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April 25, 2019

RE: AN ACT to amend the insurance law, in
relation to enacting "Shannon's Law"

A5502 (Jean-Pierre)
S3852 (Martinez)

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 opposes enactment of this legislation as it imposes a mandate which is not supported by the nationally recognized evidence based guidelines and extends health insurance coverage outside of the scope of covered preventative services within the Essential Health Benefits of the Affordable Care Act (ACA), imposing a costly mandate on the State to be funded by tax payer dollars. In requiring coverage of an annual mammogram between the ages of 35 to 39, this legislation establishes coverage standards that are not recommended by any nationally recognized guidelines while increasing the risk for over-diagnosis and subsequent overtreatment to the detriment of those individuals that this legislation aims to benefit.

The ACA requires fully insured non-grandfathered individual and small group plans (inside and outside of Exchanges) to provide coverage for ten categories of Essential Health Benefits ("EHBs"), which includes coverage of preventative health services and screenings without cost sharing. The types of preventative services that must be covered are established at the federal level and are based on the following:

- Services given an "A" or "B" recommended by the U.S. Preventive Services Task Force;
- Evidence-based preventive services for women recommended by the Institute of Medicine and supported by the Health Resources and Services Administration;
- Vaccinations recommended by the Center for Disease Control's Advisory Committee on Immunization Practices; and
- Evidence-based services for infants, children, and adolescents based on guidelines developed by the American Academy of Pediatrics and the Department of Health and Human Services.

The U.S. Preventive Services Task Force (USPSTF) is an independent, volunteer panel of national experts in prevention and evidence-based medicine. Prior to the enactment of the ACA,

the USPSTF *Guide to Clinical Preventive Services* was used nationally to provide guidelines for appropriate and effective preventive care. The ACA utilizes the USPSTF as a benchmark for determining coverage and requires that any service given an “A” or “B” rating by the USPSTF be included as a covered service under the EHB package. By not providing an “A” or “B” rating for screening at the ages established by this legislation, the service is not a covered service under the EHB package. As the USPSTF is tasked with conducting rigorous independent reviews of scientific evidence to ensure evidence-based recommendations for preventive services, the recommendations of the USPSTF should govern policy decisions.

In the most recent update to the recommendations for breast cancer screening (January 2016),¹ the USPSTF recommends biennial screening mammography for women aged 50 to 74 years. For women between the ages of 40 and 49 years, the USPSTF recommends that screening is appropriate for women who place a higher value on the potential benefit than the potential harms. Notably, the USPSTF does not include any recommendation for women younger than 40 to receive breast cancer screening as beginning mammography screening at a younger age and screening more frequently increases the risk for over diagnosis and subsequent overtreatment. In fact, the American Cancer Society recently revised their breast cancer screening guidelines to now recommend that annual screening start at age 45, rather than age 40.²

While the goals of providing the opportunity for early detection is laudable, existing insurance requirements provide for women between the ages of 35 to 39 years to receive breast cancer screening. This policy provides sufficient opportunity for women to access breast cancer screening in light of the concerns raised by the Sponsor and at an age earlier than recommended by national guidelines, while also providing protection against the risks from early screening that have been documented by the USPSTF.

Moreover, as this coverage is not given an “A” or “B” rating by the USPSTF, mandating coverage would result in the state itself in having to assume the cost of the mandate. Specifically, any health benefits which the State wishes to mandate that are not Essential Health Benefits as prescribed by the ACA must be paid for in full by the State, if such benefits are to be mandated on the State’s Health Exchange. The resulting 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 which would be paid entirely by taxpayer dollars.

For the foregoing reasons, the New York State Conference of Blue Cross and Blue Shield Plans strongly opposes this legislation 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
4850-3602-7541, v. 1

¹ <https://www.uspreventiveservicestaskforce.org/Page/Document/UpdateSummaryFinal/breast-cancer-screening1?ds=1&s=breast%20cancer>

² <https://www.cancer.org/cancer/breast-cancer/screening-tests-and-early-detection/american-cancer-society-recommendations-for-the-early-detection-of-breast-cancer.html>