June 9, 2021

The Honorable Andrea Stewart-Cousins
Senate Majority Leader
Room 907, LOB
Albany, NY 12247

The Honorable Carl Heastie
Assembly Speaker
Room 932, LOB
Albany, NY 12248

Dear Leader Stewart-Cousins and Speaker Heastie:

On behalf of a broad group of organizations representing employers and health plans that are committed to ensuring access to quality and affordable health care for all New Yorkers, we are writing with regard to several bills under consideration that will translate into higher health care costs for New York businesses and the individuals they employ. Our specific concerns are outlined below and we urge that these bills be rejected.

Increasing the Covered Lives Assessment for Early Intervention – S.5560-A/A.5339

This legislation would shift the cost of early intervention (EI) services from the state and municipalities onto commercial insurance coverage through a $40 million increase in the covered lives assessment. The covered lives assessment is one of several health insurance "taxes" under the Health Care Reform Act that already adds more than $5 billion annually to the cost of coverage. These taxes already amount to well over $1,000 added to premiums for the average family in New York and apply to every entity providing coverage including employers, union benefit funds, and the more than 250,000 consumers in the individual market. Increases in assessments exacerbate the challenge employers, particularly small businesses, face to make high-quality, affordable coverage available to their employees and funding EI through a covered lives assessment will add to their costs.

Further, transitioning to a covered lives assessment does nothing to improve the quality or efficacy of EI services provided to children or assure they are evidence-based. Shifting these costs onto individual consumers, families, union benefit plans, small businesses and large employers without making meaningful reforms to ensure that the services are appropriate is nothing more than a huge hidden tax on the cost of health coverage, requiring payment for services that are largely developmental or educational in nature.

New Mandated Benefits – S.2121-B/A.289-B

We are concerned with the proposal mandating coverage of any services for medically fragile children requested by a clinician. This would limit the ability to ensure that care is appropriate, safe, and coordinated and is unnecessary as statutory protections already exist to ensure that patients can access the care they need. Further, the legislation would also set minimum reimbursement levels to providers by requiring that specialty care centers be reimbursed at least 85 percent of the facility's acute care rate. Mandating a minimum reimbursement level, without any requirement on the provider to control their costs or improve their performance, will result in higher health care costs for New Yorkers and do nothing to improve the quality of patient care in the state.

With over 40 mandated benefits in statute that require coverage of more than three dozen types of treatments or services, New York has one of the most extensive lists of health insurance mandates of any state in the nation. While the cost of some of these benefits in isolation may be relatively small, the collective impact of mandated benefits adds to the cost of insurance, which contributes to New York already having the highest average premiums in the lower 48 states.

Mandated benefit bills disproportionately fall upon individuals and small business, as large companies typically "self-insure," and are not subject to state mandated benefits. Today, more than 50 percent of the commercial market is enrolled in a self-insured plan, which are governed by the federal Employee Retirement Income Security Act (ERISA) and preempts states from regulating these plans. As a result, S.2121-B/A.289-B would apply to less than half of the commercial market, but make health care more expensive for many small and mid-sized employers.

Further, the legislation would represent a new mandated benefit that will increase costs for the state. The Affordable Care Act (ACA) requires states to absorb the costs of mandated benefits enacted after December 31, 2011 that fall outside the essential health benefit package established as part of a state's benchmark plan for all Qualified Health Plan enrollees. As New York's benchmark plan did not include coverage of medically fragile children, the state would be required to cover the costs for individual and small group coverage associated with this mandate, which have not been accounted for in the current fiscal plan.

With employers, especially small businesses, struggling to keep their doors open and maintain coverage for their employees, now is not the time to be adopting new mandated benefits and increasing assessments that will add to their costs and hinder their ability to recover from the current economic crisis caused by the pandemic. For all these reasons, we urge you to reject these bills.

Sincerely,

The Business Council of New York State
The Business Council of Westchester
Capital Region Chamber
Employer Alliance for Affordable Health Care
New York Health Plan Association
Buffalo-Niagara Partnership
National Federation of Independent Businesses-NY
Upstate United
New York State Association of Health Underwriters
New York State Conference of Blue Cross and Blue Shield Plans