



MEMORANDUM IN OPPOSITION

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Re: S.3790 (Krueger)A.2604 (Paulin) – AN ACT to amend the insurance law and the public health law, in relation to providing for dispensing emergency contraception under certain conditions.

This legislation, S.3790/A.2604, mandates over the counter (OTC) coverage for emergency contraception. The New York Health Plan Association (HPA) opposes this legislation because it sets a precedent in mandating the extension of insurance coverage to OTC goods. Health plans have and continue to cover emergency contraception if prescribed by a physician.

In order for a member to access an over the counter medication in the commercial market there **must** be a prescription or order from a prescriber. This legislation would create a new benefit for those members accessing emergency contraception without a prescription or order from a prescriber that commercial insurance would now have to pay.

The Affordable Care Act established and defined a comprehensive set of benefits and services known as the “essential health benefits” (EHB) package that must be included in every health insurance policy, with states allowed to offer benefits beyond the EHB. However, the ACA directed that any state health insurance mandate imposed after January 1, 2012, for purposes of the EHB will require the state to pay the costs associated with the new mandate. The EHB adapted in New York do not include OTC coverage of emergency contraception. As such, this mandate constitutes new coverage benefits that the ACA requires be paid for by the state. It should be noted the New York State Medicaid program does cover a variety of OTC products including emergency contraception. The State pays the cost of all such products.

At a time when many New Yorkers are struggling to afford the health insurance coverage they have, and recognizing the costly precedent this mandate would create, this bill is ill advised. We urge you to say no to S.3790/A.2604 and to seek solutions that will make insurance more affordable and available to more New Yorkers.

The New York Health Plan Association represents 29 managed care health plans that provide comprehensive health care services to nearly 8 million New Yorkers.