Quality is Our Bottom Line

Connecticut Association of Health Plans

Comments regarding

Health Care Cabinet
Proposed Pharmacy Recommendations

January 15, 2018

The Connecticut Association of Health Plans appreciates the opportunity to provide a second round of comments on the Cabinet's recently released pharmacy recommendations. According to the Department of Insurance, pharmacy trend now accounts for close to 18% of the premium dollar. Such figures cement the necessity of the current deliberations - though we may disagree with some of the outlined approaches. As we articulated in our earlier submission, addressing the actual "unit cost" of pharmaceuticals is paramount to any new initiative. To the extent that the various proposals support that goal, we agree that a continued conversation is warranted.

Transparency of pharmaceutical pricing by manufacturers is one key component. Likewise, we concur with the concept of requiring entities to disclose advocacy group funding. Such measures would allow policymakers and the public alike to judge the merits of particular proposals from a much fuller vantage point.

With respect to the SIM initiative, many of our carriers have been actively engaged in these discussions over last several years and we support strengthening the ability of health plans to enter into value based payment arrangements with the caveat that innovation and competition not be obstructed. Health carriers have largely spearheaded these initiatives developing payment models that incent quality based care and such blueprints have showed significant promise. We oppose measures that would hinder future successes.

The recommendations before you are sweeping and complex in nature with far reaching impact. While seemingly well-intended, some proposals would be impossible to administer, cause a significant correlating increase in premium, or simply not solve the problem intended. Further, certain proposals, like requiring PBM fiduciary responsibility, have already been struck down by the courts as preempted by ERISA. Measures that seek to pass through drug rebates at the point-of-sale make for a great sound bite, but they fail to fill the bill under a more critical analysis. Consider that:

280 Trumbull Street | 27th Floor | Hartford, CT 06103-3597 | 860.275.8372 | Fax 860.541.4923 | www.ctahp.com

- Generic drugs have no rebates and nationally represent over 90% of all prescriptions written.

- New drugs and non-preferred drugs, which may have no competition, are under no obligation to offer rebates which is why tiered formularies are key to getting manufacturers to lower their prices.

- Roughly, only 6 percent of all prescriptions might have a rebate and of those, point-of sale-rebate would be irrelevant for those subject to a copay. Regardless of a drug's actual cost, the copay would be the same.

- There *may* be some savings for those with high deductible or coinsurance plans but any benefit would likely be minor and would be offset by higher premiums. Consumers would be better served by efforts to reduce the cost of drugs themselves.

- Health plan pricing is transparent, but pharmaceutical pricing is not.

- Carriers are accountable for how premiums are spent by virtue of the Medical Loss Ratio (MLR). If carriers don't meet MLR, they must rebate the difference to consumers. The opposite is not true however. If carriers spend *more* on claims than collected in premium there are no provisions in place for plans to recoup the difference.

- Given escalating trends in drug pricing and the recent high-profile price gouging incidents, carriers need to have every tool in their toolbox to combat higher drug costs. Those tools ultimately translate into benefits for consumers.

Many of the same arguments apply to the report's monthly maximum copay provisions. When you cap copays, there is no incentive for providers or consumers to look at lower cost alternatives. Cap the Copay campaigns have been advanced nationally through advocacy groups funded largely by pharmaceutical companies and this proposal must be considered in that vein. Furthermore, such provisions would clearly have an impact on Connecticut's Exchange which is bound by ACA requirements with respect to AV calculator estimations.

As we did in our earlier remarks, we would encourage you to look at statements provided by the Federal Trade Commission on the unintended consequences of aggressive PBM legislation. The anticipated results are often the complete opposite of the intentions and it is consumers that will ultimately pay the price.

With respect to the audit provisions, these are measures that should be determined by private contract. PBMs and carriers are large sophisticated entities that have the ability to build these requirements into their contracts right now. In many instances an audit function may not make sense depending on where one sits. In the context of adjusted community rating, rates can only be set according to certain criteria which make individual company experience largely irrelevant.

We oppose the prospect of allowing private sector businesses to buy-in to the state employee pharmacy plan. A government entity should not be competing with one of its largest employment sectors. As has been determined in past debates, the benefits of opening up the state employee plan are questionable and likely to come with a significant fiscal note. It bears repeating what the report specifically points out, "Expanding the availability of the state's contract terms with its PBM.....would require forgoing the state's government exemption from federal ERISA rules and regulations." Advancing this measure is not a message Connecticut should send to its insurance industry nor is this the time for Connecticut to become an outlier in this area.

We appreciate the opportunity to provide comment and hope these remarks are received in the constructive manner which they're intended. There are certainly additional aspects of the report that warrant comment, but given the depth and breadth of the document and time limitations, we will reserve our remarks on those sections for a later time.

Many thanks for your consideration.