



MEMORANDUM IN OPPOSITION

A.1378 (Cahill)

AN ACT to amend the insurance law, the social services law, the education law and the public health law, in relation to requiring health insurance policies to include coverage of all FDA-approved contraceptive drugs, devices, and products, as well as voluntary sterilization procedures, contraceptive education and counseling, and related follow up services and prohibiting a health insurance policy from imposing any cost-sharing requirements or other restrictions or delays with respect to this coverage

This bill, which is an Attorney General Program Bill, would require all health plans and insurance policies to cover all forms of contraceptives, voluntary sterilization procedures, and attendant education, counseling and follow up services, for all genders, and would prohibit any copays or co-insurance therefor.

The **New York State Association of Health Underwriters (NYSAHU)**, the professional trade association of New York health insurance brokers and employee benefits consultants which supports universal health coverage by integrating existing public plans with market-based solutions to improve affordable and accessible health insurance plans for all, is **STRONGLY OPPOSED** to A.1378, and all such mandated benefit bills.

While the intent of this bill, to expand contraceptive insurance coverage is certainly laudable, it would simply add yet another mandated benefit to the long list of required coverages in the State, increasing the costs of premiums for health insurance for all, especially in view of the prohibition against copays and co-insurance.

Employer-provided health coverage is extremely price sensitive. Studies have shown that for every 1% increase in the costs of health insurance 30,000 New Yorkers lose their coverage entirely, as smaller employers are no longer able to afford such coverage for

their workers. It would be far better that health insurers and health plans be mandated to offer and make available riders for such specialty coverage, allowing employer groups to design and select the benefit plans that best fit their employees' needs.

Moreover, state mandated benefits are not applicable to self-funded health plans, which are protected by federal preemption under the Employee Retirement Income Security Act of 1974 (ERISA). Most medium to large employer groups in New York are self-funded and experience-rated, and are thus exempt from state mandated benefits. It is estimated that anywhere from 40-60% of employed New Yorkers are thus excluded from state mandated benefits altogether, so the burden of higher costs from such enactments fall squarely on the individual and small group community-rated markets, which least can afford higher premiums.

Further, any mandates set by the State beyond those specified in qualified health plans under the federal Affordable Care Act (ACA), must be paid for by New York State without recourse to federal subsidies.

Lastly, in 2007 the Legislature created the New York State Health Care Quality and Cost Containment Commission (codified in Section 213 of the Insurance Law) which was charged with analyzing the impact on health-insurance costs of proposed legislation that mandates health benefits be offered or made available in individual and group health-insurance policies, contracts and comprehensive health service plans. The Commission was also directed to study the delivery of health benefits or services and the reimbursement of health care providers.

To the best of our knowledge, this Commission has never met because certain legislative appointments were never finalized. We urge that the appointments process be expedited and that the Commission be constituted without any further delay. Until such time as the Commission is functioning, we respectfully ask that A.1378, and all other pending mandates, be held in abeyance until such time as they are submitted and evaluated by the Commission, which shall conduct its cost/benefit analysis and report its recommendations to the Governor, Legislature and the public.

For all of the reasons enumerated herein, and on behalf of the members of the New York State Association of Health Underwriters, we are constrained to **STRONGLY OPPOSE** A.1378, and ask that it **BE HELD IN ABEYANCE** until reviewed by the New York State Health Care Quality and Cost Containment Commission.

Respectfully submitted,

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