

CalPERS May Board Update

DELIVERY REFORM EFFORTS:

I. Establishment of bipartisan Hatch-Wyden Chronic Care Solutions Working Group: On May 14th, U.S. Senate Finance Committee Chairman Hatch (R-UT) and Ranking Democrat Wyden (D-OR) – as well as Senator Isakson (R-GA) and Senator Warner (D-VA) announced the formation of a bipartisan working group to consider policy solutions to improve outcomes for Medicare patients requiring chronic care. Areas of particular interest include: (1) Medicare Advantage improvements; (2) ACO and alternative payment models that improve outcomes for patients with chronic conditions; (3) Reforms for fee-for-service programs to incentivize coordination of care; (4) Effective use and cost containment on prescription drugs; (5) Utilization of telehealth and remote monitoring technology; (6) Increasing coordination in rural areas; (7) Empowering Medicare patients to engage meaningfully with providers; and (8) Considering ways to utilize primary care providers more effectively. This working group is seeking comments and input from stakeholders, due by June 22nd, and a bill is expected before the end of the year.

CalPERS Implications:

- Because it is highly likely that Chairman Hatch and Ranking Democrat Wyden will unveil legislation they believe will improve the delivery of care for chronically ill Americans, it is in CalPERS' interest to closely evaluate and collaborate with the Committee on their work.

CalPERS Next Steps:

- Staff and consultants are securing intelligence on Committee approaches to determine if they could strengthen or inadvertently undermine CalPERS' ongoing initiatives in providing better and more cost-effective care for high need/high cost chronically ill CalPERS members.
- Beyond ongoing consulting inquiries and advocacy with the Finance Committee, CalPERS staff is currently considering the advisability of submitting formal comments in response to the Committee request.

II. Establishment of Center for Healthcare Transparency: In May, the Pacific Business Group on Health and the Network for Regional Healthcare Improvement, with funding from the Arnold Foundation, established the Center for Healthcare Transparency. The Center is charged with providing meaningful cost and quality information to patients, providers and purchasers to enable value-based healthcare decision-making. In addition to the private sector and foundation world, the Center has members from CMS, HHS and the Office of Personnel Management.

The initial planning work of the new Center is to be complete by this Fall with work beginning in 2016 towards a goal of having “transparent cost and quality information available for at least 50% of the United States by 2020.” The Center is designed to provide information to:

1. Employers, public purchasers and health plans to pay for value and purchase high-quality health care at a fair cost;
2. Providers and health systems to improve their care, enhance provider and patient communication and make more informed referrals; and
3. Patients to make informed choices and engage in healthcare decisions.

CalPERS Implications and Next Steps:

- As a member of PBGH and a strong advocate for the need for greater and more transparent information to make informed health care decisions, CalPERS should consider whether to work with and advocate for the Center for Healthcare Transparency to produce meaningful, timely and actionable data to accelerate progress in this area.

III. Health Insurers and Specialty Physicians Collaborating on Streamlining Quality Measures:

America’s Health Insurance Plans (AHIP), the insurers’ largest trade group, as well as a host of physicians groups are well into a collaborative process to reduce, improve and consolidate the quality metrics that are being used to measure quality and hold health care providers more accountable. This initiative was inspired by a frustration from the physician (and other provider) community that health plans were using too many different and largely ineffective quality metrics to evaluate the type of care various providers were delivering. This collaboration is designed to be complete in the upcoming weeks, at which time payers (businesses and public purchasers) as well as consumer groups will be asked to comment and strengthen. Should this process produce some level of consensus, it appears to be the intention of CMS to embrace this effort and to integrate the downsized and improved measures into the Medicare program via regulation later this year.

CalPERS Implications and Next Steps:

- As purchasers move further away from fee-for-service and toward the concept of value (risk) purchasing of provider services, it will become increasingly important to have broad consensus on how best to measure and encourage high quality care. Failure to do so could undermine the public’s confidence in new purchasing arrangements embraced by CalPERS and other purchasers much like we saw in the 1990’s with managed care. Despite years of effort, though, there has been little consensus on how best to measure quality, with all parties – consumers, providers and payers being dissatisfied with what has been produced to date. The physician/AHIP initiative may be helpful in accelerating and achieving what all stakeholders in this field know has been a barrier to consumer and physician confidence – how we measure and ensure high quality care.

AVENUE SOLUTIONS

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- As AHIP and the specialty physicians complete their first round of work, CalPERS staff and consultants will work with the business and consumer community to evaluate and strengthen their product and recommendations PRIOR to substantial engagement by CMS. To that end, CalPERS consultants have conveyed ongoing interest in the quality consensus project to AHIP staff and have indicated a desire to make contributions to the initial draft before it is finalized.

