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

MEMO IN OPPOSITION

FOR IMMEDIATE RELEASE: March 26, 2007

Re: A.6739 - Rivera

An act to amend the insurance law, in relation to coverage for single source drugs.

This legislation, A.6739, mandates continued coverage of single source drugs to patients even if other, equally or more effective drugs are available to treat the condition. If enacted, this proposal will diminish quality of care and exacerbate the increasing cost of drugs - one of the fastest rising components of health care costs. Accordingly, the New York Health Plan Association (HPA) opposes A.6739.

SINGLE SOURCE DRUGS ARE NOT UNIQUE IN TREATING CERTAIN CONDITIONS

Single source drug are agents with no generic equivalent. However, single source drugs are not necessarily unique in their ability to treat specific conditions and should not be confused with therapeutic classes where only one approved drug is available. There are numerous therapeutic classes where several single source drugs are available to prescribing providers. For example, in the area of hyperlipidemia there are many agents available to treat patients including Lipitor, Crestor and Lescol to name a few. All of these drugs have been deemed effective in treating high cholesterol and are often used interchangeably by prescribing providers.

A.6739 WOULD ELIMINATE FORMULARIES AND INCREASE DRUG COSTS

Drug formularies are designed to enhance quality of care by encouraging the use of medications that are demonstrated to be the safest and most effective in producing positive patient outcomes. Formularies also help to increase the purchasing power of plan enrollees, which in turn expands access to effective medications while keeping the pharmacy benefit affordable. Pharmacy and Therapeutic committees meet regularly to evaluate formularies and to add new and qualitatively superior products to the list of preferred agents. Formulary systems also provide important consumer protections such as required timely patient appeals while reinforcing the central role that prescribers have in administering the pharmaceutical benefit.

This legislation is to undermines the formulary system. For instance, A.6739 would make it difficult to promote appropriate migration of plan enrollees to newer and more effective drugs. This proposal would also make plan administration of pharmacy benefits cumbersome, impairing the plan's ability to negotiate better prices for preferred agents while also reducing access and increasing pharmaceutical costs. For example, as new members enroll in the plan (plans can experience a 20% change in enrollment annually), presumably many of them would be on a single

source drug not covered by the new plan. Tracking the drug regimens for these members as required under this legislation would be virtually impossible for plans. Finally, this proposal would also limit the ability of plans to discontinue coverage of drugs that are potentially unsafe, have more serious side effects or are less effective than an alternative drug. Between plan enrollee turnover and the inability to effectively elevate new drugs to preferred status and eliminate less effective drugs or even dangerous drugs from the formulary, this one proposal would ***effectively abolish formularies*** in New York. While this outcome would be helpful to the pharmaceutical industry, the prime beneficiary of this legislation, the result would be disastrous for consumers in New York State.

A.6739 – PATIENTS AND NEW YORK STATE PAY MORE

Costs engendered by this legislation will not only fall on premium payers but will result in higher out-of-pocket costs for patients too. This legislation fails to recognize that the vast majority of health plans are utilizing "open tiered" formularies. When a health plan utilizes an "open" formulary, virtually all drugs are covered to a certain degree. Drugs that are not deemed "preferred" by a particular health plan are designated at a higher copayment level. Requiring a patient to remain on their single source drug even if it is not "preferred" agent by the plan will result in higher copayments to the patient. This legislation creates a significant and unwelcome hurdle for patients who want to switch to an equally or more effective medication with less out-of-pocket cost.

Also adversely impacted will be the state's Medicaid system, which currently spends more than 1.4 billion dollars on prescriptions annually. As a matter of necessity and with much fanfare, the state has established a preferred drug program to manage its Medicaid pharmacy benefit more effectively on behalf of its taxpayers. The program, which has the establishment of a formulary at its heart, is designed to save the state hundreds of million of dollars annually. A. 6739 will severely undermine the state's efforts to dampen pharmaceutical costs contributing to New York's expensive Medicaid program.

A.6739 undermines a plan's ability to harness enrollee purchasing power, leading to increased pharmacy costs, reduce access to drug coverage (more than 4.5 million New Yorkers have no drug coverage) and quality care. Increased costs for premium payers and patients alike, coupled with the administrative burdens associated with implementing this proposal and the diminishment in quality outcomes, outweigh any benefit this legislation hopes to achieve.

For all these reasons, HPA opposes A.6739.

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