



Happy first day of Fall! The NYS Coalition has just kicked off our “*Don’t Fall for Fail First*” Campaign focused on getting NY Governor Andrew Cuomo to sign our legislation to regulate health insurer step therapy (fail first) policies into law now. As a result of our strong, collective efforts, we successfully achieved passage of the legislation (S3419C) by both the Senate and Assembly unanimously this session. Now patients are waiting for Governor Cuomo to sign this critically important consumer access and safety measure into law.

**PLEASE ask your NY networks to use and personalize the sample letter below calling on the Governor to consider and approve S3419C now.** The Governor does not have a public email address so below is the link to the online form on his website. We know that some organizations have been able to use a web form mapping tool that fills in the necessary data and sends it for an individual so he/she does not have to fill in the data on the webpage. This may be something your organization can explore as well for ease of use by your volunteers.

### **ALERT**

Using the sample letter below, please personalize a message to NY Governor Andrew Cuomo calling on him to sign the NY step therapy legislation (S3419C) into law now. This is the last step in the process and it has taken many years to get here. Please help us get over the finish line by emailing the Governor today with the following message.

### **SAMPLE EMAIL**

<https://www.governor.ny.gov/content/governor-contact-form>

Dear Governor Cuomo:

In mid-June, the State Senate and Assembly passed legislation regulate health insurance “fail first” or “step therapy” policies *unanimously*. **As a NY resident, I am writing to respectfully ask for your support for this pro-consumer legislation by signing S3419C into law now. NY patients cannot wait any longer for these important protections.**

A fail first or step therapy protocol is used by an insurer to require a patient to try and fail on other drug options before coverage is granted for the medication initially prescribed by the patient's health care provider. Such protocols are based on cost and potential treatment responses within a generalized patient population. The protocols are not based on a patient's specific medical profile or the physician's assessment of the best treatment option for the patient for her condition.

As a result, fail first protocols can lead to delays in access to medications offering the greatest potential medical benefit and disease progression due to such delays. In other cases, patients report having no alternate therapy for an extended period of time if the drug that was initially prescribed was rejected. And in other cases, the required "fail first" drugs cause adverse reactions or complications to the patient due to side effects or other drugs they may be taking to treat the disease or co-morbidities. There is no consistency in how insurers establish and apply fail first protocols and in New York there is no state oversight or limitations to ensure that they are used appropriately. This must be changed, as other states have done.

S.3419C is common-sense, pro-consumer legislation which does not prohibit insurer use of fail first or step therapy protocols. Instead, it strikes the right balance with two basic patient protections to improve the safety and efficacy of such protocols. First, it requires that the clinical review criteria used by an insurer to establish fail first protocols be based on science and evidence-based clinical guidelines to ensure that they are not exclusively driven by cost to benefit the health plan or PBM. Second, the bill requires a standardized and expedient process that can be used by physicians to request an override of a fail first protocol.

Time is of the essence when fighting a serious disease or condition. This bill is necessary to protect New Yorkers who are facing a severe or life threatening illness by ensuring timely access to the right medications. NY patients cannot wait any longer. **Please sign S3419C into law now.**