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May 10, 2022

Hon. Andrea Stewart-Cousins
New York State Senate
New York State Capitol
Albany, NY 12224

Re: Request to Passage of S906 to clarify insurance coverage for colorectal cancer screening

Dear Majority Leader Stewart-Cousins,

I am writing to request that you immediately bring to a vote S906B, sponsored by Senators Sanders and Kennedy, which would, in accordance with the United States Preventative Task Force (USPSTF) guidelines, ensure colorectal cancer screening coverage for those average-risk populations starting at age 45, and ensure that state regulated insurance plans, cover, with no cost-sharing, follow-up colonoscopies after a positive non-invasive stool test.

This legislation simply clarifies to insurers and patients alike what must be included in colorectal cancer screening coverage following recent federal and state guidance. By passing this legislation New York State can ensure that state statute reflects recent federal and state guidance including the following:

The 2010 Affordable Care Act requires that all health plans cover certain essential benefits including colorectal cancer screening in accordance with the United States Preventative Task Force (USPSTF) guidelines.

On Tuesday, May 18, 2021, USPSTF released an update to their colorectal cancer (CRC) screening guidelines for average-risk populations. The finalized USPSTF guidelines, which were in accordance with the American Cancer Society guidelines, lowered the screening age for those average-risk populations from 50 to 45 and recommended continued regular screening until age 75.

In the current recommendation, while continuing to recommend colorectal cancer screening in adults aged 50 to 75 years (A recommendation), the USPSTF now recommends offering screening starting at age 45 years (B recommendation). As it did

in 2016, the USPSTF continues to conclude that screening in adults aged 76 to 85 years should be an individual decision (C recommendation) and screening should be discontinued after age 85 years.

The newly updated USPSTF guidelines also clearly stated that:

“Positive results on stool-based screening tests require follow-up with colonoscopy for the screening benefits to be achieved.”

In accordance with the Affordable Care Act, beginning in 2023 all insurance plans will be required to provide screening coverage that complies with the new screening guidelines.

Furthermore, on January 10, 2022, the Federal Tri-Agencies (Department of Labor, Department of Health and Human Services, Treasury) announced that private insurance plans must now cover, without cost-sharing, follow-up colonoscopies after a positive non-invasive stool test. In the announcement, the Tri-Agencies went on to state:

“A plan or issuer must cover and may not impose cost sharing with respect to a colonoscopy conducted after a positive non-invasive stool-based screening test or direct visualization screening test for colorectal cancer for individuals described in the USPSTF recommendation. As stated in the May 18, 2021 USPSTF recommendation, the follow-up colonoscopy is an integral part of the preventive screening without which the screening would not be complete. The follow-up colonoscopy after a positive non-invasive stool-based screening test or direct visualization screening test is therefore required to be covered without cost sharing in accordance with the requirements of PHS Act section 2713 and its implementing regulations.”

Finally, on March 31, 2022, the New York State Department of Financial Services issued a circular stating that all insurers must immediately begin providing coverage at no cost-sharing for preventive screenings for colorectal cancer in adults beginning at the age of 45. The circular can be found at https://www.dfs.ny.gov/industry_guidance/circular_letters/cl2022_04

“In accordance with Insurance Law §§ 3216(i)(17)(E), 3221(l)(8)(E) and (F), and 4303(j)(3), all issuers, except for grandfathered health plans, must provide coverage at no cost-sharing for preventive screenings for colorectal cancer in adults beginning at the age of 45. In addition, the requirement to provide coverage for preventive screenings for colorectal cancer at no cost-sharing extends to follow-up colonoscopies after an abnormal or positive non-invasive stool-based screening test or direct visualization screening test as recommended by the USPSTF and clarified in federal guidance. Issuers, other than grandfathered plans, are expected to provide coverage for the recommended colorectal cancer screenings without cost-sharing for policies or contracts issued or renewed on and after November 30, 2021.”

These determinations are consistent with state legislation that has been championed in the State Senate (S906B) sponsored by Senators Sanders and Kennedy. The Assembly passed

this legislation in March 2022, and we respectfully request you to bring the bill to a full Senate vote without any further delay.

By passing the legislation we can ensure that private insurance plans in New York are complying with the new guidelines and providing coverage for follow-up colonoscopies to individuals after a positive non-invasive stool test with no cost sharing. Knowing that cost is a major barrier for patients getting screened, this clarification will help remove a significant barrier to individuals needing to complete the screening continuum while also avoiding confusion among providers and insurers alike.

If you have any questions regarding this issue or others, please do not hesitate to contact me at michael.davoli@cancer.org or at 518.209.0447.

Respectfully,

A handwritten signature in black ink, appearing to read "Michael Davoli". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael Davoli
Senior Government Relations Director, New York
American Cancer Society Cancer Action Network

CC:

Michael Gianaris, Deputy Majority Leader, New York State Senate
Neil Breslin, Chairperson, Insurance Committee, New York State Senate
James Sanders Jr., New York State Senate
Tim M. Kennedy, New York State Senate