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Coalition of State Rheumatology Organizations

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January 28, 2024

Virginia State Legislature
1000 Bank St
Richmond, VA 23218

Re: SB 274 & HB 570

The Coalition of State Rheumatology Organizations (CSRO) is a national organization composed of over 30 state and regional professional rheumatology societies, including our member society in Virginia. CSRO was formed by physicians to ensure excellence and access to the highest quality care for patients with rheumatologic, autoimmune, and musculoskeletal disease. It is with this in mind that we write to you concerning prescription drug affordability review legislation.

Practices that engage in the administration of provider administered drugs on an outpatient basis are typically engaged in a practice known as “buy and bill.” These practices pre-purchase drugs and bill a payer for reimbursement once they are administered to a patient. Margins for practices engaged in buy and bill are thin. In order to maintain the viability of administering drugs in this setting, reimbursement must account for overhead costs such as intake and storage, equipment and preparation, staff, facilities, and spoilage insurance. Reimbursement rates that do not sufficiently compensate these costs risk practices being unable to furnish these services. Most payers reimburse providers the cost of the drug product plus an add-on payment at a bundled rate in order to cover the aforementioned costs and make provision of service economically viable.

Unfortunately, the upper payment limit (UPL), which the board is empowered to set, would prevent providers from collecting this add-on payment, the result of which would be an inability to provide service for provider administered drugs subject to a UPL. The UPL caps provider reimbursement for a prescription drug consistent with the rate determined by the board. It does not, however, require that provider acquisition costs are lowered sufficiently below the UPL to ensure providers remain above water on the combined costs of administration, the drug, and other associated overhead. A bundled payment to the provider above the UPL for the drug product would be illegal. To keep providers whole, the board would be relying on a voluntary market adjustment for acquisition costs which is unlikely to occur.

Beyond compensation for overhead costs, we are also concerned that providers will be unable to source drug products at the UPL rate. Contracting between providers, their group purchasing organizations, wholesalers, and manufacturers is not geographically isolated and is often national in scope. The purchase of a drug product by a wholesaler from a manufacturer likely occurs

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out of state and would be outside of the ability of Virginia to regulate. As a result, there would likely be a significant discrepancy between the rate that the wholesaler is able to offer the drug product at, and the UPL rate that they would be required to offer the drug product at. This will impede providers from acquiring these products at all, resulting in lack of access. This would also render the likelihood of a voluntary market the adjustment below the UPL unlikely.

Accordingly, we believe that the viability of furnishing provider administered drugs will be severely hampered if UPLs are applied to them.

We appreciate your consideration of our comments, and are happy to further detail our concerns to the legislature.

Respectfully,

Gary Feldman, MD, FACR
President
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