

Recapping the 2015 Legislative Session

Budget win When the legislature passed the 2015-2016 state budget in March, pharmacy reimbursement in Medicaid fee for service remained at status quo. This represented a victory for organized pharmacy and a defeat for the administration's proposal to drastically reduce reimbursement for brands (to AWP- 24 % or WAC-9%). Once again the strategic alliance of PSSNY, Chain Pharmacy Association of New York, the NY Chapter of the American Society of Consultant Pharmacists and the NYS Council of Health System Pharmacists held firm. In a well-coordinated effort with a focused message, pharmacists contacted their legislators and convinced them that the Governor's proposal would damage pharmacies and would, in turn, harm Medicaid recipients. Once again both the Senate and Assembly stood by pharmacists.

Legislative victory for MAC Appeal In another strategic win for organized pharmacy, both the Senate and Assembly passed legislation that amends the Public Health Law to define pharmacy benefit managers (PBMs) and mandate that any contract between a PBM and a pharmacy and/or its PSAO must include the MAC appeal process that is specified in the bill. It would require that the PBM contract identifies the name and contact information for the individual responsible for handling appeals. A pharmacy would have 30 days to file an appeal (from the date the claim in question was submitted), and the PBM would have 7 business days to rule on the appeal. If the appeal is successful, the appealing pharmacy would be notified and then resubmit the claim in order to receive the correct payment, retroactive to the date of the original claim. The PBM would be required to adjust the MAC price for all similarly situated pharmacies in the network, effective on the day the appeal was determined to be valid. If the PBM rejects the appeal, it must provide the NDC of the drug available at or below the MAC price from a wholesaler registered with the state. As of this writing, the MAC Appeal bill is one of 343 pieces of legislation awaiting action by the Governor.

So far 21 states have MAC list laws, the most recent being Virginia, Arkansas, Montana, Georgia and California. More importantly, a U.S. District Court in Iowa upheld the MAC disclosure and appeal law against a challenge from the Pharmaceutical Care Management Association (PCMA) that represents big PBMs. Also, the Centers for Medicaid and Medicare (CMS) has ruled that PBMs and Part D plans must make MAC lists available to network pharmacies upon request, thereby fully rejecting PCMA's arguments against disclosure.

As of this writing, the MAC appeal bill is one of 343 pieces of legislation awaiting action by the Governor. Once it is signed, it becomes effective in 90 days.

Steady progress in immunization Every year since 2008, the year in which New York became the 49th state to authorize pharmacists to immunize adults against flu and pneumococcal disease, PSSNY has lobbied successfully to move sunset dates, add vaccines and fine-tune the language of the law so that pharmacists can offer a broader range of professional services. This year saw significant improvement: the list was expanded to

include vaccines for diphtheria, pertussis and tetanus (alone or in combination); all vaccines can be authorized by patient-specific or non-patient specific orders; and pharmacists have access to vaccine registries.

The law also includes several new elements. Vaccines administered pursuant to non-patient specific orders must follow guidelines published by the CDC's Advisory Committee on Immunization Practices (ACIP). This means, for example, that a patient-specific order is needed for Zoster to be administered to an adult under the age of 60. The ACIP schedule of recommended vaccines for adults must be posted in the area in the pharmacy where immunizations are given, and pharmacists are required to report immunizations within 14 days to either the NYC or NYS adult immunization registry. If an individual does not consent to the registry reporting, the pharmacist is required to report the immunization to the patient's primary care provider. Before being immunized, the patient must be made aware of the cost or co-pay amount and whether the immunization is also available from a physician or other primary care provider. Non-patient-specific orders are valid if the physician or nurse practitioner practices in the same or an adjoining county.

Pharmacists' immunizations are a public health success story. Immunization rates have improved overall, particularly among minorities. Pharmacists have responded enthusiastically, with more than 12,000 certified by the NYS Education Department, without a single complaint on file from any source. The bill has been signed. Regulations have been published in the State Register of October 7, 2015.

CDTM expanded to all hospitals, hospital-affiliated clinics and nursing homes with on-site pharmacies. Collaborative Drug Therapy Management represents expanded scope of practice for qualified pharmacists working in clinical settings under written agreements that specify the circumstances in which pharmacists are authorized to adjust dosages, change medications and order laboratory tests for particular patients. Signed into law in September, the legislation continues CDTM as a demonstration program with a sunset in four years.

PSSNY supported the original version of the bill that would have created a pathway for qualified pharmacists to collaborate with physicians across all practice settings.

PSSNY continues to press for greater opportunity for practicing pharmacists and respect for the value that community pharmacies bring to healthcare delivery.

Respectfully submitted,

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