



FOR IMMEDIATE RELEASE: March 5, 2007

Re: A.3789 - Gottfried

An act to amend the Public Health Law and Insurance Law in relation to external appeals.

90 State Street • Suite 825
Albany, NY 12207-1717
518.462.2293
Fax: 518.462.2150
www.nyhpa.org

This proposal seeks to amend New York's carefully crafted external appeals law by eliminating the optional fifty-dollar fee charged to enrollees seeking an appeal and by duplicating existing law requiring notification of the enrollee's designee and health provider of a final adverse determination. The New York Health Plan Association (HPA) opposes this legislation because it is unnecessary and would undo the judicious balance achieved by the Legislature when it passed the landmark external appeals law in 1998.

THE NATION'S MOST ACCESSIBLE EXTERNAL APPEALS LAW

By any measure, New York's external appeal law is a success. According to recent studies by The Kaiser Family Foundation and the State's Department of Insurance (DOI), New York had the highest number of external appeal requests nationwide. Between 1999 and 2004, the DOI reports New York's external appeals program had processed nearly 5400 appeal requests. According to the Department, cases are being disposed of in a timely and efficient manner and more than half (nearly 55%) of the cases support the plan's determination. These statistics highlights the highly accessible nature of New York's external review process.

When the external appeals law was negotiated, HPA supported a minimum dollar threshold of the services being denied before an external appeal could be made. Such a provision would ensure that the process would be reserved for significant cases. Although the Legislature opted not to include this provision, it did address concerns about frivolous appeals of small matters by allowing plans to charge a \$50 fee to patients seeking to appeal. Providing a mechanism against the filing of frivolous cases is essential, particularly when an external appeals process can cost in excess of \$3,000. To ensure that the fee would not create an economic barrier for certain patients, the law specifically waived the fee for Medicaid and Child Health Plus recipients and any individual with a "financial hardship." Furthermore, the fee is returned to the patient if the plan ruling is overturned. To date, there is no evidence the minimal filing fee has limited patens' access to the external appeals process.

CURRENT LAW REQUIRES APPROPRIATE NOTIFICATION TO PATIENT AND PROVIDERS OF FINAL ADVERSE DETERMINATION

Section 4904, subdivision 3 of the Public Health Law is clear on the notification practice of plans making final adverse determinations. The law requires utilization review agents to "notify the enrollee, the enrollee's designee and where appropriate the enrollee's health care provider, in writing, of the appeal determination within two business days..." In addition to the notice, recipients and providers also receive a notice on the right to appeal along with the external appeal application. The sponsor's proposal to duplicate existing law is unnecessary.

The New York Health Plan Association urges legislators to vote NO on this proposal.

MEMO IN OPPOSITION

The New York Health Plan Association represents 30 managed care health plans that provide comprehensive health care services to nearly 6 million New Yorkers.