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# MEMORANDUM IN OPPOSITION

**FOR IMMEDIATE RELEASE:** February 21, 2021

Re: A.807 (O'Donnell) / S.688 (Hoylman) – An act to amend the insurance law, in relation to requiring insurance coverage for pre-exposure prophylaxis and post-exposure prophylaxis to prevent HIV infection

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This legislation, A.807/S.688, would require all health insurance policies in New York State to include coverage for pre-exposure prophylaxis (PrEP) and post-exposure prophylaxis (PEP), used to prevent HIV infection. The New York Health Plan Association (HPA) opposes this legislation as plans currently cover both medications without any cost-sharing requirements, rendering this bill unnecessary. Moreover, the United States Preventive Services Task Force (USPSTF) gave the use of pre-exposure prophylaxis (PrEP) antiretroviral therapy for the prevention of HIV infection a Grade A recommendation in June of 2019. Under the Affordable Care Act (ACA), USPSTF recommendations with an A or B grade must be covered at no cost, which underscores that plans are currently covering PrEP.

In December 2017, the Department of Financial Services (DFS) issued a circular letter (CL 21) reminding health plans that prior authorization requirements cannot create an unacceptable barrier to coverage for individuals who would otherwise benefit from PrEP. In its circular letter, DFS noted the requirement that health plans must provide coverage for PrEP, and that in making coverage determinations they must do so in a non-discriminatory manner and that they “use appropriate written clinical review criteria when reviewing for medical necessity.” A 2019 addendum (Supplement No. 1 to Insurance Circular Letter No. 21) required coverage for PrEP for the prevention of HIV infection at no cost-sharing and for health plans to cover screening for HIV infection at no cost-sharing. Additionally, in October of 2020, DFS issued a second supplement (Supplement No. 2 to Insurance Circular Letter No. 21) that reiterated the requirement that insurers must provide coverage for PrEP at no cost-sharing and that the requirement extends to the tests and services that are recommended by the USPSTF to be undertaken prior to prescribing PrEP and for ongoing follow-up and monitoring.

Given the broad range of state measures that already exist to protect patients, A.807/S.688 is unnecessary. For these reasons, HPA **OPPOSES** A.807/S.688.

*The New York Health Plan Association represents 28 managed care health plans that provide comprehensive health care services to more than 8 million New Yorkers.*