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RE: AN ACT to amend the public health law in relation to the delivery of health care services via telehealth

S5505 (Rivera)
A6256 (Woerner)

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 oppose the enactment legislation requiring telehealth reimbursement parity with office visit payments, especially in the absence of any sunset on such requirement. Legislation requiring telehealth payment parity eliminates the cost-effective nature of telehealth services and provides a significant financial windfall to providers, including existing telehealth providers. Mandating reimbursement levels for telehealth services for commercial and managed care products prevents health insurers from negotiating with providers on reimbursement amounts which accurately reflect the cost of services and would restrict the ability of consumers to accrue any savings from the efficiencies and cost effectiveness which result from telehealth. While the experiences in addressing the COVID-19 pandemic have highlighted the important role that telehealth serves in the health care delivery system, and will likely encourage the continued growth and utilization of such technology, legislation mandating telehealth payment parity will only increase the cost of health care services throughout the State, resulting in higher premiums and increased health care spending.

In the commercial market, national independent studies indicate that the average estimated cost of a telehealth visit is $40 to $50 per visit compared to the average estimated cost of $136 to $176 for in-person care.[1] More recent studies indicate that the cost of a telehealth visit costs about $79, compared with about $146 for an office visit.[2] Significantly, prior to the COVID-19 pandemic, most studies have concluded that the increased use of telehealth "prompts patients to

[1] Yamamoto, Dale H., "Assessment of the Feasibility and Cost of Replacing In-Person Care with Acute Care Telehealth Services", Alliance for Connected Care, December 2014; available at: http://www.connectwithcare.org/wp-content/uploads/2014/12/Medicare-Acute-Care-Telehealth-Feasibility.pdf

[2] Ashwood, J. Scott, et. Al. "Direct-To-Consumer Telehealth May Increase Access To Care But Does Not Decrease Spending", Health Affairs, v. 36, no. 3, March 2017.

seek care for minor illnesses that otherwise would not have induced them to visit a doctor's office" and only 12% of visits replaced in-person provider visits, with the rest of the visits representing new medical visits.[3]

A significant factor in the lower cost per visit for telehealth services is the removal of the practice expense (i.e. cost of the "brick and mortar office"), which represents approximately 50% of the total physician reimbursement provided for in-person care. Likewise, the in person visit is typically more detailed and comprehensive than many telehealth visits, which can be as basic as an email status report. As the practice expense component of the service reimbursement is significantly lower when a service is provided by telehealth, health insurers and their enrollees should benefit from this savings. In mandating that the reimbursement rate for telehealth services reflect a non-existent cost, this type of legislation requires health insurers to reimburse providers for amounts that do not reflect their actual costs, thus directly increasing profits for medical providers delivering and contributing to the rising cost of health care in New York.

Without question, there is an important role for telehealth in post-COVID delivery of health care to all New Yorkers; however, it necessary to recognize that the costs associated with the delivery of telehealth are lower than the costs associated with in-person office visits, and New Yorkers should be able to benefit from this reduction in the cost of the health care services that they receive. Mandating telehealth payment parity prohibits this cost savings from being passed on through lower health insurance premiums, and as telehealth has been identified as a driver of seeking care for minor illnesses, this type of legislation will likely have a much greater impact on individual and family health insurance premiums than is currently realized.

One of the main justifications for telehealth payment parity is that it will further spur the expansion of telehealth by limiting the impact of upfront costs that providers need to invest in to provide telehealth services. On this issue, health insurers have been incentivizing providers for the last decade to offset costs related developing or contracting with telehealth platforms to serve their patients. At this point, most, if not all, providers in New York State have developed or have access to a telehealth platform. The use of enhanced payment for telehealth services, by requiring parity with office-based visits, is either no longer necessary or soon to be no longer necessary to incentive providers to adopt telehealth platforms and to offset the upfront costs associated with such usage. Mandating telehealth parity with no expiration will very quickly result in a financial windfall for medical providers at the expense of New Yorkers that pay health insurance premiums.

The State should incentivize providers to offer telehealth services in all areas of the State, and further encourage the use in the post-COVID delivery of health care. However, the policies adopted for this purpose should not increase health care costs for all New York residents while directly increasing profits for existing telehealth providers.

For the foregoing reasons, the New York State Conference of Blue Cross and Blue Shield Plans oppose enactment of legislation related to permanent payment parity with office-based visits for services provided via telehealth.

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[3] Id.

Respectfully submitted,

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