



121 STATE STREET
ALBANY, NEW YORK 12207-1693
TEL: 518-436-0751
FAX: 518-436-4751

March 5, 2009

RE: AN ACT to amend the insurance law, in relation to
licensing and regulating health insurance
purchasing cooperatives

A.650 (Larkin)

MEMORANDUM IN OPPOSITION

Submitted on behalf of the Blue Cross and Blue Shield Plans

The New York Blue Cross and Blue Shield Plans oppose enactment of this bill, which would establish private health care purchasing cooperatives to expand health care choices for sole proprietors and small employers in New York. This bill is unnecessary in light of the community rating and guaranteed issue laws, creates the potential for adverse selection by ignoring current law and allowing these new association groups to “cherry-pick” only the best risks. The bill also suffers from technical deficiencies.

1. **HEALTH CARE PURCHASING COOPERATIVES ARE UNNECESSARY IN LIGHT OF NEW YORK’S EXISTING COMMUNITY RATING AND GUARANTEED ISSUE LAWS.**

New York law currently provides for mandatory community rating and guaranteed issue of all individual and small group health insurance policies. Community rating allows any business operating in New York to obtain health insurance at the same rate as other businesses operating in the same area. Guaranteed issue provides that insurers cannot refuse to issue a policy to any particular employer (for example, an employer with a high-risk group of employees). Consequently, the intended employer beneficiaries of this bill can already purchase health insurance from any insurer offering policies in their geographic area.

Thus, while purchasing cooperatives may be beneficial to employers in states that have no community rating laws, the New York individual and small group market reform laws already

provide for the premium-leveling that would otherwise be the principal effect of forming a cooperative.

2. THE BILL WOULD CREATE A RISK OF ADVERSE SELECTION.

Ostensibly, health care purchasing cooperatives would reduce health care premiums by placing a large number of employers in one purchasing pool (i.e., community rating), and by requiring policies to be issued to any employer who joins the purchasing cooperatives (i.e., guaranteed issue). However, this bill would actually increase premiums for small employers who choose not to participate in a co-operative, as these new co-operatives could choose only the healthiest groups to participate. This would fill the remaining small group pool with higher risk employers and resulting higher premiums. **Association groups are already allowed under current law**, but are expressly forbidden from underwriting employers before allowing them to join the association.(Insurance law §4235(c)(1)(K)). Clearly supporters of the bill wish to circumvent the existing law allowing unaffiliated association groups to purchase health insurance but which precludes the adverse selection of less healthy employers.

3. THIS BILL IS TECHNICALLY FLAWED.

This bill contains several technical errors which would effect its implementation and would cause serious problems in the insurance market. For example, the Sponsor states that the bill would not effect existing community rating (in fact, §2 of the bill requires compliance with community rating), yet a “small employer” is defined as an employer with between 2 and 99 employees. Under current law, community rating applies to small employers with between 2 and 50 employees. Essentially, this bill would re-define “small group” to include employers with between 51 and 99 employees. This will have a substantial effect on the community rate, making compliance with the bill’s own provisions impossible.

The Sponsor claims this bill will create saving for employers through reduced administrative expenses. However, the bill allows for co-operative membership fees, administrative fees to service employer and insurer enrollment, billing, collection, premium disbursement, commissions and processing activities. As the bill is currently drafted, it will actually increase the administrative fees for employers.

Moreover, the unclear drafting of this bill may actually create an additional burden for employers. As drafted the definition of health insurance purchasing co-operative could be interpreted as allowing employees of small employers the choice of individual selection of health plans regardless of the plan for which the employer wishes to pay. Even if each employer and employee agreed on the coverage to be purchased no benefit would have been conferred as they could already purchase that same policy due to the guaranteed issue laws currently in effect.

For these reasons, the Blue Cross and Blue Shield Plans of New York oppose the enactment of this legislation.

Respectfully submitted,

HINMAN STRAUB ADVISORS, LLC
Legislative Counsel for the Blue Cross and Blue Shield Plans