



November 2, 2022

Texas Health and Human Services Commission

Re: *Preferred Drug List Compliance*

Dear Director Stephens,

We are writing today to express our concerns regarding Medicaid members' continuity of care under the Vendor Drug Program (VDP) requirement that managed care organizations (MCOs) reach 95% compliance with the Preferred Drug List (PDL).

Currently, when the PDL changes, MCOs frequently honor requests from members and their providers to override restrictions when information is provided that changing medications has the potential to decompensate/destabilize member's condition, allowing patients to continue receiving medications that are working for them. With these new requirements in place, MCOs will be required to take Texans off medications they are stable on. We encourage HHSC to consider an exception for medications that are medically appropriate and clinically sound. Medication decisions should be made by a patient and their health care provider, and the state should prioritize keeping patients healthy and out of the hospital. Existing HHSC exceptions to the PDL have not been reviewed in a decade.

We also ask that the agency expand exceptions to include step therapy requirements that the Texas Legislature has adopted for commercial health plans.¹ The Legislature has already expressed their strong concerns about non-medical switching by mandating step therapy exceptions in the private market. These exceptions were strongly supported by both providers and patient advocacy groups. Exceptions to step therapy requirements are permitted when:

1. The drug required under the protocol is contraindicated, will likely cause an adverse reaction or other harm, or is expected to be ineffective;
2. The patient previously discontinued the same or similar drug required under the protocol;

¹ Tex. Ins. Code §1369.0546.



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3. The drug is expected to cause a barrier to the patient's adherence to the plan of care, worsen a comorbid condition, or decrease the patient's ability to achieve reasonable functional ability; or
4. The enrollee received benefits for the drug under a previous plan, the patient is stable on the drug, and the drug required by the protocol is expected to be ineffective or cause harm.

The VDP currently allows exceptions to the PDL when there is treatment failure, a contraindication, or an allergic reaction to a preferred drug. In other words, there is some overlap between the PDL exceptions and the step therapy exceptions. However, Medicaid enrollees are not eligible for an exception if the drug is expected to cause a barrier to adhering to the plan of care, worsen the patient's functional ability, or when the enrollee was stable on a drug that was preferred in a previous version of the PDL. In each of these situations, requiring a patient to take a different medication could lead to adverse effects and potentially severe patient harm.

We ask that the agency mirror the step-therapy exceptions in the VDP. The Legislature identified the situations in which non-medical switching puts the patient at unnecessary risk and placed these exceptions into statute. Medicaid enrollees should not be treated any differently. Further, adopting these standards into the VDP would provide consistency for patients, providers, and issuers, regardless of the type of coverage they have. Additionally, the agency should allow exceptions for scenarios outside of an MCO's control, such as when a medication is in short supply or when a pharmacy experiences challenges stocking the drug.

We appreciate HHSC's consideration of this critically important issue. We look forward to working with the agency to ensure that all Texans have access to safe and effective medications without unnecessary barriers, and we would be happy to discuss this further at your convenience.

Sincerely,

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CEO
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Kay Ghahremani
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Texas Association of Community Health Plans