PRESCRIPTION DRUG COSTS:

I. Biosimilars: The first biosimilar, Zarixo, was temporarily blocked from sale by a US appeals court due to a disagreement with Amgen about whether the ACA requires a biosimilar applicant to provide its application to the branded-product company before coming to market. Oral arguments for the case begin June 3rd and will impact how quickly biosimilars are able to come to the market in the future.

CalPERS Implications and Next Steps: The court disputes amongst the “innovator”-biosimilar manufacturers may become even more intense and numerous than have been the case in years past around the issue of generic drug market entry disputes. Any delays in biosimilar drug market entry could mean millions or even tens of millions of dollars in costs for purchasers such as CalPERS. While we currently do not recommend any action other than careful monitoring and raising some general concerns, this could change should manufacturers repeatedly engage the courts to delay competition of biotech drug products.

II. 21st Century Cures: The most egregious exclusivity provisions of the bill were eliminated, but a potentially problematic section, which provides a 6-month exclusivity provision for existing orphan drugs used to treat patients with rare conditions remains. Stakeholders concerned with this provision are waiting to comment on this until later in the process.

CalPERS Implications and Next Steps: CalPERS staff and consultants will continue to watch this measure as it proceeds through the legislative process. We will evaluate the egregiousness of any current or future provision and make recommendations as time goes on. It is important to note that while the House of Representatives remains on an aggressive timetable for passage, Senate leaders have indicated they will not move forward on a companion bill until early next year.

III. Rx Drug Pricing: Express Scripts reported in May that the number of Americans with over prescription drug costs over \$50,000 went up 63% from 2013-2014 to nearly 600,000, and those with bills over \$100,000 tripled in the same time period, highlighting the increased usage of high priced medications. Express Scripts also announced that it is working on deals with pharmaceutical companies to pair prices of cancer drugs with the drugs’ performance for the type of cancer it is being used for, a “pay for performance” system.

CalPERS Implications and Next Steps: As growing numbers of CalPERS members incur the extraordinarily large cost of specialty drug products, CalPERS insurance premiums will increase. CalPERS staff and consultants continue to secure and highlight information about Rx drug costs paid out by the system. We are working with Kaiser Family Foundation and purchaser coalitions committed to producing some meaningful analysis. We are also contemplating policy interventions for internal consideration.

THE CADILLAC TAX: As discussed in last month's report, the CalPERS' Board and staff are becoming increasingly concerned about the eventual impact of the so-called "Cadillac Tax" on certain high-cost plans (and enrollees in those plans). Moreover, because of the unrealistically tight indexing formula, more CalPERS plans and enrollees will be subject to the tax over time.

CalPERS Actions: On May 15th, CalPERS staff sent the attached comment [letter](#) to the IRS on the Cadillac Tax outlining serious concerns about the current implementation of the tax. We will be closely following any and all Department of Treasury/IRS rulings on this matter. Moreover, we are -- and will continue to look for -- opportunities for CalPERS to engage on this issue as a stand-alone strategy or in conjunction with similarly aligned purchasers.

KING V. BURWELL SUPREME COURT CASE RULING IN LATE JUNE: A Supreme Court (SCOTUS) ruling on the landmark King v. Burwell case is expected in late June. This case will determine whether the 34 states (California is not one of them) using the federal exchange will continue to receive the tax credits provided in the Affordable Care Act. There are three possible outcomes of this case: (1) The government prevails; (2) King prevails and subsidies are ended immediately; and (3) King prevails but the Supreme Court decides to stay the effect of the decision for a time, likely to the end of the year.

If the government wins the case, there will be no disruption of the current status quo. However, if King prevails, 7.5 million individuals in these 34 states could lose their insurance subsidies. The 5 million Americans purchasing individual coverage through exchanges could see their premiums rise by as much as 35 percent due to a loss of healthier individuals from the risk pools. It is expected that the Administration will offer an administrative option to allow states currently using the federal exchange to convert to state-based exchanges with federal assistance.

Should this occur, a number of states will likely pursue that option to avoid the large premium increases associated with the loss of the tax subsidies. (Part of this fix could also include the creation of regional exchanges, which California could be a part of creating issues of funding and administration with member states). Many others likely will not, calling on the Congress and the President to "fix" the problem. In response, Republicans will also likely offer their own legislative fix (if they can reach a sufficient consensus). However, if in going about this process, the Republican Leadership includes too many "poison pill" provisions that the Administration cannot stomach, such a bill is likely to be vetoed. We raise this issue because it will capture a good deal of national attention in the next 30 days. No CalPERS action necessary or advisable.