NEW YORK STATE SENATOR

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# For Health or Profit? Klein Unveils Sickly Scorecard of Major HMOs

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***Investigation Finds NYS HMO's Restrict Access to Prescription Drugs Critical to Treating HIV/AIDS, Cancer and Heart Disease***

*Presents Legislation that would Stop Insurance Companies from Creating Hurdles for Patients Seeking Brand Name Drugs*

NEW YORK- Senator Jeffrey D. Klein (D-Bronx/Westchester) joined by Assemblyman Adriano Espaillat (D-Manhattan), Members of the NYS Medical Society, Members of the NYS Rheumatology Society, Members of the NYC Pharmacists Society, Physicians and Victims released the results of his second annual report, For Health or Profit, detailing how insurance companies restrict their members' access to brand-name prescription drugs that treat serious health conditions like cancer and cardiovascular disease on Sunday.

The report is an analysis of 11 major HMOs in New York State and the restrictions they place on what are known as "single source drugs". Single source drugs are unique medications for which there are no generic alternatives. The report documents tactics used by insurance companies to stymie patients from accessing patented drugs that are unique in their formulations but whose cost reduce insurance company profits.

Lipitor, for example, is the most commonly prescribed prescription drug to reduce cholesterol and prevent heart disease.  It is also a single-source drug with no generic equivalent.  While there are other medications (called "statins") that reduce cholesterol, it is believed that Lipitor's unique active ingredient makes it especially effective for certain patients, particularly those with acute coronary syndrome or those that have already had a heart attack

"Ill and unhealthy individuals deserve to receive the drugs their doctor feels best treats their condition," said Senator Klein.  "They shouldn't be forced to choose between paying their rent and purchasing necessary medication, between trying and failing on cheaper drugs and staying on a more expensive drug that does not cause side effects.  These are the hard choices sick patients face every day because of these practices employed by insurance companies."

Klein's office, in coordination with the Albany College of Pharmacy and Health Sciences, measured restrictions on patient access to the most commonly-prescribed medications treating cardiovascular ailments, cancer, autoimmune diseases, HIV/AIDS, and chronic pain by reviewing the three-tier formularies of 11 major health maintenance organizations (HMOs) in New York State. Three-tier formularies are lists issued by HMOs that indicate the prescription drugs they cover and their respective co-payments (or co-insurance) as well as additional restrictions on particular drugs. The three groupings of drugs are typically generic drugs (Tier 1), preferred brand-name drugs (Tier 2), and non-preferred brand-name drugs (Tier 3).  Some drugs are left off the formulary altogether.  Tier 1 drugs have the least expensive co-payments while Tier 3 drugs cost the most.

"We performed detailed investigations based on reported data and documented evidences to support the use of all available prescription drugs to best serve the health of NYS patients enrolled in these HMOs," said Albany College of Pharmacy and Health Sciences' Dr. Shaker A. Mousa. "While we understand that restrictions on single-source medications are necessary for cost containment, our investigation found out that many HMOs are overusing these restrictions for their own interests and not for the health and well-being of the NYS population they are dedicated to serving."

Klein's study found that restrictions on brand-name patented drugs, so-called single-source drugs, was widespread. Insurance companies used the following so-called "cost containment strategies" to prevent patients from accessing drugs their doctors prescribed.

***Prior Authorization***- drugs that require the doctor or patient to acquire insurance company approval so they receive coverage and do not have to pay out-of-pocket. This is time-consuming for doctors and patients alike and can involve appeals that take days or weeks to resolve.

***Step Therapy***- requires a patient to try older and less expensive medication that is similar to the brand-name drug and fail on that medication, before the more expensive patented brand drug is approved for coverage.

***Quantity Limitations***- limits the amount of medication or number of prescriptions that can be purchased at one time. Sometimes done for legitimate safety concerns while in other instances, is simply to control costs.

***Exclusion-*** excludes expensive medications from the formulary altogether, therefore the drug is not covered for the insured.

Among the significant findings in Klein's report:

- Connecticare and Aetna restricted the most drugs surveyed, with 19 and 18 restrictions respectively on 22 drugs investigated. Empire had the highest percentage restricted, with 15 restrictions on 16 drugs investigated for which there was available information. (See attached chart, page 32 in report)

- Cozaar was the most restricted cardiovascular drug with 17 total restrictions placed on the drug by 9 different HMOs. The average number of restrictions on the five most commonly prescribed cardiovascular drugs was 14.8 restrictions per drug including prior authorization, step therapy, quantity limitations, and exclusion. (See attached chart, page 33 in report)

- Gleevec was the most restricted cancer drug with every company but one imposing some kind of restriction. Every cancer drug required prior authorization by at least two insurance companies of those surveyed.

· Of the three autoimmune specialty drugs surveyed, all had at least 13 restrictions per drug placed on them by the 11 insurance companies polled.

· High co-payments was the most frequent form of limitation to access on HIV/AIDS drugs. Literature shows that high co-payments causes disruption in treatment because patients skip doses or discontinue taking the drug, which results in increased use of expensive in-patient and emergency medical services.

· Fentora, a medication treating chronic pain, was the most restricted drug. Eight different insurance companies placed 20 different restrictions on the drug.

Klein and Espaillat urged fellow lawmakers to pass Klein's proposed bill (S2938) and the Assembly bill (A8863) sponsored by Espaillat, which take a variety of measures to reduce limitations on access to brand-name patented drugs. The bill requires that Tier 3 drugs not exceed the cost of Tier 1 drugs by more than 5 times, requires health insurers to submit their formularies to the State Insurance Department for review, and guarantees patients receive the drug their doctor prescribed if they complete step therapy and the cheaper alternative drugs don't best treat their condition. (in both the Senate and Assembly that takes a variety of measures to reduce limitations on access to brand-name prescription drugs and that would put a stop to deceptive and restrictive practices by HMO's.

"The State Senate and Assembly bills are major steps forward for all New Yorkers to ensure access to state-of-the-art prescription drugs that cure illnesses and diseases and close the healthcare disparity in New York State, particularly in communities of color," said Assemblymember Adriano Espaillat. "I am pleased today to join State Senator Jeffrey Klein in support of this legislation."

"It's understandable that insurance companies are trying to control costs," said Senator Klein. "However, insurance companies dual role of providing coverage for members and making profits for the company and shareholders can result in instances where there is an inherent conflict of interest, one too often tilted toward profits at the expense of coverage."

The ten largest publicly traded insurance companies nationwide made a combined $13 billion in 2007 alone, a 428 percent increase from $2.4 billion in 2000. Meanwhile, between 2000 and 2006, policy holders' premiums skyrocketed 73.8 percent.