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RE: AN ACT to amend the insurance law, in relation to physical and occupational therapy services

A.6484-A (Weprin)
S5045-A (Bailey)

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 limit health plan's ability to impose a copayment or coinsurance amount on a physical therapist or occupational therapist visit to no more than 25 percent greater than the copayment or coinsurance amount imposed on the insured for an office visit for the service of a physician for the same or similar diagnosed condition. If enacted, this legislation would restrict plans' ability to effectively implement cost-sharing to prevent consumer economic waste and ultimately result in increased costs for consumers and businesses.

While this bill aims to tie cost-sharing for physical and occupational therapist visits to no more than 25 percent of the cost-sharing for primary care physician visits, this bill blatantly ignores key differences in the services and training between physical and occupation therapists, and physicians. Physicians and osteopaths are subject to a lengthier education process to be a primary care physician, notably the completion of medical school and residency program in family medicine, internal medicine, pediatrics or gynecology. While physical and occupational therapists must also receive post-graduate education and must pass a licensing examination, physical and occupational therapists are unable to use more invasive procedures, such as surgery, and are unable to prescribe prescriptions. Further, physical and occupation therapists are only permitted to provide up to ten visits or thirty days without a referral from a physician.[1] No such limitation is placed on physicians' services.

Protecting enrollees from high cost-sharing for physical and occupational therapy is a laudable goal; however, this legislation would inhibit the ability of health plans to use cost-sharing to encourage patients to first seek care from their primary care physician, instead of initially seeking

[1] N.Y. Education Law § 6731(d) and 7901(2).

costlier treatment from an emergency room. Some plan designs may have lower cost-sharing on primary care services when compared to other services covered under the policy, intended to encourage enrollees to seek their primary care provider first when seeking medical services. Arbitrarily tying the cost-sharing of other services to primary care disincentivizes plans from offering lower cost-sharing on primary care and would necessarily lead to increased cost-sharing on primary care to absorb these costs. This issue was identified in the Governor's Veto Message last year.[2]

While the bill was amended from this prior version to now cap the cost-sharing for physical and occupational therapist visits to no more than 25 percent greater than the cost-sharing for a primary care visit, the cap is an arbitrary limit which may not be sufficient to encourage members to first seek care from their primary care physician. For example, if a plan has a $20 copayment on primary care office visits, the cost-sharing for physical and occupational therapist visits could be no more than $25. That nominal difference may not be enough to encourage members to seek care from their primary care physician first.

The use of cost-sharing is a necessary component of the health insurance industry and only represents a fraction of the actual cost of medical service. By capping the copayments for a specific service, this legislation limits the ability of health plans to manage and plan for enrollee utilization of covered services. As a result, this bill would lead to increased health insurance premiums across all lines of health insurance. Changes in cost-sharing have a direct impact on premiums, with the most significant impact on the lowest-cost plans, which have low premiums but higher cost-sharing. While this bill may limit the amount of cost-sharing for enrollees receiving care from physical and occupational therapists, this bill may have the opposite effect. To incorporate the added cost of this bill, plans will necessarily need to increase cost-sharing for primary care. Further, as the cost-sharing for rehabilitative occupational and rehabilitation physical therapy is considered when calculating an individual or small group plan's actuarial value (used to determine a plan's metal level), any requirement applicable to this cost-sharing may impact whether the plan meets a metal level. Individual and small group health insurance plans are required by federal law to meet one of the metal levels. This bill would jeopardize a plan's ability to a its metal level, forcing a plan to increase cost-sharing on other benefits to make up for impact of this decrease in cost-sharing.

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 of New York

[2] Veto Message No. 94 (2024).