



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

May 25, 2017

RE: AN ACT to amend the public health law
and the insurance law, in relation to
health care coverage for neonatal
intensive care services

S.6053 (Hannon)
A.8051 (Gottfried)

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 prohibit health insurers from performing a medical necessity review for the prior authorization of neonatal intensive care unit (NICU) services. The Bill attempts to address a narrow issue while broadly prohibiting insurers from requiring prior authorization for NICU services. Prior authorization is designed to allow for the insurer to conduct a medical necessity review of the service prior to the service being performed; this process affords members, in this case parents of members, with the assurance that coverage will be provided thereby avoiding significant financial liability if the services are later deemed to be not medically necessary and coverage is denied.

Medical necessity review is a vital component of the prior authorization process, and uses evidence-based treatment criteria, developed and used by nationally renowned provider organizations and insurers alike, to support better patient outcomes and ensure health care decisions are consistent and clinically appropriate. These guidelines reduce over and underutilization and foster appropriate care with specific evidence-based decision-making. These criteria are also consistently reviewed and revised by clinicians and health care experts to ensure they remain current and appropriate, and should therefore not be prohibited. The use of medical necessity review, through the prior authorization process, not only ensures that ordered treatment is necessary for the member's clinical condition, but also that the ordered treatment is clinically appropriate.

While this Bill is well-intentioned, it creates a scenario under which a health insurer is prohibited from conducting a medical necessity review prior to the performance of an expensive service, but allows a health insurer to deny a claim if the service is not medically necessary after the service has already been performed. If the service is ultimately deemed to be not medically necessary, the

service will not be covered by the member's insurer, and the parents of the member will be exposed to a potentially liability owed to the provider of the NICU services. This is an outcome that no party wants to occur as it results in significant debt for the parents of the member and potentially leaves the hospital unpaid for their services.

The Sponsor's goal is to eliminate the ability of health insurers to deny NICU services for purely administrative reasons. However, in eliminating the ability of insurers to require prior authorization for NICU services, the Bill eliminates the ability of insurers to conduct a medical necessity review prior to performance of services. A specified approach for administering prior authorization requirements for NICU services would more accurately address the Sponsor's issue, rather than the broad prohibition contemplated by the legislation.

For the foregoing reasons, the Blue Cross and Blue Shield Plans believes that this bill not be enacted.

Respectfully submitted,

HINMAN STRAUB ADVISORS, LLC.

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