HINMAN STRAUB PC
ATTORNEYS AT LAW

121 State Street
Albany, New York 12207-1693
Tel: 518-436-0751
Fax: 518-436-4751

February 10, 2017

RE: AN ACT to amend the public health law and the state finance law, in relation to enacting the "New York health act" and to establishing New York Health

A.4738 (Gottfried)
S.4840 (Rivera)

**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 oppose the New York Health Plan proposal, which would completely abolish the current system of health care coverage and financing and replace it with a government-operated single payor system paid for by billions of dollars in new taxes. A government-operated single payor system ignores the advances that New York State has made within the last decade in providing avenues for individuals to access health insurance and ensuring that health care is provided in a cost-efficient and appropriate manner. In addition, it fails to consider the significant economic impact of moving to a government-operated system, especially in less economically diverse regions of the State.

1. **THE ESTABLISHMENT OF A SINGLE PAYOR SYSTEM IGNORES THE SUCCESS OF NEW YORK'S EXCHANGE AND NEW DEVELOPMENTS IN THE ADMINISTRATION AND PROVISION OF HEALTH CARE SERVICES**

Recent federal health care reform efforts, most notably through the Affordable Care Act (ACA), provide substantial opportunities to make affordable health insurance coverage a reality for all New Yorkers. By the end of open enrollment in 2016, NY State of Health (NYSOH), New York's health insurance marketplace, announced that their total enrollment, including private plans and Medicaid/CHIP, had exceeded 2.1 million people, and that 88 percent of them had been uninsured prior to obtaining coverage through the exchange. The NYSOH has long has long been considered one of the most successful state-run exchanges in the country. Officials believe that by year three of the Exchange there will be 615,000 people enrolled in private plans through the exchange. With the successful operation of the NYSOH, the expanded eligibility

criteria for Medicaid, and the introduction of the Basic Health Plan[1], the State has expanded significant resources to widely increase access and availability of health insurance to all New York residents.

The bill largely ignores changes that have been implemented in New York to provide better, more efficient care to all New York residents. New York State has invested significant resources to shift large populations under Medicaid out of the Fee-For-Service (FFS) business to the concept of managed care, in recognition of the inefficiencies and impracticality of the State's direct involvement in managing health care cost and quality.[2] The State firmly believes that the "Care Management for All" initiative will improve coordination and quality of care, and thus lead to better health outcomes, while restraining costs. The State has doubled down on this concept through the development of the Delivery System Reform Incentive Payment (DSRIP) Program, which is New York's $8 billion bet with the federal government that it provide better, more efficient care to Medicaid enrollees if the State transfers the responsibility for patient health from a single government source to multiple community providers, who will now be responsible for the health care of the Medicaid eligible individuals attributed to the provider system. To further ensure that services are provided efficiently and effectively, the program creates a financial interest for the provider systems to meet specified patient health goals.

The single payor system simply ignores the need for such localized and personalized health care management for a large portion of New York residents, and simply refers to such actions by health insurers acting as managed care plans as "administrative expenses", which will be cut to achieve any projected savings under the single payor system. Thus, this bill is advocating for the State to reverse course on policies adopted merely five years ago that were deemed necessary to limit spending growth in the Medicaid program (note, not reduction in the cost of administration in the Medicaid program) and to achieve better health outcomes. To assume that a single government entity can effectively manage both the health care costs and health care outcomes of the entire New York population, when it was unable to do so with just the Medicaid population, with zero experience in managing and administering commercial-like health insurance, is profoundly absurd.

