



121 STATE STREET  
ALBANY, NEW YORK 12207-1693  
TEL: 518-436-0751  
FAX: 518-436-4751

July 21, 2020

RE: AN ACT to amend the insurance law, in relation to allowing victims of domestic violence the opportunity to designate an alternate address for health insurance claims or billing purposes

A2832 (Cymbrowitz)  
S67 (Robach)

**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 the Insurance Law already provides a mechanism that requires health insurers to accommodate a reasonable request by a covered individual to establish an alternative address or use alternative means of communication if the release of claims related information poses a threat to the covered person. Indeed, the Insurance Law was amended in 2012 to address the very issue sought by this legislation by requiring insurers to accommodate requests from covered persons to receive communications of "claims related information" at an alternative location or by alternative means. As drafted, this Bill requires victims of domestic violence to meet a higher standard than currently required for designating an alternative address or contact information. As a result, this Bill not only takes a step backwards in providing assistance to victims of domestic violence, but would also result in confusing and conflicting language contained within the same section of the Insurance Law.

In 2012, Insurance Law § 2612 (h) was added to require all health insurers to accommodate reasonable requests from covered persons to receive communications of "claims related information" at an alternative location or by alternative means. Claims related information was broadly defined to include "all claim or billing information relating specifically to an insured, subscriber or person covered by an insurance policy or contract issued by the health insurer." The 2012 Sponsor's Memorandum notes that examples of alternative locations could include the home of a friend or family member, a post office box, or a shelter. Under the 2012 legislation, a reasonable request must be honored if the person clearly states that disclosure of all or part of the information could endanger the person. Health insurers are prohibited from requiring an explanation as to the basis for the request, and can only require that the request be made in

writing, contain a statement that disclosure would endanger the person, and specify the alternative contact information.

Prior to the enactment of this legislation, Insurance Law § 2612 barred a health insurer from disclosing an address or phone number of a covered person to the policyholder, but only after the covered person has provided the health insurer with a copy of an order of protection. This requirement, however, was inconsistent with § 164.522 (b) of the Federal Health Insurance Portability and Accountability Act (HIPAA). The 2012 amendments aligned New York's Insurance Law with HIPAA rules by removing the need for an order of protection, and requiring that insurers prohibit releasing certain personal information as part of their compliance efforts after receiving a reasonable request to receive claims related information via alternative means or at an alternative address.

Further, the Department of Financial Services (DFS) has already promulgated and adopted regulations regarding confidentiality protocols for victims of domestic violence in response to amendments to Insurance Law §2612. The regulations require health insurers to implement confidentiality protocols to prevent the disclosure of information when a member makes a reasonable request to receive communications of claims-related information by alternative means or at alternative locations and must prevent the disclosure of the information to another member covered under the policy. Further, the regulation requires health insurers to post notice of the regulation on their websites that includes a description of Insurance Law §2612 and the process for a member to request an alternative address or use alternative means of communication.

This Bill is unnecessary in light of the existing provisions contained in Insurance Law § 2612 (h). In fact, the Bill would establish a conflicting standard for health insurers to honor a reasonable request for an alternative address or use alternative means of communication, one that would make it more difficult for a member to request an alternative address. This Bill either fails to recognize the language Insurance Law § 2612 (h), the subsection following the subsections being amended by this Bill, or is seeking to establish a higher standard that individuals must establish in order to request an alternative address or use alternative means of communication. In all other aspects, the Bill would simply, but rather confusingly, add the same language already contained within this section of the Insurance Law to another subsection.

For the foregoing reasons, the New York State Conference of Blue Cross and Blue Shield Plans 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