Weekly Checkup

Medicaid's Worst Price

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The Centers for Medicare and Medicaid Services (CMS) is expected to release a final rule on the Medicaid Drug Rebate Program (MDRP). Fortunately for those of us who aren't big on reading hundreds of pages of federal regulations, American Action Forum Director of Health Care Policy Laura Hobbs has a new insight on the upcoming final rule and what we can expect. Let's dive into Hobbs' main takeaways.

A bit of background: The MDRP includes the Medicaid best price rule, which states that Medicaid will pay the lowest price offered to any single entity. **The first major change that Hobbs highlights is CMS' decision to define "best price" as the aggregate of all rebates and discounts given throughout the supply chain.** CMS has opted to modify current Medicaid best price practices to require that manufacturers track and aggregate price concessions (including rebates) across the pharmaceutical supply chain. Hobbs notes that this "is likely to disincentivize manufacturers from offering discounts to eligible entities (wholesalers or providers) to avoid non-compliance," further stating that "manufacturers will still compete on rebate offerings but, potentially, this rule could reduce the number of large price concessions tendered." Hobbs also points out that most manufacturers lack the technical infrastructure to even track rebates, which could lead to even fewer rebates and discounts.

The second big change in the upcoming rule is the elimination of the cap preventing manufacturers from paying more than a penny to Medicaid to dispense drugs. This change wasn't a CMS decision, but rather part of the implementation of the American Rescue Plan Act (ARPA). Starting on January 1, 2024, Medicaid rebates will no longer be limited to 100 percent of the drug's quarterly average manufacturer price. When the cap expires, Hobbs states that "drug manufacturers that have medicines with prices that increase greater than inflation or stacked best price calculations that exceed the quarterly average manufacturer price could end up offering a sizable rebate to Medicaid that is more the cost of the product." Hobbs adds that manufacturers will likely "set higher list prices to

avoid the risk of future substantial inflationary penalties."

The takeaway here is obvious, as Hobbs notes: "CMS' decision to modify the calculation of Medicaid best price is likely to discourage drug manufacturers from offering rebates to eligible entities while encouraging drug manufacturers to use high list prices as a mechanism to avoid inflationary penalties." In short, fewer discounts and higher list prices – the latter of which hurts consumers at the pharmacy counter, since out-of-pocket costs for patients are normally based on the list price of a drug. While the elimination of the Medicaid cap might save the program around $14.5 billion over 10 years (for a program that spends over $800 billion annually), these policy changes are likely to raise prices for purchasers and, ultimately, patients. **As Hobbs concludes, "Policymakers should consider if piecemeal reforms to prescription drug pricing, such as reforming Medicaid best price, are skewing manufacturer incentives away from offering sizable discounts or lowering list prices of new and innovative products."**