

2019-09-04 Working Group #2 Meeting Notes

- Attendees: Rep. Robert Bierman (RB); Christie Kuehn (CK), Dr. Lenny Snellman (LS), Rose Roach (RR); Prof. Stephen Schondelmeyer (SS)
 - AGO Staff: Sadaf Rahmani, Ben Velzen
 - Public Attendees: Maggie Darling, MDH; Eric Felker
 - Not in Attendance: Rep. John Lesch
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- Getting more public entities to work through MMCAP *is a recommendation*
- What are the causes and contributors?
- Presented as a competitive market, but it is isn't
 - o Granted monopoly because of patents and exclusivity
 - o granted monopolies keep getting extended, too
 - via patent thicket, minor changes to the product, etc.
- What are the contributions of manufacturers, PBMs, insurers and each's role in the process?
- Recommendation: US Patent and Trademark Office should be much more skeptical and cautious in granting patents
- Tell Congress to tweak the patent laws themselves
- Recommendation: Enact laws similar to the law that was recently enacted that prompted Medica and UCare to cap insulin out of pocket costs at \$25 per person
- Recommendation: Require pharmacies to report what the patient or insurer paid for the drug
- Recommendation: Address direct to consumer advertising in some manner, through better disclosures or something of the like
- Possibly ask FDA to re-evaluate their balance rule
- Recommendation: Change testing to clinical versus real world efficacy
- RR: could we just create an insulin manufacturing nonprofit and do it ourselves?
 - o Prof. S: a small nonprofit does this, but it is tough
- Recommendation: Reimport drugs from Canada (but not just Canada, any country with good safety records, such as Europe), but can't do it across the board
 - o Just import three drugs: insulin, Epi-Pen, narcon/naloxone
 - o SS: MN could contract with a wholesaler to do this importation
 - o SS: FDA has spent a lot of time over the last two decades harmonizing their laws with other country's laws; this has allowed reciprocity with respect to inspections, etc.
 - o So in the 30 countries with which it has harmonized its laws, why won't FDA approve importation from these countries

- Recommendation: Change the federal gag law that prevent DHS from releasing manufacturer price and rebate they report to the federal government through the Medicaid program,
- Recommendation: Need to change the laws that are limiting MMCAP so that more state, county, and local agencies can take advantage of MMCAP, is a potential recommendation
 - o SS: do an inventory of all possible entities in the state that could buy through MMCAP, identify the volume of drugs they are buying, and try to get them to buy through MMCAP, is a potential recommendation
- Recommendation: Prohibit co-pay coupons as kickbacks under the state anti-kickback laws, and apply this to the commercial market in Minnesota (look at what Massachusetts did)
 - o Can this be done through an administrative rule?
- Recommendation: Pass MN legislation to establish commission to address drug prices
 - o If they are too high they won't be on DHS formulary / state programs formulary,
 - o but how to do it is the trick, and the threshold for action need to be defined (\$ amount increase vs. % increase?)
- Recommendation: Give the AG authority to address drug price gouging
 - o Rep. Lesch should re-submit his bill
- Recommendation: Address manufacturers paying fees/bonuses to PBMs for PBMs to drive drug use to coupon drugs through a new law or AG enforcement action
- Recommendation: Make some transparency recommendations through the new PBM law.
 - o Invite representative from MDC to talk about implementation of new PBM law
- Maggie: some states passed laws that re-organize what are "core" drugs so persons only pay for these "core" drugs without first paying a deductible
- Recommendation: Expand use of the 340B drug pricing program
 - o possibly through the U of M's pharmacy by ensuring that meet all four criteria (the entity has to qualify, the subscriber has to qualify, patient has to qualify, and drug has to qualify)
 - o AG could provide recommendations to how to better use the program
 - o Make entities the state has some authority over and qualify them for the program
- Could U of M Boynton set up a mail-order pharmacy?
 - o This is state specific, but in theory does not require a change in federal laws
- Prof. S: so maybe we only subject to regulation drugs in a "protected class"; so drugs in such classes get special treatment (e.g., 'drug x' must be covered), but then they are subject to additional regulation regarding pricing
- In other words, we would say that in exchange for mandating these drugs be covered by insurance or a state program, you are subject to increased regulation by our drug affordability commission

- RR: Rep. Morrison (House) and Sen. Rosen (Senate) had a bill on transparency, while policy language did not pass, it did appropriate money to MDH to do research on this
- Lenny: we should also look at medication management programs that insurers sometimes do if different doctors are using different expensive drugs on the same patient
- Prof. S: we should bring in a speaker on medication management

Public Testimony:

- Eric: pharmacy laws are currently run by states, which means states can change their state pharmacy laws to address drug prices
- Eric: also look at alliances with pharmacy networks; for example, a health clinic is being built in MOA; how can pharmacy networks increase access to care
- Eric: access programs for lower priced drugs; MN should negotiate differently to try to gain better access to high price drugs at lower prices for certain patient populations
- Eric: spend more money on education and public awareness programs to educate people on how to get access to lower priced drugs
- Eric: community health workers statute needs to be changed
- Eric: PBM transparency, increase it
- Eric: Europe has done a lot of dividing different drugs into different classes and types, so take our lead from Europe on this
- Eric: Japan has a pricing structure whereby prices start high and then laws require it to drop over time unless there is significant innovation
- Eric: look at a multistate monitoring agency, too

-WG#2 meeting ended at 6:59 p.m.