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RE: AN ACT to amend the insurance law, in relation to prohibiting insurance companies from imposing a co-pay pursuant to a follow up visit with a physician order to receive a refill on an opioid drug prescription

S279 (Ortt)
A6139 (DeStefano)

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 supports the underlying goal of this Bill, but opposes the limitations imposed on insurers. Specifically, this Bill prohibits insurers from applying a co-payment, co-insurance, or deductible for a member's follow-up visit to receive an additional supply of opioids following an initial opioid prescription of a seven (7) day or less supply. This apparent "consume friendly" change would limit the ability of insurers to effectively use cost-sharing policies, resulting in increased costs for health plans and businesses.

Legislation enacted in 2016 prohibits practitioners from prescribing more than a seven-day supply of any schedule II, III, or IV opioid to an ultimate user upon the initial consultation or treatment of the user for "acute pain", but permits a practitioner to issue an appropriate renewal, refill, or new prescription for the opioid for the same pain upon subsequent consultations. As a result of this legislation, prescribers are limited to prescribing an initial seven-day supply of opioids in most cases, resulting in an increase in office visits for patients to receive the remaining 30-day supply, if necessary.

It should be recognized that this legislation, as currently drafted, would result in a financial benefit to the prescribing physician as the follow up visit will be billed to the patient's insurer as a physician office visit. The prescriber will receive full reimbursement for the initial office visit from which the limited prescription was issued and receive the same reimbursement amount for the follow up visit to determine whether an additional supply of opioids is appropriate. As a result, insurers would be required to cover, in full, physician charges for each physician visit, even though the insurer's member is only receiving one 30-day supply in total. In limiting the ability of insurers to apply a co-payment to this follow up visit, insurers will incur a greater cost for the follow-up visit, even though the follow-up visit is limited to simply determine whether an additional supply

of opioids is necessary. It will further encourage patients that truly do not need an additional supply to go for the follow up visit, as there would be no cost to the patient.

In addition, waiving a copayment for a subset of physician office visits will require creation of an alternative claim review process for insurers. Insurers would be required to separately review a significant number of claims to verify that the follow up visit is solely to receive an additional supply of opioids for the same pain, treatment or illness that resulted in the initial prescription. This will not only result in significant delays to provider reimbursement, but will greatly increase administrative costs and lead to higher premiums.

While well intended, this legislation would increase costs for health insurers and businesses that self-insure, ultimately resulting in higher premiums across the State. For the foregoing reasons, the Blue Cross and Blue Shield Plans urge that this Bill not be enacted.

Respectfully submitted,

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