



## MEMORANDUM OF SUPPORT

**S05022-B (Serino) / A02317-B (Peoples-Stokes)**

**January 18, 2018**

**On behalf of the Lupus and Allied Diseases Association and the millions of New Yorkers struggling to manage complicated and potentially fatal diseases of unmet need, we would like to express our strong support for S05022-B/A02317-B an act to amend the insurance law in relation to prescription drug formulary changes during a contract year which would limit non-medical switching practices. We respectfully request that you also include grandfathering language to strengthen the proposed legislation.**

Non-medical or formulary-driven switching is a policy designed by commercial insurance companies and pharmacy benefit managers to limit prescription drug coverage to less expensive medications, resulting in New Yorkers being required to use a different medication than the one initially prescribed or forcing them off their current effective treatments when they are stable. These coverage modifications are cost-cutting measures determined by the plan formulary that have no medical justification, therefore the practice has become known as “non-medical switching” and is basically an egregious payer cost-based management tool that negatively impacts our community.

Because lupus is an extremely unpredictable, highly individualized, heterogeneous, multi-system autoimmune disease, having access to the full array of treatments in order to maintain long-term disease stability is absolutely essential and critical to patient well-being. We recognize that any disruption in continuity of care as a result of payer utilization management policies, formulary changes or other cost containment measures has detrimental consequences for individuals dealing with complex care needs causing heightened immune responses, adverse effects, increased symptomology, disease exacerbation and augmented costs. People also endure physical, emotional, and financial distress due to delays in proper treatment, intolerable side effects from inadequate medicine, and initial cost-sharing for ineffective therapy and medical visits. The determination of the most optimum and appropriate medical treatment is best accomplished by open and transparent communication between the individual being treated and the healthcare provider who is educated and ethically bound to treat to the uniqueness of that person and not to an insurance cost-cutting mandate.

The Lupus and Allied Diseases Association supports initiatives that address barriers to healthcare access in order to ensure individuals receive the most appropriate therapies as directed by their treating healthcare professionals and consistent disease management is preserved. We strongly support establishing essential patient protections that improve access to vital therapies; in turn reducing the physical and economic impact of disease, improving outcomes, and allowing individuals to lead more productive lives.

Therefore, we are opposed to the payer protocol of non-medical switching, whereby:

- Insurers force a non-medical treatment switch by engaging in the following practices and frequently mid-plan year:
  - ✓ **Raising Patient Out-of-Pocket Costs**— Insurers raise out-of-pocket costs for previously covered medications, making these critical treatments financially inaccessible.
  - ✓ **Moving a Drug to a More Restrictive Formulary Tier**— Insurers move previously covered medications to a more prohibitive formulary tier with higher costs and additional clinical restrictions.
  - ✓ **Removing a Drug from Coverage Altogether**— Insurers remove previously covered medications, leaving no options for individuals who are stabilized on these treatments.
- Each of these actions restrict or deny individuals access to the medications prescribed by their healthcare provider in order to successfully treat their conditions.

## Patient Impacts

- Non-medical switching erodes patient health. It is particularly harmful to individuals living with cancer, mental health disorders, epilepsy, diabetes, hemophilia, chronic pain, immunodeficiency, AIDS, and autoimmune diseases such as rheumatoid arthritis, lupus, crohn's, ulcerative colitis, multiple sclerosis, psoriasis, psoriatic arthritis, and behcet's, just to name a few.
- It takes years for individuals with multifarious conditions to find treatments that manage their diseases with the fewest side effects, and drugs that treat these conditions are often intricate and not interchangeable.
- Individuals who are stable and switched off treatments for non-medical reasons face significant health risks, including adverse side effects and decreased efficacy.
- For those with crohn's disease, even voluntary switching from one therapy to another was associated with loss of effectiveness within one year.

## Key Points

- Non-medical switching is both detrimental to patient well-being and our healthcare system. While commercial insurance companies and pharmacy benefit managers engage in non-medical switching to save money, the negative health consequences experienced by New Yorkers translate into increased ER visits, hospitalizations, physician visits and lab tests; all of which drive up overall healthcare costs.
- New Yorkers should not have to worry that the coverage they chose will change. Insurers should honor their contracts with consumers by not altering the terms of the contract mid-plan year because it is both morally and ethically correct.
- Policymakers should work to ensure that all insured New Yorkers have the following protections:
  - ✓ **Consistent Coverage**— Any individual with a complex, chronic or rare medical condition using a previously approved medication to stabilize their medical condition should have access to that drug throughout the plan year.
  - ✓ **Fair Out-of-Pocket Costs**— Consumer out-of-pocket costs set by the health plan or PBM during open enrollment should not increase during the respective plan year.
  - ✓ **Stable Formularies**— Individuals who are stable on certain medications should not have those medications moved to a pricier or more restrictive insurance tier during the respective plan year.

For individuals living with lupus, rheumatoid arthritis, psoriatic arthritis, crohn's disease, ulcerative colitis, scleroderma, sjögren's, multiple sclerosis and other debilitating autoimmune conditions, access to appropriate medication can dramatically improve disease outcome and quality of life. Treatment can reduce the severity and frequency of disease activity and decelerate its progression, enabling individuals to remain productive. For a person on a biologic therapy, a switch can result in immunogenicity, an immune response that can lead to a severe allergic reaction and diminished effectiveness; causing an acquired tolerance and non-response to therapy.

The Lupus and Allied Diseases Association is a passion driven, all-volunteer patient advocacy organization dedicated to improving quality of life for those impacted by lupus and allied diseases and conditions of unmet need by promoting innovative advocacy, awareness and biomedical research program initiatives and fostering collaboration among stakeholders to promote patient-centered healthcare and to ensure public policy keeps pace with biomedical research innovation.

**As patient stakeholders who represent individuals and loved ones dealing with serious medical conditions on a daily basis, we applaud Senator Serino and Assemblywoman Peoples-Stokes for their ongoing commitment to improve healthcare by sponsoring S05022-B/A02317-B which will establish consumer safeguards to ensure that New Yorkers have access to lifesaving and life-enhancing therapies through consistent coverage, stable formularies, and fair out-of-pocket costs.**

The proposed legislation would directly address the above issues and positively impact the health and well-being of New Yorkers affected by serious medical conditions. Based on these concerns, we respectfully urge your support for legislation that limits switching within the plan year, as well as switches from year-to-year, in order to have the most meaningful impact and strongly encourage the passage of this legislation into law.

Please contact Kathleen Arntsen at [Kathleen@LADAinc.org](mailto:Kathleen@LADAinc.org) or call 315-264-9101 if you have any questions.