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MEMORANDUM IN OPPOSITION

FOR IMMEDIATE RELEASE: FEBRUARY 8, 2011

Re: A.1808 (Dinowitz) AN ACT to amend the insurance law and the public health law, in relation to access to health care providers in managed care plans.

This legislation, seeks to extend the period during which health plan enrollees may continue to receive services from a health care provider who is not a member of the plan's network from 60 or 90 days to one year, or in the case of terminal illness, until the time of the enrollee's death, which could be up to three years. The New York Health Plan Association (HPA) opposes this legislation.

The intent of the original statute was to allow enrollees adequate time (i.e., 60 days) to select a new participating health care provider if they were engaged in an ongoing course of treatment with a provider that did not participate with the health plan. It also allowed for enrollees to continue care for ninety days with a provider who leaves the health plan network. This legislation would substantially lengthen these time periods to one year. In addition, it would require plans to cover services of nonparticipating providers for enrollees with a terminal illness — newly defined as that which would cause an enrollee's death within three years. The bill also amends the statute to eliminate the requirement for enrollees newly joining a plan that they are engaged in an "ongoing course of treatment" with the non-participating provider — a substantial departure from the intent of ensuring continuity of care in instances where a meaningful care relationship exists.

The proposed changes to the current continuity of care provisions of the managed care law are unnecessary. The current time periods are more than adequate to ensure enrollees have continuity of care and strike the right balance between maintaining continuity of care and also maintaining the integrity of a health plan's network. Health plans establish provider networks for many reasons, including maintaining availability of high quality providers, promoting management, managing costs and giving consumers protection against balance billing. These provisions would undermine a plan's network. While the bill memo claims a plan's reimbursement costs would not be increased by the changes, the bill fails to ensure the non-participating provider continues to meet the plan's credentialing requirements and actually increases administrative costs as plans seek to manage their network as well as any other non-participating provider that would fall under this radically modified expansion.

In addition, the newly proposed definition of terminal illness is substantially inconsistent with all known and applicable definitions used by state or federal agencies. No program, including Medicare and Medicaid, use such a lengthy time period in determining coverage under their programs.

The New York HPA opposes the provisions of this bill because they are unnecessary, administratively burdensome, fail to address any documented consumer need, and may be anti-consumer.