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March 7, 2023

Senator Judy Lee, Chairman
Senate Human Services Committee
North Dakota State Capitol
600 East Boulevard Avenue
Bismarck, North Dakota 58505

Re: AHIP Comments on House Bill 1095, *Health Benefit Plan Coverage of Comprehensive Medication Management*

Dear Chairman Lee and Committee Members,

AHIP and our local health insurance provider members support the intent of HB 1095 to ensure that North Dakotans can access comprehensive medication management care services when appropriate. In fact, we believe that every American deserves access to affordable, comprehensive, high-quality coverage and care.

AHIP appreciates the sponsors' willingness to work with AHIP and our member plans to our address our concerns and we appreciate the amendments that were adopted in the House. However, AHIP continues to have strong concerns with the bill as proposed. Overall, HB 1095 is a benefit mandate that will increase health insurance costs for North Dakotans and will lead to consumer confusion. For the reasons discussed below, AHIP and our members would appreciate additional time to work with the sponsors to address our concerns.

Medication therapy management programs increase costs for consumers without producing clinical benefits.

HB 1095 proposes to create a mandatory comprehensive medication management program for privately-sponsored plans, similar to the "Medication Therapy Management Program" (MTM Program) that currently exists in the Medicare program. Historically, the MTM Program is a complex, high-touch (and expensive) initiative that has not shown improved clinical outcomes or reduced health care spending. The Centers for Medicare and Medicaid Services has tried tweaking the MTM Program over the years, including starting a pilot version of an "enhanced" program, but this has not shown measurable improvements to overall spending or clinical outcomes for participating beneficiaries.[1] For these reasons, employers have not shown strong interest in MTM programs and health insurance providers have not been routinely including them in their plan offerings.

Further, mandating these kinds of programs on all plans will put significant strain on health insurance providers to find qualified staff to run them. In Medicare, for instance, plans already report shortages of qualified pharmacists/clinicians available to provide such services to enrollees, and that is only for about 1.4 million Part D participating enrollees nationwide (out of 18 million total, or about 8%). Because the population of North Dakota is so spread out, it is unlikely that there is a sufficient supply of qualified pharmacists available to meet the requirements of this legislation.

[1] Acumen LLC. Evaluation of the Part D Enhanced Medication Therapy Management (MTM) Model: Fourth Evaluation Report. April 2022. https://innovation.cms.gov/data-and-reports/2022/mtm-fourth-evalrept

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Health insurance providers are investing in innovative ways to serve patients – HB 1095 will impede market innovation.

MTM Programs are not the only way to help patients with complex medical conditions that require multiple medications to manage, and health insurance providers use both passive and active interventions to do so. These can include health plan outreach via wellness checks, calls, written/e-communications to promote patient adherence and mitigate side effects, etc., or using claims adjudication at the retail counter to prevent filing contra-indicated medications, and other claim-specific safety edits. Targeted interventions such as these are effective and far less resource intensive than mandating MTM style programs on entire plan enrollee populations. In addition, these interventions can be done without imposing a significant burden on patients.

MTM Programs work well for some patients, but not all of them, and member concerns with MTM Programs are common. Patients tend not to like overbearing interventions forced on them, and this results in many patients opting out of these programs altogether. It is better to allow health insurance providers to work with their members to determine if these kinds of "high-touch" engagements will work best for enrollees, versus having a broad-mandate which forces all patients and plans into them.

HB 1095 creates significant operational concerns, will increase health insurance costs for North Dakotans, and will lead to consumer confusion.

Beyond our overarching concerns with mandating an expensive and low-value MTM Program, AHIP also has the following concerns with HB 1095:

- HB 1095 requires health insurance providers to directly contract with pharmacists, essentially creating an entirely new provider network which does not currently exist in any state. This is a complicated operational process that requires each pharmacist to become credentialed and be able to submit medical claims for reimbursements. This raises multiple questions on how to handle pharmacies that are in-network versus, out-of-network. Not all pharmacists who practice there are credentialed and vice versa--i.e. how to handle pharmacists that want to contract, but who practice in an out-of-network pharmacy. Is there a limitation on how many patients a pharmacist may see? Will patients need to set up appointments to receive these services? Further, there is no guarantee that every pharmacy in an existing network would want to provide these services as described, and no guarantee that every pharmacist in all pharmacies would want to provide them. Will patients be required to make appointments with their in-network pharmacist if other pharmacists do not want to be credentialed?

- HB 1095 would require health insurance providers to treat pharmacists as "providers" equal to physicians for reimbursement purposes. For decades the U.S. Congress has debated granting pharmacists such "provider status" in Medicare. Despite widespread support, legislation has stalled because the U.S. Congressional Budget Office has scored it as significantly increasing federal spending, which would require significant spending cuts or new taxes under current budgetary "paygo" rules to implement. This would be no less true in North Dakota, with costs ultimately borne by employers and patients.

- Implementation of a MTM Program could create a significant issue for North Dakotan consumers within the Marketplace. This type of program could increase costs to such a degree that it could impact plan design and the ability of health insurance providers to meet the required actuarial value, (the percentage of total average costs for covered benefits that a plan will cover), particularly for bronze plans.

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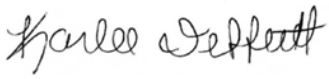
- The definition of "comprehensive medication management" in HB 1095 includes an exhaustive list of services for health plans to reimburse a pharmacist. In order to reimburse for each of these services, health insurance providers would need to ensure that there is a coordinating CPT code, which are established by an independent international body. Additionally, what occurs if a pharmacist is not willing to provide the additional services as listed?

Overall, we think many of the issues raised within HB 1095 are directly related to the scope of practice for pharmacists. As medication management is within the pharmacy scope of practice, nothing prevents pharmacists from providing these services now. Pharmacists should already be providing medical management services to plan enrollees as part of what they are paid for under plan pharmacy network participation contracts (i.e. dispensing fees, etc.). AHIP has strong concerns that this legislation will increase pharmacy profits at the expense of North Dakota consumers through increases in health insurance premiums.

We appreciate the opportunity to share our concerns and your consideration of our comments. Please do not hesitate to contact me at ktebbutt@ahip.org or 720-556-8908 if you have any questions.

Sincerely,



Karlee Tebbutt
Regional Director, State Affairs
AHIP – Guiding Great Health

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