



# MEMORANDUM IN OPPOSITION

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Re: S.4893 (Hannon)/A.7208 (Gottfried) – An act to amend the social services law, in relation to prescriber determination prevailing in Medicaid Managed Care and to repeal certain provisions of such law relating thereto.

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The sponsors of this bill have indicated it is intended to align the Medicaid Managed Care (MMC) prescriber prevails prior authorization (PA) process with that of the Medicaid Fee-for-Service (FFS) program. However, the MMC prescriber prevails PA process already aligns with the Medicaid FFS and federal law requirements. In addition to being unnecessary, the bill would have a negative impact on the state's pharmaceutical costs under the Medicaid program. Accordingly, the New York Health Plan Association (HPA) opposes S.3419/A.2834.

Currently under the Medicaid program, both MMC and FFS utilize the same expedited, three business days from request, prescriber prevails PA process. The sponsors of the bill are under the misconception that the MMC program PA requirements regarding prescriber prevails differ from those of the FFS program. The process for prescriber prevails is the same for MMC as it is for FFS.

According to the December 2012 New York State Medicaid Update:

*“Plans are required to meet specific federal determination timeframes in response to requests for health care services. Consistent with these requirements, when the plan is unable to complete a prior authorization due to missing information or because the prescriber’s reasonable professional judgment has not been adequately demonstrated, either by consistency with FDA approved labeling or use supported in at least one of the Official Compendia as defined in federal law under Social Security Act Section 1927(g)(1)(B)(i), the plan will issue a notice of action to the provider and member. Such notice will describe the information required to complete the authorization and the member’s rights regarding appeals and fair hearings.”*

This legislation would eliminate the requirement that prescribers provide documentation to support the medical justification for prescribing the medication. It would also make the MMC program out of compliance with federal law that allows for federal financial participation (FFP) only for medications that are prescribed for FDA approved indications or are supported in the Official Compendia. As a result, the cost of those medications that do not meet the requirements of being FDA approved or supported in the Official Compendia would become 100% state share, with no FFP. While the exact cost impact of this expansion of benefits is unknown, this legislation fails to appropriate funds for this increased state share of costs. It is important to note that any increased costs associated with this legislation will also have a direct impact on the Medicaid global cap.

For all these reasons, HPA opposes S.4893/A.7208.

*The New York Health Plan Association represents 25 managed care health plans that provide comprehensive health care services to nearly 7 million New Yorkers.*

# Prescriber Prevails PA Process

