

Friday, June 12, 2020

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....



In this week's issue:

- LIPA Board Meeting Summary
- Act 124 Information
- Cares Act and Medicaid
- CBD Information
- LIPA CPE Survey

Members,

On Wednesday, the LIPA Board of Directors met in Baton Rouge (and via Zoom) and discussed how we can best meet the needs of our members. Among the topics discussed were the regular and special legislative sessions, implications for our pharmacies from changes in the medical marijuana law, vacancy on the Medicaid DUR board, Medicaid PDL changes that will go into effect 7/1, federal legislation and changes including PPP criteria, the PREP Act and its limits on liability for pharmacies, DEA enforcement and discussion of "red flags", status *LIPA vs. Express Scripts* litigation **which we view as a win for our members regardless of the decision rendered**, issues with the PBM used by the Office of Group Benefits' Medicare Advantage Plan, discussion of the content "extracted" and provided to pharmacies by PSAOs from the 835 Remittance Advice, the just announced Medicaid Provider Relief payments from HHS, annual Louisiana Pharmacists Association conference that will be "virtual" on July 25th, and LIPA's plans to offer CPE on a variety of topics to both pharmacists and pharmacy techs.

In last week's newsletter, we wrote about LIPA Board member David Darce's recent appointment to the Louisiana Board of Pharmacy effective 7/1/20. At the conclusion of our LIPA board meeting on Wednesday, David announced his resignation from the LIPA Board and recommend that Nikki Hollier be named to the board to represent District 5. The Board met in executive section and elected Nikki—who along with her husband Rob own and operate Hollier's Family Pharmacy in Breaux Bridge—to fill the vacancy created by David's resignation. While David will no longer be a Board Member, he said that he intends to continue to be an active LIPA member. We are most appreciative of David's willingness to freely share his knowledge and experiences with us during his tenure on the LIPA Board.

Legislative Update The Legislature is almost halfway through the First Extraordinary Session, which must adjourn by 6:00 p.m. on Tuesday, June 30th. Their primary focus is the operational budget and capital outlay, but almost one hundred bills have been filed, so we expect plenty of bills to run out of time and for debates to go to the wire.

[House Bill 1](#), authored by [Rep. Zeringue](#), Chairman of House Appropriations, provides for the ordinary operating budget for the state. It passed the House earlier this week and is currently before the [Senate Finance Committee](#) where we expect it to be heavily amended. The committee will begin to hear public testimony tomorrow, Saturday, June 13th at 9:00 a.m. in Room A-B at the Capitol. Citizens may also submit a prepared statement to the committee by 6:00 a.m. on the 13th. Statements should be emailed to millerj@legis.la.gov.

[House Bill 2](#), authored by [Rep. Bishop](#), Chairman of House Ways and Means and [Sen. Allain](#), Chairman of Senate Revenue and Fiscal Affairs, provides for the capital outlay (construction) budget. After amendments, the House and Senate passed HB2 unanimously and now sits on the governor's desk awaiting his signature. Unlike recent budgets, HB2 has funds available for every project in the budget and includes over \$100 million of additional capacity. These funds will help fund construction projects in future budgets.

Dates to Know

- June 25th—Louisiana Board of Pharmacy meeting
- July 1st—Start of the state fiscal year
- July 25th—LPA virtual conference
- October Session (Date TBD)—U.S. Supreme Court to hear *Rutledge vs PCMA*
- October 17th-20th—NCPA 2020 Annual Convention



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On Thursday, June 18th, the [State Bond Commission](#) will meet at 8:00 a.m. in the Capitol. It will discuss emergency financing; and local government cash flow, loans, and bonds.

The House will hear several tort reform bills next week in addition to dozens of bills related to taxes and other relief measures for businesses and people due to the pandemic.

Act 124 requirements go into effect on July 1st We are just a couple of weeks away from all of the PBM-related provisions in Act 124 passed by the 2019 legislature going into effect. PBMs will continue to be **licensed** by the Department of Insurance (DOI) and will now also be issued a **permit** by the Board of Pharmacy. We want to remind you of the law that was passed with overwhelming support so that you can recognize when PBMs are not in compliance with Louisiana's prohibition of unfair and deceptive trade practices by PBMs and know who such infractions should be reported. Provisions include prohibition on spread pricing without providing notice; directly or indirectly engaging in in-patient steering without making a written disclosure and receiving acknowledgement from the patient, attempting to get a patient to use a specific retail, mail order, or other network pharmacy in which the PBM has an interest, retroactively denying or reducing a pharmacy claim after the claim was approved, reimbursing a local pharmacy less than it reimbursed mail order, specialty or affiliated pharmacies for the same drug, device or service; failure to update prices or honor MAC prices; failure to remit taxes; and more. **Our summarized list will be attached to this newsletter.**

The various issues are subject to audit and enforced by either the Department of Insurance, Board of Pharmacy or Louisiana Department of Justice (Attorney General's Office). It is important that violations of the Pharmacy Practice Act be reported to the Board of Pharmacy as the law requires that they submit a monthly report of complaints about PBMs to the Attorney General. We are planning a CPE Activity in the near future. to educate our Pharmacists and Pharmacy Techs.

