Friday, July 2, 2021

Louisiana Independent Pharmacies Association

What's New and What to Watch

LIPA Newsletter:
Bringing you the latest news and information concerning independent pharmacies and the profession at-large….

LIPA BOARD MEETING & MEMBER FORUM IN COVINGTON
LIPA is hosting a Board Meeting and Member Forum at the Southern Hotel in Covington, LA July 22-24. The Member Forum is scheduled for Friday, July 23rd. Its agenda is packed with guest speakers, including statewide elected officials, federal and state legislators or staff, and out-of-state guests. There is no registration fee, but we need to get a "head count" for planning. **If you plan to attend the Member Forum, on Friday, July 23rd, please let us know by completing this form: LIPA Member Forum Registration, no later than July 14th.**

Benjamin Jolley, a young independent pharmacist practicing in the Salt Lake City, Utah metropolitan area is confirmed to attend and present. His special area of expertise as stated on his LinkedIn Profile is helping pharmacy owners 1) understand and 2) gain control over current pharmacy contracting, with particular focus on Direct & Indirect Renumeration (DIR) and Generic Effective Rates (GER). A 2018 graduate of St. Louis College of Pharmacy, he says he love working with people one-on-one "to help them get their pharmacy lives sorted." Among his achievements are implementing a medication synchronization program at two pharmacies, serving as the student liaison to NCPA's steering committee and toured the country working some of the highest performing community pharmacies. He believes that community pharmacy can be a powerful force to achieve the triple aim of healthcare. Benjamin comes highly recommended by one of our LIPA members who has received one-on-one consulting services from him. If his name sounds familiar, we have quoted from his blog posts [just click Read Me First] in previous editions of the newsletter.

Mark R. Cuker—one of the two Philadelphia-based lawyers representing independent pharmacies that have filed suit in federal court against OptumRx is confirmed to speak at our member/board meeting as well. At issue in this lawsuit—in which several Louisiana pharmacies participate as one of several hundred independent pharmacy plaintiffs and all of us have an interest in the outcome—are illegal price discrimination and below cost reimbursements in violation of state laws.

A summary is provided in this blog post from June 30th regarding the recent positive litigation outcome in California in which the Court denied OptumRx's motion to compel arbitration for independent pharmacies. Mark Cuker— who is also representing plaintiffs in this case-- noted that this victory *"…opens the door for independent pharmacies to hold Optum publicly accountable in court for its violations of California's MAC law, breach of contract, steering patients to mail order and underpaying on certain brand drug prescriptions."* Something in the court ruling that caught our eye: *the court reasoned that Optum had provider agreements with PSAOs, and pharmacies were not provided with copies of the provider agreements, did not sign them and have not even seen them.* ***Therefore, the pharmacies were not party to***

the provider agreements. [Emphasis added]. The takeaway from the court in regard to Optum's Pharmacy Provider Manual is that just because it is in their manual doesn't make it right (or legal!]

WE NEED YOUR FEEDBACK: EXPRESSSCRIPTS' COVID VACCINE REIMBURSEMENT

As previously reported, LIPA has been in communication with Express Scripts regarding correct reimbursement for COVID-19 vaccine administration. We have questions this week for our LIPA member pharmacies who are 1) enrolled as COVID-19 Vaccine Providers **and** 2) who have already provided the information required by Express Scripts to receive $40 reimbursement for COVID vaccine administration (i.e., sent an email to recontractingmailbox@express-scripts.com with (1) pharmacy name, (2) contact name, (3) NCPDP number and (4) the email address that should receive the LOA): **Are you receiving enhanced reimbursement from Express Scripts and if yes, what is your effective date?** You can let us know via e-mail at vaccines@lipa.org. **Do we need to go back to Express Scripts to seek reprocessing ability for claims prior to your effective date?**

JULY 1 REVISIONS TO LA MEDICAID SINGLE PDL PUBLISHED

The Medicaid Pharmacy program released updates to Louisiana Medicaid's Single PDL that are effective July 1. If you have not already done you may want to skim the 59- page listing to see which drugs have been moved to/from the PDL (highlighted in yellow).

