7 State Policy Trends that May Shape Cancer Care in 2020

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Summary

State healthcare legislation often holds important implications for high-value and high-cost drugs, such as those used to treat cancer patients.

More specifically, state legislatures have introduced, debated, and passed healthcare bills ranging from quality and access to coverage and payment reform. As state legislatures turn to the 2020 sessions, the following issues will be especially relevant for oncology patients, providers, and insurers.

Medicaid Waivers

States continue to look for ways to modify and potentially lower costs for their Medicaid programs through section 1115 waivers. Many state legislatures have sought to develop waivers that, if approved by CMS, would implement work requirements, establish eligibility and enrollment restrictions, or set benefit restrictions. As of September 10, 49 section 1115 waivers across 40 states had been approved and an additional 21 were pending. Many waivers use the term “medically frail” as a medical exemption from work requirements and subsequent coverage lockouts. Pain associated with the treatment of cancer and survivorship may or may not be included under the broad definition of medical frailty, often creating confusion over eligibility for patients covered by Medicaid.
Oral Chemotherapy Parity

As of September 16, 43 states and DC have passed oral anticancer therapy access laws. These bills seek to ensure that cancer patients have equal access to similar cost-sharing for oral or other self-administered anticancer drugs as intravenously (IV) administered or injected chemotherapy drugs. In some states, patient out-of-pocket costs for self-administered chemotherapy drugs tend be higher than the costs for IV-administered drugs. Four state legislatures (ID, MI, NC, and TN) introduced similar bills in 2019 and are expected to continue to debate them in 2020. Many drugs in the oncology pipeline are orally administered, making the passage of these laws crucial for patient access and affordability of needed therapies.

Utilization Management

Since January, legislatures in at least 30 states have introduced bills to impose limits and establish guidelines on insurer use of prior authorization (PA) and step therapy (ST). As states continue to look for ways to control healthcare costs while ensuring patient access, legislative interest in defining the use of PA and ST has increased. While insurers often implement these types of utilization management techniques to manage prescription drug cost growth, patient and provider groups have raised concerns that the use of PA and ST may impede access to timely and effective care for cancer patients.

Pharmacy Benefit Managers

As of August, 120 bills across 40 states were introduced regarding the regulation of pharmacy benefit managers (PBMs). Most of these bills addressed the disclosure of costs to patients, requirements for maximum allowable cost formulas, and rebate spread pricing. Addressing PBM practices continue to be a legislative priority for many states looking to lower overall spending on prescription drugs. As PBMs negotiate rebates between manufacturers and pharmacies and develop formularies, many cancer patient advocacy groups argue that PBMs may hinder a physician’s ability to provide efficient and timely treatment.

Drug Importation

Thus far in 2019, 30 bills across 17 states have been introduced that would establish programs or studies as to importation of certain prescription drugs from Canada. Four states (CO, FL, ME, and FL) have signed these bills into law. FL submitted a concept proposal to HHS in August, detailing proposed savings of $150 million and a sample list of qualifying drugs, including certain oral cancer drugs. As the number of states with interest in importation or that have passed
importation laws grows, orally administered oncology drugs may be viable, high-cost targets to import.

**Handling of Hazardous Drugs**

Some state regulatory bodies have required pharmacies to become compliant with United States Pharmacopeia (USP) 797 and 800, which provide guidelines for the compounding of hazardous drugs and details the compounding of sterile preparations and safety standards for workers handling these hazardous drugs. USP 797 and 800 will be finalized on December 1, and state regulating bodies may choose to adopt the standards at any time. Additionally, a few state legislatures have introduced bills that would allow for “brown bagging” and “white bagging” of drugs. Brown bagging is a process by which a patient picks up a specialty medication from a pharmacy and then carries this medication to their physician’s office or hospital for administration. White bagging occurs where a physician receives a drug on-demand from a pharmacy and a patient visits the physician office for administration. Many patient and provider groups have voiced concerns over patient access to toxic chemotherapy drugs, risk of toxic waste, and the variability in reimbursement associated with site administration.

**Cancer Prevention**

State legislatures have increasingly focused on advancing cancer prevention measures. For example, state legislatures have introduced bills on smoking and vaping cessation for minors as well as indoor tanning bans. As of September 10, 18 states and over 480 localities have increased the minimum age for the purchase of tobacco products to age 21, while 15 states have laws prohibiting all minors from UV tanning. These bills may help to reduce the number of new cancer diagnoses in the state.

Going into the 2020 state legislative sessions, these issues will continue to impact all stakeholders involved in providing access to high-value and often high-cost oncology care and the patients who rely on these therapies.

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