Senate Bill 5 Update--the Pharmacy Perspective

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Presenters

• Don Kupper recently elected President of the Kentucky Pharmacists Association (KPhA)
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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
  • PBM’s 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