## 2. THE SINGLE PAYOR SYSTEM FAILS TO ADDRESS THE INCREASING COSTS FOR MEDICAL CARE, WHICH RESULT IN HIGHER PREMIUMS FOR HEALTH INSURANCE

This bill would contribute to, and do nothing to control what is the greatest health care threat we face, the staggering increases in health care costs. While health insurers may collect significant amounts in premiums, the majority of this spending goes to pay hospitals and pharmaceutical companies and device manufacturers for medical care. While the bill firmly believes that significant savings may be achieved by removing the administrative expenses of multiple

[1] In New York, the BHP will be available from a variety of private carriers, will have no deductible, and will have no premium for enrollees with incomes up to 150 percent of the federal poverty level. Enrollees with incomes at 200 percent of the federal poverty level will pay just $20 per month in premiums. Currently, enrollees with incomes between 138 percent and 200 percent of poverty are eligible for premium subsidies and cost-sharing subsidies, but switching to a BHP during the upcoming open enrollment may result in lower premiums and lower cost-sharing.

[2] Since the late 1980s, the State has gradually moved over three-quarters of its Medicaid population from the fee-for-service delivery system into managed care.

insurers, it fails to recognize that this is just one piece of the puzzle. Importantly, it fails to address the real key to controlling health care costs, which is price transparency and price regulation. In a *New York Times* examination of the price of medical care in the United States, the average price for standard procedures, such as colonoscopies and hip replacements, cost significantly more in the United States than other developed nations.[3]

In order to truly decrease, or even control, the amount of health care spending in New York State, any single payor system would also need to impose price regulation on medical services. While this bill proposes that the negotiating power of a single payor would control costs, this fails to acknowledge that the costs for medical services in the State are consistently ranked as some of the highest in the nation and are only projected to continue to grow.

In 2009, *Forbes* ranked the health insurance industry as the 35th most profitable industry, with an anemic 2.2 percent return on revenue. To understand why the U.S. health-care system is so expensive, you need to travel higher up the *Forbes* list. The pharmaceutical industry was in third place, with a 19.9 percent return, and the medical products and equipment industry was right behind it, with a 16.3 percent return. Meanwhile, doctors are more likely than members of any other profession to have incomes in the top 1 percent. In general, individuals don't use more health care than citizens of other countries, but pay a lot more for the health care we do get. Any move to a single payor system would have a limited impact on health care costs unless it establishes price setting for medical care.

**3. THE SINGLE PAYOR SYSTEM PROMISES TO ACHIEVE COST SAVINGS, BUT FAILS TO ACKNOWLEDGE THE DIFFICULTY THE STATE HAS EXPERIENCED IN EFFECTIVELY MANAGING THE STATE'S MEDICAID PROGRAM THAT ACTS AS THE SINGLE PAYOR FOR A PROGRAM WITH LESS THAN ONE THIRD OF THE STATE'S POPULATION**

The bill proposes to achieve savings for the State, thus reducing the cost of health insurance, through economies in administration and by reducing inflated drug and device prices. However, such claim places a great amount of faith in the ability of the State to achieve significant savings. Again, looking to the State's Medicaid program, which is the best example of how the State would manage a single payor health system, provides little support for such faith. Medicaid spending in New York has long been among the highest in the nation in absolute dollars and on a per-enrollee basis; however, the State admits that the Medicaid program and New York's entire health care system have "significant quality issues" that must be addressed.

Medicaid provides health insurance coverage to more than 6 million New Yorkers and is projected to cost a total of $62 billion from federal, State and local sources in State Fiscal Year 2016. The State administers the Medicaid program through eMedNY, New York's Medicaid Management Information System (MMIS), which presumably would be the basis for a claims processing program used by the State under the proposed bill. The State just awarded a $500

[3] Data gathered by the International Federation of Health Plans show that an MRI costs, on average, $1,121 in the United States and $363 in France. An appendectomy costs $13,851 in the United States and $4,782 in Switzerland. A birth by cesarean section costs $3,676 in the United States and $606 in Canada. A bottle of Nexium -- a common acid-reflux drug -- costs $202 in the United States and $32 in Britain.

million contract to rebuild and administer the MMIS over the next five years. A system to process claims from thousands of additional providers and millions of additional enrollees would likely cost even more. While the bill trumps administrative efficiencies, it ignores that the State will have to build, operate and administer a massive claims processing program, which is something that the insurance industry has already done.