Applications for CARES Act Medicaid provider payments are now being accepted On Tuesday of this week, HHS [announced](#) that payments will be made to qualifying Medicaid and/or CHIP providers who billed Medicaid or CHIP fee-for-service or Medicaid managed care. While any provider type that billed Medicaid is eligible to apply, including pharmacies, the # 1 requirement is that the provider **"must not have received payment from the \$50 billion General Distribution Fund."** These are the funds which could have been nominal amounts (\$250 reported by one of our pharmacies and as little as \$1) that were **automatically** deposited between April 10th and April 17th into the bank accounts of providers who billed Medicare directly for DME or other non-prescription drug services.

To be eligible to apply, the applicant must meet all six of the following requirements:

- **Must not have received payment from the \$50 billion General Distribution**
- Must have directly billed Medicaid for healthcare-related services during the period of January 1, 2018, to December 31, 2019
- Must have either (i) filed a federal income tax return for fiscal years 2017, 2018 or 2019 or (ii) be an entity exempt from the requirement to file a federal income tax return
- Must have provided patient care after January 31, 2020
- Must not have permanently ceased providing patient care directly, or indirectly through included subsidiaries
- If the applicant is an individual, have gross receipts or sales from providing patient care reported on Form 1040, Schedule C, Line 1, excluding income reported on a W-2 as a (statutory) employee.

We were very disappointed to see in the updated [Frequently Asked Questions](#) [scroll to the bottom for Medicaid Provider Payments] that even if a provider rejects or rescinds acceptance of the allocation from the General Distribution, HHS is saying that they do not qualify for a Medicaid Provider Payment from this distribution. Some of you may have received notice regarding a deposit between April 10 and April 17 but you have not yet went online to accept the payment and agree to the Terms and Conditions. We are working with our federal partner and reaching out to the Congressional delegation and appealing for relief for **all** community pharmacies that serve Medicaid members and that encountered additional costs in dispensing prescription drugs as a result of the pandemic. The good news is that a considerable amount of funds that Congress made available through the CARES Act have yet to be allocated. HHS has already announced a special upcoming payment for dentists.

Here questions are responses to some other questions you may have:

- How much will the payments be? **The payment to each provider will be at least 2 percent of reported gross revenue from patient care; the final amount each provider receives will be determined after the data is submitted, including information about the number of Medicaid patients served We noted that the Application actually requests the payer mix breakout by percentage (Medicare A&B, Medicare C, Medicaid, Commercial, Self-Pay, Other Government Payer and Other to equal 100%) rather than a "count" of Medicaid patients.**



- Does HHS expect that these funds to be “first come first serve?” **On a 6/9 CMS All-State call, a HRSA representative said it is anticipated that the \$15 billion is enough to provide at least 2% of gross patient revenue to everyone who qualifies.**
- What is the deadline for submitting a completed application? **Monday, July 20th**
- How long will it take before payments are actually received? **According to [Roll Call](#), “HHS Deputy Secretary Eric Hargan said in a call with reporters these funds would be distributed starting in 10 days after providers finish submitting data, although it could take longer if follow-up information is needed.”**
- What information must be submitted with the application? **Instructions can be found [here](#) The application and supporting documentation will need to be submitted electronically through the online provider portal and includes:**
 1. **Application information and most recent federal tax return**
 2. **Employer’s Quarterly Federal Tax Return on IRS Form 941 for Q1 2020 or Employer’s Annual Federal Unemployment (FUTA) Tax Return on IRS Form 940**
 3. **Completed FTE Worksheet (template provided by HHS) and a Gross Revenue Worksheet if applicable**
 4. **Completion of the application requires information on payer mix, March and April costs associated with COVID, % bank routing information.**

Once the application is submitted it cannot be edited or resubmitted and HHS cautions “You should not apply until you have available all of the information and documentation required by the application form”

Are there Terms and Conditions that must be agreed to? **Yes. The link to the Terms and Conditions can be found [here](#)**

- Once I have gathered all the necessary data, how do I submit an application? **UnitedHealthcare is processing payments for HHS using their existing infrastructure for paying claims and applications are submitted through the Optum’s [enhanced provider relief portal](#)**

Consumers express preference for getting CBD products from their pharmacy With the many CBD products legally available from a variety of sources, we read with interest the results of a survey that respondents in 82% of respondents indicated that-given the opportunity—they would buy CBD from pharmacies if given the opportunity and would trust pharmacies more than online, dispensary, smoke shops, and other sources such as gas stations. This is consistent with pharmacists being a highly trusted source for health-related information. Patients expect their products available at their pharmacy to have been “vetted” and from a reputable source. This is an area in which due diligence and knowing your source is important. We will tell you more about Louisiana produced products soon.

