The Honorable Kemp Hannon  
Senator, 6th District  
Chair, Senate Committee on Health  
The Capitol – Room 420  
Albany, NY 12247

The Honorable Richard Gottfried  
Assembly Member, 75th District  
Chair, Assembly Committee on Health  
Legislative Office Building – Room 822  
Albany, NY 12248

December 20, 2017

Dear Senator Hannon and Assemblyman Gottfried,

We are having issues getting access to many anti-seizure drugs (ASDs) for our Medicaid patients. Because these medications have different mechanisms of action (MOAs), patients can respond very differently to them, and it is critically important that they are able to access the specific drugs that we prescribe. As you may know, it is estimated that 150,000 New Yorkers have epilepsy, a neurological disorder that is more common than Parkinson’s disease, multiple sclerosis, and Lou Gehrig’s disease combined.

While the state’s prescriber prevails programs are intended to provide us – the physicians – with the final say over which medications our Medicaid patients receive, there is a striking difference in the language between Medicaid fee-for-service (FFS) and Medicaid Managed Care Organizations (MCOs). While the FFS provision explicates that the physician’s determination “shall be final,” MCOs are permitted to consult in the decision process, which means that our authority to prescribe a particular drug to a particular patient is not definitive.

This ambiguity is alarming, and permits Medicaid MCOs to deny access to many ASDs that our patients need. Regrettably, these people with epilepsy remain uncontrolled and continue to endure painful, life-altering seizures that lead to the loss of license and employment, in addition to requiring increased hospitalizations and emergency room visits.

Moreover, this means an additional cost burden to the state. According to the Commonwealth Fund, New York was ranked 32nd in the nation for avoidable hospital use and costs in 2017. To be sure, the state’s own Office of Quality and Patient Safety observed that nearly 77% of all eligible ER visits by Medicaid patients in 2012 were potentially preventable, and Community Needs Assessment identified epilepsy among the top four drivers of short-term hospital stays for
Medicaid patients. Thus, strengthening MCO prescriber prevails will support the state’s Delivery System Reform Incentive Payment goal of reducing avoidable hospital use.

Finally, increasing studies suggest that nearly half of patients who have a seizure will respond to the first drug they receive. The likelihood of seizure freedom significantly declines with successive medication trials. These figures are particularly troubling for Medicaid patients with epilepsy who are painfully denied ASDs by their MCOs.

For these reasons, we are deeply concerned with this difference between Medicaid FFS and Medicaid MCO prescriber prevails programs, and we respectfully request that you support efforts to align these programs and provide us – the physicians – with the final determination over which medications to prescribe to our Medicaid MCO patients.

Thank you very much for your consideration. Please do not hesitate to contact us, if you have questions or need additional information.

Sincerely,

Janice W. Gay
President
Epilepsy Coalition of New York State, Inc.
West Nyack, NY

&

Blanca Vazquez, MD
Neurologist
NYU Langone Health / Brooklyn Epilepsy Program
New York, NY

with

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