CALIFORNIA RHEUMATOLOGY ALLIANCE

LEGISLATIVE NEWSLETTER

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California Rheumatology Alliance

Become More Involved in the CRA: Join the CRA Advocacy Committee

The CRA Advocacy Committee is expanding and welcomes new members. No experience required; just well-intended ideas! Minimal time is involved.

Co-Chairs Dr. Robin Dore and Dr. Martin Berry invite you to join the CRA Advocacy Committee, which advances CRA's mission to advocate for patient access to rheumatology care. Participating in the committee is a fantastic way to learn about legislative proposals that affect you, your practice and your patients, and have your opinions heard and acted upon.

Recognizing you have a busy schedule, the committee is supported by an Executive Director who conducts research, analysis and outreach for you, and contacts the committee with brief correspondence on key, timely issues, thus allowing the committee to review and approve of policy positions, letters to legislators and monthly newsletters in relatively little time. The committee currently meets in person, once a year at the Annual Meeting and has quarterly conference calls.

In addition, CRA is seeking rheumatologists, particularly in the Sacramento area, interested in testifying at committee hearings. CRA will provide you with talking points and guidance in preparation.

Interested in joining the Advocacy Committee or testifying? Please contact Amanda Chesley, JD, Executive Director, by phone at (847) 264-5930 or email at amanda@wjweiser.com. Your support will allow us to further CRA's mission.

Physician Deadline to Opt Out of Blue Cross Exchange Network: June 30, 2014

Physicians who do not plan to participate in Anthem Blue Cross's individual/exchange network must opt out by June 30, 2014. According to the California Medical Association (CMA), Anthem Blue Cross notified more than 11,000 practices participating in its individual/exchange network of a contract addendum containing new regulatory requirements that will become effective July 1. CMA and CRA were alarmed by Section 12 of the addendum, which removes a participating physician's ability to opt out of the individual/exchange product without affecting the underlying Prudent Buyer contract, as is currently permitted. Beginning July 1, physicians may only opt out of said product by terminating the underlying Prudent Buyer PPO agreement.

To opt out of the exchange product without affecting the underlying Prudent Buyer PPO contract, physicians must provide Anthem with 90 days written notice, which must be received by Anthem before June 30. Please visit the CMA website for more information.

Twitter: @CalRheum

website: www.calrheum.org

In This Issue

Calling All Members: Share Your Experiences with Step Therapy/Fail First

An increasing number of insurers are utilizing step therapy and fail first policies in California. CRA supports legislation limiting fail first and step therapy policies, ensuring that patients have access to their life-saving medications and streamlining administrative simplification for physician practices. Physicians, nurses, practice managers and patients are encouraged to share their challenges and experiences with the CRA. Visit Share Your Story on the CRA website. Your story will be sent directly to the CRA Executive Director, who will review it and contact you before sharing it with members or legislators.

US Supreme Court to Review Important Anti-Trust Case with Significant Ramifications

Earlier this spring, the United States Supreme Court agreed to review the case of *North Carolina Board of Dental Examiners v. Federal Trade Commission*, a case that will decide whether the North Carolina Board of Dental Examiners ("the Board") is subject to federal antitrust laws, or whether it is immune from them under the "state action" doctrine. While the case involves North Carolina non-dentists, the Supreme Court's decision is being watched throughout the country for its impact on state medical boards.

In the underlying case, the Federal Trade Commission ("FTC") ruled in favor of a group of non-dentists who filed a complaint against the Board, a majority of whom are dentists, arguing that it violated Federal Trade Act antitrust rules when it banned a group of North Carolina non-dentists from performing discount teeth-whitening services at mall kiosks and other venues. After an unsuccessful challenge of the FTC's ruling with the trial court, the Board appealed to the US Court of Appeals for the Fourth Circuit, which sided with the FTC and found that the dentistry board was not immune from federal antitrust laws under the "state action" doctrine, reasoning in part that a majority of the Board consisted of "private actors" and that there was not sufficient state supervision of the Board for its actions to be considered "state action."

While the particulars surrounding the composition and authority of North Carolina's dentistry board will be a focus of the Court's analysis, the case nevertheless poses a threat to the power of state medical boards across the country to regulate scope of practice issues as their decisions could be seen as antitrust violations depending on the outcome of this case.

State Budget Expands Medi-Cal, Rates Must "Wait till Next Year"

Legislature-approved plan funds physician training programs, rejects statewide contract drug list

The California Legislature approved a $156.4 billion budget largely along party lines June 15, just hours ahead of a midnight deadline. Democrat leadership pushed through the budget without restoring a 10 percent cut to Medi-Cal payments. Providers secured a limited victory when the legislature shelved a plan to demand $42.1 million in retroactive clawbacks dating back to 2011.

The budget includes $438 million to expand Medi-Cal under the Affordable Care Act, but, at Gov. Jerry Brown's (D) urging, did not reverse a 10 percent cut applied to provider payments. Republicans in both chambers asserted that failing to restore reimbursement rates will make it impossible to find care in Medi-Cal. Assembly member Barbara Skinner (D-Berkeley), who presented the legislation in the Assembly, placated members of her own caucus, asserting that only now that the rate cut is in effect will they know whether an upward adjustment is necessary. "… (W)e need to know the impacts of the rate cuts, and other data necessary to adjust this provider rate issue," Skinner said. "And then we make it a priority this coming year."

