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MEMORANDUM IN OPPOSITION

FOR IMMEDIATE RELEASE: MARCH 12, 2021

Re: S.5299 (Rivera) / A.1741 (Gottfried) – AN ACT to amend the insurance law, in relation to calculating an insured individual's overall contribution to any out-of-pocket maximum or any cost-sharing requirement

This legislation, S.5299/A.1741, requires insurance companies or pharmacy benefit managers to apply price reduction instruments for out-of-pocket expenses when calculating an insured individual's cost-sharing requirement, allowing consumers to apply drug coupons and discounts toward their annual out-of-pocket deductible costs. The New York Health Plan Association opposes this proposal because, while well intentioned, allowing for coupons and other temporary payment subsidy mechanisms in an effort to reduce consumer costs in the short term does nothing to address the root cause of skyrocketing health care costs: the rising cost of prescription medications and the exorbitant prices charged by drug manufacturers.

Every patient should be able to afford necessary medications and their health insurance premiums, and no consumer should need a coupon in order to access life-saving medication. The rising cost of prescription drugs has been an ongoing concern for all, including large and small employers, labor unions, public employee health programs, and individuals and families who purchase coverage on their own.

Drug makers offer copay coupons for brand name drugs under the guise of helping patients afford their medications. Instead, they mask the true cost of brand-name medications. Coupons for drugs with generic equivalents raise costs without any obvious benefit. In these cases, coupons mask the high brand-name prices, encouraging consumers to use brand-name drugs instead of equally effective, far less expensive generics, which undermines various benefit designs aimed at keeping health care costs low for all consumers.

Providing coupons and other temporary drug subsidies to help consumers reach their deductible faster does nothing to address the root cause of unaffordable drug prices and limits health insurer's ability to retain incentives that promote the use of affordable generic drugs over costly brand name drugs. In essence, copay coupons are a scheme that allows drug-makers to keep their prices artificially high while they pay for a few months and pass the higher cost along to everyone else for most of the year.

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.

It should be noted that this type of system gaming is only seen from drug-makers. Patients do not receive coupons for other equally important treatments and services, such as infusion chemotherapy or hospitalizations.

Coupons are not freely available – drug makers only offer coupons to specific patients with certain plans for a narrow choice of drugs, and only until those patients' deductibles are met. When patients reach their out-of-pocket maximums, insurers pay all future costs. It is critical to have guardrails in place against this system to help ensure that health care is affordable for all consumers. The federal government considers copay coupons to be an illegal kickback if used by an enrollee in Medicare or Medicaid since copay coupons induce a patient to use a specific drug, with the rest of the cost picked up by taxpayers.

At a time when New Yorkers are grappling with the high cost of health care, encouraging coupon based accumulator schemes that offer temporary relief for a few at the expense of the many exacerbates this challenge and does nothing to address the spiraling underlying costs of prescription drugs. For these reasons, we urge you to reject S.5299/A.1741.

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