



MEMORANDUM IN OPPOSITION

FOR IMMEDIATE RELEASE: MAY 17, 2011

Re: S.3988 (Lanza)/A.6233 (V. Lopez) – AN ACT to amend the insurance law, in relation to policy coverage of chemotherapy treatment.

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This legislation seeks to mandate health insurance plans in New York cover orally administered chemotherapy at a rate “no less favorable” than intravenous chemotherapy. The New York Health Plan Association (HPA) opposes this legislation because it reduces patient access and safety while increasing the cost of health insurance.

Health plans in New York offer coverage of the intravenous treatment through the medical benefit and the self-administered oral treatment through the optional pharmacy rider. The unintended consequence of this bill as drafted is that some New Yorkers will benefit from this proposal while most New Yorkers will pay more for their health coverage.

The decision to determine the best course of treatment, whether it be intravenous or oral, is made by the treating physician. In some cases the treating physician orders an oral chemotherapy agent in conjunction with intravenous treatment. For intravenous treatment the patient either goes to the treating physician’s office or the hospital to receive outpatient care. This insures that the right drug is taken, in the right amount, at the right time. The intent of the sponsors is premised on the belief that use of oral chemotherapy: a) allows the individual to undergo treatment “in the comfort of their own home”; b) with the added benefit of not having traditional intravenous chemotherapy side effects; and c) at a cost savings to the patient. A review of the facts indicates these assumptions are inaccurate:

1. Research studies have found that medical errors and lack of compliance for self-administered oral chemotherapy are common. A study of oral chemotherapy conducted by the Dana-Farber Cancer Institute found that of the reporting 42 regional cancer centers, 23 reported either a serious adverse drug event or a near miss event. This legislation contains no provisions regarding safety protocols to minimize dosing errors or adverse interactions.
2. Medical literature indicates that patients are inconsistent in adhering to oral medication regimens including “not taking as prescribed,” taking less than the prescribed dosage to avoid side effects such as nausea, and inadequate reporting of side effects.
3. Oral chemotherapy drugs produce the same side effects as those of intravenous chemotherapy drugs.

Commercial health insurance plans in New York have a three tiered drug formulary structure where tier one is for low cost generics, tier two is for brand-name preferred drugs and tier three is for brand-name non-preferred drugs. 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.

Oral chemotherapy drugs are some of the most expensive drugs on the market today. The bill would expand the optional pharmacy benefit to provide coverage for oral chemotherapy drugs by reducing the cost of those drugs to consumers by reducing the amount paid in co-pays and co-insurance to that currently paid for infusion therapy covered under the medical benefit. In effect nullifying the drug formulary without consideration of the actual cost of treatment. This legislation does nothing to reduce the underlying cost of these medications it just increases the cost of the optional pharmacy rider for everyone. By mandating coverage of these oral chemotherapy drugs “no less favorable” than intravenous chemotherapy, individuals and employers seeking health insurance coverage will either pay more for optional prescription drug coverage or go without it.

Moreover, this bill favors oral chemotherapy drugs over other drugs used in treatment of other serious or chronic diseases — i.e.; multiple sclerosis, Parkinson’s, cardiac disease. Giving cancer patients more favorable pharmaceutical coverage than patients with numerous other diseases is inherently unfair and will result in higher pharmaceutical costs for patients with other disease, as they will end up cross subsidizing the lower drug costs of the cancer patients.

With the enactment and ongoing implementation of federal health care reform, the Legislature needs to pay special attention to health insurance mandates. As part of federal health care reform, the federal Department of Health and Human Services will determine and define what the “essential benefit package” will be for the individual and small group markets inside the insurance Exchange. If an insurance mandate such as this on oral chemotherapy is not included within the essential benefit package, then the mandate will either need to be repealed or funded wholly using state dollars.

In 2007, the New York State Health Care Quality and Cost Containment Commission was established to analyze the impact any proposed mandate would have on health insurance costs and quality of care. This analysis would look at current plan practices with regard to the benefit, review medical literature related to the potential impact on health care quality, and assess the possible premium impact of the proposed mandated benefits as well as the potential for avoided costs through early detection and treatment of conditions or more cost-effective delivery of medical services. At this time not all of the appointees to the commission have been submitted. Until the commission is in place, any new mandates proposals including this one should be prohibited.

At a time when many New Yorkers are struggling to afford the health insurance coverage they have, and when the state is looking to implement federal health care reform and expand access to coverage to more New Yorkers, this bill is ill advised. New York should be focusing on efforts to control rising drug costs for consumers and employers not enacting legislation that will increase premiums and reduce affordable access to prescription drug coverage. We urge you to say no to S.3988/A.6233 and to seek solutions that will make insurance more affordable and available to more New Yorkers.

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