In addition, Louisiana Medicaid released four pharmacy guidance letters that contain changes, all dated June 28th:

- Louisiana Medicaid Pharmacy Point of Sale Diagnosis Code Requirements for Select Drugs
- Louisiana Medicaid Pharmacy Point of Sale Quantity Limit for Dulaglutide (Trulicity®)
- Louisiana Medicaid Pharmacy Point of Sale Clinical Authorization and Criteria Updates for Select Drugs-July 2021
- Louisiana Medicaid Pharmacy Educational Alert for Opioid Prescriptions

UPDATE ON NEW MEDICAID PROVIDER ENROLLMENT PORTAL

A pink Alert banner at the top of the LaMedicaid.com webpage states that LDH plans to launch their new Medicaid provider enrollment portal sometime during the month of July. You should receive an "invitation" letter from Gainwell (the Medicaid Fiscal Intermediary) when it is actually time to complete your Medicaid provider enrollment in the new system. As explained in Q&A on the Medicaid Provider Enrollment Portal Webpage, "not *all invitations will be mailed at the same time. Due to the large volume of enrollments, LDH plans to stagger invitations to avoid overwhelming the system. Pr**oviders should wait until they receive their invitation to access the portal.*** [Emphasis added] *The invitation will include instructions for how to access the portal as well as training resources for providers and their enrollment staff."*

2022 MEDICAID OPEN ENROLLMENT

While it may seem like open enrollment—the window of opportunity to change one's Medicaid or Medicare health plan just ended, it will soon be that time of year again and it is time to start looking ahead and planning. Today (July 2nd) Louisiana Medicaid issued an Informational Bulletin # 21-12 on July 2nd announcing that Medicaid Open Enrollment will begin October 15 and end a 6 PM on November 30th. Letters will go out to enrollees in September offering enrollees the opportunity to change to a different health plan that could better meet their needs. The IB including the following reminder to providers:

As a provider, it is important to let your patients know which plans you are accepting. There are limitations on what you can tell an enrollee. When you enroll with a health or dental plan, your provider services representative should explain these limitations to you. In general, you can inform enrollees which plans you accept, and the benefits, services and specialty care offered. However, you cannot: • recommend one health plan over another or incentivize a patient to select one health plan over the other; or • change an enrollee's health or dental plan for him/her, or request a disenrollment on an enrollee's behalf. These prohibitions against patient steering apply to participation in all Medicaid programs.

STATE MARKS FIVE YOUEAR ANNIVERSARY OF MEDICAID EXPANSION

Thursday July 1 marked five years since Louisiana expanded Medicaid to cover hundreds of thousands of adults who were previously uninured and did not qualify for Medicaid. The Governor's Office issued a press release marking the anniversary with Governor Edwards quoted as saying that expanding Medicaid was the "easiest big decision" he has made and noting the value this health care safety net provided during the pandemic. In summation, he stated Medicaid expansion in Louisiana *has literally saved lives, jobs, kept our tax dollars at home, significantly lowered the number of uninsured Louisianans and helped keep our rural hospitals open. It was the right decision then and it remains the right decision for our families and state."*

***THE LENS* REPORTING ON LOUISIANA MEDICAID RENEWALS**

The Lens website (which characterizes its aim as "engaging and empowering the residents of New Orleans and the Gulf Coast and providing information and analysis necessary to advocate for more accountable and just government") reported in depth this week on Louisiana Medicaid's eligibility renewal project. Noting that upwards of 160,000 people could see their Medicaid end, the reporting notes that many of those people will not actually be ineligible for Medicaid but see their cases closed for failure to return paperwork. The story includes discussion of "churn" (people having their Medicaid cases closed and then having to reapply) and links to an April 2021 issue brief from HHS' Office of Health Policy titled **Medicaid Churning and Continuity of Care: Evidence and Policy Considerations Before and After the COVID-19 Pandemic**. One key point of the authors of this issue brief is that "studies indicate that beneficiaries moving in and out of Medicaid coverage (sometimes called "churning") results in higher administrative costs, less predictable state expenditures, and higher monthly health care costs due to pent-up demand for health care services."

