New Medicare Advantage Tool to Lower Drug Prices Restricts Patients' Choices

In 2019, plans will be able to add restrictions on certain drugs to treat diseases such as cancer, requiring patients to try cheaper drugs first.

October 5, 2018 By Susan Jaffe

Starting next year, Medicare Advantage plans will be able to add restrictions on expensive, injectable drugs administered by doctors to treat cancer, rheumatoid arthritis, macular degeneration and other serious diseases.

Under the new rules, these private Medicare insurance plans could require patients to try cheaper drugs first. If those are not effective, then the patients could receive the more expensive medication prescribed by their doctors.

Insurers use such "step therapy" to control drug costs in the employer-based insurance market as well as in Medicare's stand-alone Part D prescription drug benefit, which generally covers medicine purchased at retail pharmacies or through the mail. The new option allows Advantage plans — an alternative to traditional, government-run Medicare — to extend that cost-control strategy to these physician-administered drugs.

In traditional Medicare, which covers 40 million older or disabled adults, those medications given by doctors are covered under Medicare Part B, which includes outpatient services, and step therapy is not allowed.

About 20 million people have private Medicare Advantage policies, which include coverage for Part D and Part B medications.

Some physicians and patient advocates are concerned that the pursuit of lower Part B drug prices could endanger very sick Medicare Advantage patients if they can't be treated promptly with the medicine that was their doctor's first choice.

Critics of the new policy, part of the administration's efforts to fulfill President Donald Trump's promise to cut drug prices, say it lacks some crucial details, including how to determine when a less expensive drug isn't effective.

"Do you have to lose vision before you are allowed to use" medication approved by the Food and

Drug Administration, asked Richard O'Neal, vice president for market access for Regeneron, which makes Eylea, a medicine that is injected into the eye to treat macular degeneration. In 2016, Medicare paid $2.2 billion for Eylea prescriptions for patients in traditional Medicare, more than any other Part B drug, according to government data.

Medicare Advantage insurers spend about $12 billion on Part B drugs, compared to the $25.7 billion traditional Medicare spent in 2016 on such drugs. Insurers that adopt the step therapy policy can apply it only to new prescriptions — medicine a patient hasn't received in the past 108 days.

The change in policy gives insurers a new bargaining tool: Pharmaceutical makers may want to compete by cutting prices to get their product on the plans' list of preferred lists, allowing patients to receive the medicines without step therapy pre-conditions. That "strengthens their negotiating position with the manufacturers," Medicare chief Seema Verma said when she unveiled the policy last month.

It could also save patients money since they usually pay a portion of the Part B prescription cost. In addition, Medicare is requiring plans to share the savings with enrollees.

"Competition is a big factor in price concessions," said Daniel Nam, executive director of federal programs at America's Health Insurance Plans, an industry trade group. But insurers haven't had much leverage to negotiate lower prices for these drugs without strategies like step therapy, he said.

Federal health officials told insurers in a memo last month that they could substitute a less expensive Part B drug to treat a medical condition the FDA has not approved it for, if insurers can document that it is safe and effective. Yet coverage for a Part D drug is usually denied for a condition that doesn't have FDA approval, according to the Center for Medicare Advocacy, which helps beneficiaries with appeals.

Several representatives of medical specialty groups recently met with Alex Azar, the secretary of the Department of Health and Human Services, to express their concerns.

Stephen Grubbs, MD vice president of clinical affairs at the American Society of Clinical Oncology, was among them. He said Azar told them the new step therapy policy would not have a big impact on cancer treatment.

Patients and their physicians who encounter problems getting specific Part B drugs can appeal using the "process that we have throughout the Medicare Advantage program and Part D plans," advised Verma.

Under this system, if patients don't want to follow their insurance plans' requirements to try a less expensive medication first, they can request an exception to step therapy.

"They need their doctor's support," said Francine Chuchanis, director of entitlement rights at

Direction Home, an Area Agencies on Aging organization that serves older adults and people with disabilities in northeastern Ohio. The physician must tell the plan why its restrictions should be lifted and provide extensive documentation.

The plans have 24 hours to respond to an expedited exception request and 72 hours for a regular one. During this time, “people are going without their drugs,” said Sarah Jane Blake, a Medicare counselor for New York’s StateWide Senior Action Council.

However, David Daikh, MD, president of the American College of Rheumatology, said plans frequently do not meet the 72-hour deadline.

“We raised this point with the secretary and his staff,” he said. “They replied that they felt that there would not be a backlog for this program.”

If a plan denies the exemption, patients can file a “reconsideration” appeal. During this process, patients still can’t get their medicine unless they pay for it out-of-pocket.

Only a tiny fraction of Medicare Advantage beneficiaries filed a reconsideration appeal last year. Of the 3,498 cases that were decided, just 1 in 10 beneficiaries won decisions fully or partially in their favor, according to Medicare statistics.

“That’s disheartening to say the least,” said Blake, but she wasn’t surprised. “Beneficiaries are intimidated by the hoops they have to go through and often give up trying to purchase the drugs prescribed for them.”

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