Even with such expenditures, a recent audit by the New York State Comptroller found that the administration of such system, which is currently for less than one-third of New York's population, has resulted in improper payments, the failure to correct issues resulting in improper payments, and overpayments to providers.[4] Specifically, the audit concluded that from January 2011 through February 2015, OSC identified $513 million in improper payments or potential revenue, and questioned an additional $361 million in transactions.[5] The audit also found that DOH, which administers Medicaid, was slow to modify eMedNY, at times taking as long as three years to resolve issues raised by auditors.[6] The Comptroller released a report in March 2015, noting that an ongoing Medicaid audit initiative that has found nearly $2 billion in waste, fraud and abuse since 2007, including $171 million in 2014. These audits show that it is difficult to administer a single government-run insurance program.

Further, the bill and supporting memoranda cite the ability of a single payor system to reduce costs by exercising bulk purchasing and reducing inflated drug prices. However, New York State has failed to exercise the ability of such negotiating power to the fullest extent in the Medicaid context, raising questions with the ability of the State to do so in the context of a single payor system. Specifically, the State failed to obtain approximately $170 million in drug rebates and discounts under the Medicaid program.[7] The bill further ignores the fact that large health insurers also seek rebates and other cost containment measures to combat the rising cost of prescription drugs, and some may be able to exercise this negotiating power more effectively than New York State due to their national presence. In addition, the negotiating power a single-entity, no matter how large, will be limited by the actual costs of the product. The provision of health care in New York and the U.S. is not going down, but rather continues to grow. The State may be able to negotiate lower rates, but those rates cannot go below a level that would compromise the provision of safe and adequate care.

## 4. THE IMMEDIATE IMPACT OF THIS BILL WOULD BE A STATE-SPONSORED ELIMINATION OF JOBS FOR A SUBSTANTIAL PORTION OF NEW YORK RESIDENTS

Perhaps the most immediate and damaging impact of this bill would be the extreme economic impact on the residents of New York State by abolishing the current health insurance industry and replacing it with a government-operated system. According to the most recent economic analysis prepared in support of the bill, "in 2019, there will be over 300,000 workers employed

[4] New York State Office of the State Comptroller, *Ensuring Integrity in New York State Medicaid Program*, April 2015, http://wallaby.telicon.com/NY/library/2015/2015042299.PDF
[5] *Id.*
[6] *Id.*
[7] *Id.*

in health care administration in New York and over 26,000 employees of health insurers."[8] Thus, under a conservative estimate that does not include the industries and employees that provide services to the health insurance industry, this legislation would lead to job losses for over 300,000 New York residents. Such a large reduction in employment in a single industry has not been witnessed since the most recent financial crisis, which devastated the New York economy and state revenue for a number of years. As the state is finally beginning to crawl out of this difficult time, it is hard to believe that the State, through this legislation, is actually setting up a scenario where job losses will be extreme and wide-spread.

The economic analysis report blissfully assumes that the job losses will be offset by new job creation. This fails to consider that the New York Health Plan will be largely funded by employer contributions, which means that the cost of health care remains a barrier for new business development. In addition, this projection fails to accurately portray the current New York State and national economy. In March, 2015, the entire United States economy added 85,000 jobs. The most recent April 2015 jobs report determined that the entire U.S. economy added 223,000 jobs, a number which was surprising and celebrated. The sponsors of this legislation are betting that the New York economy can grow at such a large pace simply due to a change in the way health care is delivered, in numbers that are not even seen on a national level. The truth is that the current economy is not growing at the pace necessary to offset the jobs losses that would result from this legislation. The true result of this legislation is that a large number of New York residents, especially those in regions with less diverse economies, will lose jobs and have no opportunities in the industry that they have spent years gaining experience and knowledge.

For the foregoing reasons, the New York State Conference of Blue Cross and Blue Shield Plans strongly opposes enactment of this legislation.

Respectfully submitted,

HINMAN STRAUB ADVISORS, LLC
Legislative Counsel for the Blue Cross and Blue Shield Plans

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[8] Friedman, Gerald, *Economic Analysis of the New York Health Act*, March 2015.