



UNIVERSAL HEALTH CARE
FOUNDATION OF CONNECTICUT

Universal Health Care Foundation of Connecticut

Healthcare Cabinet Recommendations on Restraining Prescription Drug Costs

Public Comment

January 12, 2018

Universal Health Care Foundation (UHCF) has actively participated in the development of the Healthcare Cabinet's draft recommendations to address high and rising prescription drug costs. Frances Padilla, Foundation President, serves on the Cabinet and chaired the Cost Determination and Cost Containment Work Group. Jill Zorn, Senior Policy Officer, participated on the Legislative and Administrative Initiatives Review Work Group.

We would like to use this public comment opportunity to highlight and support several of the recommendations in the draft report.

Introduction

Skyrocketing prescription drug prices are harmful to patients' health, family budgets and the state budget. With the federal government refusing to respond, states, including Connecticut, are stepping up.

Polls confirm that people are very concerned about prescription drug affordability and show overwhelming support for taking action.

There are many reasons for growing medication prices, but the problem starts with high list prices and regular, often twice a year, price increases set by pharmaceutical manufacturers. Pharmacy Benefit Managers (PBMs) which negotiate discounts and rebates on those high list prices, are also part of the problem. The PBM industry is now highly consolidated and rebate information is largely kept secret.

The pharmaceutical and PBM industries have an army of lobbyists deployed to protect their financial interests. While each industry may acknowledge that there is a cost problem, one of their favorite tactics is to point the finger at the other as the main source of the problem.

Prescription drug costs are one of the main reasons that insurance premiums are rising. Trying to hold premiums down, insurers and self-funded employers end up passing more and more of the cost onto patients in the form of high deductibles, co-insurance and co-pays.

While industry plays the blame game, prices are continuing to grow. The one sure loser has been consumers. Insurance is meant to protect people from financial ruin if they get sick, by spreading risk across the whole population. Instead, people with chronic and acute illnesses are now shouldering more and more of the burden of high prices.

Individuals have the least negotiating power of anyone. When faced with astronomical bills at the pharmacy counter, they can either pay, take their medications less often than prescribed or walk away and not take their prescriptions at all. If people don't take their medications as directed, they can end up sicker and using even more expensive health care resources over time.

Cabinet Recommendations

Given the complexity of the problem of prescription drug affordability, we applaud the Cabinet for drafting recommendations that address multiple links in the supply chain. Systemic solutions are needed that touch on all major industry players including manufacturers, PBMs and insurers. But solutions are also needed that help consumers directly with the affordability challenges they face.

UHCF believes Connecticut should focus on three policy areas:

- Making information on prescription drug prices and the reasons behind them more transparent.
- Establishing a regulatory path for restraining high prices
- Providing relief to out-of-pocket cost sharing

With these goals in mind, we would like to highlight several of the recommendations in the report.

Identifying Unfair Prices and Referring Cases to the Attorney General for Action

Recommendations 1.a. and 2.a.

- Form a state Drug Review Board to analyze information and determine whether certain prescription drug prices and price increases are justified. Some of the information the Board will analyze will initially be collected by the Insurance Department during their rate review process, including information about the extent of recent price increases and their impact on premiums (see 2.a.). Some of this information will become public. But proprietary information providing more in-depth justification of price increases will remain confidential.
- When the Board finds examples of unjustified price increases they will make referrals to the Attorney General. The Attorney General will have enhanced authority to pursue price gouging cases against manufacturers of both generic and brand name drugs.

This recommendation is based on bills that have passed in other states, particularly California, Maryland and New York. One challenge, however, is that the pharmaceutical industry has challenged the California and Maryland laws in court. The Foundation expects that these laws will survive these challenges, although the timing isn't clear yet.

It is also important to note that this is a high-level recommendation and more details are needed if this recommendation moves on to legislative action. For example, the size and composition of the Drug Review Board, including how many consumers will sit on the Board, has not been decided. The Foundation would like to see strong representation by consumers on the Board. It will also be important to have robust conflict-of-interest rules in place for board members. Who will make appointments and where the Board will fit in the current administrative structure, is also not spelled out. The new office of Health Strategy could be the logical place for the Board to be housed and staffed.

Out-of-Pocket Relief for Consumers

The first of these recommendations is identified as a priority and the second one is still in the list of “other” recommendations. But we think both are important priorities.

Recommendation 1.d.

- Require that patients pay out-of-pocket (co-insurance, deductibles) based on the discounted price the PBM has negotiated on behalf of the insurer.

Right now insurers funnel most of the savings that PBMs negotiate into reduced premiums. But that leaves patients paying full price at the pharmacy counter.

In other parts of the health care system, if your insurer has negotiated a discounted price, such as for hospital care or a radiology procedure, that lower price is what is charged if you must pay a percentage of the price (co-insurance) or must pay out of pocket if you haven’t fulfilled your deductible. This should be the case for prescription drug prices, too. But right now it isn’t. Currently patients are paying based on the list price, not the negotiated price, when they are paying out-of-pocket for their medications. And it isn’t always easy for patients to know now what the negotiated price IS.

Recommendation 3.e.

- Set monthly co-pay and co-insurance limits to protect patients from coming up with the full cost of their expensive medications in the beginning of the year until their out-of-pocket caps kick in.

Connecticut may want to look to a bill that California passed in 2015 that was implemented last year. That bill set monthly limits that would be high enough that they would not raise premiums, while still being helpful to many consumers.