The story also links to a **Commonwealth Fund** story that looks at the "significance, impact, and ultimate implications of winding down" the COVID-19 public health emergency's continuous Medicaid enrollment protection once the public health emergency is officially over. A key concern is averting erroneous closures and he ensuing lengthy processing delays.

From our observation, LDH and Louisiana Medicaid is proactively taking steps now to minimize erroneous closures and get the message out to Medicaid enrollees. See for example the information on Louisiana Medicaid's landing webpage and LDH social media posts. One strategy is asking for Medicaid providers—including pharmacies-- to help get the word out to their patients. Adults are more likely than children under age 18 to have their Medicaid cases closed so you may want to pay special attention to your Medicaid patients age 18 and older in your outreach.

HMA's LOOK AT LOUISIANA MEDICIAID MCO

This week's (June 30th) **HMA Weekly Roundup** published by the public healthcare consulting firm Health Management Associates provides a two-page overview of Louisiana Medicaid Managed Care RFP on pages 4 and 5. They write that "in light of a national focus on Pharmacy Benefit Manager (PBM) regulation, MCOs will also be asked to address issues related to pharmacy benefits, 'particularly advancing the efficiency and economy of the pharmacy program by moving to a single PBM for the entire Louisiana Medicaid Managed Care Program.'" Their summary includes the Louisiana Medicaid market share as of May 2021 for each of the five Louisiana Medicaid MCOs, the RFP timeline, and Evaluation Criteria.

SHOT AT A MILLION

The Advocate reported this week that Louisiana has seen COVID vaccinations rise by 14% since announcement of the $2.3 M vaccine lottery kick-off, with the caveat that even with this bump, COVID vaccines are at a historic low. The story notes "Louisiana's vaccination campaign has taken on added urgency in recent weeks as concerns mount that the new Delta variant could cause a surge in coronavirus cases among the unvaccinated come the fall — particularly in the Deep South, where inoculations have sputtered. The strain, first identified in India, is more transmissible and virulent than previous mutations,

though the vaccines remain an effective defense. Use of your social media is a good way to create awareness about the vaccine lottery. Do yo**u know how many people received at least one dose of vaccine at your pharmacy . . . and are therefore eligible for the lottery?** That is interesting bit of information to include in your outreach! We have seen some majorly impressive numbers for independent pharmacies.

With Louisiana's ranking among states for percentage of eligible population to get the COVID vaccine there is almost [looking at you Mississippi and Alabama] nowhere to go but up. We have become accustomed to see Louisiana at 48th or 49th in all of the rankings. Here's some good news: Daily reporting from LDH on July 1 shows some upward movement with Louisiana tied with Tennessee at **45th** for the number of residents age 18 and up who are fully vaccinated and **46th** for the percentage of residents age 12 and up who are fully vaccinated. It **is** possible to move that needle.

MORE ON COVID-19 VARIANTS IN LOUISIANA

Louisiana's first known case of the Delta-Plus "double whammy" variant was reported in a posting on **The Advocate** website Wednesday afternoon. Delta-Plus is thought to have the same higher rate of transmission as the Delta variant, which was originally identified in India and is about two times as infectious as the original coronavirus strain. But it also has a characteristic of variants from South Africa and Brazil that makes it harder for antibodies to block it from entering cells. The Louisiana case was found from a batch taken in early June from a New Orleans resident, but only recently sampled as part of a partnership between the Louisiana Department of Health, Ochsner Health and LSU Health New Orleans. The Louisiana case is one of 153 samples in the U.S. that have been identified as "Delta-plus."

According to this June 30th Oschner Health press release, LDH has executed a $1.5 million dollar contract with Oschner Health System to assist in analyzing the strands of COVID that are emerging in Louisiana over the next two years. Ochsner's efforts are led by Research Scientist Dr. Amy Feehan, Ph.D.

