



121 STATE STREET
ALBANY, NEW YORK 12207-1693
TEL: 518-436-0751
FAX: 518-436-4751

May 8, 2023

RE:

AN ACT to amend the public health law and the insurance law, in relation to requiring providers to share electronic health records with plans

S.3111 (Mannion)
A.848 (McDonald)

MEMORANDUM IN SUPPORT

Submitted on behalf of the Blue Cross and Blue Shield Plans

The Blue Cross and Blue Shield Plans of New York strongly supports enactment of this bill, which would reduce administrative burdens associated with insurance claims – resulting in faster processing, fewer denials, and reduced costs for health care consumers. Specifically, this bill would require general hospitals to share electronic medical records (“EMRs”) with health plans to ensure that the appropriate level of care is provided and to streamline the processing of prior authorization, concurrent approval, and retrospective review requests. The legislation also provides a number of significant protections for hospitals, ensuring that the use of the EMR will be limited to individual claim review and not for broader auditing functions or investigations by plans.

Under current law, insurers may request medical records to verify that health care services are medically necessary. Such records are frequently exchanged between providers and plans upon request. Many forward thinking and collaborative New York hospitals share EMRs with health plans; and the results have been reduced “back and forth” requests for information, expedited provider payment, and greater collaboration between plans and hospitals in determining the best course of treatment for members. Despite the clear benefits of EMR sharing, some large hospital systems have resisted the sharing of EMRs.

In its report to the Legislature, New York’s Health Care Administrative Simplification Workgroup – which was convened pursuant to the 2020 Enacted Budget to study “mechanisms to reduce health care administrative costs and complexities and protect consumers” – noted that current methods of communication are “rife with inefficiencies that lead to numerous back-and-forth, unwieldy exchanges between health plans and providers with a large volume of requests for medical records

and short timeframes for submission.”¹ Although the Workgroup, which consisted of representatives of consumer groups, hospitals, physicians, behavioral health providers, health insurers, brokers, and unions chaired by the Department of Financial Services (“DFS”) did not reach unanimity as to a final recommendation, citing “growing frustration regarding lost information requests and disputes about whether necessary information has been received,” the report ultimately found that “discussions affirmed the need for more integrated electronic interactions between providers and plans.”²

This bill would facilitate such transactions, and reflects the “guiding principles for [the] sharing of EMRs” which provides EMR access, and also ensures adequate guardrails protecting providers. Those protections include: limiting use of such EMRs to individual claim/care review and adjudication; restricting duplicative requests where information required is included in EMRs; and mandating that insurers prioritize the safeguarding of their insureds’ data. With these proper protections, this common sense legislation would improve administrative efficiencies, which would benefit patients, who would experience better care, reduced adverse outcomes (e.g., readmission and avoidable emergency room visits), and significantly faster claims processing. In fact, recent data indicates that EMR sharing closed patient care gaps from 60-90 days to less than 30 days, and resulted in more accurate diagnoses and improved clinical outcomes.

Further, the practices required by this bill would significantly reduce claim denials and, when applied to prior authorization processes, decrease the amount of time patients wait to receive care. Connecticut’s Insurance Department found that more than 12% of claims denials in 2019 resulted from incomplete information being submitted by providers.³ Similarly, in California, EMR sharing has reduced the number of claims denied due to a lack of required information, which has led to fewer appeals. One plan, with national scope has negotiated with hospitals to share EMRs for the last three years. The results of sharing EMRs nationally has resulted in: 60% fewer requests for clinical information; 79% fewer appeals overall and 10% fewer overturned appeals. While in New York, in one of the hospital systems which recently implemented mandatory EMR sharing (pre-6 and post-6 months) from EMR implementations, “pending” cases have been reduced from 65% to 3.7%, thus dramatically accelerating hospital payments.

Minimizing the number of appeals processed by insurers, and therefore mitigating the associated administrative expenses, is only one of the ways in which this bill would reduce unnecessary costs borne by the health care system. The American Medical Association (“AMA”) estimates claims processing inefficiencies cost between \$21 billion and \$210 billion per year, the costs of which are ultimately passed along to consumers through increased premiums and cost-sharing.⁴ Further, fully automated records access has decreased the time needed to process prior authorization requests from 21 minutes to 4 minutes; and the cost of each claim from \$11 per claim to \$2. Such savings,

¹ N.Y. Dep’t of Financial Services, “Report of New York’s Health Care Administrative Simplification Workgroup,” October 3, 2021, *available at* https://www.dfs.ny.gov/system/files/documents/2021/10/admin_simplification_workgroup_report_20211003.pdf.

² *Id.*

³ Karen Pollitz and Daniel McDermott, Kaiser Family Foundation, “Claims Denials and Appeals in ACA Marketplace Plans,” Jan. 20, 2021, *available at* <https://www.kff.org/private-insurance/issue-brief/claims-denials-and-appeals-in-aca-marketplace-plans/>.

⁴ Glen Reiner, Healthcare Financial Management Association, “Success in Proactive Denials Management and Prevention,” May 18, 2021, *available at* <https://www.hfma.org/topics/hfm/2018/september/61778.html#footnotes>.

when applied to the millions of claims processed in New York each year, would yield significant reductions in costs that could be passed along to enrollees.

For all the foregoing reasons, we strongly support enactment of this legislation.

Respectfully submitted,

HINMAN STRAUB ADVISORS, LLC
Legislative Counsel for the Blue Cross and Blue Shield Plans