Highmark's Weekly Capitol Hill Report

Issues for the week ending October 4, 2024

.

Federal Issues

Regulatory

CMS Releases 2025 MA Premiums and Enrollment Projections

CMS released key information on 2025 premiums and deductibles for Medicare Advantage (MA) and Medicare Part D prescription drug plans.

Why this matters: CMS projects that **the average premium for all 2025 MA plans will be $17.00 per month**, a decline from the 2024 average premium of $18.23 and indicates that MA supplemental benefit offerings will remain stable in 2025.

- **Medicare Advantage enrollment is projected to grow in 2025**. Medicare Advantage enrollment in 2025 is projected to be 35.7 million, as indicated in the 2024 Trustees Report, an increase from 2024. This enrollment represents approximately 51% of all people enrolled in Medicare, compared to approximately 50% for 2024.

In this Issue:

Go Deeper: The full notice can be read here.

Pennsylvania
Legislative
- **Pennsylvania Legislative Update: House & Senate Action**

Industry Trends
Policy / Market Trends
- **GAO Recommends CMS Evaluate the Completeness and Accuracy of Hospital Price Transparency Files**
- **Latest Enrollment Figures for Medicaid, CHIP**

CMS Issues Final Guidance for Second Cycle of Medicare Drug Price Negotiation

CMS issued final guidance on key elements of the second cycle of negotiations for the Medicare Drug Price Negotiation Program, which begins in 2025 and will result in negotiated prices for 2027. The final guidance also includes provisions addressing manufacturer effectuation of the maximum fair price (MFP) in 2026 and 2027. In the fact sheet, CMS states that the "final guidance incorporates lessons learned from the first cycle of negotiations, as well as comments received on the draft guidance published in May."

In its press release, CMS highlights that the final guidance states that the agency will engage with a Medicare Transaction Facilitator "that will serve as the infrastructure in the exchange of data and the optional facilitation of payments to ensure that eligible individuals with Medicare and the pharmacies that serve them have access to the maximum fair prices."

In the final guidance, CMS states that it intends to propose in future rulemaking to shorten the current 30-day window for plans to submit prescription drug event (PDE) records to seven days for selected drugs to facilitate more timely payment of MFP refunds to dispensing entities.

CMS Issues Quarterly Update to List of Part B Drugs Subject to the Inflation Rebate Program

On September 30, the U.S. Department of Health and Human Services (HHS) issued a press release updating the list of Part B drugs that will be subject to the Medicare Prescription Drug Inflation Rebate Program under the Inflation Reduction Act. For the 54 Part B drugs beneficiary coinsurance may be lower from October 1

through December 31. The impacted prescription drug list is available in the quarterly ASP public file.

CMS Releases MLR Toolkit for State Medicaid Agencies
CMS released a Medical Loss Ratio (MLR) Monitoring, Reporting, and Oversight toolkit for states to ensure complete and accurate MLR reporting in the Medicaid program. The toolkit notes that 85% of Medicaid enrollees and 83% of CHIP enrollees received some or all of their care through a managed care plan (MCP) in 2021, and CMS has increased its efforts to strengthen federal and state oversight of MCP financial performance to improve fiscal transparency, monitor costs, and ensure value.

Why this matters: The toolkit is intended to improve the completeness and accuracy of MCP-reported MLR data in five areas:

1. MLR data collection.
2. MLR data validation.
3. Using validated MLR information for state financial monitoring and oversight.
4. Reporting guidance for high impact areas such as non-claims costs and expense allocation methodologies.
5. Creating an effective oversight system within the state Medicaid agency.

CMS Issues Final NCD for PrEP Therapy to Prevent HIV
On September 30, the Centers for Medicare & Medicaid Services (CMS) issued a final Medicare National Coverage Determination (NCD) that provides Medicare coverage for Pre-Exposure Prophylaxis (PrEP) with effective antiretroviral therapy (ART) for persons at high risk of Human Immunodeficiency Virus (HIV) under Part B.

Why this matters: CMS requires Medicare coverage for PrEP using antiretroviral drugs (whether oral or injectable) approved by the Food and Drug Administration (FDA) to prevent HIV infection in individuals at high risk. In addition, CMS requires coverage for the administration of injectable PrEP using antiretroviral drugs to prevent HIV infection, and coverage of related counseling visits and screening tests.

MA Impact: The NCD indicates that Medicare Advantage (MA) plans must follow this determination, including providing PrEP therapy for HIV with no cost-sharing at in-network providers. MA plans are required to assume the costs and cover the drugs and services in this NCD effective September 30.

Go Deeper: Read the final NCD Decision memo.

NAIC Requests Clarification from HHS on Section 1557
Following concerns expressed by regulators at NAIC Senior Issues (B) Task Force (SITF) meetings this summer, NAIC sent a letter to the Department of Health and Human

Services (HHS) Office of Civil Rights (OCR) requesting clarification on the implementation of the federal Section 1557 final rule. The letter reiterates NAIC's concerns that the rule lacks clarity on age rating for Medigap coverage and about the role of state regulators.

Why this matters: AHIP has voiced concerns similar to those shared by regulators at the SITF meeting, and will continue outreach to regulators seeking clarification on Medigap questions for members covered by Section 1557. Read the letter.

