Legislative Budget and Finance Committee

A Report on Prescription Drug Pricing Under the Medical Assistance Managed Care Program

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Mr. Vice-Chairman and Members of the Committee, good morning. Act 2020-120 directs the Legislative Budget and Finance Committee to conduct a study regarding the distribution of and payment for pharmaceuticals in the medical assistance managed care program and report our findings and recommendations to the General Assembly. I am here today to present the results of our study.

Medicaid is an entitlement program authorized by Title XIX of the Social Security Act of 1965. States administer the Medicaid program under federal statutes and regulations. However, states have the autonomy to establish eligibility standards, benefit packages, provider payment policies, and administrative structures under broad federal guidelines.

The Centers for Medicare and Medicaid Services (CMS), through Medicaid and the Children's Health Insurance Program (CHIP), provides health coverage to low-income adults, children, pregnant women, the elderly, and people with disabilities. Medicaid provides health coverage to 81.9 million people and is one of the largest payers for health care in the United States.

The federal government provides standards for the Medicaid program, and states offer additional laws and regulations while administering the program. In Pennsylvania, the Department of Human Services (DHS) manages the Medicaid program (also referred to as "Medical Assistance" or "MA"). The federal government gives states significant latitude to determine eligibility, covered services, the program's structure, etc. DHS administers several contracts to carry out the Medicaid program in Pennsylvania.

The objectives for this study were:

1. To provide an overview of the distribution of and payment for pharmaceuticals in the medical assistance managed care program.
2. To review the reimbursement practices of pharmacy benefit managers to pharmacies within this Commonwealth.
3. To review the reimbursement practices of managed care organizations to pharmacy benefit managers.
4. To investigate and compare the reimbursement rates paid by pharmacy benefit managers to independent pharmacies and chain pharmacies.
5. To study the best practices and laws adopted by other states to address concerns with pharmacy reimbursement practices of pharmacy benefit managers.

To accomplish these objectives, we did the following:

We conducted research and interviews with relevant stakeholders to provide an overview of the distribution of and payment for pharmaceuticals in the medical assistance managed care program.

We conducted extensive research to investigate and compare the reimbursement rates paid by pharmacy benefit managers to independent pharmacies and chain pharmacies. We obtained Medical Assistance (MA) program drug claims data from Managed Care Organizations for 2019 and 2020.

We spoke with representatives from the Department of Human Services, MCOs, pharmacy trade groups, lobbyists, subject matter experts, and other states.

DHS provided a list of the ten most common generic drugs based on the total number of prescriptions (scripts) filled for 2019 and 2020. DHS also provided a list of the top spend brand name drugs from 2019 and 2020.

We selected drug claims for independent and chain pharmacies with the same National Drug Code (NDC) number, basis of payment, quantity, and dispense date. The drug claims were numbered, and a sample claim was generated using a random number

generator. If an MCO plan did not have sufficient drug claims from our sample for an independent and chain pharmacy, an alternate drug from our sample list was used.

We conducted a review of the adjudicated claim transactions received from pharmacies. We compared the claims transaction to the PBM/MCO paid fields within the pharmacy drug claims datasets for each pharmacy that responded to the data request.

We reviewed contracts held between the PBMs and pharmacies within our sample, for any differences in reimbursement methodology among national chain pharmacies, regional pharmacies, and independent pharmacies.

Based on our extensive research and data collection, we found the following:

1. The distribution of and payment for pharmaceuticals in the MA MCO program is complex and opaque in certain areas (such as contracting and pricing).
2. In the review of one sample month of 5 selected drug transactions across all 13 MA managed care plans, there were instances where the median ingredient cost reimbursement was equal among national chains and other pharmacies (regional chains and independents) and other instances where the median reimbursement "benefited" one over the other.
3. During our review of ingredient cost reimbursements for some plans, we saw different coding for maximum allowable cost (MAC) rates depending on the pharmacy type. While it did not impact the median reimbursement analysis, the lack of transparency regarding MAC pricing allowed for reasonable speculation.
4. In our review of one sample month, median dispensing fees greatly varied between MA managed care plans, and all were less than the $10 dispensing fee for the Fee for Service program during the same period.
5. In 11 of 13 MA managed care plans, we did not find evidence of spread pricing in March 2020.
6. In 2 out of 13 MA managed care plans, we found evidence of spread pricing in 2020; however, according to the MCO, this was unintentional, and the issue has since been resolved.
7. In our review of a selected sample of pharmacy contracts with PBMs, we found varied contracted reimbursement rates between the different MA plans.

8. In our review of a selected sample of pharmacy contracts with PBMs, some PBMs were unwilling to provide their contracted rates, despite Act 2020-120 mandating that data deemed relevant be provided to LBFC staff.
9. MCOs and PBMs must submit their reimbursement practices to DHS for review and approval before implementation.
10. Any changes to an MCO's or PBM's reimbursement practices must be submitted to DHS for review and approval prior to implementing the changes.
11. According to DHS, all MCOs and PBMs comply with the required payment methodologies in the DHS MCO Agreement.

Based on our findings, we recommend the following:

1. PBMs, MCOs, and Pharmacy Services Administrative Organizations (PSAOs) should ensure MAC reimbursement practices are transparent to pharmacies before claim adjudication.
2. The General Assembly should require contracts between PBMs and pharmacies to be submitted to DHS and released to oversight organizations, e.g., the LBFC and the Auditor General, when conducting a study of the PBMs and pharmacies.
3. The General Assembly should require all pharmacies participating in the Pennsylvania managed care program to comply with any DHS request for information on pharmacy acquisition costs net of all discounts, rebates, chargebacks, and any other adjustments to the drug's price, not including professional fees.

In closing, I would like to acknowledge the cooperation we received from the staff of the Department of Human Services. We would also like to thank the company representatives and other stakeholders who spoke with us and assisted with this study.

Finally, this report is only possible with the hard work of Ms. Stevi Sprenkle, Ms. Shanika Mitchell-Saint Jean, and Mr. Rick Jones.

With that, I'm happy to answer any questions the committee may have.