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May 11, 2018

RE: AN ACT to amend the general municipal law and the town law, in relation to authorizing fees and charges for emergency medical services; and to amend the insurance law, in relation to payments to pre-hospital emergency medical services providers

A.7717-A (Jones)  
S.363-A (Little)

**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 the ability of health insurers to control costs in the context of ambulance services, leaving New Yorkers to pay more for less quality. This Bill would require health insurers to reimburse out of network providers directly and at a higher rate than in-network ambulance service providers. This Bill challenges the entire insurance network concept – an indispensable touchstone for the entire insurance industry.

While the original intent of this Bill is to provide authorization for fire departments and districts that operate ambulance services charge a fee for services rendered, and allow this fee to be recovered from insurers to the extent coverage is available, recent amendments to this bill have significantly deviated from this goal. As drafted, it would also provide a significant financial wind-fall for proprietary/for-profit ambulance service providers by eliminating any incentive to participate in an insurer's network and require payments that exceed contractual amounts to these non-participating providers. The amendments are unnecessary to achieve the original goal of the Bill, but are rather designed to advance legislation favorable for for-profit ambulance providers such as air ambulance companies that seek to charge exorbitantly high rates, often exceeding \$40,000 per trip, which are significantly higher than comparable services provided by not-for-profit ambulance providers and vastly exceed the contractual amount that insurers pay in-network providers.

This Bill would require insurers to directly reimburse all ambulance providers whether in-network or not, thereby entirely eliminating the incentive to be "in-network" and contractually agree to

reimbursement levels for the services provided. This Bill flips this scenario and would require that the level of reimbursement to non-participating ambulance service providers be at the “usual and customary charge”, which essentially amounts to whatever the provider deems is an appropriate charge. In-network reimbursement rates are generally lower than the usual and customary charge because only in-network status offers the incentive of direct reimbursement. Under the proposed legislation, not only would out-of-network providers be directly reimbursed, but they would also be paid at a higher rate than in-network providers. The combination of direct reimbursement regardless of network status and increased payment rates to out-of-network providers results in a massive disincentive for providers to negotiate with plans for in-network status. Such a change would greatly undermine insurers’ important quality and cost controls, ultimately resulting in higher health insurance premiums and potentially substandard care.

The mandatory utilization of a “usual and customary rate” likewise creates a number of challenging and costly compliance problems. For example, all non-facility “usual and customary” reimbursement rates are determined by the not-for-profit Fair Health. Fair Health only collects charge data from physician and dentist providers and does not compile charge data to determine the usual and customary rates for ambulance providers. Those plans that do not currently use “usual and customary rates” and therefore do not utilize Fair Health will now need to contract with Fair Health exclusively to determine ambulance rates. These additional efforts will be time consuming and expensive, and these costs will eventually have to be passed on to consumers.

The proposed changes will eliminate essential provider network controls, compromising quality and amount to nothing more than a substantial windfall for providers at the expense of individuals and businesses who purchase insurance coverage. If this dangerous combination is implemented, ambulance service providers would be disincentivized from negotiating with insurers to obtain in-network status, eliminating important cost and quality controls, and ultimately resulting in higher health insurance premiums and potentially substandard care for all New York’s consumers.

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

Respectfully submitted,

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