CMS Approves New York's Amended Section 1332 Waiver
On September 25, CMS approved New York's amended Section 1332 waiver which expands the affordability programs under its waiver plan to provide new state subsidies for certain Exchange enrollees. It includes three new state subsidies for 2025:

1. State cost-sharing subsidies for on-Exchange silver plan enrollees with estimated household incomes up to 400% of FPL
2. State cost-sharing subsidies for certain diabetes-related services, including prescription drugs (such as insulin), for all Exchange enrollees
3. State cost-sharing subsidies for certain pregnancy and postpartum outpatient care, inclusive of mental health services, for all Exchange enrollees

---

State Issues

New York
Legislative

Governor Signs Legislation
Bills that passed this Legislative Session are beginning to be sent to the Governor's Office for consideration, including several of interest to Highmark.

On October 1, marking the start of Breast Cancer Awareness Month, Governor Hochul **signed a bill that requires insurance policies to cover additional testing related to breast cancer (A.1696-C/S.2465-C).** The bill expands coverage of screening and imaging to include procedures "as recommended by nationally recognized clinical practice guidelines" for the detection of breast cancer.

Also last week, the Governor signed several other bills that purport to expand health insurance coverage for pregnant people.

These included:
- S.201/A.2656 – Creating a special enrollment period without penalty for pregnant persons
- A.3865A/S.1965A – Requiring insurance coverage of prenatal vitamins

- A.7790A/S.6674A – Requiring insurance coverage of human donor milk

On September 27, the Governor signed legislation that prohibits pharmacy benefit managers from penalizing pharmacies for providing customers with certain information relating to the costs of prescription medications (S.9040/A.9764).

Regulatory

Innovation Waiver Amendment Approved

State officials last week announced the federal government granted approval of New York's amendment to its State Innovation Waiver (1332 waiver) that will provide cost-sharing reduction assistance for individuals with incomes up to 400% of the federal poverty level, and eliminate cost sharing for diabetes care and pregnancy and post-partum services.

According to the Department of Health and NY State of Health, more than 117,000 New Yorkers will be eligible for the assistance, which is projected to reduce their out-of-pocket costs by $307 million in 2025 and $1.3 billion from 2025-2028.

Plans will be reimbursed for these costs using federal passthrough funding, starting January 1, 2025 through the end of the waiver period on December 31, 2028. This amendment builds on the initial 1332 Waiver, approved in March, that expanded eligibility for New York's Essential Plan to populations with incomes 250% of FPL.

State Issues

Pennsylvania

Legislative

Pennsylvania Legislative Update

- The House approved HBs 2294 and 2295, Representative Venkat's legislative package allowing Physician Assistants to practice with both MDs and DOs. The bills are now before the Senate Consumer Protection and Professional Licensure Committee for their consideration.

- The House Appropriations Committee is expected to vote on SB 668, Senator Judy Ward's legislation allowing CNAs to dispense medications within nursing homes and other facilities. This legislation is expected to pass the House and be returned to the Senate, where a concurrence vote on House Amendments is expected to pass, sending the legislation to Governor Shapiro's desk.

- The Senate Banking & Insurance Committee will meet to consider Representative Markosek's HB 2268, mandating coverage for speech therapy to provide for coverage for stuttering and other speech difficulties. The bill will then be sent to the Senate for its full consideration.

Industry Trends

Policy / Market Trends

GAO Recommends CMS Evaluate the Completeness and Accuracy of Hospital Price Transparency Files

On October 2, The Government Accountability Office (GAO) published a report examining CMS' implementation of hospital price transparency requirements and found CMS does not have assurance pricing data hospitals report are sufficiently complete and accurate. GAO recommends, "CMS assess whether hospital price transparency machine-readable files are sufficiently complete and accurate to be usable for supporting CMS's program goal and implement any additional cost-effective enforcement activities as needed." The Department of Health and Human Services concurred with the recommendation and noted CMS may conduct an assessment of the prevalence of inaccuracies and incompleteness of pricing data in hospitals' machine-readable files.

CMS began requiring hospitals to make public a list of their standard charges for items and services in 2021. Earlier this year, CMS updated its requirements to increase standardization, improve compliance and enhance public access. GAO was asked to review CMS' implementation of hospital price transparency requirements by Rep. Cathy McMorris Rodgers (R-Wash.) and Frank Pallone (D-N.J.) in November 2022. Following publication of the report, Rep. Rodgers said the findings bolsters the case for her legislation, the Lower Costs, More Transparency Act, which passed the House in December 2023.

Latest Enrollment Figures for Medicaid, CHIP

CMS released the latest enrollment figures for Medicaid and the Children's Health Insurance Program (CHIP). As of June 2024, there were more than 72.8 million individuals enrolled in Medicaid and 7.0 million enrolled in CHIP, a decrease of 1.1% across the two programs from the prior month. Enrollment in Medicaid and CHIP has decreased 14.8% since March 2023, the final month before states resumed Medicaid eligibility and enrollment activity.

Interested in reviewing a copy of a bill(s)? Access the following web sites:

Delaware State Legislation: **http://legis.delaware.gov/.**
New York Legislation: **https://nyassembly.gov/leg/**
Pennsylvania Legislation: **www.legis.state.pa.us.**
West Virginia Legislation: **http://www.legis.state.wv.us/**
For copies of congressional bills, access the Thomas website – **http://thomas.loc.gov/.**