



June 3, 2024

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 to express our opposition to several bills under consideration that will translate into higher health care costs for employers, particularly small businesses, and we urge you to reject these bills.

New Mandated Benefits: With over 70 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. Currently, nearly two dozen mandated benefit bills are under active consideration. This includes the following bills:

A.2898-A/S.5481-A	S.2917-A/A.2516-A	S.7785/A.8387	S.2465-A/A.1696-A
S.2063/A.38	S.1193/A.7161	A9539/S.8957	S.4889/A.9826
S.8750/A.10063	A.6173/S.6362	S.8553-C/A.10429	A.6042-B/S.5579-A
S.6118-A/A.6177-A	A.6089	S.1967	S.7749
S.8973-A	S.9185	S.9535	

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.

Mandating new benefits disproportionately affects small and medium-sized employers. The scope of these bills pertains 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.

Among the reason employers typically self-insure is to avoid covering certain mandated benefits. This exemption offers self-insured employers greater control over the particular benefits they cover for their employees. Today, nearly 55% of New York's commercial market is enrolled in a self-insured plan. The above referenced bills would apply to less than half of the commercial market, but make health care more expensive for many small and mid-sized employers. As more employers self-insure, state laws mandating specific types of benefits and services affect an increasingly smaller portion of the privately insured marketplace.

Mandating specific levels or types of screenings or therapies in statute is unwise due to the rapid and ongoing advances in medical technology, testing and treatment. While well intentioned, the designation of a particular treatment or screening in statute could ultimately limit health plan members' access to the most current and effective test. Mandating specific screenings or endorsing specific procedures does not allow physicians or other providers to access new technologies and treatment as scientific evidence changes. In the event a new, more effective screening is developed, New York health plans would still be required to continue to cover a treatment or screening that may be obsolete.

Adopting new mandated benefits will also 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. For those mandates not included in New York's benchmark plan, 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.

Restrictions on Cost-Sharing & Other Efforts to Managed Medical Costs

Various types of cost containment and cost-sharing mechanisms are intended to encourage individuals to use services efficiently and to shop for lower cost options when they need care, helping to control health care costs and restrain the growth in premiums. Utilization review (UR), prior authorization and other medical management protocols are designed to ensure that the care patients receive is safe, effective, consistent with medical evidence and delivered in the most appropriate setting. Limiting cost-sharing levels does nothing to lower the underlying price of medical care, leading to higher premiums for employers and consumers. Restrictions on UR and other care management tools makes it more difficult to ensure that they are not paying for unnecessary – and potentially unsafe – services.

We are opposed to several bills that will make it more difficult to contain the prices charged for medical care and ensure that care is clinically appropriate and increase the cost of care. Among them:

- S.3400/A.7268-A: Restrictions on utilization review determinations
- S.3282/A.1777: Restrictions on provider contract terminations
- A.9019/S.8414: Required terms for insurance contracts
- A.6345/S.1470: Limiting cost-sharing levels for physical therapy services

With employers, especially small businesses, struggling with the high cost of health care, now is not the time to be adopting policies that will exacerbate the challenges they face in continuing to provide coverage for their employees. For all these reasons, we urge you to reject these bills.

Sincerely,

The Business Council of NYS
Capitol Region Chamber
Food Industry Alliance of NY
Greater Binghamton Chamber
Big I New York
New York Health Plan Association

Buffalo-Niagara Partnership
Northeast Dairy Foods & Suppliers Associations
National Federation of Independent Businesses-NY
NYS Conference of Blue Cross and Blue Shield Plans
National Association of Benefits & Insurance Professionals – NY State Chapter