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Testimony
Engrossed Senate Bill No. 2030
House Human Services Committee
Representative Robin Weisz, Chairman
March 7, 2023

Chairman Weisz, and members of the House Human Services Committee, I am Brendan Joyce, PharmD, Clinical Services Director with the Department of Health and Human Services (Department). I appear before you in support of engrossed Senate Bill No. 2030.

Engrossed Senate Bill No. 2030 directs the Department to continue to pursue and participate in innovative and beneficial pharmacy program administration options, and specifically mentions value-based purchasing programs (VBP). VBPs are most simply explained as agreements for drug price concessions based on actual efficacy and outcomes. For instance, a drug may be approved as a gene therapy to cure a disease, and it costs $3 million. The manufacturer and the state can enter into a VBP to where the state net cost for a successful outcome will cost $2 million net of rebates, and a non-successful outcome will only cost $1 million. There is no requirement for manufacturers to enter into any VBP with any state.

VBP programs are classified as a type of supplemental rebate. The Department currently participates in the Sovereign State Drug Consortium (SSDC) which is a multi-state supplemental rebate pool. The Department's participation in this pool has resulted in $32 million in additional rebate dollars invoiced since the start of the ND Medicaid supplemental rebate program (4Q2015). The increasing importance of these supplemental rebates can best be shown by the increasing amount invoiced over time. For 2015-2019, the Department invoiced for $9.16 million in supplemental rebates. For 2020-2022, the Department has invoiced for over $26.5 million in supplemental rebates.

VBP programs as discussed here were formalized in federal rules in 2020. Through those Center for Medicare & Medicaid Services (CMS) rules, there are two ways for Medicaid agencies to enter into a VBP. The simplest is for manufacturers to submit a VBP offer to CMS, and then any state could choose to accept that agreement. This requires no state plan amendment with CMS and all states would be eligible to participate. There have been zero manufacturers to choose this option, and therefore no impact for states.

The second option is for states to submit a state plan amendment to CMS which allows the state to individually negotiate and contract with manufacturers for VBP agreements. Sixteen states have approved VBP state plans, and the Department will be submitting a VBP state plan amendment before the end of this current quarter. Having the ability to enter into a VBP doesn't guarantee any contracts will be offered or executed. Some of the 16 states with VBP state plans have zero VBP contracts, and the state with the longest history of VBP (since 2018 as they had a waiver before CMS completed the rules) currently only has two VBP contracts in place.

North Dakota Medicaid is one of the smallest Medicaid pharmacy programs in the nation. If the Department had not joined SSDC, our supplemental rebates would not be at their current level. SSDC has had discussions with manufacturers about VBP proposals and will request VBP proposals in their rebate solicitation notifications, but as of now, zero manufacturers have submitted VBP proposals to SSDC. The Department has had discussions (one phone call) with one manufacturer about VBP, but no VBP offers have been proposed.

VBP has been put forth as a potential financial protection for states from the increasing number of hyper-expensive medications. Based on what is happening in the Medicaid market, VBP has not provided a solution. The Department will make sure all options are available and we are in position and able to do what proves worthwhile for North Dakota.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.