

Benefit Insights

A Look Inside the Drug Formulary – From the Insurer’s Side

Like most employers, your company most likely has a prescription drug program that includes a drug formulary. You understand how the formulary works with your co-pay design, encouraging members to make cost-effective medication decisions. Now, take a look behind the scenes and see how the formulary works from the insurer’s side.

Purpose



The purpose of the formulary is for insurers (and employers) to control costs as well as to improve care. When a pharmaceutical company introduces a new drug that is comparable to existing drugs used to treat the same disorder, they are considered to be “therapeutically equivalent” meaning they work in the

same way to treat the disorder. If a choice between multiple medications is considered equal, the insurer may offer only the less expensive drug in its formulary, i.e., “equal quality at a better price.” Or, they could require a higher co-pay for the more expensive drug. In the case of Pravachol versus Lipitor, both drugs belong in a therapeutic class called “statins.” Both medications slow down the body’s ability to make cholesterol, thus having the beneficial effect of lowering cholesterol. Drugs in this class include atorvastatin (brand name Lipitor), fluvastatin (Lescol), lovastatin (Mevacor), pravastatin (Pravachol) and simvastatin (Zocor). With so many choices, the insurer may

choose to cover only one or two of these medications, based on their ability to gain favorable pricing.

Drug Selection

To select formulary drugs, insurers use a pharmacy and therapeutics (P&T) committee made up of doctors and pharmacists. The committee examines the medical research on drugs within therapeutic categories. Then, they select the drugs that are “best in class” for inclusion on the formulary for each category. Finally, the insurer works to negotiate the best prices for the selected drugs.

Another important function of the (P&T) committee is that it tracks trends in side effects and success rates of various medications, and may decide to remove a drug from the formulary if ongoing research suggests that the advantages are not as real as the drug maker originally claimed.

In this way, the formulary actually protects plan members from ineffective drugs that do not deliver the intended results.

Sub-contracted pharmacy benefit managers (PBMs), along with insurers, negotiate the purchase price of drugs based on three factors: volume, “class of trade” and “ability to move market.”

Volume

Insurers work to generate better pricing based on the volume of drugs they expect to purchase - the higher the volume, the lower the price. When a formulary delivers greater volume of one drug over another, it creates a volume advantage that is helpful in negotiation.

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We are pleased to present to you our quarterly agency newsletter. This newsletter is designed to give you timely and important information regarding employee benefits, government regulations, new products, and other areas of interest to employers and their employees. We value you, your employees, and your business and continue to strive to provide you with the very best products and service available.

Thank you again for your business





Economic Stimulus Measure Also Strengthens and Expands HIPAA's Privacy Requirements

The economic stimulus package enacted earlier this year includes provisions that extend and strengthen the privacy requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). These changes significantly affect employer health plans, along with the various vendors and contractors that provide services to these plans.

HIPAA regulates the use and disclosure of an individual's protected health information held by health care providers, health plans and health care clearinghouses (referred to under HIPAA as covered entities). Vendors and contractors to health plans—such as those providing legal services, accounting services, consulting services, information technology and the like—are considered business associates and previously were not directly subject to the HIPAA privacy and security rules. (They did, however, sign business associate agreements to maintain the privacy and security of protected health information, so as to enable the covered entities they contracted with to comply with HIPAA.) In a significant change to this approach, the Health Information Technology for Economic and Clinical Health Act (HITECH), part of the American Recovery and Reinvestment Act of 2009 (ARRA), extends HIPAA's privacy and security provisions to business associates that provide services to health plans, thus making them directly subject to these provisions in the same way that covered entities are, and also subject to the same direct government penalties as covered entities in the event of a breach.

In another significant change, HITECH specifies breach notification procedures that must be followed when there is an unauthorized disclosure of unsecured protected health information. Under regulations issued by the Department of Health and Human Services, these provisions require both the covered entity and business associate to directly notify each affected individual (including any individual whose unsecured protected health information “is reasonably believed” to have been compromised) of a breach “without unreasonable delay but in no case later than 60 calendar days after discovery of the breach.” The regulations specify methods of notice, including use of prominent media outlets if the breach is believed to involve more than 500 individuals. They also specify the information that should be included in a breach notification.

The regulations also define the technologies and methodologies that can be used to secure protected health infor-

mation. Because the breach notification requirements apply only to unsecured protected health information, when health information is secured in the ways outlined in the regulations, the breach notification requirements do not come into play.

HITECH also directs that penalties collected in enforcement proceedings will be channeled back for additional enforcement efforts. Some commentators have noted that this may indicate more aggressive enforcement of HIPAA's privacy and security efforts down the road.

Employer health plans and other covered entities will need to review and amend their contracts with health plan service providers to reflect these changes.



Employer health plans and other covered entities will need to review and amend their contracts with health plan service providers to reflect these changes. HITECH specifically states that HIPAA requirements that relate to security and that are applicable to covered entities, in addition to now being applicable to business associates, “shall be incorporated into the business associate agreement between the business associate and the covered entity.”

The Department of Health and Human Services has issued initial guidance on HITECH provisions, but more will be forthcoming. The timetable for implementation of HITECH provisions affecting the HIPAA privacy and security requirements varies. Given the complexity of these new rules, and their potential impact if not followed, companies with health plans subject to HIPAA should take steps now to ensure they are up to speed with compliance.

Recognize Value of Voluntary Benefits for Your Company and Your Employees Alike

Attracting and retaining valuable, productive employees can be a complex task. Differentiating your company from others, however, can help increase employee loyalty and attract top job candidates. One way to set your company apart from other employers is to offer a well-rounded and comprehensive voluntary employee benefit package.

