



# COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE

February 21, 2018

Senator Ron Johnson, Chairman  
U.S. Senate Committee on Homeland Security and Governmental Affairs  
340 Dirksen Senate Office Building  
Washington, DC 20510

**Re: The Impact of the Medicaid Expansion on the Opioid Epidemic**

Dear Senator Johnson:

I write today in regard and response to a report recently released by the Majority Staff of the United States Senate's Committee on Homeland Security and Government Affairs titled "Drugs for Dollars: How Medicaid Helps Fuel the Opioid Epidemic" (herein referred to as the "Report").<sup>1</sup> On January 17, 2018 your Honorable Committee held a hearing to unveil this Report and accept comment on it. The hearing's focus was on "Unintended Consequences: Medicaid and the Opioid Epidemic," suggesting a link between the expansion of Medicaid under the Affordable Care Act and the nationwide opioid epidemic. As Erie County (New York) Executive and as a member of the joint National League of Cities/National Association of Counties Task Force addressing the opioid epidemic at the local level, I am contacting you to add my comment and strongly reject the premise of the Majority Staff's Report.

As shall be shown herein, the Report inaccurately postulates that federal Medicaid funding itself is a driver of the opioid epidemic, and furthers this inaccurate conclusion by claiming Medicaid expansion worsened the problem. In fact, the premise of the Report as described above contradicts the reality and statistical evidence observed in the United States.

As you know, commencing in 2014, the Patient Protection and Affordable Care Act ("ACA")<sup>2</sup> expanded Medicaid eligibility to people with annual incomes below 138% of the federal poverty level. As such, based on the report's hypothesis, opioid usage in the United States should have increased following the expansion taking effect. In fact, the Centers for Disease Control and Prevention ("CDC") reported that annual U.S. opioid prescribing rates increased from 2006 to 2010, prior to Medicaid's expansion, and then decreased thereafter, including the period following Medicaid's expansion in 2014.<sup>3</sup>

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<sup>1</sup> United States Senate Committee on Homeland Security and Governmental Affairs, Majority Staff Report, *Drugs for Dollars: How Medicaid Helps Fuel the Opioid Epidemic*, (January 17, 2018).

<sup>2</sup> Patient Protection and Affordable Care Act, Public Law 111-148, (March 23, 2010).

<sup>3</sup> Gery P. Guy Jr., et al., *Vital Signs: Changes in Opioid Prescribing in the United States, 2006-2015*, United States Department of Health and Human Services - Centers for Disease Control and Prevention, (July 7, 2017), [https://www.cdc.gov/mmwr/volumes/66/wr/mm6626a4.htm?s\\_cid=mm6626a4\\_w](https://www.cdc.gov/mmwr/volumes/66/wr/mm6626a4.htm?s_cid=mm6626a4_w).

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According to the CDC report, a copy of which is enclosed herein for your review, “annual opioid prescribing rates increased from 72.4 to 81.2 prescriptions per 100 persons from 2006 to 2010, were constant from 2010 to 2012 and then decreased by 13.1% to 70.6 per 1000 persons from 2012 to 2015.”<sup>4</sup> Furthermore, “[a]nnual high-dose opioid prescribing rates remained stable from 2006 to 2010 and then declined by 41.4% from 11.4 per 100 persons in 2010 to 6.7 in 2015.”<sup>5</sup>

Similar evidence exists in Erie County.<sup>6</sup> In 2012 through 2015 the number one prescribed drug to Medicaid recipients in Erie County was Hydrocodone-Acetaminophen.<sup>7</sup> However, in 2016 Hydrocodone-Acetaminophen dropped from the number one to the number three most prescribed drug in our county, and dropped even further in 2017 to the fifth most prescribed drug to Medicaid recipients.<sup>8</sup>

When you examine the data further, the argument that the expansion of Medicaid is driving the increase in opioid overdoses and deaths is even more specious. As shown in the below Table 1, while there was an increase in the number of prescriptions issued of Hydrocodone-Acetaminophen from 2014 to 2015, the number of prescriptions issued has dramatically dropped in the past two years, while the number of enrollees in Medicaid has increased significantly because of the Medicaid expansion. Furthermore, even though there are more than 60,000 new enrollees in Medicaid as a result of its expansion compared to 2012, in 2017 there were 21,000 less prescriptions written for Hydrocodone-Acetaminophen.

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<sup>4</sup> Ibid, 698.

<sup>5</sup> Ibid.