LIPA's CPE STATUS

This week, LIPA received notice from The Accreditation Council for Pharmacy Education (ACPE) Continuing Pharmacy Education Commission that accreditation of LIPA's CPE Program is continued, following a review of our Interim Progress Report and other communication. The accreditation term granted for the Continuing Pharmacy Education Program extends until June 30, 2023, a standard six-year term. A Self-Assessment Report will be due February 1, 2023. The Self-Assessment Report is a comprehensive evaluation of the provider's Continuing Education program that is submitted once every six years. For the first time since LIPA's CPE Program was launched in 2017, we were found to be in f**ull compliance with all of ACPE's standards and policies**, with no areas listed as "Needs Improvement" or additional documents required.

During the first half of the 2020 LIPA offered six CPE classes—four of them COVID-vaccine related and two related to opioid dispensing. For the first time, LIPA jointly sponsored a CPE activity (with the Office of Public Health). We have a number of suggestions for CPE topics provided by pharmacists and pharmacy technicians to use in planning CPE for the last half of 2021. If you have not weighed in with the topics that would best meet the Continuing Pharmacy Education needs of you and your team (both pharmacists and pharmacy technicians), please email your suggestions to kennedy@lipa.org. We will be assessing needs of our members and lining up speakers and faculty with subject matter expertise to present/serve as faculty for the remainder of 2021 and beyond. For those of you who have participated in one or more of our CPE offerings, please know that we value and take under advisement the constructive feedback provided in the online post-activity evaluations.

STATES AMP UP EFFORTS TO REGULATE "PHARMACY DRUG BROKERS"

This week, Kaiser News reported on the "flood of bills" in states (42 states to be exact) to regulate Pharmacy Benefit Managers (PBMs) in an effort to "reign in prescription drug costs." The story attributes the volume of bills to the **Rutledge** Supreme Court Ruling. At least 12 states (some states legislative sessions have not yet ended) have adopted new oversight laws. The report questions how much—if any immediate actual

savings to consumers—will be achieved as a result of the bills. It notes the PBMs are "powerful" with a handful "controlling the vast majority of the market while also operating national pharmacy chains." The story focuses on Montana and notes that state's Democratic senator Jon Tester, recently introduced bipartisan legislation that aims to prevent pharmacy benefit managers from extracting fees from pharmacies after they're already reimbursed. He has proposed similar efforts before. Tester said **local rules help, but national policy forces the companies to play by the same rules in every state.** We think this (the need for national policies) is a salient point and LIPA will continue to advocate for relief that can only come from Congress or the federal Executive branch.

SHOPPING DURING 15 MINUTE COVID-19 VACCINE OBSERVATION PERIOD?'
The **New York Times** ran a story this week looking at what-if anything-people who received their COVID-19 vaccine in a pharmacy purchased. The story notes that the 15 minutes after getting a Covid shot can be a time of profound emotion, a moment of relief or gratitude or release as you wait to make sure you don't have a bad reaction to the vaccine. NYT was "curious" and asked readers: *If you got vaccinated in a pharmacy, did you wander the aisles while you waited, and if so, did you treat yourself to something impulsive or important or out of character?* They received hundreds of responses . . . stories of celebration, practicality and occasional mishaps. **Chocolate** in some form seems to be the most frequent purchase!

In the NEWS:

PR Newswire carried a press release on July 1 announcing that Arete Pharmacy Network and independent pharmacy providers in Oklahoma have agreed to join forces and create AlignRx which will be the nation's largest independent PSAO. The joint venture is expected to "combine core capabilities of the parties' respective PSAOs to offer a highly differentiated and future-proof portfolio of programs and services designed for today's independent community retail pharmacy and immediately positions AlignRx as the largest independent PSAO in the nation with no wholesaler requirements, representing over 4,400 community retail pharmacies."

