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RE: AN ACT to amend the insurance law and the public health law, in relation to requiring certain health insurance issuers to certify that at least a majority of prescription drug rebates are provided to patients at the point of sale

A.7142 (Walker)
S.2128 (Jackson)

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 the enactment of this legislation, which would require health plans to certify that 85% of the prescription drug rebates they receive are provided to insureds at the point of sale. While this legislation is well-intentioned, it would significantly increase administrative burdens on health plans, require plans to forgo rebates that cannot be provided to insureds at the point of sale, and result in increased premiums for all insureds.

This bill would require health plans to ensure that at least 85% of prescription drug rebates it receives are provided to insureds at the point-of-sale (i.e., at the pharmacy counter) when calculating the insured's cost-sharing. This means that health plans would be required to calculate the value of the rebate and reduce the insured's cost-sharing, so the insured pays this reduced cost-sharing when picking up their prescription at the pharmacy. Some health plans currently have voluntary wellness programs designed to encourage medication adherence by offering financial rewards that are funded in part by rebates the plan receives for those particular drugs. This incentive approach allows plans to pass along rebates to an insured in a way that encourages healthy behaviors, like medication adherence. This bill would simply require plans to pass along the majority of rebates it receives to insureds at the point-of-sale, which may impede and/or disincentivize a plan from designing wellness programs, including those designed to promote medication adherence.

Further, while this bill sounds like it lowers costs on its face, it would actually increase costs for all insureds. Health plans currently use rebates to lower overall claim costs which factor into premiums for insureds. One plan estimates that the implementation of a point-of-sale rebate would increase plan costs by about 3%, while on average only 15% of insureds take drug that earn rebates and thus would benefit from this bill. While these 15% of insureds may see reduced cost-sharing at the pharmacy, all insureds would be left with premium increases as these rebates would no longer be used to lower their plan costs.

Not all prescription drug rebates that health plans receive from drug manufacturers are able to be determined at the point-of-sale. These programs may review the number of drugs covered by a plan over a period of time and then provide a rebate to the plan long after an insured has purchased the drug. Health plans, and ultimately premium payers, would be losing out on rebate money that drug manufacturers would be otherwise obligated to pay.

Lastly, implementation of this bill would create significant operational and administrative costs that would require health plans to implement systems to track rebates to ensure the amounts required by this bill are provided to insureds are the point of sale. These costs would be paid by New York employers and consumers through higher premiums.

For all the foregoing reasons, the New York Conference of Blue Cross and Blue Shield Plans opposes the enactment of this bill.

Respectfully submitted,

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