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March 5, 2009

RE: AN ACT to amend the insurance law
in relation to the review of health plan
rate increase applications

A.3122 (Bradley)

MEMORANDUM IN OPPOSITION

Submitted on behalf of the Blue Cross and Blue Shield Plans

The New York State Conference of Blue Cross and Blue Shield Plans opposes enactment of this bill, which would subject health maintenance organizations and not-for-profit insurers to a discretionary rate approval process on premium rate increases of greater than 5% for direct pay and Medicare supplemental policies. Additionally, the bill would substantially increase the minimum loss ratios for individual, small group and Medicare supplemental insurance policies.

1. THE "FILE AND USE" SYSTEM PREVENTS THE ARTIFICIAL SUPPRESSION OF PREMIUM RATES, THUS IMPROVING THE FINANCIAL HEALTH OF INSURERS UTILIZING THE FILE AND USE METHOD.

Adopted in 1995 as part of Individual Market reform, the "file and use" law permits not-for-profit health insurers and HMOs to seek rate increases based on objective actuarial standards without the prior approval of the Insurance Department. This method of seeking premium rate increases is limited to cases in which the insurer or HMO can prove to the Department that it maintained a premium loss ratio of at least 80% (in the case of individual products). In other words, in order to increase premiums without the Insurance Department's prior approval, an insurer must prove that it pays out 80% of the funds it collects as premiums to pay the claims of its insureds. (See Point 2 herein for a discussion on minimum loss ratios.)

The concept of relying exclusively on premium loss ratios eliminates the artificial suppression of rates because rate increases are based exclusively on an actuarial analysis of how much of a premium dollar is being spent to pay claims. In other words, those insurers who spend more than

20% of the premiums collected on expenses other than paying claims must seek Insurance Department approval. Permitting rate increases without an approval process when an insurer is above a certain loss ratio percentage allows the insurer to have an adequate rate to support its claims. The loss ratio method is an objective, actuarially based, standard for determining rates. Without such a method, rate increase applications will be subject to political or public pressure, which may encourage the rejection of necessary premium increases. This would result in an inadequate rate which, in turn, will jeopardize the solvency of a health plan.

Inadequate or insufficient rates are historically a contributing factor to insurer/HMO insolvency. An objective standard based on how much of every premium dollar is dedicated to the payment of claims contributes to the financial stability of the health insurance industry by ensuring that premiums are realistically calculated to cover costs.

2. **THIS BILL WOULD NOT ADDRESS THE UNDERLYING CAUSES OF PREMIUM INCREASES.**

The sponsors of this bill proclaim that, "after years of relatively flat premiums for individuals and small groups, recent premium increases have been dramatic - some as high as 95%," and use these increases as a justification for this bill. The bill, however, does not address the underlying causes of the premium increases.

For example, recent premium increases are due, in part, to the tremendous health care costs incurred by the individual market segment, which contains a much sicker population than the broader market in general. Although a relatively small segment of the overall insured population, the individual market segment incurs costs that are significantly higher than the broader market. HMOs are required by statute to offer extremely broad individual market benefit packages, and thus bear the brunt of the drastic increases.

Another contributing factor to premium increases is the return of higher health care inflation. After a long period of slowed growth, the rise in health care costs has accelerated and analysts predict that growth will continue as the managed care market continues to mature. Finally, government imposed health insurance mandate laws likewise contributed to the rising health care costs. This bill does nothing to address the contributing factors to the increase in health care costs. Rather, it imposes a burdensome administrative process on certain insurers and HMOs that threatens their solvency while failing to mitigate substantial causes for premium increases.

As a result, this bill does not address the problem of affordability of the direct pay and small group insurance contracts, and thus does not address the cause of the premium increases it seeks to stem. Instead, the bill only limits when the file and use system can be used.

For these reasons, we strongly urge that this bill not be enacted into law.

Respectfully submitted,

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