Watch for new LIPA online Survey to identify CPE priorities Your responses to the online survey of members we conducted in April were **immensely helpful** to us in quickly getting information from the “front lines” that we were able to use in our advocacy on your behalf relative to COVID-19 impact. In assessing your priority areas for Continuing Pharmacy Education (CPE)--those areas for which you have the greatest need and interest-- we will be emailing an online survey next week. During the LIPA Board Meeting we advised that our aim is to triple our CPE hours awarded in the coming year and make CPE available through video and teleconferencing to both pharmacists and pharmacy techs. There is no fee for CPE hours charged to LIPA members. CPE activities offered by LIPA will focus on federal and state law and regulations and operational (rather than clinical) concerns.



IN THE NEWS

How Much is Too Much?? Debates About Cononavirus Vaccine Pricing

Axios

We are increasingly seeing news stories about the highly anticipated COVID-19 vaccine along with questions about pricing and who will be given priority for the initially limited supply. Pfizer is among the pharmaceutical manufacturers racing to develop a vaccine. As an aside, Pfizer's currently best selling drug is the pneumonia vaccine Prevnar 13 and the price for it has increased 79% since 2010. This week, Pfizer's CEO Albert Bourla said that it would be "unethical"—should they be among the first to develop a vaccine—to use "free market principles" and demand huge prices for all the vaccine they can manufacture. Axios observed that Pfizer's definition of "a fair price" could differ greatly from that of consumer advocates and points to the amount they charge for Prevnar. The health reporter Bob Herman notes that "reading between the lines," the pandemic has taken some of the heat off pharma's pricing tactics and they are looking to rehab their reputation.

READ MORE: [Pfizer says it won't put "huge price" on coronavirus vaccine](#)

Large Numbers of People Still Seeking Unemployment Benefits in Louisiana

Associated Press News

An AP story yesterday reported that new unemployment claims in Louisiana continue to be well above normal levels. Even as Louisiana's economy continues to recover and people return to work, 21,879 new claims were filed last week and 305,000 people who filed in previous weeks continued their claims. The number of continued claims maxed out at 320,000 and has begun to decrease as businesses reopen. For comparison purposes, this time last year, the number of continued claims was below 16,000 so the state has a long way to go to fully recover. The unemployment picture is somewhat like "mixing apples and oranges" as some of these job interruptions are in the oil and gas industry and totally unrelated to the pandemic.

READ MORE: [Unemployment claims still high as Louisiana reopens](#)

PCMA's CEO Says They Have Never Been More Essential to Medicaid

Medium

Below a disclaimer on the website stating "Anyone can publish on Medium per our [Policies](#), but we don't fact-check every story," the CEO of PCMA J.C. Scott claimed this week that PBMs will save state Medicaid Programs \$46 billion over the next ten years. We read with interest his declaration that during March the number of mail order prescriptions delivered to people's homes increased by "13% overall." In the piece, Scott makes the case for continuation of policy relaxations for mail-order after the public health emergency is lifted: *Given the savings and accuracy that mail order pharmacy provides, states should continue to enable its use, even after the pandemic*

subsidies. [Note that while Louisiana Medicaid was not among the states that encouraged mail order during the pandemic the same cannot be said for Medicare and commercial insurers]

READ MORE: [Pharmacy Benefit Managers: Providing Lower Prescription Costs for State Medicaid Programs Dealing with COVID-19](#)

Implications of Remdesivir Pricing for Medicare

KFF

In an issue brief published this week, Kaiser discusses how the Medicare Program is expected to cover Remdesivir when it becomes available for treatment of COVID. Because Medicare beneficiaries are far more likely to contract the virus and need treatment, Medicare as a payer will be disproportionately affected. Remdesivir which Gilead is marketing under the name Veklury is not a cure but has been shown to shorten the recovery time. It is not yet commercially available and while the first 1.5 million doses have been "donated" to the federal government, Gilead has not yet announced pricing. Notably, remdesivir is expected to be covered under Medicare Part A administered in hospitals rather than under Medicare Part D. The brief provides a good overview of how CMS accounts for the cost of new treatments not included in historical claims used the establish rates through a "new technology add-on payment." The primary takeaway is that patients will not face any increases in their Medicare co-pays and any adverse cost impact will be on the hospital and the Medicare Program.

READ MORE: [How Could the Price of Remdesivir Impact Medicare Spending for COVID-19 Patients?](#)

The Holy Grail" of Vaccines Could Be Made of Mosquito Spit

Reuters

Our "on a lighter note" story this week again comes from Reuters who reported on initial findings from research published this week in *The Lancet* showing that a vaccine made from Anopheles mosquito saliva was safe and that it triggered antibody and cellular responses. *The vaccine, if it pans out, would protect against all of the pathogens the insects inject into humans - malaria, dengue, chikungunya, Zika, yellow fever, West Nile, Mayaro viruses and anything else that may emerge.*

The worldwide COVID-19 pandemic has resulted in increased focus on infectious diseases and vaccine research. One of the key areas of concern are mosquito-borne pathogens. Mosquitos are "arguably the deadliest animal on earth" according to a researcher at Walter Reed Army Institute of Research in Maryland.

READ MORE [How a vaccine made of mosquito spit could help stop the next epidemic](#)