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MEMORANDUM IN OPPOSITION

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S.4856 (Reichlin-Melnick) – AN ACT to amend the insurance law, in relation to requiring policies and contracts that provided coverage for prescription drugs to include coverage of an immediate additional thirty-day supply of a prescription drug during a state disaster emergency

This legislation, S.4856, would allow for an immediate 30-day supply of prescription medication during a state emergency. From the outset of the current pandemic, health plans have been working closely with the Administration and our partners in the provider community to combat the coronavirus and ensure that patients have access to care they need, including prescription drug medication. Health plans have allowed for early refills of prescription medications, waived the cost of testing for COVID-19, eliminated cost-sharing for telemedicine services, helped businesses and individuals who have needed extra time to pay premiums, and provided cash advances and other support to hospitals, physician practices and others in the delivery system to address the financial uncertainty they are facing.

While the bill is well intended, HPA opposes this legislation as it is unnecessary. As part of the response to this public health crisis, our member health plans have taken a number of steps to ensure consumers have access to the prescription medications they need to prevent the risk of interruptions in drug therapy that potentially could have serious health consequences. These include waiving early refill limits on medications and extending days supplies, helping members convert to 90-day mail order prescriptions, and working to make same day home-delivery of prescriptions available. Further, as part of its Declared Disaster Emergency Guidance, the Department of Health has allowed for early refills for members in need of medications due to quarantine or outbreak and encouraged utilization of 90-day supplies. As patients evaluate their prescription drug needs during this state of emergency, health plans and the state have put in place measures to help patients evaluate their prescription drug needs and decide whether an extra supply of medication is necessary and safe. Mandating this in statute is not necessary to protect patients.

Our member health plans recognize that prescription drugs are essential to the health and well-being of millions of New Yorkers. Accordingly, outside of a public health emergency, health plan members have the ability to request a refill of their medications prior to the refill date. However, limits on early refills act as an important tool to promote medication adherence and prevent waste. For example, they help to ensure that the medication is not being diverted in some way or is being used for unintended purposes by people for whom it has not been prescribed, and that the medication is working for the member. Medical literature indicates that patients who are inconsistent in adhering to medication regimens — including “not taking as prescribed,” or taking more or less than the prescribed dosage — can be subject to serious side effects and exacerbate their underlying medical condition. Likewise, a pattern of requests for early refills, with no good explanation, can help to protect against safety risks, particularly when dealing with controlled substances such as opioids. As such, there is procedure already in place that accommodates members’ needs and includes appropriate safeguards that obviates the need for this legislation.

For all these reasons, HPA opposes S.4856.

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.