



121 STATE STREET
ALBANY, NEW YORK 12207-1693
TEL: 518-436-0751
FAX: 518-436-4751

June 16, 2017

RE: AN ACT to amend the insurance law, in
relation to coverage for eating disorders

S.6045-B (Marchione)
A.6396-B (Rozić)

MEMORANDUM IN OPPOSITION

Submitted on behalf of the Blue Cross and Blue Shield Plans

The New York State Conference of Blue Cross and Blue Shields Plans oppose enactment of this Bill, which would mandate insurance coverage for inpatient hospital treatment for eating disorder, imposing yet another costly New York insurance coverage mandate that will require significant premium increases for all New York residents in order to provide coverage of this benefit to all covered members. Existing New York insurance requirements already require all New York insurers to provide coverage for the treatment of eating disorders. This legislation, however, would mandate that insurers provide coverage for inpatient hospital treatment for eating disorders, which is the highest and most costly treatment setting for eating disorders.

Eating disorders are biologically based mental illnesses. Timothy's Law, enacted in 2006, mandates that insurers provide "broad-based coverage for the diagnosis and treatment of mental, nervous or emotional disorders or ailments, at least equal to the coverage provided for other health conditions."¹ Timothy's Law also requires that insurers provide coverage comparable to that provided for other health conditions for adults and children with biologically based mental illness – including bulimia and anorexia – under the terms and conditions otherwise applicable under the policy, and that utilization review for mental health benefits be applied "in a consistent fashion to all services covered by contracts."²

Under New York's existing structure, individuals that require hospitalization as a result of their eating disorder (i.e. unstable or depressed vital signs, complications with coexisting medical problems) would be covered for their hospitalization and treatment necessary to stabilize the individual. The individual, once stabilized, would be able to be transferred to a residential, partial hospital, or outpatient setting to receive treatment for their eating disorder. This Bill, however, would mandate that insurers provide coverage for inpatient hospital treatment for eating disorders,

¹ N.Y. Ins. Law §§ 3221(1)(5)(A); 4303(g)(1).

² N.Y. Ins. Law §§ 3221(1)(5)(B)(i); 4303(g)(2)(A).

which results in an individual receiving the same treatment provided in a residential setting in an inpatient hospital setting. As a result, this Bill will drastically increase the cost of care for the treatment of eating disorders simply by requiring it to be provided in a more expensive setting.

Further, this Bill is unnecessary in light of the fact that members that truly require inpatient hospital treatment for their eating disorder if such treatment is medically necessary. Timothy's Law requires that the treatment of mental illnesses as equally as they would other health conditions. If the member's health condition necessitates inpatient hospitalization due to medical instability, and their medical condition prevents the transfer to a different setting for the treatment of their eating disorder, all New York insurers would be required to provide coverage for the treatment of their eating disorder in an inpatient hospital setting. However, in mandating this level of coverage, more members will seek to receive treatment in an inpatient hospital setting, even if such treatment can properly be provided in a different setting.

It is important to recognize that this Bill would create an unfunded mandate not just on commercial health insurance plans, but also on the entire State. Eating disorder treatment was not included as an "essential health benefit" under the Affordable Care Act. Any health benefits which the State wishes to mandate that are not Essential Health Benefits must be paid for in full by the State, if such benefits are to be mandated on the State's Health Exchange. Thus, while this Bill's mandate would lead to increased premiums across all lines of health insurance, the cost would be particularly acute for all New Yorkers, as the Bill would require coverage of services outside of New York's Essential Health Benefits package on the Exchange that the Federal government will not cover, meaning it would need to be entirely funded by taxpayer dollars.

New York currently has one of the most extensive lists of health insurance mandates in the nation as well as one of the most inclusive Mental Health Parity Laws enacted by any State. Against this backdrop, numerous additional health insurance mandates are introduced into the Legislature each session. These mandates play a significant role in the increased cost of health insurance for individuals and small businesses, making health insurance less affordable in New York State.

For the foregoing reasons, the Blue Cross and Blue Shield Plans opposes this Bill and urges that it not be enacted.

Respectfully submitted,

HINMAN STRAUB ADVISORS, LLC.

Legislative Counsel for the Blue Cross and Blue Shield Plans of New York