



1015 15th Street, N.W., Suite 950 | Washington, DC 20005
Tel. 202.204.7508 | Fax 202.204.7517 | www.communityplans.net
John Lovelace, Chairman | Margaret A. Murray, Chief Executive Officer

March 7, 2016

The Honorable Ron Wyden
Ranking Member, Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510-6200

The Honorable Charles Grassley
Member, Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510-6200

Submitted via email to Report_Feedback@finance.senate.gov

Dear Senators Wyden and Grassley,

The Association for Community Affiliated Plans (ACAP) thanks you for providing us with an opportunity to respond to your letter of January 21, 2016 regarding the impact of high-cost, breakthrough drugs on health care system.

ACAP is an association of 56 nonprofit and community-based Safety Net Health Plans. Our member plans, located in 26 states, provide coverage to more than 15 million individuals enrolled in Medicaid, the Children's Health Insurance Program (CHIP), Medicare Special Needs Plans for dually-eligible individuals, and Qualified Health Plans (QHPs). ACAP plans currently serve approximately one-third of Medicaid and CHIP enrollees who receive coverage through risk-based managed care, including approximately one-third of all enrollees in the Medicaid-Medicare demonstrations. ACAP plans are members of their communities, partnering with states to improve the health and well-being of their members who rely upon the Medicaid and CHIP programs.

As you explored in your investigation and report, the new treatment regimens for individuals with hepatitis C virus (HCV), including Sovaldi and Harvoni, are breakthrough medical innovations. The high cure rate, limited side effects, and availability of treatment for patients with other conditions (such as HIV) have and will continue to change lives for those with chronic hepatitis C infections. Our Safety Net Health Plans strive to deliver such benefits to as many patients as could practically and appropriately benefit.

While the new HCV agents are a very desirable and welcomed medical breakthrough, the cost of the treatment was not considered when the Medicaid managed care rates were set in recent rate years. Even now, over two years after the approval of Sovaldi, not all states have appropriately updated the capitation rates for Medicaid managed care plans to reflect the high cost and utilization of these drugs.

Because the capitation rates for Medicaid managed care plans are set by the state, in some cases through a competitive bid process, Medicaid managed care organizations (MCOs) have little recourse when expensive, breakthrough treatments come to market during the middle of a rate cycle. While states and health plans can track the drug development process, there is no



information about pricing until the drug or device has been approved by the FDA, and thus actuaries cannot incorporate the cost and utilization of anticipated treatments when developing rates.

Because Safety Net Health Plans are local or regional plans, often offering coverage in a single county, region, or state, they are unable to offset underpayment in one state's Medicaid program with business in other states or other programs. This commitment to their communities, through thick and thin, makes Safety Net Health Plans invaluable partners, but exposes them greatly when rates are not sufficient, as in the case of breakthrough hepatitis C medications.

State Medicaid programs do have policy options to ensure that the rates Medicaid health plans receive are actuarially sound, even when a breakthrough medical innovation is approved in the middle of a rate cycle. Some states instituted “kick-type” payments to provide MCOs a supplemental payment for every member treated, so long as their treatment was approved using standardized state guidelines. Other states have temporarily “carved out” HCV drugs from a managed care plan's responsibility until the State has a better sense of the costs and utilization of treatment and can accurately include them in managed care rates. So long as carving out medications is a temporary solution only in exceptional circumstances, this approach can work, though there is significant evidence that including the pharmacy benefit in the capitated benefits package results in programmatic advantages and cost savings.¹ Finally, some states have worked to include the higher cost and broader use of these new medications in a plan's actuarially sound rate.

However, not all states have taken action, and even among those that have the responses do not always sufficiently account for the increased cost and utilization. It is important to recognize that the issue of high-cost breakthrough medications, as well as rising costs for already approved medications, is not a problem limited to hepatitis C medications. In a recent survey of ACAP-member health plans, no plan said they were “very confident” that their state will ensure that their Medicaid capitation rates will reflect the more expensive medications entering the market, and one-third were not at all confident that their state would do so.

ACAP plans are mission-driven organizations, but there is growing concern that high-cost medications result in financial risk is well beyond a reasonable level that a health plan should be expected to bear using its reserves. While we welcome the emergence of breakthrough medical innovations, and can attest to the value they provide patients, we are concerned that without federal and state action to address this situation our member health plans will not be able to survive this oft-unfunded financial strain. The resulting elimination of Safety Net Health Plans from the market will impede access to health care services for all Medicaid members.

¹ The Menges Group. “State Policies Regarding MCO Preferred Drug Lists.” March 2014. <http://bit.ly/1Qnw6zt>
The Menges Group. “Comparison of Medicaid Pharmacy Costs and Usage in Carve-In Versus Carve-Out States.” April 2015. <http://bit.ly/1Y5nKj3>



We thank you for your consideration of our comments. Please feel free to contact Jenny Babcock, our Vice President for Medicaid Policy (jbabcock@communityplans.net, 202-204-7518) if you would like to discuss any of these issues in greater depth.

Sincerely,

A handwritten signature in black ink that reads 'Margaret Murray'. The signature is written in a cursive, flowing style.

Margaret Murray
CEO