



MEMORANDUM IN OPPOSITION

FOR IMMEDIATE RELEASE: JANUARY 9, 2012

Re: S.5068-A (Hannon)/A.7489-B (Gottfried) – AN ACT to amend the insurance law and the public health law, in relation to requiring a health care plan which provides coverage of out-of-network care to provide certain information to insureds, subscribers or enrollees.

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The New York Health Plan Association (HPA) opposes S.5068-A/A.7489-B, which requires health plans to disclose their methodology for reimbursing out-of-network benefits as a percentage of the FAIR Health database.

Plans currently use various methodologies to determine out-of-network reimbursement. Some plans utilize a multiple of the Medicare rate (i.e., 120% of Medicare) to reimburse out-of-network providers. Linking out-of-network reimbursement to the Medicare standard allows employers to provide a transparent, well-known out-of-network benefit to their employees. Moreover, Medicare, a legally permissible transparent database, is a well-accepted national database more widely known and accessible than the FAIR Health product.

This legislation would require that health plans calculate and convert their out-of-network reimbursements to a percentage of the database maintained by the new FAIR Health organization, as well as mandate plans to compare this calculated rate to 80% of the FAIR Health reimbursement. This erroneously sets 80% of FAIR Health as the “gold standard” on which to measure reimbursement. FAIR Health, itself, on its web site acknowledges that many plans reimburse between the 50th and 90th percentiles. There is no compelling rationale for the 80% standard. While many plans use the FAIR Health database for various products, many utilize a percentage other than 80%. This calls into question the rationale for the conversion and comparison to 80%.

This legislation also requires that health plans’ out-of-network benefits systems provide “significant” coverage of the usual costs of out-of-network services. At no point is the term significant defined in the bill; however, by mandating that all products provide a conversion and comparison to the FAIR Health standard at 80%, this bill seeks to bind FAIR Health’s 80% to be the mandatory definition of significant coverage. Furthermore, if significant is defined as higher than the out-of-network reimbursement now covered, the direct impact will be increased costs for out-of-network services. That, in turn, results in higher premiums and individuals and employers dropping coverage as the cost becomes unaffordable.

For all these reasons and more, the New York HPA opposes the passage of S.5068-A/A.7489-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.