

## **Legislative Report for PSSNY Board Meeting February 12, 2014**

*Charles R. Catalano, PSSNY Legislative Chairman*

*Elizabeth Lasky PSSNY, Lobbyist*

AMMO REFORM and REPEAL OF AAC/COD are the two major issues which will be discussed on the March 4, 2014 Independent Pharmacists and Pharmacy Owners Lobby Day. In addition another topic will be the prompting of a PBM/MAC transparency bill, which will include a provision that no pharmacy should be reimbursed for a product, which is below the net cost of the product.

Subcommittees were formed for PBM/MAC Transparency and The Escalation of Generic Prices, Pharmacy Technician Registration, Immunizer Expansion and Reform, CDTM, Recognized a Pharmacist as a Health Provider.

January 29<sup>th</sup> Subcommittee Conference Call.

Below is brief synopsis of the Legislative sub committee conference call which took place on the evening of January 29th.

Attachment to this e-mail is also notes prepared by Elizabeth Lasky for the sub-committee call.

**The Registration of Pharmacy Technicians** was the first sub committee discussion. The sub committee agrees that a bill should be developed to register non licensed personnel however which additional employees that are involved in the pharmacy should be registered is still up for discussion. The Vermont law regarding Pharmacy Techs was discussed. This will need to be a topic of discussion at the next board meeting on February 12th. Elizabeth has approached Assemblywoman Glick about possibly sponsoring a technician registration bill.

**PBM MAC Transparency** background information was provided by Debbi Barber. Elizabeth and Tracy will prepare wording for a bill to be presented to the sub committee. After the bill wording is approved by the sub committee and the PSSNY Board, Elizabeth will then attempt to obtain a sponsor.

PBM MAC Transparency Research Debbi Barber:

### **Review of Legislation for PBM/MAC**

**Best definition of PBM is from Kentucky (I struggled with this piece as there are various)**

**Pharmacy benefit manager" means an entity that contracts with pharmacies on behalf of a health benefit plan, state agency, insurer, managed care organization, or other third-party payor to provide pharmacy health benefit services or administration.**

### **Best definition of Maximum Allowable Cost**

"Maximum allowable cost price" means a maximum reimbursement amount for a group of therapeutically equivalent and pharmaceutically equivalent multiple source generic drugs. The drug has at least three nationally available, therapeutically equivalent, multiple source generic drugs with a significant cost difference

### **With respect to contract**

Disclose the market - based sources utilized for setting maximum allowable cost price rates on each maximum allowable cost price list included under the contract and identify each network or pharmacy provider to which each list applies. A pharmacy benefits manager shall make the list of the maximum allowable costs available to a contracted pharmacy in a format that is readily accessible and usable to the contracted pharmacy.

Some wording we could add to the above would be; include the methodology used to calculate the Maximum Allowable cost and ensure that the dispensing fees are not included in the calculation of maximum allowable cost.

Ensure maximum allowable cost prices are not set below market - based sources available for purchase without limitations by pharmacy providers.

Provide a reasonable administrative appeals procedure to allow a dispensing pharmacy provider to contest a listed maximum allowable price rate. The pharmacy benefits manager shall respond to a provider that has contested a maximum allowable price rate through the procedure within seven calendar days. If an update to the maximum allowable price rate is warranted, the pharmacy benefits manager shall make the change retroactive based on the date of the pharmacy provider's invoice and make the adjustment effective for all pharmacy providers in the network.

Shall update each list maintained by the pharmacy benefit manager every seven business days and make the updated lists, including all changes in the price of drugs, available to network pharmacies in a readily accessible and usable format.

A telephone number at which a network pharmacy may contact the pharmacy benefit manager and speak with an individual who is responsible for processing appeals

If the appeal is denied, the reason for the denial and the national drug code of a drug that may be purchased by similarly situated pharmacies at a price that is equal to or less than the maximum allowable cost.

A pharmacy benefits manager may not place a prescription drug on a maximum allowable price list unless:

- a. The drug has at least three nationally available, therapeutically equivalent, multiple source generic drugs with a significant cost difference;
- b. The drug is listed as therapeutically equivalent and pharmaceutically equivalent or "A" or "B" (unsure if we want B rated) rated in the United States food and drug administration's most recent version of the "Orange Book"; and
- c. The drug is available for purchase without limitations by all pharmacies in the state from national or regional wholesalers and not obsolete or temporarily unavailable.

*(The below section truly emits transparency)*

A pharmacy benefits manager shall disclose to a plan sponsor whether the pharmacy benefits manager is using the identical maximum allowable price list with respect to billing the plan sponsor as the pharmacy benefits manager uses when reimbursing all network pharmacies. If multiple maximum allowable price lists are used, the pharmacy benefits manager shall disclose to the plan sponsor any differences between the amount paid to any pharmacy and the amount charged to the plan sponsor.

### **Penalty**

A pharmacy benefits manager that violates this section is guilty of a class B misdemeanor.

North Dakota law states that the law is relating to maximum allowable cost lists and to provide a penalty. **Maximum allowable cost lists for pharmaceuticals - Pharmacy benefits managers -Penalty.**

**From New Jersey's A679** (These are important and should use some of them if not all)

A PBM “payer” shall not offer terms and conditions for participation in the payer’s network as a preferred or contracting provider that provide for reimbursement to a retail “community” pharmacy for prescription drugs in an amount that is less than the retail “community” pharmacy’s acquisition cost for that drug or

- Require, as a precondition of participation in the payer’s network, unreasonable standards or participation criteria that would effectively prohibit participation in the payer’s network by a retail pharmacy or place a significant financial burden on a retail pharmacy.
- With respect to any maximum allowable cost pricing system used by a payer for multiple source pharmaceuticals, the payer shall not reimburse a retail pharmacy for a prescription drug under any prescription plan, in an amount less than the retail pharmacy’s acquisition cost for the drug.

**Immunization Expansion and Reform** discussed S5688 sponsored by Senator Hannon and is awaiting a bill introduced by Assemblywoman Amy Paulin. Elizabeth and the sub committee agreed that coalition partners should be sought.

**CDTM Sub Committee** invited Joe Waltz to comment on his analysis of the Maine CDTM law. The sub committee is awaiting a report from the Board of Pharmacy and the DOH to be presented to the legislature. PSSNY has previously commented on the need for CDTM to be included all qualified pharmacists. The sub committee was given the charge to investigate what type of credentialing is already in place for other states.

Pharmacist as a Health Provider sub committee discussed the California new law and was given the charge to explore how other states have recognized a pharmacist as a health provider. It was also suggested that input be obtained from NCPA.

As a reminder these sub committees recommendations are presented to the PSSNY board who then has the authority to direct the Legislative Committee to continue further investigation or to seek legislation for the above mentioned.

PSSNY Legislative Conference Call February 5, 2014

March 4<sup>th</sup> Lobby Day Talking Points to be developed by Elizabeth Lasky for AMMO Reform, AAC/COD Repeal and PBM/MAC Transparency which will include the NYSHIP change to CVS Caremark.

#### Pharmacy Technician

Who should be registered?

#### CDTM

Awaiting State Board and DOH proposal

#### Immunizer Expansion and Reform

Awaiting bill from Assemblywoman Glick

#### Pharmacist as a Health provider

Possibly Consider with CDTM bill

Registration for March 4<sup>th</sup> Lobby Day

PSSNY Leadership Teams

Second Joint Pharmacy Lobby Day or 2<sup>nd</sup> PSSNY lobby day April 29<sup>th</sup>