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January 23, 2009

RE: AN ACT to amend the insurance  
law, in relation to insurance  
coverage for out-of-network  
dialysis

A.213 (Markey) / S.1803 (Breslin)

**MEMORANDUM IN OPPOSITION**

Submitted on behalf of the Blue Cross and Blue Shield Plans

The Blue Cross and Blue Shield Plans of New York oppose this legislation, which would require insurers to provide coverage for out-of-network dialysis without placing a geographic limit on where this out-of-network coverage would apply. Specifically, this bill would prohibit insurers from denying coverage to an insured who receives dialysis from an out-of-network provider. This bill would increase the risk of harm to patients by circumventing the provider credentialing process and would discourage provider participation in the network.

It is understandable that individuals who require dialysis want to be able to maintain a certain amount of flexibility in their lives; to travel, to participate in family functions or for emergency situations. However, this legislation is not the right way to ensure that flexibility. In fact, due to the nature of dialysis, i.e., long term daily or semi-daily treatments, most insurers have already contemplated the requirements of this legislation and have procedures in place that address the sponsors' concerns. Individuals that need to travel outside of their coverage area for a short time should contact the medical management personnel of their health plan to make travel coverage arrangements.

This bill contains no language that limits which out-of-network providers would be covered. Rather, it requires insurers to cover out-of-network dialysis treatment whenever thirty days notice of such treatment is given by the insured. There is no requirement that the out-of-network

provider be located a minimum distance outside of a plan's geographical area of coverage. As a result insurers would be forced to cover those services provided by an out-of-network provider who is located within their geographical area of coverage. In such cases, there is no justification for the circumvention of plan networks because the insured could have just as easily visited an in-network provider. Out-of-network coverage should be limited to situations where the insured travels so far outside of the geographical service area that it is impracticable for them to travel back into the area to receive treatment from an in-network provider. The current wording of the bill does not limit the coverage to such circumstances.

Moreover, this legislation would discourage providers from participating in networks, as out-of-network providers would be able to receive the same reimbursement as in-network providers without joining a network and meeting applicable credentialing requirements. The open-ended nature of this legislation, i.e., coverage for out-of-network dialysis without limitations on the geographic scope in which the coverage would apply, would unnecessarily allow providers that are not subject to the credentialing process to treat the plan's members. The consequence of this is risk to patients. Less qualified providers will be able to provide services to patients and be able to receive reimbursement from insurers, who will likewise have no means of determining the providers' qualifications.

Based on the forgoing reasons, the Blue Cross and Blue Shield Plans urge that this legislation not be enacted.

Respectfully submitted,

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