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July 10, 2020

RE: AN ACT to amend the insurance law, in relation to requiring specification between partial approval of medical claims and a denial of medical claims on written notices to an insurer

S7159 (Jackson)
A9085 (Gottfried)

MEMORANDUM IN OPPOSITION

Submitted on behalf of the Blue Cross and Blue Shield Plans

The Blue Cross and Blue Shield Plans of New York oppose enactment of this Bill, which would require health plan notices to include specification between partial approval of medical claims and a denial of medical claims. This Bill is unnecessary in that existing law already requires notices of the denial of all or any portion of a claim to be provided in writing, within a specified time period, and include the specific reasons for the denial of all or a portion of the claim.

Under New York's Prompt Pay Law (Insurance Law § 3224-a), a Plan is required to notify the provider or policyholder (depending on who submitted the claim) in writing and electronically (if claim submitted electronically) that the claim is denied or that additional information is needed. The notice must state either that the Plan is not obligated to pay the claim, stating the specific reasons why it is not liable; or to request all additional information needed to determine liability to pay the claim. Further, in instances where there is an undisputed portion of the claim (presumably, a "partial approval" as used in this Bill), a Plan must pay the undisputed portion of the claim and notify the policyholder, covered person, or provider in writing that it is not obligated to pay the disputed portion of the claim, stating the specific reasons why it is not so obligated to pay the claim, or that it is requesting additional information needed to determine whether it is so obligated.

Because Plans are already required to pay the undisputed portion of a claim, and to provide notice regarding the disputed portion of the claim, the changes proposed in this Bill, including requiring notices to state at the top of such notice "Notice of Partial Approval of Medical Coverage" or "Notice of Denial of Medical Coverage", do not appear to provide any benefit to consumers, but would require Plans to incur additional administrative expenses to make the changes required by

this Bill. Since the notice currently required under the law must clearly indicate for “partial approvals” what portion of the claim is being denied, these additional administrative expenses are unwarranted, and would contribute to the cost of health insurance, while providing no additional benefit to members.

As a technical issue of concern, this Bill is not amending the most recent version of Insurance Law § 3224-a, which was amended on April 3, 2020 to require Plans to notify members or providers through electronic means for claims submitted electronically (in addition to in writing which is currently required), that the claim is denied or additional information is necessary to pay the claim, and to include the specific type of plan or product in which the member is enrolled. These provisions apply to services rendered on and after January 1, 2021.

For the foregoing reasons, we oppose enactment of this legislation.

Respectfully submitted,

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Legislative Counsel for the Blue Cross and Blue Shield Plans

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