A voluntary benefit program is a practical way to provide employees with the benefits they want, but with little or no cost to the company. Studies reveal that employees want choices regarding types of benefits due to their varying needs. Family status, finances, age, current coverage, and other circumstances drive the need for specific benefits.

Optional employee benefits include life insurance, short-term and long-term disability insurance, accident coverage, dental and vision insurance, and long-term care and critical illness insurance. These products become available at a fraction of the cost that would be incurred if purchased by the employees on an individual basis. Employees with health problems may also be able to receive guaranteed issue benefits.

Making certain to offer the right mix of benefits is the key to meeting employees' needs. It is crucial for an employer to conduct a realistic assessment of employee demographics. Many companies make the mistake of offering too many concierge-style benefits, in an effort to make their company look good. But in the end, this strategy doesn't satisfy employees' needs, and proves to be wasteful.

When considering a voluntary benefit program to offer employees, look for benefits that produce clear, compelling advantages to both your company and your employees alike. Employers should consider whether the voluntary benefit is cost effective, easy to implement, and satisfies employee needs. Consider these four factors when developing a benefits package:

- **Design** - An effective benefits package must be affordable, competitive, comprehensive, easily understood, and valuable given the employer's and employees' present circumstances.
- **Communication** - While the design of the benefits package is important, it offers little value if the details of the package are not properly communicated to employees. Your workers cannot enroll in a benefits program that they are not aware of, or that they do not understand.
- **Value** - Benefits must be of true value to the employee. Instead of offering benefits that might be more trouble than they are worth, find out what employees really need and offer it to them.
- **Service** - Understand service before, during, and after enrollment. Employers must be able to administer the plans readily, and employees must be able to understand and utilize the benefits.

To make voluntary benefit programs even more appealing to employees, the Internal Revenue Service established a tax filing incentive called Section 125, commonly referred to as "cafeteria" or "POP" plans. Employees who participate in a 125 plan pay less FICA, federal, and state tax on the dollars routed through these plans. The employer also saves on the required FICA match.

The bottom line: employers can expand their fringe benefits to attract top-notch employees, without increasing overhead, by offering just the right mix of voluntary benefits. In today's tough economy, it is essential for employers to offer employees the best benefit options available. If designed with thought and care, a voluntary benefit package will result in a win-win situation for both the employer and employee.

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Class of Trade

Drug manufacturers must follow a "class of trade" system that provides:

- Lowest pricing to the federal government;
- Next lowest pricing to hospitals;
- Next lowest pricing to insurers and other captive settings;
- Highest pricing to purchasers for retail trade.

Ability to Move Market

The formulary is critically important in delivering market to the drug manufacturers. When a PBM or an insurer

can tell Pfizer, manufacturer of Lipitor, that all (and "all" is always qualified) prescriptions for cholesterol-lowering drugs will be written for Lipitor (as opposed to Zocor or Pravachol), they are "delivering market" and creating a competitive advantage for Lipitor. The drug company (in this case Pfizer) is willing to pay for this advantage by offering lowered pricing.

Outcome

Drug formularies can have a positive impact on health care through the careful, ongoing review of drug effectiveness results by the formulary decision makers. The outcome is better choices based on the most current research, and lower pricing by delivering market.

Don't Let a Slow Economy Stop Risk Management

The recession that started in December 2007 has had a major impact on the construction industry. The demand for new homes has collapsed along with the general housing market. Owners of commercial projects have put them on hold, either due to lack of financing, cash flow problems, or lack of demand for the space. While surviving may seem like the top priority for contractors, a period of economic slowdown might be the perfect time to take steps that will plant the seeds for long-term profitability.

One step with an immediate payoff is using equipment more efficiently. Are employees making unnecessary trips up and down ladders to retrieve tools and materials? Consider using scaffolding or scissor lifts, which will allow the worker to bring all necessary materials in one trip while also keeping him safer than a ladder would.

Now may be an excellent time to review contracts with an eye toward inserting clauses to improve worksite safety. For example, you might want to require tools with safety enhancements, specific fall protection measures on scaffolding, footwear that meets a specific protection standard, or eye protection. Improved safety practices will reduce liability insurance claims and make the business more attractive to insurance companies, resulting in lower rates.

During a slow economy, you probably have downtime between projects. Use this time to think about how to improve safety on the next job. Meet with the general contractor to discuss ways to prevent accidents. Meet with the subcontractors who will bid on the work. Ask them about how they will prevent accidents from happening. Take their answers into consideration when you evaluate their bids.

Don't forget training. A downturn affords you time you didn't have before to train employees on safety, different types of projects (such as environmentally sensitive jobs), and more efficient work processes. When the recovery comes, you will be in a position to bid on more and different jobs

and your safety practices will make you attractive to general contractors.

Along with training, consider replacing outside safety consultants with your own jobsite superintendents. Give the supers the training they need to effectively manage worksite safety. This will give you stronger supers, allow for immediate safety improvements on the job, and save money that would have been spent on consultant fees and higher insurance premiums.

Arrange meetings with the loss control professionals at your insurance company. Ask them to evaluate your worksites, provide training materials, or even to come in and discuss loss prevention with your workers.

If your safety record is already solid, talk to your insurance agent about changing to a loss-sensitive insurance rating plan. These plans, which normally apply to workers' compensation insurance but can also apply to other coverages, adjust your premium based on your loss experience during the policy term. Very large contractors may want to consider a retrospective rating plan, which bases the final audit premium almost entirely on the contractor's loss experience during the term. Contractors with sound safety practices stand to benefit enormously from this type of approach.

The economy will eventually rebound. When it does, the companies that were proactive during the slowdown will reap handsome rewards in the form of more contracts, higher revenue and greater profits. By investing in efficiency, safety and training, contractors will be poised for future growth. The economy is at a standstill; your business shouldn't be.



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