bill also creates a safe harbor from criminal prosecution and liability and asset forfeiture for banks and their officers and employees who provide financial services to legitimate state-sanctioned cannabis businesses while maintaining banks’ right to choose not to offer those services.

The bill would require banks to comply with current Financial Crimes Enforcement Network (FinCEN) guidance, while at the same time allowing FinCEN guidance to be streamlined over time as states and the federal government adapt to legalized medicinal and recreational cannabis policies.
Establish MCLs for PFOA/PFOS and Classify These Chemicals as Hazardous Substances

Counties across the state have been urging the U.S. Environmental Protection Agency (EPA) to set a nationwide maximum containment level (MCL) for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) and classify these chemicals as hazardous substances.

Establishing a MCL for these chemicals and classifying them as hazardous substances is vital to protecting the health, safety, and welfare of all Americans. Exposure to PFOA and PFOS has been linked to kidney cancer, testicular cancer, pre-eclampsia, thyroid disease, developmental defects in fetuses, liver tissue damage, and immune system impairments, among other potentially life-threatening conditions. While the EPA’s health advisory is an initial step in combatting this crisis, it is not adequate to effectively remediate these chemicals.

New York State has already classified PFOA and PFOS as hazardous substances and set MCLs of 10 parts per trillion (ppt) for both chemicals in recognition of their negative environmental and public health impacts.

Recommendations

We are encouraged to see EPA set a goal of setting MCLs for PFOA and PFOS by fall 2022 and recommend that the MCLs be at least as low as New York State’s (as opposed to the EPA’s higher health advisory level of 70 ppt).

It is also important that EPA classify PFOA and PFOS as hazardous substances to allow states and local governments to drawdown funds necessary for remediation. Communities and water suppliers should qualify for federal funding for remediation if PFAS levels exceed their state’s MCLs. Counties also support making the substantial cost of monitoring for PFAS and other emerging contaminants an eligible expense for federal funding. Finally, we urge lawmakers to authorize entities that are traditionally left out of grant funding opportunities, such as mobile parks and offices, to receive funds to ensure PFAS contamination can be addressed wherever it is found.
Healthcare for Jail Inmates H.R. 955/S.285 “Medicaid Re-entry Act” (117th Congress)

Current federal law prohibits the use of federal funds and services, such as Medicaid and the Children’s Health Insurance Program (CHIP), for health care provided to inmates of a public institution—a category that includes county jails. The policy, known as Medicaid inmate exclusion, was originally enacted under the Social Security Act of 1965 and intended to prevent state governments from shifting inmate care costs to federal programs. However, this practice has had an unintended consequence of cutting off federal health benefits to local jail detainees who are awaiting trial.

Counties nationwide invest $176 billion annually in community health systems and justice and public safety services, including the entire cost of medical care for all detained individuals. Counties own and operate 91 percent of local jails that see approximately 10.6 million individuals pass through each year with an average length of stay of 25 days. Although two-thirds of those detained in jails are pre-trial and presumed innocent, current federal law prohibits Medicaid and other federal safety-net programs from paying for their medical care, leaving counties responsible for the full cost of their health care, rather than the traditional federal, state, and local partnership for safety-net services. As a result of this federal policy and high occurrences of mental and behavioral health issues and substance use disorders among inmates, county jails are now some of the largest behavioral health care providers in our communities.

Congress has considered legislation that would amend the Social Security Act to allow pre-trial jail detainees to keep their federal health benefits while awaiting trial, and restore the federal, state and local partnership in funding and delivering health services to justice-involved individuals.

In the 117th Congress U.S. House of Representatives, Reps. Paul Tonko (D-N.Y.) introduced bipartisan legislation, the Medicaid Reentry Act (H.R. 955), that would restore Medicaid benefits to inmates for the 30-day period prior to their release from jail. In the Senate, Senator Tammy Baldwin (D-WI) has introduced the same-as version (S.285).

Recommendation
New York counties support the enactment of legislation that would modify the Medicaid inmate exclusion which will improve health outcomes for jail inmates as they are released from incarceration and will also provide stability for these individuals and reduce recidivism.
TAX FAIRNESS POLICY

Addressing Unfair SALT Federal Tax Reform Limits (H.R. 339)
Recent federal tax reforms enacted by congress included a significantly unbalanced tax change that overturned 150 years of federal-state fiscal precedent under which the federal government agreed and understood that it was counterproductive and unfair to impose a de facto double tax on state residents. To avoid unfair “double taxation” the federal government provided a federal tax deduction for state and local taxes paid to specifically avoid the application of federal taxes on top of state and local taxes already paid—effectively taxing income that is never available to the taxpayer.

The longstanding precedent to avoid double taxation has also been built into the distribution of federal funds to the states. The model was built such that wealthier states would receive a lower federal match for many programs because it was anticipated these states could afford to contribute more of their own local resources compared to lower income states. This requires wealthier states to impose higher state and local taxes to support the cost of federal program implementation in their states. Federal deductibility of state and local taxes was the foundation of the state-federal fiscal partnership that supported the federal model of distributing resources from states with higher wealth to those needing more help. Capping the deductibility of state and local taxes reneged on the fiscal partnership and now allows for double taxation.

New Yorkers pay some of the highest property taxes in the nation, along with a progressive income tax rate. As a result, many homeowners (particularly in downstate areas where home prices are generally very high) pay much more than $10,000 in combined income and property taxes. It is important to note that the federal tax changes related to SALT impact downstate areas much differently than most of upstate. However, the negative fiscal impacts generated downstate, because of their size, hurts the whole state. They also undermine the ability of local governments to raise revenue to support state and federally mandated spending.

