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May 18, 2021

RE: AN ACT to amend the social services law, in relation to providing parity to durable medical equipment providers by requiring Medicaid managed care organizations to reimburse such providers at no less than one hundred percent of the medical assistance durable medical equipment and complex rehabilitation technology fee schedule for the same service or item

S.5368A (McDonald)

**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 opposes enactment of this Bill, which would establish a minimum reimbursement level for durable medical equipment, prosthetics, orthotics, and related supplies (“DME”) under Medicaid managed care. The goal of this Bill is to increase rates by requiring payments to equal or exceed those issued under Medicaid fee-for-service, thereby stripping managed care organizations (“MCOs”) of their fundamental ability to negotiate with providers. As a result, this Bill would require MCOs to increase premiums in order to ensure the actuarial soundness of rates and account for the artificially inflated costs resulting from this Bill.

Under Medicaid managed care, New York State estimates expected utilization of medical services and supplies, and the associated costs, and factors them into the rate paid to plans pursuant to contracts. While MCOs then negotiate payment terms with providers, this bill would statutorily establish minimum payments issued for DME at fee-for-service rates – thus thwarting MCOs’ ability to achieve the savings already accounted for in agreements with the State. Implementation of such requirements would directly interfere with the core principles of managed care, which generally allow MCOs to negotiate payment terms to minimize costs to consumers while providing an adequate network of providers.

In the absence of a premium increase for managed care plans, this legislation would negatively impact the financial viability of many managed care plans. In requiring MCOs to meet or exceed

fee-for-service rates for DME, this legislation may unsustainably increase the reimbursement rate for these products and require managed care plans to bear this cost. More importantly, this language deviates from previous Department practice in relation to setting benchmark rates for products or services under Medicaid managed care and establishes a dangerous and expensive precedent.

For all the foregoing reasons, we strongly oppose the passage of this bill.

Respectfully submitted,

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