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June 2, 2011

RE: AN ACT to amend the insurance law, in relation to payments to prehospital emergency medical services providers

A.4093 (Morelle)  
S.2714 (Seward)

**MEMORANDUM IN OPPOSITION**

Submitted on behalf of the Blue Cross and Blue Shield Plans

The New York State Conference of Blue Cross and Blue Shield Plans strongly opposes enactment of this legislation, which would completely undermine provider networks and eviscerate plans' ability to control costs in the context of ambulance services, leaving New Yorkers to pay more for less quality.

Provider networks are an important tool by which plans ensure quality and keep costs under control. Across the spectrum of providers, one of the primary incentives for joining a network is the ability to be directly reimbursed by the plan instead of relying on the recipient of services to remit payment. This bill would require insurers to directly reimburse all ambulance providers, thereby eliminating the incentive to be "in-network." Even more concerning, the bill requires this reimbursement to be at the "provider's usual and customary charge." This standard is inconsistent with other sections of the insurance law and essentially allows providers to unilaterally dictate charges. Not all contracts reimburse out-of-network services on a "usual and customary" basis but when they do, the "usual and customary rate" is not based on a particular provider's charges but rather on global charge data collected within a defined geographic area that constitutes a credible representation of the costs of the service. The combination of direct reimbursement regardless of network status and unilateral rate-setting will eliminate any reason

for providers to negotiate with plans for in-network status, thereby undermining plans' quality and cost controls. The result of this is potentially sub-standard care and higher health insurance premiums for insureds.

This bill would also create a significant administrative burden for plans and has the potential to impose prompt pay penalty liability even with a good faith effort by the plan to provide proper and timely reimbursement. Under this legislation, delivery of payment and even to whom the check should be made out to depends on a litany of variables. Worse, the bill's confusing and ambiguous drafting allows for multiple interpretations of how to comply with its requirements so that even the most diligent of efforts could result in a plan's non-compliance. By making these changes in the "prompt pay" law, all of the administrative issues must be quickly and accurately addressed or the plan is subject to additional penalty liability. These increased costs will again make health insurance less affordable for New Yorkers.

Additionally, this bill dramatically expands the current mandate requiring plans to cover prehospital emergency services to now include transfers between hospitals and health care facilities. While in and of itself this mandate expansion would be costly, such a broadening in conjunction with the elimination of provider network controls, which are especially relevant in a non-emergency setting, is nothing more than a substantial windfall to providers at the expense of insureds.

For the foregoing reasons, we strongly oppose enactment of this legislation.

Respectfully submitted,

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Legislative Counsel for the Blue Cross and Blue Shield Plans

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