



Capitol Agenda

THE INDEPENDENT FORUM

INDEPENDENT PHARMACY COOPERATIVE
Fall 2018

CMS Rejects Below-Cost Medicaid Dispensing Fees in Washington State



The Centers for Medicare and Medicaid Services (CMS) has rejected Washington State's below-cost Medicaid pharmacy dispensing fees. CMS weighed in when the state's Medicaid program cut product acquisition reimbursement but did not correspondingly increase the pharmacy professional dispensing fee.

At issue is a rule by the Washington State Health Care Authority (WSR 17-07-001) that changes the basis by which the state reimburses community pharmacies for medications dispensed to Medicaid patients. Under this state rule, a new cost-based methodology for reimbursement was to be implemented consistent with federal regulations by the U.S. Department of Health and Human Services.

The federal requirements make clear that pharmacy dispensing fees under an acquisition cost model must be supported by surveyed pharmacy cost data. This model provides transparency and predictability for Medicaid programs across the country. In addition, under federal requirements the reimbursement change should be applied retroactively to April 1, 2017.

New Team Member on Board



Please join us in welcoming Virginia Brown to the IPC Team as our new IPC Director of Government Relations. Ginny resides in Colorado and will be working with Director John Covello in providing industry leading state advocacy efforts.

"We are delighted to have Ginny join the team and look forward to her contribution advocating for independent pharmacy," said Mark Kinney, IPC Senior Vice President of Government Relations.

Congress and Administration Reviewing 340B Program

Congress and the Department of Health and Human Services have been reviewing the operation of the 340B federal drug assistance program. The Administration's drug price reduction initiative does call for reforms to the 340B program.

House and Senate committees have held several hearings on the 340B program and requested detailed information. While the emphasis has been on the definition of 340B eligible patients and the expansion of the program, there has also



been a focus on the scope of community pharmacy participation.

Though the legislation to change the 340B program will likely not see action until the next Congress, IPC will be actively involved with other pharmacy stakeholders to protect the ability of community pharmacies to serve these vulnerable patients.

California Enacts Law Regulating PBMs



Assembly Bill 315 (Wood) was signed by California Governor Jerry Brown on Saturday, September 29, 2018. The law is an important and necessary step for establishing a regulatory structure for the previously unregulated practices of Pharmacy Benefit Managers (PBMs).

The law makes important changes to the California Business and Professions Code as well as the Health and Safety Code to ensure that patients and providers alike are protected from the hidden practices of PBMs in California.

AB 315 prohibits "gag clauses," which are used by Pharmacy Benefit Managers (PBMs) to prevent pharmacies from informing their patients of a less costly alternate method of payment for their medication.

Additionally, AB 315 requires that PBMs shall exercise good faith and fair dealing, and that PBMs must notify purchasers in writing of any activity, policy, or practice that directly or indirectly presents a conflict of interest.

IPC Comments on Reducing Drug Price Increases and DIR Fees



IPC with other community pharmacy stakeholders joined efforts in submitting comments to the Trump Administration on its initiatives to reduce drug prices with special focus on the Medicare Part D program. IPC endorsed

the following approaches: 1) changing the Part D Direct and Indirect Remuneration (DIR) fees to occurring at the point-of-sale; 2) pursuing Part D drug pricing policies to

eliminate the DIR's altogether; and, 3) making changes in the drug rebate system to create a system that would benefit Part D patients more directly.

Hundreds of written comments were submitted to CMS this summer. Additionally, there is a federal law recently signed into law to end pharmacy "gag clauses" under private and federal health insurance programs, and a proposed new regulation to have drug companies disclose prescription list prices in their ads. IPC is closely monitoring all Administration action to finalize drug price regulation, including DIR reforms.

The U.S District Court of North Dakota Upholds Key Provisions of PBM Regulation Law

The U.S. District Court of North Dakota upheld major provisions of two laws recently passed that are designed to regulate PBM business practices in the state. The new laws include restrictions that 1) prohibit PBMs from requiring pharmacy accreditation standards or recertification requirements inconsistent with, more stringent than, or in addition to federal and state requirements for licensure 2) prohibits PBMs from having an ownership interest in patient assistance programs or mail-order specialty pharmacies unless the PBM agrees to not participate in a transaction that benefits the PBM instead of another person owed a fiduciary duty 3) allows pharmacies to

disclose "relevant" information to patients, including the cost and clinical efficacy of a more affordable alternative drug if one is available and it prohibits gag orders on such disclosures.

The court held that neither ERISA nor Medicare preempts the challenged State laws, except for a provision that mandated certain PBM disclosures to plan sponsors. The court in its decision made important distinctions that aligned with earlier Eighth Circuit Court of Appeals findings.



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