



FOR IMMEDIATE RELEASE: March 5, 2007

Re: A.4609 - Gottfried

An act to amend to amend the public health law, in relation to the definition of clinical peer reviewer.

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

The New York Health Plan Association (HPA) opposes A.4609 because it unnecessarily delays the triggering of the independent appeals process by establishing needless requirements on the internal appeal process. The cost of this unnecessary requirement will be passed on to consumers in the form of higher premiums.

In 1998, New York enacted landmark legislation (Chapter 586) providing health plan enrollees access to an independent appeals process for plan denials based on medical necessity or on the experimental nature of the service(s) in question. That legislation included the streamlining of the internal review process by eliminating the requirement that plan denials be issued by a health care professional trained in a “similar or like specialty.” The Legislature rightly recognized this requirement as a vestige of our system prior to external review and in their wisdom concluded that such a requirement would simply delay the plan’s final determination and the patient’s access to the independent appeals process. Furthermore, the Legislature recognized that because health plans underwrite the cost of independent appeals (but do not choose the reviewer), there was an additional incentive for plans to take prudent actions to ensure their final adverse determinations were well founded (plan’s determinations are upheld in the independent review process more than half the time). One clear result of the independent appeals law has been a strengthening of a plan’s internal appeals processes, providing for more uniform and appropriate decision-making.

Improvement to health plan appeals processes has been documented by a study published in the February 2002 Journal of the American Medical Association (JAMA). That study concluded the majority of disputed medical necessity coverage decisions were for treatments “generally regarded as non-essential in nature” such as liposuction and varicose-vein removal as opposed to “medical care with direct health consequences.”

Additionally, A.4609 is unwarranted because plans do contract with specialists to review certain – more technical cases as required by the National Committee for Quality Assurance (NCQA). To gain NCQA accreditation, plan medical directors are required to call on outside experts in those cases where specialized clinical judgment is necessary to make appropriate coverage determinations. However, mandating this standard for *every* denial is too prescriptive and will unjustly add administrative costs to health plans — especially smaller plans that are less likely to have this expertise in-house. The cost of providing this expertise will be borne by premium payers at a time when health insurance costs are already rising at two to three times the consumer price index. These costs will also be levied on government insurance programs such as Medicaid, Child Health Plus and Family Health Plus.

MEMO IN OPPOSITION

To promote efficient and timely decision-making, lawmakers wisely dropped the “similar or same specialty” requirement in the internal appeals process law. Since that time, New York’s independent appeals process has been hailed as a national model for providing broad access to this process by patients without significantly adding administrative costs to this process. Last April the Superintendent released a report on New York’s external review process and along the Health Commissioner concluded that “external appeals process for new Yorkers enrolled in health plans is working. The process empowers New Yorkers to take a more active role in their own health care decisions and further protects their rights as a patient.” A.4609 would unnecessarily undo this well crafted and successful legislation to the detriment of patients and payers alike.

For all these reasons, we urge you to vote no on A.4609.

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