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February 2, 2025

RE: AN ACT to amend the insurance law and social services law, in relation to mandatory health insurance coverage for follow-up screening or diagnostic services for lung cancer

A.1195 (Peoples-Stokes)
S. 2000 (Addabbo)

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 opposes enactment of this legislation, as the coverage required would result in significant costs to the State. Specifically, this bill seeks to require coverage for follow-up screening and diagnostic testing for lung cancer when recommended by a health care provider. Notably, this bill requires this benefit to be covered without cost-sharing. This bill would apply to commercial health insurance and Medicaid. While laudable in intention, this bill would come at significant cost to both New York State and its residents, who will be forced to pay for this benefit through increased health insurance premiums.

As part of New York's Essential Health Benefits ("EHB"), diagnostic testing and imaging is already covered by health plans, subject to applicable cost-sharing.[1] Notably, this bill would remove the ability of plans to use copayments and other forms of cost-sharing in providing this benefit for follow-up screening for lung cancer. Cost-sharing is a necessary component of health insurance and only represents a fraction of the actual cost of service. In removing this component of the diagnostic testing benefit, this legislation limits the ability of health plans to manage and plan for enrollee utilization of covered services. As changes in cost-sharing have a direct impact on premiums, this mandate will have the most significant impact on the lowest-cost plans, which have lower premiums but higher cost-sharing.

[1] Screening for lung cancer is required to be covered without cost-sharing when provided in accordance with the United States Preventive Services Task Force ("USPSTF") "A" or "B" recommendations. The USPSTF currently recommends annual screening for lung cancer with low-dose computed tomography in adults aged 50 to 80 years who have a 20 pack-year smoking history and currently smoke or have quit within the past 15 years.

Further, high deductible health plans that are paired with a Health Savings Account ("HSA") are prohibited by IRS rules from paying for anything other than preventive care before the minimum deductible is met.[2] This legislation would require health plans to provide coverage for diagnostic testing before the minimum deductible is met, thus jeopardizing a high deductible health plan's ability to be offered with an HSA.

This legislation would also require coverage without cost-sharing of follow-up screening for lung cancer when "recommended by a health care provider." This language would restrict the ability for health plans to review the services being recommended by the provider to determine whether the services are medically necessary. Through the utilization review process, health plans ensure that the provider is recommending a service that comports with the latest evidence-based guidelines. The utilization review process is already subject to extensive statutory and regulatory standards, including the right to have an independent external appeal of the health plan's final adverse determination.[3] Removing utilization review encourages health care providers to provide services that are not clinically appropriate, and forces Plans to pay for medically unnecessary care, ultimately increasing health insurance premium costs for all New Yorkers.

For the foregoing reasons, the New York State Conference of Blue Cross and Blue Shield Plans opposes this bill and urges that it not be enacted.

Respectfully submitted,

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

[2] Internal Revenue Service, *Health Savings Accounts and Other Tax-Favored Health Plans*, Publication 969, *available at* https://www.irs.gov/pub/irs-pdf/p969.pdf.
[3] N.Y. Insurance Law Article 49 and N.Y. Public Health Law Article 49.