<sup>6</sup> Erie County, New York is a county located in western New York, and includes the City of Buffalo, two other cities and 25 towns. Approximately the same geographic size as Rhode Island, Erie County is similar to a small state as it is made up of urban, suburban and rural centers. The United States Census Bureau estimates Erie County’s population to be 921,046 as of July 1, 2016, or larger than five states (Wyoming, Vermont, Alaska, North Dakota and South Dakota).

<sup>7</sup> Erie County Office of the Medicaid Inspector General, *Statistical Analysis of Selected Erie County Medicaid Data for the Period of January 1, 2011 – June 30, 2015*, (November 2015), <http://www2.erie.gov/medicaid/sites/www2.erie.gov/medicaid/files/uploads/pdfs/Erie%20County%20Mig%20Report%20on%20Medicaid%20dated%20November%2012%202015%20.pdf>.

<sup>8</sup> Erie County Office of the Medicaid Inspector General, *Analysis of Selected Erie County Medicaid Data - January 1, 2017 – June 30, 2017 and selected prior periods*, (October 2015), <http://www2.erie.gov/medicaid/sites/www2.erie.gov/medicaid/files/uploads/Final%20-%20Erie%20County%20Mig%20Report%20on%20Medicaid%202017.pdf>.

Table 1

Comparison of Prescription of Hydrocodone-Acetaminophen in Erie County, NY 2012-2017 <sup>9</sup>						
Year	2012	2013	2014	2015	2016	2017
Total Medicaid Enrollees	221,753	229,364	259,421	286,145	282,844	284,580
Total of All Prescriptions Filled in Year	2,232,649	2,418,830	2,644,863	3,036,661	3,190,990	3,246,273
Hydrocodone-Acetaminophen Prescriptions Filled in Year	77,027	69,246	68,807	77,981	68,154	56,081
Percentage of Hydrocodone-Acetaminophen Prescriptions filled to all Prescriptions	3.45%	2.86%	2.60%	2.57%	2.14%	1.73%

As is evidenced by the above Table 1, while the number of Medicaid enrollees has increased as a result of Medicaid’s expansion, the number of prescriptions filled for opioid has dropped significantly during the same time period. This is a hopeful sign that we are turning the corner on this epidemic and bringing a wider community understanding of the dangers of opioids, and it is also further evidence that the expansion of Medicaid did not drive up opioid drug usage in Erie County.

Our Department of Health and Medicaid Inspector General’s Office believe there are two primary reasons for the dramatic reduction in legal opioids being prescribed in our community during the past five years. First, in August of 2013, New York State implemented the I-STOP Program that requires most prescribers to consult with a database of prescriptions written for Schedule II, Schedule III and Schedule IV drugs when writing prescriptions. Hydrocodone-Acetaminophen is a Schedule II drug. I-STOP allows for a better understanding of a patient’s controlled substance utilization based on recent controlled substance prescription history, and thereby prevents the issuance of multiple, unnecessary prescriptions to the same person.

Second, educating medical professionals on the dangers of opioids has been an ongoing effort. Our Department of Health lead the effort statewide by working with our local medical society, hospital groups, health insurers and others on the drafting of new opioid prescribing

<sup>9</sup> Erie County Office of the Medicaid Inspector General, *Selected Erie County Medicaid Data for the Period of January 1, 2014 – December 31, 2017*, (2018), <http://www2.erie.gov/medicaid/> (2017 data is subject to minor modification based on final reconciliations).

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guidelines, as well as assisted drafting new statewide opioid prescribing regulations passed in June of 2016 and signed into law by Governor Andrew Cuomo. This effort has resulted in less opioids being prescribed in total (a person does not need a month's supply of Hydrocodone-Acetaminophen for the pulling of a wisdom tooth), and the non-prescribing of opioids where they can be otherwise replaced with non-opioid alternatives.

As shown, while we have seen no evidence that the expansion of Medicaid has worsened the opioid abuse problem, we have seen that the expansion of Medicaid under the ACA offers improved access to safe, evidence-based pain treatment rather than leading individuals to misuse narcotics in an effort to self-medicate their pain, leading to addiction. Moreover, the expansion of Medicaid has given counties, such as Erie, the resources necessary to confront and address this issue, which is far too large for any one community to handle alone.

Based on the Erie County's experience, if there is one factor driving up the number of overdoses and resulting deaths it is not the expansion of Medicaid, but the street drug that is being consumed by those addicted: fentanyl. As shown in the below Table 2, deaths from opioid overdoses increased as fentanyl became much more prevalent.

