Support HB22-1122 Pharmacy Benefit Manager Prohibited Practices

Representative Will and Senator Jaquez Lewis

Community Health Centers, pharmacies, and other safety net providers are concerned about insurance company and pharmacy benefit manager (PBM) practices that negatively impact their ability to meet their mission of providing comprehensive primary health care to patients in communities across the state.

What Does HB22-1122 Do?

Section 1 prohibits a pharmacy benefit manager (PBM) or its representative from reimbursing a pharmacy in an amount less than that National Average Drug Acquisition Cost (NADAC) for a prescription drug.

What is NADAC?

NADAC (National Average Drug Acquisition Cost) is the most reliable, and accurate index of drug acquisition costs – the amount a pharmacy purchases a drug for resale. Pharmacies are reimbursed by PBMs and Health Plans for dispensing a drug to consumers. Even if a pharmacy is reimbursed below the actual cost of a drug, contract provisions with PBMs or Health Plans require the pharmacy to fill the prescription. PBMs and Health Plans prohibit a pharmacy from refusing to fill a prescription regardless of the amount of the reimbursement for the drug. If a pharmacy is paid below their purchase price, the pharmacy MUST fill the prescription, or their contract may be revoked.

Reimbursing pharmacies below cost is an unfair business practice and creates access issues for consumers. When a pharmacy is repeatedly reimbursed below their cost, the likelihood the pharmacy will purchase and stock that drug is low. Consumers suffer access to their drugs because pharmacies are not stocking the drugs reimbursed below cost.

NADAC is a well-accepted standard for the cost of purchasing a drug. HB22-1122 creates a floor for PBMs and Health Plans to reimburse a pharmacy. Establishing the NADAC floor is a fair business practice for the pharmacy and continues access for the consumer.

Section 2 enacts the "Colorado 340B Prescription Drug Program Anti-Discrimination Act", following the lead of 15 states[i] that have enacted similar laws with broad bipartisan support over the last three years. This Act would prohibit certain practices by Pharmacy Benefit Managers (PBMs) and other health payers that negatively impact 340B entities and their contracted pharmacies by offering them lower reimbursement for medications. HB22-1122 would prohibit pocketing the savings of 340B providers, enacting network restrictions, financially penalizing patients for accessing 340B pharmacy services or limiting their access to these services.

What is 340B?

In 1992, Congress created the 340B program to improve access to pharmaceutical care for vulnerable populations by helping safety-net providers stretch scarce federal resources. Pharmaceutical manufacturers are required to provide front-end discounts on drugs to 340B providers, who then offer prescription drugs at significantly reduced costs to their patients, many of whom may lack insurance

Contact Persons:
Fofi Mendez: fofi@mendezbarkis.com or (720) 530-6914
Jennifer Miles: jennifer@frontlinepublicaffairs.com or (303) 668-3979
Jennifer Goodrum: jbgoodrum@michaelbeststrategies.com or (303) 999–6553

coverage and/or live with complex chronic conditions and would otherwise go without these crucial medications. Savings generated from the 340B program are required to be reinvested back into patient services, to expand services such as care-coordination, housing and food assistance and transportation to reach more vulnerable individuals. The following organizations (called "covered entities") are eligible to participate in the 340B program:

- Federally Qualified Health Centers (FQHCs)
- Native Hawaiian and Tribal/Urban Indian Health Centers
- Ryan White HIV/AIDS Program Grantees
- Children's Hospitals, Critical Access Hospitals, Disproportionate Share Hospitals, Rural Hospitals

Medications commonly accessed under the federal 340B program include those that help manage complex chronic conditions such as cancer and arthritis medications, immunosuppressants for transplants, insulin and heart medications. The 340B program helps to keep drug prices low for patients and provide additional wrap around care like medical services, mental health supports and more – to ensure that patients stay healthy.

What Practices Need to be Prohibited?

HB22-1122 is aimed at reigning in discriminatory reimbursement which runs counter to the established intent and purpose of the 340B program. The practice forces 340B providers to pass along their savings to private insurers and PBMs. The 340B program was not intended to supplement the financial bottom line of insurers and PBMs. Insurers and PBMs should not be permitted to pocket these dollars and disrupt the essential patient care and drug cost savings intended for patients covered under the 340B program. Ultimately, discriminatory reimbursement directly hurts our most vulnerable communities by making it harder for safety net providers to extend services to more people or offer more comprehensive care.

Supporters of HB22-1122: Pharmacy Benefit Manager Prohibited Practices

RxPlus Pharmacies
Colorado Community Health Network
Vivent Health
Colorado Pharmacists Society

[i] WV, MN, MT, OR, SD, UT, GA, OH, ND, IN, AL, AR, TN, VT, and NC.

Contact Persons:
Fofi Mendez: fofi@mendezbarkis.com or (720) 530-6914
Jennifer Miles: jennifer@frontlinepublicaffairs.com or (303) 668-3979
Jennifer Goodrum: jbgoodrum@michaelbeststrategies.com or (303) 999–6553