



MEMORANDUM IN OPPOSITION

FOR IMMEDIATE RELEASE: MAY 5, 2015

Re: S.3419 (Young)/A.2834 (Titone) – An act to amend the insurance law, in relation to the regulation of step therapy and first fail policies.

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This legislation, which would allow providers to override health insurance prescription coverage provisions, would effectively neutralize and make unmanageable policies that require patients to try less costly medications (i.e., generics) before accessing more expensive medications. If enacted, this proposal will diminish quality of care and exacerbate the increasing cost of drugs – one of the fastest rising components of health care costs. Accordingly, the New York Health Plan Association (HPA) opposes S.3419/A.2834.

Increased utilization, price inflation and higher cost drugs continue to drive up prescription drug costs. To counter these increases and keep prescription coverage affordable for consumers, health plans use step therapy and comprehensive quality improvement initiatives – such as pay for performance programs – to reward health care providers for the quality and efficacy of the care that they provide. These plan programs help counteract pharmaceutical manufacturers’ incentives to physicians and consumers that seek to induce them to prescribe or use new, often costly, drugs over generics. New York Attorney General Schneiderman has recently initiated litigation against a pharmaceutical manufacturer that planned to halt production of a brand name Alzheimer’s drug prior to expiration of its patent and in advance of the production of lower cost generics that would occur when the patent expired, in order to launch a new version of the drug that is similar to the old drug with the goal of steering consumers away from using a lower cost generic alternative.

New York’s carefully crafted pharmacy prescribing laws keeps the prescriber at the center of this process. By simply endorsing the “Dispense As Written” box on the prescription, the provider ensures that the named drug *must* be filled by the pharmacy. The use of step therapy programs respect the physician’s authority while promoting the use of more affordable pharmacy options when clinically appropriate. Step therapy programs benefit consumers by ensuring they are getting effective medications, while lowering their out-of-pocket drug costs, which leads to better drug compliance and improved health outcomes.

Consumers want access to proven effective drugs while keeping their costs for those drugs as low as possible. For example the difference for a common prescription for an allergy nasal spray looks like this: the generic drug has an average monthly cost of \$15 (\$180 annually) with

a Tier One generic co-pay that costs the consumer between \$5-10 monthly (\$60-120 annually) per prescription at the point of sale. The brand name medication has an average monthly cost of \$180 (\$2,160 annually) with a Tier Three co-pay that would cost the consumer between \$45-50 per month (\$540-600 annually) per prescription at the pharmacy. In this example, the impact of eliminating step therapy would result in the consumer co-payment increasing an average of \$480 per year. At the same time, the plan's cost per prescription would increase and average of \$1,980 annually, which will result in higher health insurance premiums for employers and consumers to account for the increased profits of pharmaceutical manufacturers. Consumers would be hit by a double whammy of higher out-of-pocket costs and higher insurance premiums. Without efforts to control rising drug costs, consumers and employers would not be able to afford prescription drug coverage.

The federal Centers for Medicare and Medicaid Services (CMS) recently released data showing much of downstate New York has a lower than average rate of prescribing generic versions of drugs. According to the CMS data, New York City, Staten Island, Long Island and the Hudson Valley region prescribes generic medications at a rate between 65.2% and 75.5%. The National rate for generic dispensing is 76.3%. This legislation will further drive down downstate New York's already low generic dispensing rate costing consumers in the region even more.

Limiting step therapy programs and instituting a prescriber prevails override will increase pharmacy costs for the health insurance exchange, the NY State of Health (NYSOH), as well as the state's own employee health program, the New York State Health Insurance Plan (NYSHIP). By limiting the use of step therapy policies and adding a physician override for NYSOH and NYSHIP as envisioned in this bill, there will be significant increases for drug costs. This will affect New Yorker's ability to purchase health insurance coverage on the NYSOH, and further raise NYSHIP's current overall cost of \$3.5 billion.

For all these reasons, HPA opposes S.3419/A.2834.