



S.9497 (Fernandez) / A.1428 (Forrest)

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BILL S.9497 (Fernandez) / A.1428 (Forrest)
SUBJECT Substituting Brand Name Prescription Drugs in the Case of a Drug Shortage
DATE May 06, 2026
OPPOSE

The Business Council of New York State strongly opposes S.9497 (Fernandez) / A.1428 (Forrest). This legislation would require health insurance plans to cover brand name eligible prescription drugs at the same dosage and level of coverage as a generic drug in the event that there is supply issue making the generic drug unavailable, where the federal Food and Drug Administration (FDA) has recognized the shortage. This would continue until the FDA removes the drug from the shortage list.

Health care costs are rising at an unsustainable rate, one of the major contributors to that fact is the rising costs of prescription drugs. Specialty drugs and new drugs, many of which we are seeing in high demand, are very costly. We are also seeing a high demand with our aging population. Health plans construct formularies (list of covered prescription drugs) with drugs that have the intended results patients are looking for while protecting their safety as well. Health plans actively try to keep prescription costs affordable as rising costs are forcing many small and medium sized businesses to make difficult choices in selecting plans and coverage.

Requiring health plans to cover brand name drugs as they would generic drugs during a period where there is a shortage will not mitigate the high costs we are seeing in health coverage currently and could have the opposite effect on costs to employers and employees. At a time when health costs continue to increase, we must instead work toward true affordability measures.

For these reasons, The Business Council opposes the above-mentioned bill.