

Senate Bill 5 Update--the Pharmacy Perspective

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Presenters

- Don Kupper recently elected President of the Kentucky Pharmacists Association (KPhA)
- Trevor Ray Owner and Operator of Midway Pharmacy

Agenda

- Introduction of Presenters
- Our Goal: Understand where we are after the passage of Senate Bill 5
- Brief Explanation of SB 5 and the actions that lead to its passage
- Senate Bill 5 Implementation
- Medicaid Managed Care Pharmacy Reimbursement Today
- Recent Reimbursement Drop Example
- Lessons from other states
- New Draft Medicaid MCO Contract
- Suggested Improvements
- Conclusions

Glossary of Terms

- **Pharmacy benefit manager (PBM)**: Administers the pharmacy benefit on behalf of health insurance plans including Medicaid Managed Care Organizations (MCOs)
- **Medicaid Managed Care Organization (MCO)**: A contracted third party who administers healthcare benefits to Medicaid beneficiaries for a capitated rate.
- **Department for Medicaid Services (DMS)**: Kentucky Department for Medicaid Services responsible for implementing and administering KY Medicaid.
- **National Average Drug Acquisition Cost (NADAC)**: A federally developed survey of community pharmacies to determine the average acquisition cost for outpatient prescriptions drugs dispensed in Medicaid.
- **Effective Rate Contract (aka GER/BER)**: Average reimbursement for all generic drugs dispensed compared to the average wholesale price (AWP). Example a pharmacy will be guaranteed to make AWP-85% at the end of a contract term. If they are paid too much through the year, money is recouped by the PBM at end of the year. If paid too little they receive additional reimbursement.
- **Spread Pricing**: The difference between the amount paid by the health insurance plan to the PBM and what the PBM reimburses pharmacies.

Senate Bill 5

- In June of 2017, pharmacies across Kentucky saw dramatic drops in reimbursements from the Medicaid Managed Care Organizations (MCOs)
- As introduced, SB 5 would have required DMS to directly administer pharmacy benefits, commonly referred to as a 'carve-out'
- Amended in the House to remove the 'carve-out' provisions and added transparency and data collection requirements along with other pharmacy reimbursement restrictions

Senate Bill 5 Provisions

- Require PBMs to submit pharmacy reimbursement data to DMS
- Gave DMS the authority to review and approve reimbursement rates over 5%
- Allow DMS to set, create or approve PBM established pharmacy reimbursement rates (including fees charged to pharmacies by PBMs)
- Require PBMs to comply with all state and federal laws on the books

Medicaid Pharmacy Reimbursement Today

- Positives for Community Pharmacy

- Increased \$2 Dispensing Fee (provided by the 2018 Kentucky General Assembly and then continued by DMS)
- Data Analysis Conducted by DMS
 - Transparency recommendations
 - Increased accountability for MCOs and PBMs
- DMS action to stop reduced reimbursements on high-frequency dispensed drugs
- Developing a positive working relationship with DMS
- New MCO draft contract includes positive proposed changes

Medicaid Reimbursement Today (continued)

- Medicaid MCO Reimbursement Problems:
 - Spread Pricing
 - Lack of transparency in pharmacy reimbursement data
 - Lack of regulation implementing SB 5 provisions
 - PBMs utilizing 'effective rate' contracting practices
 - Specialty Pharmacy
 - Mail order
 - National contracts
 - Accountability
 - Fees

WellCare Example

- On April 16, WellCare dropped reimbursements on a significant number of high-frequency dispensed drugs, including Suboxone.
- Pharmacy advocates immediately contacted DMS
- It was discovered that there was no knowledge from DMS about the issue and it had not been approved
- Previous guidance issued that stated the 5% requirement in SB 5 was a cumulative effect and this guidance was changed after DMS determined that it violated the law
- DMS mandated PBMs to return reimbursement rates to April 1 and required PBMs to correct claims over the same time period.
- DMS working to develop a system for reimbursement rate changes, but won't be ready until the end of the year

Experience from Other States

- Six states reported more than \$865 million healthcare dollars lost to spread pricing (Kentucky, Ohio, New York, Pennsylvania, and Michigan).

Experience from Other States

- In OH, pass-through contracts were implemented with following repercussions:
 - Data reported to the federal government doesn't include spread pricing
 - The OH Medicaid Department doesn't know how much money PBMs are paid for their services or how much money OH pharmacies are being reimbursed from Medicaid MCOs
 - OH pharmacies are seeing increased reimbursements, but not enough to cover their cost of doing business
 - In one study, below-NADAC (national average drug acquisition cost) increased by 42%
 - CVS/Caremark increased specialty drug reimbursements, in one example 2300% (or \$5,000 over NADAC) even when the wholesale cost of buying the drug decreased
 - WHY? Because CVS/Caremark requires MCO-beneficiaries they serve to get specialty drugs from the specialty pharmacies they own.

West Virginia

- Implemented a Medicaid Carve Out in July 2017
- Expected to save \$30 million
- WV Study shows they saved \$54 million
- Prior to the Carve Out, WV paid \$66.8 million in administrative expenses to MCOs for pharmacy benefit.
- After carve out, WV administrative expenses dropped to \$9.9 million

Draft Medicaid Managed Care Contract

- **Positive Contract Improvements:**

- Mandate pass-through contracts
- Prohibit post-adjudication fees, including effective rate contracts
- Continue increased dispensing fee

- **Suggested Additional Improvements from Current Contract:**

- Prohibit National Contracts
- Mandate MCOs hire a transparent PBM
- Set Reimbursement rate
- Increase dispensing fees
- Mandate DMS directly administer pharmacy benefits

Conclusions

- Kentucky pharmacies are still not being adequately and fairly reimbursed
- Pharmacies will continue to work with Medicaid to implement its full authority to set, create and approve reimbursement rates.
- If the current authority DMS has isn't enough, there are other options.
 - DMS could directly administer pharmacy benefits
 - Comprehensive reforms to PBM industry

Conclusions

- PBMs say they provide an excellent service to their clients by saving them money on the cost of prescription drugs.
 - The question is who is actually benefiting from these savings?
- Quote from *The Columbus Dispatch*: “A Dispatch analysis of prescription drugs for the poor and disabled since the state’s latest stab at reforms turns up one simple fact: No matter what laws and regulations are changed, as long as pharmacy benefit managers control Ohio Medicaid’s \$ 3 billion drug-pricing mechanism, it will be difficult to make sure that both Ohio taxpayers and pharmacies are getting a good deal.”

Questions

Thank you
For the opportunity to present to
you today