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May 16, 2019

RE: AN ACT to amend the insurance law, in relation to insurance coverage of in vitro fertilization and other fertility preservation treatments

A7478A (Simotas)

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 Bill, which would mandate that health insurers cover in vitro fertilization (IVF) for individual and small group policies, adding yet another costly insurance coverage mandate. Mandating IVF coverage in the individual and group markets will have a premium impact that affects the State's efforts towards reducing both the uninsured rate and the amount of premium increases. In addition,

The Department of Financial Services (DFS) recently prepared financial analysis and projected the potential premium impacts of providing coverage for IVF, concluding that mandating IVF would likely have a significant premium impact of approximately 0.5% to 1.1%, depending on the region and benefit design. The report specifically recommended that if an IVF mandate were to be enacted, consideration should be given to limiting the number of cycles and limiting coverage to large groups. This Bill contains no limitation on the number of IVF cycles and applies to both individual and small group coverage, directly contradicting the recommendations of this report. DFS has studied the feasibility of this legislation and concluded that the cost to the State, paid for by taxpayers, would range from

New York currently has one of the most extensive lists of health insurance mandates in the nation and a myriad of other Bills proposing more mandates have already been introduced during this session. Adding to the state's current list of mandates to encompass additional products and services will result in increased expenses for insurance carriers, ultimately increasing premiums for policyholders. This significant cost would be incurred by New York residents and businesses, making health insurance less affordable in New York State.

It is important to recognize that this Bill would create an unfunded mandate not just on commercial health insurance plans, but on the entire State. IVF and infertility treatment are not

covered as an Essential Health Benefits under the Affordable Care Act. Any health benefits which the State wishes to mandate that are not Essential Health Benefits (EHB) 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. This Bill would require coverage of IVF and other fertility preservation treatments, which are not covered under as EHBs. 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 EHB package on the Exchange that the Federal government will not cover, meaning it would need to be entirely funded by taxpayer dollars. According to DFS, this Bill would result in a potential State cost of approximately \$98 to \$116 million per year.

Lastly, supporters of this Bill argue that the coverage of IVF will provide cost-savings as a result of a lower number of high-risk pregnancies. However, this Bill provides no mechanism to ensure that the number of high-risk pregnancies is reduced simply by mandating insurance coverage. Currently, women undergoing IVF are incentivized to implant as many embryos as their doctor will allow in order to increase the probability of a successful pregnancy and to avoid the cost of multiple IVF treatments. Unfortunately, the use of multiple embryos increases the risk of higher-order multiples, resulting in high-risk pregnancies. This Bill would not limit IVF treatment to single embryo, thus not addressing the stated goal of reducing high-risk pregnancies, and achieving the cost-savings advanced by supporters. Any Bill designed to increase access to IVF treatment must also seek to reduce multiple births and should only cover IVF treatment with a single embryo.

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

Respectfully submitted,

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