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RE: AN ACT to amend the insurance law, in relation to certain cost sharing fees for outpatient treatment at a substance use treatment program

A.3148-A (Gonzalez-Rojas)
S.1763-A (Fernandez)

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 the enactment of this legislation which would restrict the amount of cost-sharing for a substance use disorder ("SUD") outpatient treatment to 250 dollars per episode of care. An "episode of care" would include up to 60 visits with the same treatment provider. Further, for large groups, this bill would also eliminate the ability to impose copayments for outpatient substance use disorder services in its entirety. While well intentioned, this bill would restrict plans' ability to effectively implement cost-sharing to prevent economic waste, ultimately resulting in increased costs for consumers and businesses.

While this bill is laudably aimed at increasing accessibility for outpatient substance use treatment programs, it blatantly ignores the current protections afforded to substance use disorder treatment by the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 ("MHPAEA").[1] MHPAEA prevents group health plans and health insurance issuers that provide mental health or substance use disorder benefits from imposing less favorable benefit limitations (such as cost-sharing) on those benefits than on medical/surgical benefits.

Further, current state law places additional restrictions on the cost-sharing applicable to outpatient SUD services. For opioid treatment programs, state law prohibits health plans from imposing a copayment during a course of treatment.[2] State law also limits the cost-sharing applicable to outpatient SUD services to the amount of cost-sharing for a primary care office visit for large

[1] 29 U.S.C. §1185a.
[2] Insurance Law §§ 3216(i)(31-b), 3221(l)(7-b) and 4303(l-2).

group coverage.[3] That law also provides that no greater than one copayment is imposed for all services provided in a single day for outpatient SUD services for large group coverage.[4] As such, the aimed protections of this bill are largely already included in New York Insurance Law and under MHPAEA.

Cost-sharing, in which consumers pay a portion of costs associated with receiving health benefits, is intended to reduce overutilization of health care services and can lead to savings for the consumer in the long run. Cost-sharing shifts a small portion of the financial responsibility onto consumers and serves to motivate consumers to perform the necessary due diligence prior to getting treatment due to heightened financial awareness. This bill would eliminate the ability of health plans to use cost-sharing to discourage overutilization of health care services and would restrict their ability to prevent inefficient health care use and manage overall health care costs.

Furthermore, while insureds who use outpatient SUD services will not pay cost-sharing when they receive the services, the cost will instead be borne by all employers and consumers. Cost-sharing and its impact on utilization are taken into consideration when health plans develop their premium rates. Eliminating cost-sharing will result in premium increases for all consumers and employers, making health insurance less affordable for everyone.

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,

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Legislative Counsel for the Blue Cross and Blue Shield Plans

[3] Insurance Law §§ 3221(l)(7)(C-1) and 4303(l)(3-a).
[4] *Id*.