Managed Care & HCV Treatment Access

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Prior Authorization & HCV Treatment

Prior authorization: Utilization management process used by some health insurance companies in the United States to determine if they will cover a prescribed procedure, service, or medication.

When can states impose prior authorization criteria?
- If the prescribed use is not for a medically accepted indication.
- If it does not have a therapeutic advantage over other drugs included in the formulary (+publicly available written explanation for basis of exclusion).
Tracking Medicaid HCV DAA Prior Authorization Criteria

Liver Disease Severity

Substance Abstinence

Provider Specialty

For updates and details visit StateOfHepC.org
CMS Guidance is clear: Prior Authorization should not be used to ration hepatitis C treatment

"[T]he effect of (PA criteria) should not result in the denial of access to effective, clinically appropriate, and medically necessary treatments using DAA drugs for beneficiaries with chronic HCV infections."

"[T]he managed care plan may not use a standard for determining medical necessity that is more restrictive than is used in the state plan."
The courts have supported this stance

**Litigated Results**
- Washington: BE vs Teeter (injunction granted; settlement approved, April 2017)
- Missouri: JEM vs Kinkade (policy reformed, November 2017)
- Colorado: Ryan vs Birch (disease severity criteria removed and settlement pending, April 2018)

**Pre-Litigation Settlements**
- CT, DE, FL, IL, MA
- NJ, NY, PA, RI, VT

Several pending cases in development!
States must track MCO practices to ensure enrollees in any MCO have equitable access to FFS

42 CFR § 438.210: “Each contract between a State and an MCO . . . must . . . require that . . . services . . . be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under FFS Medicaid . . .”

“States are urged to carefully monitor the DAA HCV drug coverage policies of their MCOs to ensure enrollees have appropriate access.”
Managed Care Organization Accountability

Increasing MCO utilization by public payers makes tracking that much more important and difficult

- **Medicaid**: 238 MCOs: 70% of Enrollees
- **Medicare**: 2,317 Medicare Advantage plans: 40% of enrollees
- **Correctional health**: 27 states; 8% of persons incarcerated in state and federal prisons

MCO’s may have financial incentives (esp. in the short term) to deny care—the difference between capitated rate and actual spending creates profits, and for IPO’s can spur investor activity.
Number of Medicaid MCOs by state

*Includes six Health Insuring Organizations (HIOs), member plans in California's County Organized Health Systems (COHS).
Proportion of incarcerated persons in private state prison facilities (2017)

Data from the 2019 Bureau of Justice Statistics Report
Incarcerated persons have a constitutional right to HCV treatment

Per the landmark Supreme Court case *Estelle v. Gamble*, this requires that all people who are incarcerated receive the medical standard of care for any condition.
## Litigation for HCV Treatment in Correctional Facilities

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MCO Accountability–Payment Structure

DAA payment structure
- Paid by managed care
- Carved out of managed care
- Hybrid: paid by managed care, but state manages prior authorization process

How does this work with subscription model?
In Louisiana, DAAs are part of managed care capitated rates. The state has incentive to increase utilization due to subscription model, but MCOs don’t. Louisiana created a risk corridor to mitigate risk and is closely monitoring utilization.
Managed Care HCV Treatment Access Monitoring

In partnership with CHLPI we are tracking MCO coverage restrictions, pharmacy benefit managers, and carveout strategies on a state-by-state basis.
MCO Accountability–strategies

- Explicit language in contract (Medicaid DAA, Private Correctional Health Testing and Tx)
- Transparency—require MCO’s to make PA publicly available
- Beneficiary complaints (*make public to consumers*)
- Monitor denials (*encourage providers to prescribe and track denials, appeals processes, etc*)
- Monitor treatment rates (*claim data*)
- Other reporting processes and indicators (*new diagnoses; delays in care*)
- Compliance monitoring (review of final prior authorization criteria)
MCO Accountability–State & Federal Advocacy

- Engage patients and providers with state health insurance commissioners and governors
- Encourage CMS to implement punitive measures for states that fail to remove barriers to care
- Litigation
- Empower consumers with knowledge ahead of open-enrollment season
- Enact national and state legislation to further address the prior authorization process
Prior Authorization & HCV Treatment

Opportunity to address Medicaid and Correctional managed care?

H.R.3107 - Improving Seniors' Timely Access to Care Act of 2019

(1) use of prior authorization should be streamlined through electronic transmissions for coverage of covered services for individuals enrolled in federally funded programs such as Medicare, Medicaid, and federally contracted managed care plans to improve patient access to medically appropriate services and reduce administrative burden through automation informed by clinical decision support;
We are happy to work with state and federal partners to ensure equitable access to HCV care.

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