Recommendation
NYSAC supports the complete elimination of the SALT deductibility cap, or for incomes under a certain threshold.

NYSAC also endorses the SALT Marriage Penalty Elimination Act, H.R. 339 sponsored by Rep. Michael Lawler (NY-17). We urge the New York Congressional Delegation to join Rep. Lawler, Molinaro, and D’Esposito in co-sponsoring this legislation.
Reform IRS Reporting Requirements for Election Workers

Across New York State, counties are struggling to recruit and onboard election workers who are critical to the effective administration of elections. Current IRS reporting requirements add to the cost and administrative burden of onboarding these workers, most of whom earn less than $1000 in a calendar year.

Current IRS regulations require government entities to file a W-2 when a worker earns over $600 in a calendar year. To be issued a W-2, the election worker must be an employee. If the election worker is an employee, they must file a W-4 when they are hired and be entered into government HR systems, creating an additional administrative burden.

There is a threshold of $2000 which an election worker must earn in a calendar year before any FICA or income tax is required to be withheld by the IRS. The IRS further stipulates that once they reach $2,000 employers must go back and calculate withholding from the first dollar.

**Recommendations**

Change IRS reporting requirements to stipulate that election workers earning between $600 and $2000 submit a Form 1099-MISC. This change would eliminate the need to make those election workers employees and save counties a substantial amount of money, time, and effort along with benefiting the many election workers that are already retired and enable them to collect a full paycheck.

Following is a page from the IRS website under the heading "Election Workers - Reporting and Withholding." We suggest the following changes (in blue type) to the first paragraph under the heading of "Reporting Requirements":

> Section 6041(a) applies to payments of compensation that are not subject to withholding of FICA or income tax. If an election worker’s compensation is not subject to withholding of FICA tax, the Section 6041(a) reporting requirements apply to payments that aggregate $600 or more in any taxable year. Under Regulation section 1.6041-2(a)(1), compensation subject to income tax withholding is taken into account in determining whether the $600 reporting requirement applies. **Government entities must file a Form 1099-MISC for election workers who receive payments of $600 or more; additionally** Government entities must file a Form W-2 for election workers who receive payments of $600 $2,000 or more, even if no FICA and income tax were withheld.
The Fair Access to Co-ops for Veterans Act (H.R. 5923) (117th Congress)
The Fair Access to Co-ops for Veterans Act will reauthorize the Department of Veterans Affairs to guarantee a loan for a veteran’s purchase of stock or membership in a cooperative housing corporation. The Act would also extend the VA’s Home Loan Guaranty Program to permanently include cooperative housing. Expanding the VA Home Loan Program to guaranty share loans for co-ops would drastically increase the accessibility of home ownership for Veterans who live in high cost, co-op dense regions including New York City.

Recommendation
NYSAC supports the passage of this legislation.

Amending Eligibility Requirements to Participate in ‘Workforce Innovation and Opportunity Act’ Programs
The Workforce Innovation and Opportunity Act (WIOA) is landmark legislation that is designed to strengthen and improve our nation’s public workforce system and help get Americans, including youth and those with significant barriers to employment, into high-quality jobs and careers and help employers hire and retain skilled workers. To be eligible to participate in WIOA Youth Formula-related activities, an individual shall, at the time the eligibility determination is made, be an out-of-school youth or an in-school youth. Many veterans leave military service in their mid-twenties—just after aging out of being able to benefit from the WIOA Youth Formula. It would be invaluable if more Veterans were able to take advantage of this opportunity.

Recommendation
Increase the WIOA Youth Formula age cap by one year for each year of military service for US Military Veterans up to a certain age. For example, Veterans applying for employment to the FDNY may subtract the amount of time that they spent on Active Duty in the military from their actual age. That "subtracted age" must meet all traditional age-related requirements. For the NYPD, the traditional age cutoff for applicants (35) is increased by one year for each year of military service up to the age of 41.
Collection and Reporting of Demographic Data
The Department of Defense (DoD) currently reports on demographic data by state totals. Having this information broken down at the local level will allow municipalities to have an accurate estimate of the local military and veteran population. Location specific data will help local governments to better anticipate and plan for the needs of this unique population which will hopefully improve service delivery.

Recommendation
Legislation should be introduced to improve DoD reporting of demographic data beyond state totals. DoD should disaggregate this data by state, congressional district and county level.

Expanding the Military Retirement Credit for Service Performed by National Guard Personnel After 9/11 Attack
Section 541 of the National Defense Authorization Act for Fiscal Year 2006 (H.R. 1815) provides military retirement credit for certain service performed by National Guard personnel in 15 counties in New York and Arlington County, Virginia, while in a state duty status immediately after the terrorist attacks of September 11, 2001.

Recommendation
NYSAC supports expanding the covered counties that are creditable as federal active service. All National Guard troops who served during this unprecedented national emergency deserve equal status.

Preventing Veteran Deportation
Since the passage of the Illegal Immigration Reform and Immigrant Responsibility Act in 1996, the United States has deported thousands of non-citizen military veterans. These veterans are generally childhood arrivals to the United States with legal permanent resident status, who have a criminal record. The Veteran Service Recognition Act of 2022 (HR 7946) is the first piece of federal legislation to explicitly address the issue of deported veterans. Under the Act, the DoD, DHS and VA would be required to conduct a joint study of non-citizen veterans removed from the United States. The Act also provides pathways for return of non-citizen veterans who have been subject to removal.

Recommendation
NYSAC also supports related legislation that was introduced in the Senate and House: The Veteran Deportation Prevention and Reform Act (S.3212) and The Veteran Deportation Prevention and Reform Act (H.R.1182).