Table 2

Percentage of Opioid Identified in Overdose Death Cases analyzed by the Erie County Central Police Services Forensic Lab 2014-2017 <sup>10</sup>							
	Opioid Overdose Deaths	Heroin	Fentanyl	Heroin/Fentanyl Mix	U47700	Butyryl Fentanyl	Furanyl Fentanyl
2014	127	93.5%	6.5%	0	0	0	0
2015	256	69.6%	13.9%	4.7%	0	11.8%	0
2016	301	41.4%	17.1%	3.7%	5.1%	23.6%	9.1%
2017	217 confirmed 55 pending	15%	20%	9%	14%	30%	12%

As is shown in the above Table 2, while a person might think they are purchasing and ingesting heroin, they are in fact usually ingesting a much more potent opioid, fentanyl and/or its derivatives, and our Medical Examiner and Commissioner of Health believe that is the main factor as to why more people are dying.

I was proud to serve on the National League of Cities/National Association of Counties Opioid Epidemic Task Force (the "Task Force"). The Task Force spent many months examining the myriad of issues encompassing the opioid epidemic and in November, 2016 issued a report

<sup>10</sup> Erie County Central Police Services Forensic Lab, *Percentage of Opioids Identified in Overdose Death Cases for the period of 2014 – 2017* (2017 data is based on confirmed cases as of February 20, 2018, final results to be forthcoming) (U47700, Butyryl Fentanyl and Furanyl Fentanyl are all fentanyl based derivatives) (2018).

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identifying numerous recommendations for local, state and federal leaders to take to address the crisis.<sup>11</sup> One of the primary recommendations of the Task Force was for state governments to structure Medicaid programs to increase access to treatment, especially medication-assisted treatment.<sup>12</sup>

The decision to include such a recommendation was based on empirical evidence. Studies show that people with opioid addiction who follow detoxification with complete abstinence are very likely to relapse and resume using opioids.<sup>13</sup> Medication-assisted treatment (MAT) with methadone, buprenorphine, or naltrexone reduces opioid misuse and increases the likelihood that a person will remain in drug treatment, avoid criminal justice involvement, and become employed. MAT access is often only possible through the Medicaid expansion to pay for costs of this evidence-based care. This is a life-saving investment in our communities and a vital lifeline to a better, more hopeful tomorrow. Rather than casting doubt on the efficacy of the Medicaid expansion and question the program's value without supporting evidence, now is the time to pursue more robust budgetary appropriations for the expanded program to ensure successes in the future.

Every level of government has a role to play in ending the opioid epidemic. We must work together to address the opioid epidemic, and leave no stone unturned in our approach to it. Erie County has led the way in New York State on this issue, expending considerable resources, time, and personnel to lead a state-wide effort against opioid abuse. Our effort has been aided immeasurably by funding through the Medicaid program and would be critically impaired if this funding were removed. We stand ready to work with you to protect our fellow citizens across America and end the public health crisis of our time: the opioid epidemic.

Sincerely yours,



Mark C. Poloncarz  
Erie County Executive

MCP/pa  
Enclosure

cc: Hon. Claire McCaskill, Ranking Committee Member, U.S. Senate Committee on Homeland Security and Government Affairs  
Hon. Charles Schumer, Minority Leader, U.S. Senate  
Hon. Kirsten Gillibrand, Member, U.S. Senate  
Judge Gary Moore, Boone County Kentucky, Co-Chair NLC/NACo Task Force

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<sup>11</sup> National League of Cities/National Association of Counties, *A Prescription for Action – Local Leadership in Ending the Opioid Crisis*, (November 17, 2016), [http://opioidaction.org/wp-content/uploads/2017/01/NACo-NLC\\_JointOpioidReport\\_FINAL\\_12.15.16.pdf](http://opioidaction.org/wp-content/uploads/2017/01/NACo-NLC_JointOpioidReport_FINAL_12.15.16.pdf).

<sup>12</sup> *Ibid.*, 43.

<sup>13</sup> The American Society of Addiction Medicine, *Advancing Access to Addiction Medications: Implications for Opioid Treatment*, (2013), [https://www.asam.org/docs/default-source/advocacy/aaam\\_implications-for-opioid-addiction-treatment\\_final](https://www.asam.org/docs/default-source/advocacy/aaam_implications-for-opioid-addiction-treatment_final).

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Mayor Mark Stodola, Little Rock, Arkansas, Co-Chair NLC/NACo Task Force  
Dr. Gale Burstein, Erie County Health Commissioner  
Michael Szukala, CIA, Erie County Medicaid Inspector General  
Matthew Chase, Exec. Dir., National Association of Counties