



MEMORANDUM IN OPPOSITION

FOR IMMEDIATE RELEASE: JUNE 2, 2011

Re: S.3510-B (Maziarz)/A.5502-B (Heastie) – AN ACT to amend the insurance law, in relation to the purchase of prescription drugs.

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This legislation, S.3510-B/A.5502-B, seeks to limit pharmacy mail order options for health insurance purchasers. This proposal enriches community pharmacists at the expense of patients and will result in increased pharmaceutical costs. The New York Health Plan Association (HPA) opposes its passage.

Rapid growth in drug spending has encouraged health plans and other payers to adopt strategies to better harness economies of scale to help dampen rising pharmaceutical costs. Pharmacy benefits are optional in New York and employers have the choice to purchase a drug rider or not. The cost of a drug rider is critical for employers in determining whether to provide drug coverage to their employees. Payers have incorporated several approaches to increase mail order pharmacy utilization including lowering co-payments for 90-day prescriptions filled by mail or using a patient deductible for brand name maintenance drugs not filled by a mail order facility.

Health plans have built specialized pharmacy programs, designed to provide members with optimum prescription coverage while maintaining affordability. These programs often include the use of mail order pharmacies. Through their relationships with the mail order pharmacies, plans are able to provide coverage for many rare drugs as well as high cost drugs at a reduced cost to the consumer. In addition, mail order companies offer special tracking and reporting systems that help plans and patients monitor and manage prescriptions. They also provide 24/7 phone access and support for patients.

This legislation would allow any mail order covered prescription to be filled at any in-network retail pharmacy if the retail pharmacy offers to accept a price that is “comparable” to that of the mail order pharmacy. At no point is the term “comparable” defined in the bill. The use of this ambiguous term will only cause confusion and conflict as plans and pharmacies negotiate its meaning. It is much more appropriate to clearly define that the in-network retail pharmacy will receive the same reimbursement as the mail order pharmacy.

In addition to being willing to offer the same — not “comparable” — price as mail order companies, retail pharmacies should be required to provide the same terms and conditions currently provided by mail order benefits. This includes tracking and reporting standards that plans have come to expect as well as the round the clock support to patients. Creating the same standards for retail and mail order pharmacies is the only way to truly level the playing field.

As drafted, S.3510-B/A.5502-B is protectionist legislation of the worse kind. It will engender higher costs for consumers and payers to subsidize community pharmacists who, by their own admission, are experiencing increased sales and rising revenues. While community pharmacies gain, it will be small business employers in New York seeking to provide health insurance coverage to their employees who will either pay more for prescription drug coverage or go without it. For New York, the cost of this legislation is too high.

For all these reasons, HPA opposes S.3510-B/A.5502-B.

The New York Health Plan Association represents 25 managed care health plans that provide comprehensive health care services to nearly 7 million New Yorkers.