LEGISLATIVE UPDATE -- October 2011

Restrictions proposed for Medicaid Mental Health Drugs

Earlier this year, when the state budget was proposed, the Community Health Budget had $6 million in general fund savings built in that would result from manufacturer rebates for preferred drugs if the Medicaid outpatient mental health drugs were subjected to prior authorization**. Most of the mental health drugs are explicitly protected from prior authorization by a law that passed in 2004.** Other classes that are protected include those for epilepsy, HIV-AIDS, organ replacement and cancer.

Despite objections from advocates, the budget passed with the savings built in. A number of bills were introduced to implement items in the new budget (which became effective in October) including House Bills 4733 and 4757, which would affect the protections for Medicaid outpatient mental health drugs.

The chair of the Community Health Appropriation Subcommittee and sponsor of one of the bills, Representative Matt Lori, held a workgroup including interested organizations. Legislators expressed that it is not their wish to have the state get between a patient and their doctor. Bill sponsors, Representative Lori and Agema indicated a willingness to consider alternative proposals that would save $6 million.

MPS submitted a proposal that would codify the **Drug Utilization Review (DUR) Board**, much the same way that the P&T Committee is codified. This would shift the focus of these bills from the PDL to the DUR. In this proposal, a **Mental Health Quality Pharmacy Advisory Committee** would advise the DUR and approve standards (quality indicators) and interventions. Mental health advocacy groups and Senator Bruce Caswell are in support of this approach.

There have been two hearings, with several proposals presented. Some language was proposed from the Indiana process, but stakeholders objected on the basis that it did not fit with Michigan's system. The legislators indicated interest in continuing DUR activities, such as the Pharmacy Quality Improvement Project (PQIP) that ran for several years. Several legislators have learned that some states have instituted a 15-day initial fill limit for mental health drugs. MPS cautioned against potential negative consequences and the likelihood of medication discontinuation among some patients, but the proposal seems to have traction.

The head of Michigan Medicaid testified that the department's use of prior authorization would not be onerous, that it has been misunderstood as a "try and fail" program (?!). The department's position is that Medicaid mental health drugs should be managed in the same manner that HMOs and commercial insurance manage PDLs. In addition, the drugs going off patent would not save much money very soon. Debera Eggleston, MD, Chief Medical Officer of Medicaid informed legislators that the DUR Committee is reintroducing PQIP and looking at four focus areas of mental health drug prescribing.

MPS has pointed out that there are several very significant differences between managing Medicaid drugs and those of a commercial population. First, the primary tool of commercial PDLs is tiered copayments, a tool that is not available to Medicaid. Secondly, the degree of mental illness encountered among Medicaid-qualifying patients is much more serious and complex. The publicly funded clinical workforce is already stretched to its limits and placing the burden of prior authorization and the inevitable discontinuations in treatment on the CMH system amounts to a cost shift.

MPS has acknowledged that there is a pressing need to save money wherever possible. However, we continue to oppose rebate-driven policies, which are incompatible with rational quality-based utilization management.

At this juncture, there is not much legislative support for the bills as introduced. The Detroit News and the Detroit Free Press have editorialized against repealing the protections. It remains to be seen if the department will come to the table.

Rebates, like liquor, are quicker.