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Pharmacy: SUPPORT Act

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SUPPORT Act Implications for Medicaid Coverage of Medication Assisted Treatment (MAT)

The 2018 Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act was broad bipartisan legislation created to address the ongoing opioid epidemic. Many of the provisions of the Act have been or are in the process of being successfully implemented within state Medicaid programs. Other provisions are creating challenges for states.

One provision, in particular, has the potential to create significant financial and budgetary challenges for states due to a technicality in the federal statutory language. For a five-year period beginning October 1, 2020, Medicaid will be required to cover all prescription drugs used for Medication Assisted Treatment (MAT). However, despite mandatory coverage, the products will no longer be considered Covered Outpatient Drugs (CODs), which means they will no longer be included in the federal Medicaid drug rebate program or subject to other COD related requirements. The change is expected to be costly and disruptive to states. Medicaid programs must now begin to develop and implement a mitigation plan while they continue to advocate for

federal legislative relief. However, if implemented, the statute change may also offer a unique opportunity for states to test new purchasing and reimbursement models for a single category of drugs.

MAT and Coverage Through the Medicaid Program

MAT represents a broad range of medications used for the treatment of opioid dependence. MAT includes methadone administered through opioid treatment programs (also known as methadone clinics), long acting naltrexone or buprenorphine that is administered in a clinic or outpatient hospital, and outpatient prescription medication such as Suboxone®, Zubsolv®, Bunavail® or generic alternatives which can be self-administered by the patient at home. Due to the ongoing opioid crisis and a growing evidence base and acceptance of the efficacy of MAT, the therapeutic category represents one of the top categories by spend in most Medicaid pharmacy programs, particularly in nondisabled adult and expansion populations.

Although prescription drugs are an optional Medicaid benefit, all states do currently elect to cover prescription drugs in their Medicaid State Plan benefit set. States that include prescription drugs in their benefit set are required to include all CODs, but are allowed to use Preferred Drug Lists (PDLs), as well as a variety of utilization management tactics to influence product selection.

Manufacturers of prescription drugs, including MAT, are currently required to participate in the federal drug rebate program as a condition of their coverage status as CODs. States collect federal drug rebates based on utilization in both fee-for-service and managed care populations, and the rebates are shared with the federal government at the applicable FMAP rate. In addition, state Medicaid programs (either individually or as part of multistate coalitions) are able to negotiate with the manufacturers for additional state supplemental rebates. While the specific impact of drug rebate on the MAT category is not a publicly available statistic, rebates paid by drug manufacturers lower the overall cost of drugs in the Medicaid program by over 50%.

SUPPORT Act Change

The SUPPORT Act requires that state Medicaid programs cover all FDA-approved MAT drugs for a five-year period (October 2020 through September 2025). In effect, the change makes coverage of MAT a new mandatory benefit rather than part of the optional prescription drug benefit. Since the federal drug rebate program is defined in statute to only apply to the optional prescription drug

benefit, the SUPPORT Act change means MAT products will no longer be considered CODs and will not be included in the federal drug rebate program. Furthermore, the exclusion from the federal rebate program will also remove the MAT drug products from the federal 340B drug discount program, which is used by disproportionate share hospitals, federal qualified health centers and other provider groups who serve Medicaid populations.

Impact to States

Without legislative change, states will cease to collect federal drug rebates on all MAT prescriptions dispensed on or after October 1, 2020. In addition, 340B drug discounts will no longer be available. Without additional Congressional action, state Medicaid program costs for MAT will significantly increase due to the loss of discount and rebate. In addition, state Medicaid programs will need to update claim and rebate systems to accommodate the new exclusions.

Current state supplemental rebate contracts for MAT products are tied to federal rebate contracts and will also become invalid beginning October 1. However, it is possible for states, either individually or through multistate coalitions, to negotiate directly with manufacturers of products that are not part of the federal Medicaid-covered outpatient drug benefit. For example, many states have successfully negotiated for rebates on diabetic test strips, inhaler spacers and other items which are not considered CODs. A similar model could be pursued for MAT products; however, limited time is available before the October 1 implementation. Whether or not new rebate agreements are successfully executed in time, states may need to make changes to their current PDL selections to reflect the evolving cost structure of MAT products.

The loss of COD status for MAT products also provides states with a unique opportunity to explore additional flexibility in purchasing and pharmacy reimbursement. For example, the pharmacy reimbursement provisions of the COD rule will no longer apply to MAT products; states may explore altering their pharmacy reimbursement methodology outside of the COD-required Actual Acquisition Cost plus Professional Dispensing Fee model. In addition, states could use the five-year opportunity to explore alternative purchasing and reimbursement models to support public health efforts such as a subscription model or a bulk purchasing and distribution model.

Recommendations and Next Steps

Mercer Government recommends that state Medicaid pharmacy programs:

- Continue to advocate for legislative relief at the federal level through a technical bill
- Review current utilization and rebates associated with MAT to quantify the potential financial impact
- Develop and implement a mitigation plan which could include elements such as:
    - Consult with drug rebate vendor(s) or purchasing pools to determine potential for renegotiation of standalone rebates with MAT manufacturers using the diabetic supply model
    - Update claims and rebate systems to recognize that MAT products are no longer part of the federal rebate or 340B drug discount programs
    - Evaluate and implement potential PDL changes and determine whether or not a PDL change would require an update to managed care capitation rates
    - Communicate programmatic changes with contracted pharmacy claims administrators and managed care plans
- Identify and analyze opportunities for innovation in purchasing and reimbursement of MAT drugs
    - Analyze the impact of a potential change in dispensing fee or acquisition cost methodology
    - Consider a bulk purchasing and distribution model to lower the cost of the MAT products for pharmacies and other providers serving Medicaid populations
    - Explore a subscription model or other innovative financing arrangement with manufacturers of MAT products

Is your state ready to analyze the impact and develop a plan of action? Your Mercer Government consultants are available to assist in analysis, planning and implementation.

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mercer.government@mercer.com

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1166 Avenue of the Americas, New York NY 10036
www.mercer-government.mercer.com