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April 7, 2017

Heather M. MacMaster
Deputy General Counsel
Workers' Compensation Board
328 State Street
Schenectady, NY 12305

Ms. MacMaster,

We are writing to submit comments on the proposed regulations regarding family leave benefits coverage. We thank you for the opportunity to comment on these proposed regulations.

NAMI-NYS is the state chapter of NAMI, the nation's largest grassroots family and consumer movement dedicated to improving the lives of those with mental illness and was founded by families with loved ones with serious and persistent mental illnesses with the design to provide support and education to other families impacted by mental illness. Many NAMI families serve as the primary caregivers to their loved ones with these chronic diseases and have had to sacrifice a great deal to support their recovery, all too often at the expense of careers and salary.

No one should have to give up a career and financial security in order to do the right thing and care for loved ones. Psychiatric emergencies can strike at any time and any place. We have heard many horror stories of people having to travel across the country to be with their family member in crisis and how this has cost them their job. The period of following the release from a psychiatric hospitalization is also a particularly vulnerable time for the individual with a mental illness and around the clock family support is often needed in this period of adjustment and reintegration. The role of family during this time is vital as they are often needed to ensure adherence to medicine and coordinate the multitude of doctor visits.

Community rating (11 NYCRR §§ 363.1-363.4)

We strongly support the Department's decision, as set out in the proposed regulations, to require all family leave benefits coverage issued under the law be community rated. Consistent with the goals of the paid family leave statute, community rating will ensure fair treatment for all employees and prevent discrimination on the basis of age, sex, or any other demographic feature. Furthermore, because use or expected use of benefits cannot be taken into account in setting premiums, community rating will remove any possible incentive for employers to discourage or interfere with workers' use of paid family leave benefits out of fear of rising costs.

Similarly, we are extremely glad to see the Department's commitment to setting community rates in a manner that differentiates among workers based on their income. Because, by law, workers are responsible for the full costs of paid family leave coverage, it is critically important that these rates do not impose an undue financial burden on workers, especially those with limited incomes. Paid family leave benefits are set as a proportion of workers' incomes, meaning that a worker who earns less will receive less money in benefits than a worker who earns more. Therefore, it is both logical and fair that insurers ought to charge less to cover workers whose benefits cost less.

Maximum employee contribution (11 NYCRR § 363.7)

Under the paid family leave law, one of the most important responsibilities entrusted to the Department is setting the maximum employee contribution to pay for benefits. The current proposed regulation provides no guidance into how this crucial decision will be made beyond the general parameters in the statute. We urge the Department to offer additional clarification.

Furthermore, the Department should specify how the strong principles set forth in the proposed community ratings regulations will affect the amounts withheld from worker paychecks. This should include stating that employers may only withhold from an employee's paycheck the actual cost of acquiring of coverage for that employee, if such costs are lower than the maximum contribution set by the Department.

We appreciate the opportunity to submit these comments, and we hope you will give them consideration in your efforts to ensure that the New York paid family leave law is implemented effectively and clearly. If you have any questions, please contact us at (518) 462-2000.

Sincerely,



Matthew Shapiro
Associate Director of Public Affairs