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March 4, 2026

RE: AN ACT to amend the insurance law, in relation to the definition of infertility and health insurance coverage of in-vitro fertilization

A.885 (Paulin)
S.8866 (Salazar)

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 bill, which would expand coverage of in-vitro fertilization ("IVF") for large group plans. This bill would increase costs for coverage that will be borne by employers and their employees through higher health insurance premiums.

This bill would require large group plans to provide coverage of three completed oocyte retrieval rounds and unlimited embryo transfers from fresh or frozen oocytes or embryos from a covered retrieval, despite New York's mandate that already requiring coverage of three cycles of IVF. While IVF and other assisted reproductive technologies ("ART") can be instrumental in treating infertility, such treatments do not guarantee a pregnancy, and certain individuals may never be able to conceive regardless of the number of cycles completed. Additionally, evidence is conclusive that a woman's fertility after the age of 35 decreases, and egg quality and number likewise begin to decline, including for those looking to conceive via ART. Coverage of unlimited embryo transfers would promote overutilization and permit women to have an unnecessary number of failed cycles of IVF.

Further, IVF does not come without potential side effects. To successfully complete a cycle of IVF, women must be given medications to promote the production of eggs and have those eggs retrieved via a needle. Complications may therefore arise in the form of bleeding, infection, or damage to the blood, bladder, or a blood vessel. Thus, performing this procedure limitless times, with a de minimis chance of pregnancy, may pose an unnecessary health risk for the woman involved.

The costs for coverage of unlimited IVF treatments will be paid by employers and their employees.

As benefits keep being mandated and then expanded for New York large group coverage, that market is shrinking as employers turn to self-funded plans that are not subject to the extensive list of New York State mandates. This mandate expansion will simply drive more employers out of the New York-regulated large group market, meaning those consumers lose New York consumer protections. When enacted, the current three-cycle limit was put in place to provide access to IVF in a measured way, to address the impact adding this benefit would have on premiums. Expanding this benefit now will compound those costs on New York employers and their employees.

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

Respectfully submitted,

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