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May 6, 2022

RE: AN ACT to amend the public health law and the insurance law, in relation to providing that the failure by the utilization review agent to make a determination within certain time periods shall be deemed to be an approval of the health care services

S.6920 (Breslin)

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 opposes enactment of this legislation, which would trigger the automatic approval of health care services if a Utilization Review (“UR”) was not completed on time.

This legislation would force health plans to cover such services, regardless of whether they are clinically appropriate, if the plan fails to meet an administrative timeframe for rendering a determination on a claim. While insurers endeavor to timely complete URs, and are subject to stringent oversight regarding program implementation, in processing millions of claim per year, deadlines are occasionally and inadvertently missed.

In contrast, under current law, if a provider that fails to meet the required timeframes for submitting information for a UR and it results in the denial, such adverse determination is appealable. Similarly, the existing system strikes a logical balance by deeming any UR that is not timely completed an adverse determination, while permitting reconsideration of the designation. By allowing facilities and practitioners such latitude, while denying plans a similar ability to appeal, this bill would upset a harmonious and congruent system. Further, automatically approving services simply because a UR agent misses an administrative deadline by a matter of hours would be imprudent and counter to sound health care policy, as enrollees may receive treatments and services inappropriate for their needs.

For the reasons stated above, the New York Conference of Blue Cross and Blue Shield Plans strongly opposes the enactment of this legislation.

Respectfully submitted,

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