Stat News reports that Walmart's announced plan to sell a private-label version of insulin at up to 75% off the cash price of brand-name insulins amid a national outcry over the cost of insulin in a bid to "improve access and lower the cost of care" was "met with a mix of derision and skepticism." The retailer announced it will sell rapid-acting analog insulin, which is a genetically modified form of human insulin, at $72.88 for a vial and $85.88 for a box of injectable pens. By doing so, the company maintained that anyone who pays cash will be able to save up to $101 off a brand-name vial or $251 off a package of five pens.

A guest column authored by the **Texas Pharmacy Business Council** and appearing in the online edition of Star Media local newspapers in that state characterizes the recently concluded Texas legislative session as "tremendous for independent pharmacies and their patients" and gives a shoutout to Texas state legislators for their "decisive actions this session to rein in pharmacy benefit managers (PBMs). Texas pharmacies statewide worked closely with lawmakers to pass House Bills 1763 and 1919, two measures that preserve patients' access to affordable, life-saving drugs while protecting small pharmacies from the PBM overreach that threatens their businesses. Legislators *made a strong statement with their **177-0 vote** to approve HB 1763, which prohibits retroactive cuts in pharmacy reimbursements, protects pharmacies' ability to mail and deliver mediations to their patients and prohibits PBMs from paying their affiliated pharmacies more than they reimburse other pharmacies for the same drugs or services. HB 1919 prohibits self-dealing PBM practices that steer pharmacy patients toward PBM-owned pharmacies and use patient-identifiable data to drive their pharmacy marketing efforts.*

Experiences of other states with state employee health insurance or Medicaid Pharmacy Benefit Managers are of keen interest to LIPA members as Louisiana will be procuring both an Office of Group Benefits and Medicaid PBM in the near future. **Delaware News** reported recently on their State Auditor Kathy McGinniss demanding $24.5 M in overcharges back from Express Scripts, their state employees' PBM. Ms. McGinniss noted in her special report that Delaware paid three times the average drug inflationary price between 2018 and 2020 for state employee prescriptions. Here office recently released a special report titled **"Lack of Transparency & Accountability in Drug Pricing Could be Costing Taxpayers Millions,"** One of the problems identified in the report—which sounds very familiar to us in Louisiana—is "vague language in the Express Scripts contract with the State [that] allowed the PBM to take advantage of the agreement." Notably one of her report's recommendations is for **"independent pharmacy experts to be included in contract negotiations with PBMs – so that they can provide the state's legal team with expert guidance to ensure a sensible fee structure in the contract."** [Emphasis added]

The Ohio Capital Journal reported this week that some pharmacists are "chucking insurance" and starting to sell generics outside the insurance system. The comparisons sited in this story are truly shocking; here are two:

- An Ohio patient recently was making a $141 copayment through her insurance for 180 pills of Celecoxib, a generic version of the anti-inflammatory drug Celebrex. When she went to a new pharmacy that eschews insurance, she was able to get it for $23.05. That means the *copayment* for the drug is six times as much as what drug cost on the open market — even when you add in a dispensing fee. And the cash price in a pharmacy that takes insurance — which is almost all of them? About $1,165, or 50 times as much as if she could get it from a secondary wholesaler, the pharmacy equivalent of the open market.
- Last year the anti-HIV drug Truvada went off of patent. But when 11 generic versions flooded the market this spring, the cash price at traditional pharmacies was actually higher than that for the patented drug. The increase is caused by a tangled mess of manufacturer discounts to pharmacy benefit managers, non-transparent reimbursements by PBMs on which pharmacies often lose money, and their need to make money on cash prices to offset those losses. But the bottom line is that a person can go to Blueberry Pharmacy — a shop outside of Pittsburgh that doesn't use insurance — and **buy a generic version of Truvada for $25 a month.** [Emphasis added] In a traditional pharmacy, an uninsured customer would face a markup on a baseline price of $2,100.

Bloomberg reported this week that costs for common generic drugs can vary among hospitals by more than $50 a pill, a study has found, with some health centers ignoring federal regulations designed to make pricing information easily accessible to patients. A comparison of twelve generic drugs at sixteen hospitals showed some charged a 6,000% markup compared to the pharmacy price for the same drug.