



March 29, 2019

Dear Chair Salinas and Members of the House Health Care Committee,

Following up on information the Oregon Health Authority (OHA) provided on House Bill 2678 on February 27, 2019, this letter is intended to summarize the -2 amendments and our intended approach to implementing the bill with the -2 amendments. First, we thought it would be helpful to provide a brief overview of the important role of preferred drug lists (PDL) in the administration of pharmacy benefits in Medicaid.

Background: Preferred Drug Lists and Rebates

Preferred drug lists are an important tool for state Medicaid programs to manage prescription drug costs. By designating drugs as “preferred,” the state can increase the use of lower cost drugs with the same effectiveness as higher cost alternatives. Currently, OHA establishes a PDL for fee-for-service members—those members who are not enrolled in a CCO, and CCOs establish a PDL for members they serve.

When determining the net cost of a drug the state must consider both the price initially paid for the drug as well as any rebates received back to the state for the drug. Rebates effectively reduce the cost of the drug. There are multiple rebates to consider when determining net cost, including federal rebates (negotiated by the federal government on behalf of states) and supplemental rebates negotiated by OHA or by coordinated care organizations (CCOs).

Rebates provide significant savings to state Medicaid programs. In Oregon, federal and supplemental rebates combined reduce the total drug expenditures in the Oregon Health Plan by nearly 50%. The bulk of rebate funding received by the state is through federal rebates. Under federal law, as a condition of the state receiving federal rebates, state Medicaid programs are required to cover all FDA-approved drugs whose manufacturer has entered into a federal rebate agreement with the federal government. However, as part of the federal rebate program, state Medicaid programs are guaranteed:

- 1) the “best price” from a participating manufacturer,
- 2) minimum generic and brand rebate amounts, and
- 3) protections against drug pricing increases.

While most rebates funding is received through the federal program, Oregon does negotiate state supplemental rebates, when possible, to further reduce drug costs, as required by ORS

414.326. As part of a state supplemental rebate agreement, manufacturers may require that their drug be placed on the preferred tier of the state PDL. In addition, the state may also have to agree to specific terms regarding prior authorization criteria to minimize limits on the utilization of the manufacturer's drug. Both federal and supplemental rebate agreements require confidentiality with regards to drug-specific rebate information.

Oregon has the greatest opportunity to leverage savings through rebates when there is alignment across preferred drug lists that ensures the state can maximize federal rebates and state negotiated supplemental rebates. This does not require complete alignment of all drugs on all preferred drug lists, which could be administratively burdensome for the state and CCOs and could have unintended consequences for patients. As described below, an independent analysis by Myers and Stauffer of current prescribing practices found that most savings could be achieved through focused efforts on strategically aligning certain classes of drugs across the state and CCO preferred drugs lists.

HB 2678-2 and the Practitioner-Managed Prescription Drug Plan

HB 2678-2 provides the clarity previously sought regarding the Practitioner-Managed Prescription Drug Plan (PMPDP, or Preferred Drug List). It provides OHA with the necessary authority to meet a key CCO 2.0 recommendation of the Oregon Health Policy Board. The Board specifically urged the OHA to increase alignment of individual CCO PDLs with the statewide PDL for the fee-for-service (FFS) portion of the Oregon Health Plan. The clarity given by this amended bill aligns with the Board recommendations as well as with model contract language currently posted within the CCO 2.0 request for applications.

More specifically, HB 2678-2 directs OHA to create and maintain:

- 1) a preferred drug list for drugs prescribed in the medical assistance program for the fee-for-service program, as well as
- 2) an aligned preferred drug list (PDL) for drugs reimbursed by a Coordinated Care Organization.

OHA is committed to ensuring that the aligned CCO PDL accomplishes the following purpose as required in the amended bill, including:

- Simplifies prescribing for prescribers
- Simplifies recipient transitions by ensuring consistent prescribing practices, and
- Achieves cost savings for the Oregon taxpayer while minimizing disruptions to recipients' treatment regimens

As informed by a third-party analysis completed by Myers and Stauffer, OHA realizes that the list of drugs that meet these criteria will be a subset of overall drugs. To determine which drugs should be included in this partially aligned CCO PDL, OHA will engage CCOs by establishing a CCO sub-committee that serves in an advisory role to the Pharmacy and Therapeutics (P&T) Committee. The sub-committee shall review and recommend to the P&T Committee drug classes and identified agents for CCO PDL alignment within the PMPDP, based on the following information: utilization and cost data for medical assistance programs as well as materials posted for P&T Committee review. The CCO sub-committee recommendations for CCO PDL alignment will directly inform the P&T Committee which is statutorily charged with making formal recommendations about the PMPDP to OHA.

HB 2678-2 and Prior Authorization Authority

HB 2678-2 takes the important step of clarifying OHA's prior authorization authority, as currently exercised, to manage the PMPDP and removes language from statute regarding prior authorization that is not implementable. This sustained prior authorization authority is critical to allow OHA to direct utilization of preferred drugs to maximize rebates, assure safe and clinically appropriate drug utilization, and ensure that drugs are covered in accordance with the Prioritized List.

The OHA thanks the Committee for its time and work on this bill. We are happy to answer any further questions.

Sincerely,

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