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February 9, 2009

RE: AN ACT to amend the insurance law,
in relation to requiring third-party
notification prior to termination of
long-term care and health insurance
policies

A.217 (Latimer)

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 enactment of this bill, which would require insurers and HMOs to allow individuals over 65 years old to designate a 3rd party to receive notices of failure to pay premiums or cancellation due to the failure to pay premiums. Insurers would be required to annually provide notice to eligible insureds of this option.

This notice requirement creates significant operational issues for insurers. Unlike Medicare supplemental insurance policyholders, for whom this requirement already exists in law, the universe of health insurance policyholders is not predominately limited to individuals over 65 years of age. As a result, systems must be developed to inform the insurer when a policyholder turns 65 and therefore must receive notice of the right to name a 3rd party to receive notices. The development of such systems has the potential to be complicated and costly, and will certainly increase administrative costs in a time when plans are struggling to reduce them in order to keep the cost of coverage down.

It is unclear when the annual reporting requirement is triggered (e.g. Must the policyholder be informed of this right as near as possible to his 65th birthday, or is a general notice to all eligible policyholders at a fixed point every year acceptable?) and as a result an insurer may be held liable for failure to provide notice even in the event of a good faith attempt to do so.

Further, this requirement places the insurer in the middle of potentially complicated family circumstances that often develop as a relative ages. The policyholder may choose to remove a 3rd party designee without informing such person of his choice. The plan has no means to determine the policyholder's capacity or the wisdom of his decisions, and is not the appropriate arbiter of any questionable changes. However, the plan will likely be the target of ire from a 3rd party who disagrees with any change, especially in the event of termination or lapse in coverage.

For these reasons, the Blue Cross and Blue Shield Plans of New York oppose the enactment of this legislation.

Respectfully submitted,

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Legislative Counsel for the
Blue Cross and Blue Shield Plans