Prescription Drug Affordability Boards and Physician-Administered Drugs

A Prescription Drug Affordability Board (PDAB) has authority to establish all-payer, all-purchaser upper payment limits (UPLs) that apply to the entire in-state supply chain (wholesalers, hospitals, pharmacies, etc.) and the financing chain (insurers, pharmacy benefit managers) and other purchasers, such as physicians who administer drugs to patients.

The PDAB will review, and possibly act upon, prescription drugs that create affordability challenges in the state. Affordability challenges arise when patients and payers have a hard time financing a treatment without other significant resource trade-offs (paying for treatment rather than household bills for patients or changing benefit coverage or premiums for payers).

The effect of a UPL on a physician-administered drug will be like the effect on retail prescription drug products. The UPL will apply to all payments, purchases and billings for the drug. For physician-administered drugs, the UPL would apply to the purchases from a specialty drug distributor or a wholesaler and apply to the administering provider, the patient, and the insurer.

If there are no significant price discounts in the marketplace for a specialty drug, the UPL will probably be no greater than 23% of the wholesale acquisition cost (WAC), which is essentially the minimum federal Medicaid rebate amount. There might be larger discounts in the marketplace that might inform UPL decision-making. The UPL should help the system move away from back-end, secret discounts (that is, rebates), which are the predominant way discounts are provided today because the cost of the UPL product will be reduced with transparent charge amounts. Providers and suppliers can negotiate discounts beyond the UPL but cannot pay more.

A UPL should help level the playing field for providers and their patients. An affordable payment limit that applies to all purchasers, payers and patients will:

- Provide a baseline of equitable access to lower costs. (Some providers may get even better discounts, but the UPL is an affordable baseline.)
- Improve patient access to costly drugs.
- Increase sales of costly products.
- Improve the fairness of reimbursement so that small-scale providers are not reimbursed at or below their costs while larger systems are reimbursed well above their costs because of their size and market leverage.

The PDAB, insurers and providers who administer drugs, will have to discuss if providers will be able to mark up the cost of the UPL and, if so, by how much. Alternately, providers could be reimbursed more for their professional services if the goal is to move the state's healthcare system away from generating income by marking up drug costs.

A UPL is designed to increase product sales, but manufacturers will likely insist they will boycott the state. This empty retaliatory threat has been made before to states and European countries.[i]

The point of a UPL is to improve access by improving the affordability of important products, which means better patient care and more rational drug costs.

[i] Most recently, Aspen Pharma threatened to boycott the European Union (EU) when the EU accused it of price gouging. Sales continued without interruption, and Aspen agreed to reduce the price of its cancer products by 73% for the next 10 years (STAT *Pharmalot*, February 10, 2021).