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February 10, 2023

RE: AN ACT to amend the public health law and the insurance law, in relation to health care professional applications and terminations

A.1777 (Lavine)
S.3282 (Rivera)

MEMORANDUM IN OPPOSITION

Submitted on behalf of the New York Blue Cross and Blue Shield Plans

The New York State Conference of Blue Cross and Blue Shield Plans strongly opposes enactment of this bill, which would expand the “tenure” rights of providers terminated from a managed care network. This bill would decrease the efficiency of managed care provider networks by increasing the costs of providing services through a provider network, and by lowering the quality of medical services delivered to New Yorkers enrolled in managed care health plans.

1. THIS BILL MAY ULTIMATELY DECREASE THE QUALITY OF CARE DELIVERED TO NEW YORKERS ENROLLED IN MANAGED CARE PLANS.

This legislation will restrict the flexibility of health plans to maintain their provider networks, which will both inhibit the health plans’ ability to control costs and decrease the overall quality of care delivered by the network. Limiting a health plan from removing unqualified, inefficient, or inadequate providers curtails the plan’s ability to attract and enroll more qualified practitioners.

For example, a health plan may wish to remove a provider who has a demonstrated track record of subpar quality, and replace such individual with a more qualified provider with better credentials, more experience, and a history of improving patient care. This bill would make it far more difficult for the health plan to remove the first provider, thus preventing the network from adding the provider with superior credentials. As a result, this bill limits the health plan’s ability to improve its network by removing providers who are less qualified and adding more qualified providers. In this manner, the network would fall far short of its potential for delivering the best care to its enrollees. Likewise, the reason a provider will not be renewed for network participation is frequently due to their desire for an increase in reimbursement. By subjecting

reimbursement disputes to a third party arbitration panel, this legislation will ultimately drive up the cost of coverage. As both the state and the nation continue to struggle with the underlying rising cost of health care, this legislation is a pathway to allow providers to further increase costs.

2. **THIS BILL WILL RAISE HEALTH CARE COSTS BY DECREASING THE EFFICIENCY WITH WHICH PROVIDER NETWORKS DELIVER CARE.**

Part of the success health plans have had in managing health care costs is due to their ability to select highly qualified providers who will deliver efficient, quality care in exchange for participation in their provider network. The flexibility of the health plan in making such determinations is crucial to maintaining a network that controls costs without compromising the quality of patient care. If a given provider's practice diminishes in its quality of care, becomes inefficient, or begins to incur undue costs, the health plan can remove the provider and preserve the overall quality and efficiency of the network. However, if the health plan cannot remove the provider without undergoing lengthy and costly administrative processes, that provider is more likely to remain in the network, decreasing the network's ability to efficiently deliver quality care to the health plan's enrollees. In turn, an inadequate network will raise the costs incurred by the insurer or managed care health plan.

3. **THIS BILL WILL INCREASE ADMINISTRATIVE EXPENSES RELATED TO THE MAINTENANCE OF MANAGED CARE PROVIDER NETWORKS.**

The bill would also result in additional administrative expenses incurred by a managed care plan when seeking to remove a provider. This bill expands the types of cases subject to administrative review and expands the termination procedure itself. The combined effect of these provisions is to make the termination process longer, more complicated and more expensive. These costs, like any other costs incurred by the managed care plan, will ultimately be passed along to consumers in the form of higher premiums.

For all of the foregoing reasons, we strongly urge that this bill not be enacted into law.

Respectfully submitted,

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Legislative Counsel to the New York Blue Cross and Blue Shield Plan