The Business Council

S.4111 (Breslin) / A.4668 (Peoples-Stokes)

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BILL
S.4111 (Breslin) / A.4668 (Peoples-Stokes)
SUBJECT
Mid-Year Formulary Changes
DATE
March 16, 2021
OPPOSE

The Business Council opposes S.4111 (Breslin) / A.4668 (Peoples-Stokes), which would prohibit health insurance plans from making mid-year pharmacy formulary changes and require that health plans provide advanced notice of its intent to remove a drug from the formulary or alter its tier within the formulary. While the intention of the bill is to allow for continuation of prescriptions through any mid-year formulary change, the practical outcome of the bill would create no new protections for the insured while guaranteeing rate increases for all.

New York State employers, responding to Business Council surveys, have overwhelmingly identified employee health care as one of their top cost-of-doing business concern. In addition to cost, predictability is paramount in predicting business costs for coming years. This bill adds to both burdens for employers.

Formulary and tier changes are made by panels of independent community physicians and pharmacists. They regularly assess the latest clinical data to modify formularies in order to foster the use of the most effective medications, ensure proper usage and promote patient health. The current system allows access to appropriate medications while reducing the costs of waste and improper and or unnecessary treatments.

The unintended consequence of this legislation is the creation of a confusing and expensive array of differing formularies every month for each and every new or renewing policy. This will serve to cause confusion among all parties, including prescribing physicians and prescription-filling pharmacies. Such an elaborate matrix of formularies will immutably drive up administrative costs for health plans, their consumers, doctors and practitioners as well as pharmacies.

Further, this legislation is unnecessary in a practical sense since both regulatory and policy protections are already in place for patients. Plans are already limited in the number of formulary changes they can make per year by the Department of Financial Services. Also, in the event of formulary changes, a patient is never left without a treatment; there must always be a therapeutic equivalent drug as effective as the one removed. The law also already requires plans to have a variance process that allows patients to access specific prescription drugs. Often, patients are granted up to six month extensions on their current medications, thus rendering this bill moot in a practical sense.

Importantly, the amended version of the bill creates a double standard that is based solely on politics rather than policy. By excluding labor unions from the mandate of this bill, the sponsors are essentially saying that this policy is flawed, but we will only subject private companies and individuals who purchase insurance from the marketplace to it. Bad policy is bad policy – New Yorkers already have multiple layers of protection ensuring that they receive the most effective and up-to-date treatments and medications – they do not need the added cost of this policy.

For its fundamental unfairness, The Business Council strongly opposes S.4111 (Breslin) / A.4668 (Peoples-Stokes).