Medicaid Managed Care Reform

The problem: Medicaid drug costs are increasing, pharmacy reimbursements are decreasing. Something isn't adding up.

As pharmacy reimbursement rates are ratcheted down, pharmacy providers are frequently reimbursed at rates that leave them "underwater" on the medications they dispense. Eventually, this leads to drastic negative effects on pharmacy providers as well as the vulnerable Medicaid beneficiaries who they serve. Meanwhile, Medicaid budgets are soaring.

The cause: PBMs are pocketing millions of dollars by using opaque business practices, such as spread pricing.

States have found that an excessive amount of taxpayer dollars remain with pharmacy benefit managers (PBMs).

- Pennsylvania: Between 2013 and 2017, the amount that taxpayers paid to PBMs for Medicaid enrollees more than doubled from $1.41 billion to $2.86 billion.
- Ohio: the state Auditor found that, of the $2.5 billion that's spent annually through PBMs on Medicaid prescription drugs, PBMs pocketed $224.8 million through the spread alone during a one-year period.
- Kentucky: A state report found that PBMs keep $123.5 million in spread annually, which doesn't include the extra revenue PBMs obtain through the use of retroactive pharmacy transaction fees taken after the point of sale.
- Louisiana: PBMs retained $42 million that was incorrectly listed as "medical costs."
- New York: PBMs in the Medicaid managed care program used spread pricing to pocket a 32% markup on generic prescriptions.[1]

The solution: Increase PBM Transparency/Accountability and Ensure State Oversight of Medicaid Managed Care Programs

- **Carve pharmacy benefits out of the Medicaid managed care program and administer the benefits through the fee-for-service program**

West Virginia carved pharmacy benefits out of the Medicaid managed care program in 2017 after an actuarial study showed the move could save the state $30 million. Because PBMs have failed to control drug costs, California has decided to carve pharmacy benefits out of its Medicaid managed care program. In Texas, a state-commissioned study has shown that carving pharmacy benefits out of the Medicaid managed care program could save the state up to $90.3 million a year.[2]

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[1] Pennsylvania Auditor General, *Bringing Transparency & Accountability to Drug Pricing* 6 (Dec. 11, 2018), *available at* https://www.paauditor.gov/Media/Default/Reports/RPT_PBMs_FINAL.pdf. Auditor of State of Ohio, *Auditor's Report: Pharmacy Benefit Managers Take Fees of 31% on Generic Drugs Worth $208M in One-Year Period*, (Aug. 16, 2018) https://ohioauditor.gov/news/pressreleases/Details/5042. Kentucky Department for Medicaid Services, *Medicaid Pharmacy Pricing: Opening the Black Box* 5, 8 (Feb. 19, 2019), https://chfs.ky.gov/agencies/ohda/Documents1/CHFS_Medicaid_Pharmacy_Pricing.pdf. Melinda Deslatte, *Task Force: Is Louisiana Medicaid Drug Spending Inflated?*, U.S. NEWS & WORLD REPORT (Oct. 26, 2017), *available at* https://www.usnews.com/news/best-states/louisiana/articles/2017-10-26/louisiana-spending-on-medicaid-prescription-drugs-questioned. Robert Langreth, *Drug Middlemen Got Hefty Markup in New York, Pharmacy Group Says,* BLOOMBERG (Jan. 24, 2019), *available at* https://www.bloomberg.com/news/articles/2019-01-24/drug-middlemen-got-hefty-markup-in-new-york-pharmacy-group-says.

[2] Chris Linville, *West Virginia: Medicaid carves out savings*, AMERICA'S PHARMACIST, May 2018, at 31. California Executive Department, Exec. Order N-01-19. Rider 60, *Final Report on the Study of Potential Cost Savings in the Administration of Prescription Drug Benefits* 3 (Aug.

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- **Avoid PBM spread by adopting a pass-through pricing model**

Under a pass-through pricing model, PBMs are paid an administrative fee, which is the only source of revenue under the contract, thus avoiding any costly PBM spread. Arkansas and Louisiana have implemented a pass-through pricing model for their Medicaid managed care programs, and Ohio made the same decision after a state-commissioned report showed the move could save the state over $16 million while increasing pharmacy reimbursement by over $191 million. Realizing the move would improve access to pharmacists' care, Georgia's Medicaid managed care organizations will be switching to a pass-through pricing model.[3]

- **Require PBMs in the Medicaid managed care program to reimburse pharmacies at fee-for-service rates**

As shown by Iowa, Kansas, Louisiana, Mississippi, and North Carolina, state Medicaid programs have the authority to ensure reasonable contract terms between MCOs/PBMs and community pharmacies - for example, competitive reimbursement rates.

These states know how their tax dollars are being spent because they establish the reimbursement rates for pharmacy services in their Medicaid managed care programs. In those states, PBMs must reimburse pharmacies at the same rates established under the fee-for-service program.[4]

- **Increasing regulatory oversight over PBMs in the Medicaid managed care program**

Some states have passed legislation giving Medicaid officials greater oversight over the PBM Medicaid managed care contracts. In Kentucky, Medicaid officials now have greater oversight over PBM contracts and use of tax dollars in the Medicaid managed care program. This oversight allowed the Kentucky Department for Medicaid Services to analyze the use of spread pricing in the state, leading the Department to recommend that the state further increase transparency by eliminating spread pricing and implementing a reimbursement floor equal to fee-for-service rates. Additionally, Virginia and Georgia have passed legislation requiring disclosure of the PBM spread in their Medicaid programs.[5]

17, 2018), *available at* https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2018/sb1-rider60-prescription-drug-mco-august-2018.pdf.

[3] Ark. Code Ann. § 4-88-803; La. Rev. Stat. § 39:1648; Lucas Sullivant and Catherine Candisky, *Ohio firing pharmacy middlemen that cost taxpayers millions*, THE COLUMBUS DISPATCH (Aug. 14., 2018), *available at* http://gatehousenews.com/sideeffects/ohio-firing-pharmacy-middlemen-cost-taxpayers-millions/site/dispatch.com/; HealthPlan Data Solutions, LLC, *Executive Summary: Report on MCP Pharmacy Benefit Manager Performance,* 6 (June 15, 2018); *Georgia's managed-care organization to abandon "spread" pricing,* GEORGIA PHARMACY ASSOCIATION, http://www.gpha.org/mcos/.

[4] Iowa Department of Human Services, *Informational Letter No. 1627-MC*, (Mar. 14, 2016); Louisiana Department of Health, *Provider & Plan Resources: Frequently Asked* Questions, http://ldh.la.gov/index.cfm/faq/category/82; Mississippi Division of Medicaid, *Frequently Asked Question about the MississippiCAN Program* 6, *available at* https://www.medicaid.ms.gov/wp-content/uploads/2014/03/MSCAN_FAQs.pdf; North Carolina Department of Health and Human Services, *North Carolina's Proposed Program Design for Medicaid Managed Care*, (Aug. 2017).

[5] Ky. Rev. Stat. § 205.647. Ky. Dep't Medicaid Servs., *supra* note 1, at 11. Item 310 V of the 2017 Appropriations Act (Va.); H.B. 684 (Ga. FY2019).