HINMAN STRAUB PC
ATTORNEYS AT LAW

121 State Street
Albany, New York 12207-1693
Tel: 518-436-0751
Fax: 518-436-4751

May 6, 2026

RE: AN ACT to amend the insurance law and the social services law, in relation to requiring coverage for early egg and peanut allergen introduction dietary supplements

A.771-A (Rosenthal)
S.7915 (Gounardes)

MEMORANDUM IN OPPOSITION

Submitted on behalf of the Blue Cross and Blue Shield Plans

The New York State Conference of Blue Cross and Blue Shields Plans opposes the enactment of this bill, which would require coverage of at least one of early egg allergen introduction dietary supplements or early peanut allergen introduction dietary supplement for infants, without cost-sharing when prescribed to an infant by a health care practitioner. In addition to resulting in yet another costly health insurance mandate, this bill is medically unnecessary in light of current clinical evidence.

Undoubtedly, the rise of the number of Americans with food allergies is a serious public health issue. Food Allergy Research & Education ("FARE") approximates 33 million total Americans to have at least one food allergy, and 5.6 million children.[1] Of that number, 2.7 million are estimated to be allergic to eggs, and 6.2 million to be allergic to peanuts. Food allergies can be life threatening, with certain allergic reactions resulting in anaphylaxis, which can lead to fatal shock.[2] However, there is no clear way to completely prevent the development of allergies. Often, a child's genetic predisposition may make them more at risk for developing allergies, as the condition can run in families.[3] To this point, while this bill is laudable, its coverage may do little to actually prevent a child from developing a food allergy. While some recent studies have shown that early introduction of common allergens may prevent an infant from developing an allergy, such as the

[1] *Food Allergy Facts and Statistics for the U.S.*, Food Allergy Research & Education, *available at*: https://www.foodallergy.org/sites/default/files/2024-07/FARE%20Food%20Allergy%20Facts%20and%20Statistics_April2024.pdf.
[2] *Id*.
[3] *How to Prevent Food Allergies in Kids*, Yale Medicine, *available at*: https://www.yalemedicine.org/news/how-to-prevent-food-allergies-in-kids.

2022 study highlighted in the Sponsor's Memorandum,[4] this is a new recommendation, with previous medical advice advising new mothers to avoid such allergens while pregnant and breastfeeding. [5]

Importantly, this bill would require coverage of supplements that are currently available over the counter. While products developed for early introduction of allergens, such as "Lil Mixins" or "Ready. Set. Food." may be convenient, there is no scientific indication that "retail food equivalents" (such as eggs or peanut butter purchased at a grocery store for everyday consumption) are not equally as effective in the prevention of allergies.[6] Moreover, these allergen supplements are not regulated by the U.S. Food and Drug Administration ("FD"), as the FDA is not authorized to approve dietary supplements for safety and effectiveness before they are marketed,[7] and could potentially be harmful to the infant. This bill would therefore require coverage of food, something that is not ordinarily covered by health insurance as a health care service, unless needed due to treatment of specific medical conditions. This bill would also require coverage of allergen supplements when prescribed to an infant that is asymptomatic and would therefore require coverage outside of the scope of what should be covered under health insurance.

Health care costs are exorbitant and are only increasing as inflation continues. The full cost of this bill will undoubtedly add to this growing expense to both consumers and the State. Under the ACA and state law, preventive care recommendations with an "A" or "B" rating from the United States Preventive Services Task Force ("USPSTF") must be covered at no cost for the enrollee.[8] The USPSTF currently does not recommend the taking of egg or peanut dietary supplements by infants. This benefit is also not currently included in the New York's Essential Health Benefits ("EHB"). Under the ACA, the State must pay the full cost of any State mandates that are in addition to EHB for all individual and small group health insurance coverage, meaning the cost of this benefit for those markets would be entirely funded by New York taxpayer dollars.[9] New York consumers and employers in large group plans would also pay the cost of this benefit through premium increases.

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

---

[4] Trogen et al., *Early Introduction of Allergenic Foods and the Prevention of Food Allergy*, *abstract available at*: https://pubmed.ncbi.nlm.nih.gov/35807745/.
[5] *How to Prevent Food Allergies in Kids*, Yale Medicine, *available at*: https://www.yalemedicine.org/news/how-to-prevent-food-allergies-in-kids.
[6] Groetch et al., *Retail food equivalents for post-OIT dosing in the OUtMATCH clinical trial, available at:* https://pmc.ncbi.nlm.nih.gov/articles/PMC10147955/#S12.
[7] U.S. Food & Drug Administration, *Information for Consumers on Using Dietary Supplements*, *available at:* https://www.fda.gov/food/dietary-supplements/information-consumers-using-dietary-supplements.
[8] 42 U.S.C. § 300gg-13 and N.Y. Insurance Law §§ 3216(i)(17)(E), 3221(l)(8)(E), and 4303(j)(3).
[9] 42 U.S.C. § 18031(d)(3) and 45 C.F.R. § 155.170.