Other healthcare-related provisions of the budget increased state funding for graduate medical education. Lawmakers allocated $7 million to expand the Song-Brown program, which will be opened up to all primary care specialties. While approximately $3 million of the appropriated fund will goes toward increasing the whole of the Song-Brown program, $4 million will be specifically set aside to assist programs seeking to increase the number of residents in training, with a priority given to programs that have graduates from California-based medical schools.

Lawmakers also approved a study of health facility licensing and certification requirements and notably denied a proposal by the Brown administration that called for the creation of a $32.5 million statewide contract drug list.

Gov. Brown, who proposed a more austere spending plan earlier this year, has until the end of June to sign the bill.

Criteria Established to Exempt Drugs, Pharmacies from 10% Medi-Cal Cut

The Department of Health Care Services received approval January 31, 2014, for a process to exempt drugs or pharmacy providers from Medi-Cal payment reductions. Drugs may be considered for an exemption if they meeting the following criteria:

- Drugs for which documentation exists that the 10 percent reduction will result in reimbursement below the acquisition cost generally available to the Medi-Cal pharmacy provider community.
- Drugs that are only dispensed through limited or specialized networks of pharmacy providers.
- Drugs that are used to treat unique clinical conditions with relatively low prevalence in the Medi-Cal population.
- Drugs for which immediate or rapid negative clinical impact(s) will occur if consistent and ongoing access is impeded (e.g. drugs used to treat cancer, life-threatening infections, end stage renal disease, hemophilia, etc.).

California rheumatologists are encouraged to review this list of exempted drugs (PDF). If you believe a 10 percent cut to a particular drug reimbursement will harm your patients, contact the CRA Advocacy Team, who will facilitate your application to add the drug to the exemption list. Please note any submission must include a verifiable document showing actual provider cost.

State Supreme Court Rejects Pharmacists' Challenge to Reimbursement Cuts

The California Supreme Court rejected pharmacies' appeal of a ruling that allows healthcare plans serving low-income patients in California to ignore what it costs drugstores to obtain prescription drugs when setting Medi-Cal reimbursement rates. Pharmacists argued they were losing money because rates set by Partnership HealthPlan, Northern California's Medi-Cal managed care contractor, were less than their costs of buying the drugs. By unanimously denying further review, the Supreme Court affirmed the appellate court's assertion that federal law doesn't require states to take providers' costs into account when determining payment rates. That February 2014 ruling said the law requires rates to be high enough to provide patients with "quality care" and "adequate" access to medications.

California Assembly Passes Bill Placing Non-Contracted Providers in Difficult Position

Recently the California Assembly closely passed legislation that, if enacted, may absolve insurers and health plans of their responsibility to offer sufficient provider networks. AB 2533, sponsored by the California Nurses Association, would require an insurer that is unable to provide an insured patient access to a contracted provider for a medically necessary covered service within the time frame required by law to arrange for the service from a non-contracted provider. It would further prohibit insurers from imposing copayments, coinsurance or deductibles on an insured patient that exceed what he would pay a contracted provider. The bill fails to address how reimbursement will be handled between the non-contracted providers and insurers. Non-contracted providers may be put in the position of having to accept whatever payment the insurer deems appropriate or turning the patient away without care.

CRA is joining the California Medical Association, California Chamber of Commerce, California Association of Health Plans and California Chapter of the American College of Emergency Physicians in opposing this legislation, which will be heard by the Senate Health Committee on June 25.

CRA Advocates for Annualizing Prescription Drug Cost Sharing

CRA has voiced its strong support of legislation (AB 1917) that will ease the heavy financial burden on patients for specialty medications by allowing them to budget and plan for the cost of their care over the course of the year. AB 1917, as amended, would require that any co-pay or co-insurance for a 30-day supply of a single outpatient self-administered prescription drug not exceed 1/12 of the annual out-of-pocket limit, or about $530, for the 2014 plan year. CRA has written in support to the Senate Health Committee, which heard the bill on June 18, 2014. Review the CRA letter and visit the CRA website for the hearing outcome.

California Assembly Passes CRA-Supported Medication Synchronization Legislation

On May 29, 2014, the California Assembly passed AB 2418, which requires insurers to allow patients to refill medications at a pro-rated amount in order to sync refills of multiple prescriptions and provide a process for patients to opt-out of mail-order restrictions. CRA continues to voice its support for this legislation. Most recently, CRA wrote to Senate leadership, including Senate President Pro Tempore Darrell Steinberg, voicing its support and requesting consideration in committee. Visit the CRA Medication Synchronization issue page for more information.

Work Force Round-Up

Non-physician providers seeking "independent"/unsupervised practice in California promise to bring their fight back to the legislature in 2015, bolstered by research asserting such licensing would save 1.8 billion over the next 10 years and the fact that the number of states where nurses have that authority continues to grow. Physicians counter with calls for increased support for graduate medical education and restoring Medi-Cal payment cuts to address primary care provider services.

Plans for a new medical school in the Inland Empire have been largely met with praise from local officials eager for more doctors in the region. However, there is some uncertainty about the ambitious timeline for opening the new school. Dr. Dev GnanaDev – former president of the California Medical Association and founder, president and CEO of the proposed California University of Science and Medicine's College of Medicine – said the school could open as early as 2016. Commonly referred to as Cal Med, the school's first class would have 50 medical students and would later grow to 150. Cal Med will be a private, not-for-profit, allopathic school, meaning that it will train medical doctors. In addition, organizers hope to launch a new research university affiliated with the medical school. (California Healthline, May 29, 2014)

Make sure to check out the CRA Website and Twitter to stay updated with news and CRA activities! If you have any CRA member updates, an article or item of interest you would like considered for publication online, please send submissions to amanda@wjweiser.com.