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MEMORANDUM IN OPPOSITION

FOR IMMEDIATE RELEASE: MAY 14, 2021

Re: A.372 (L. Rosenthal) / S.5690 (Harckham) – AN ACT to amend the insurance law, in relation to prohibiting co-payments for treatment at an opioid treatment program

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This legislation, A.372/S.5690, prohibits cost sharing for opioid treatment programs. While we recognize the devastating impact the opioid crisis is having on individuals and families and are committed to ensuring that New Yorkers who need treatment are able to get the care they need, we have concerns about the elimination of co-payments for all treatment programs.

From the beginning of the opioid crisis, plans have worked to cover evidence-based treatment — both medication to treat addiction (Medication Assisted Treatment or MAT) and inpatient and outpatient treatment services — and have worked diligently to reduce barriers to appropriate treatment. Additionally, our member health plans have implemented a variety of care management and intensive case management programs targeting members with behavioral health and substance abuse needs. These programs are designed to increase engagement in and adherence to treatment, aftercare and alternative levels of care to prevent unnecessary readmissions or relapses. The programs focus on creating individualized service plans that:

- Provide assistance with attendance at mental health, substance abuse and medical appointments;
- Support adherence to the member's treatment plan;
- Build and support links to peers and natural supports;
- Assist with obtaining benefits, housing, and community services;
- Provide education and assistance with skill building, recovery and rehabilitation;
- Develop crisis prevention plans; and
- Promote wellness and recovery.

It is essential that care is based on treatments that have been proven to work. Unfortunately, there is a lack of standards to evaluate the effectiveness of the treatment being provided and whether providers and facilities are following evidence-based standards. While the state is currently working with Shatterproof in the development of a rating system for addiction treatment programs, there remains wide variation in the level and quality of service addiction treatment providers offer and much work still to do to improve the quality of care and assure that all providers are following evidence-based practices. Plans are fully engaged in the quality improvement process, which should be the primary policy focus in substance use disorder treatment. Merely removing cost sharing does not ensure patients are receiving the appropriate level of services and does nothing to move forward in improving service quality. Moreover, it is likely to slow the ability of plans to invest in value based payment arrangements with providers, which will be one of the most effective ways to move all providers toward evidence-based standards and greater focus on improved outcomes.

Recognizing the progress New York has made in expanding insurance coverage to more than 95 percent of all New Yorkers, and in the continuing effort to provide coverage to the remaining five percent, one of the top priorities must be keeping the cost of health care affordable for all. Various types of cost-containment and cost-sharing mechanisms are essential to help control health care costs and keep monthly premiums at a minimum. Restricting or limiting services that could be subject to copays or deductibles would eliminate the ability for employers and consumers to select health plans with these features, increasing monthly premiums and putting an additional financial strain on small businesses and working families.

Additionally, the Affordable Care Act (ACA) includes a number of provisions concerning cost-sharing levels, making this bill unnecessary. For example, the ACA prohibits any cost sharing for certain preventive services. Further, it requires that health insurance products adhere to strict annual cost-sharing limits. Each individual enrollee's out-of-pocket expenditures may not exceed a certain dollar amount every year. In accordance with the ACA, health insurance products must fit into narrow actuarial value ranges, meaning that the ratio of consumer costs to insurer costs is heavily regulated. The elimination of cost-sharing for a large number of benefits would significantly increase the actuarial value of a health plan, bringing it into a higher metallic tier and raising the premium cost for the consumer.

Further, this legislation would pertain only to fully-insured policies, which are purchased either by individuals who purchase coverage on their own or receive it through a small or medium-sized business. Large companies typically "self-insure," providing employee health benefits by directly paying health care claims to providers. They are governed by the Federal Employee Retirement Income Security Act (ERISA) and are not subject to state mandated benefits. Included in ERISA is a provision preventing states from deeming employee health benefit plans to be in the business of insurance for the purpose of state oversight, which preempts states from regulating these plans.

New Yorkers are currently grappling with the impact of the coronavirus pandemic, including the challenge of maintaining much needed health insurance coverage. Eliminating cost-sharing agreements will increase the cost of coverage for employers and consumers and does nothing to address underlying health care costs. For all these reasons, we urge you to reject A.372/S.5690.