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July 17, 2020

RE: AN ACT to amend the insurance  
law, in relation to capping cost  
sharing for insulin

S8255 (Rivera)  
A10821 (Niou)

**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 oppose enactment of this legislation, which would limit the out-of-pocket expense for insulin to \$30 for every 30-day supply of insulin. This Bill fails to address the true cost drivers of insulin, will result in increased premiums for all New York residents, and amends a provision enacted less than 3 months ago that capped cost-sharing for insulin at \$100 for every 30-day supply of insulin.

The 2020-21 enacted state budget included language that limits out-of-pocket expense for insulin to \$100 for every 30-day supply of insulin, regardless of the type or amount of insulin needed. This provision applies to health insurance coverage issued or renewed on or after January 1, 2021. Thus, this new law has yet to go into effect. Nevertheless, the savings that the enacted cost-sharing cap and this amendment promise to deliver are illusory, as while immediate out-of-pocket costs for patients are reduced, the cost of insurance premiums will be further increased by lowering the cost-sharing cap, without any mechanism to lower the actual underlying cost of insulin that the insurer must make up for through increased premiums and which is the true source of the increased cost.

More importantly, by establishing a cap on the cost-sharing individuals pay for insulin, this Bill will encourage drug manufacturers to continue to increase the price of insulin as the actual cost of the drug will be hidden from consumers. In order to truly address access to affordable insulin for New Yorker's that rely on this lifesaving prescription medication, measures to address skyrocketing insulin prices must be included to work in concert with the cap on individual out-of-pocket costs. In the absence of such measures, those individuals relying on insulin will only continue to suffer from the price increase of insulin through more expensive premiums, rather than out-of-pocket costs.

There is no question that the cost of insulin is directly impacting New York residents with diabetes. The cost of insulin has tripled over the past decade. In fact, the cost has doubled between 2012 and 2016, growing from \$234 a month to \$450 a month.<sup>1</sup> As insulin was developed in 1923, there is little to no justification for the increased price and simply the latest example of pharmaceutical price gouging.<sup>2</sup>

While this Bill limits the out-of-pocket cost for New York residents at the point of sale, it does nothing to address the actual cost of insulin, nor limit the out of control increases in that price. The Bill ignores the fact that health insurers pay for the cost of their members health care services through premiums paid by all of their members. Limiting the co-payment for insulin simply transfers costs to be paid for by health insurers, which is directly funded by health insurance premiums. This Bill will directly result in increased premiums for all New Yorkers as the true cost of insulin will be paid for by premiums.

This Bill in particular highlights the need for the Legislature to address the core issue impacting New Yorkers, the rapid and unjustified price increases by drug manufacturers for drugs that are vital to the health of many New York residents and did not require significant investments in research and development. Whether residents pay for these costs in the form of co-payments or premiums, all New Yorkers are impacted by increases in the cost of prescription drugs. Unfortunately, this is just the latest example of drug manufacturers raising the cost of decades-old drugs (i.e. EpiPens) to increase profits.

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

Respectfully submitted,

HINMAN STRAUB ADVISORS, LLC  
Legislative Counsel for the Blue Cross and Blue Shield Plans

4813-8288-5042, v. 1

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<sup>1</sup> Health Care Cost Institute, *Spending on Individuals with Type 1 Diabetes and the Role of Rapidly Increasing Insulin Prices*, January 2019, available at [https://healthcostinstitute.org/images/easyblog\\_articles/267/HCCI-Insulin-Use-and-Spending-Trends-Brief-01.22.19.pdf](https://healthcostinstitute.org/images/easyblog_articles/267/HCCI-Insulin-Use-and-Spending-Trends-Brief-01.22.19.pdf)

<sup>2</sup> While older insulins have been replaced with newer, incrementally improved products, the new formulations fail to justify the price increases for insulin. In fact, many products have been continuously available for years without improvements, yet their price tags have gone up at a much higher rate than inflation. Luo, *Strategies to Improve the Affordability of Insulin in the USA*, *The Lancet*, Vol. 5, Iss. 3 (2017), available at [https://www.thelancet.com/journals/landia/article/PIIS2213-8587\(17\)30041-4/fulltext](https://www.thelancet.com/journals/landia/article/PIIS2213-8587(17)30041-4/fulltext)