
MEMORANDUM

TO: Members of the Senate Health & Welfare Committee
FROM: Keith M. Jones, Esq.
DATE: March 11, 2015
SUBJECT: Draft Committee Health Care Bill Pharmacy Benefit Managers

Thank you again for the opportunity to testify this morning on behalf of our client CVS Health regarding Section 1 (Pharmacy Benefit Managers) on your draft health care committee bill (dr. req. 15-1145 v.1.2). CVS Health is a unique integrated pharmacy company, which includes CVS/pharmacy, Caremark (pharmacy benefit manager) and CVS Minute Clinics. Effective January 1, 2015, Caremark has been acting as pharmacy benefit manager for MVP Health Care.

Maximum Allowable Cost

Maximum Allowable Cost ("MAC") is a reimbursement methodology originally developed by Medicaid to normalize reimbursement and encourage efficient purchasing decisions. MAC is used to reimburse pharmacies for generic drugs. There are thousands of different sources for generic drugs and different versions of the same generic drugs with widely varying prices. At this point, the vast majority of CVS/Caremark's clients use the MAC methodology for generic drug reimbursement. Each pharmacy benefit manager, including CVS/Caremark, can administer hundreds or thousands of MAC lists, each with a couple thousand generic National Drug Codes with different reimbursement levels. This is complex, but the MAC methodology works to stabilize otherwise volatile generic drug costs for our clients and encourage efficient purchasing decisions by pharmacies. MAC will vary from, and may be more or less than, a pharmacy's actual cost for purchasing a specific drug, but the effectiveness of this reimbursement methodology can only properly be evaluated in the context of a pharmacy's overall drug spending and reimbursement. The proposal in this bill to enact a statutory guarantee against a pharmacy taking a loss on any individual drug purchase would undermine the effectiveness of this methodology and significantly increase costs for our clients.

The MAC reimbursement model and CVS/Caremark's use of it have both evolved in recent years in response concerns about the transparency of the methodology. In the past, pharmacies would not have known the MAC reimbursement for a drug until it was dispensed and a claim was filed and adjudicated. CVS/Caremark has implemented a web-based solution to enable pharmacies to query MAC prices for individual generic drugs, which is available to Vermont pharmacies. In

addition, CVS/Caremark reviews and updates its MAC lists on a continuous basis. As such, CVS/Caremark does not believe that the restrictions on the use of the MAC reimbursement methodology in this bill are necessary at this time.

In addition, CVS/Caremark is particularly concerned about the appeal provisions proposed to be added as 18 VSA 3812(6). CVS/Caremark currently has appeal procedures in place which pharmacies can and do avail themselves to challenge MAC pricing for specific drugs. However, from an administrative perspective, CVS/Caremark must handle these appeals on an individual transaction by transaction basis. Administratively CVS/Caremark does not have the ability to retroactively adjust pricing and apply adjustments to other transactions processed for different patients through other pharmacies on behalf of different payers. Once a transaction has been completed among patient, pharmacy, pharmacy benefit manager and payer, it would be extremely disruptive to require that the transaction be automatically adjusted to reflect the results of an appeal.

Choice of Pharmacy

The provisions proposed to be added as 3821 are also problematic from CVS/Caremark's perspective. Existing law requires that retail pharmacies be allowed to fill prescriptions on the same terms and conditions as a mail order pharmacy. 8 VSA 4089j. Subsection (a) would prohibit health plans and pharmacy benefit managers from incentivizing use of cost-effective mail order pharmacies and put upward pressure on pharmaceutical costs, despite the fact that retail pharmacies must be offered the same terms and conditions under current law. In addition, subsection (b) would effectively eliminate the use of networks by health plans and pharmacy benefit managers. Networks are very effective in saving money for payers and, ultimately, their members. However, they are also important tools for ensuring that pharmacies have the expertise and ability to provide integrated clinical and case management services that are necessary to properly administer the complex pharmaceutical treatment plans mandated for certain complex medical conditions, often involving specialty drugs.