

Sept. 6, 2019: State Advocacy Update

Court decides to allow CVS-Aetna merger

Judge Richard Leon of the United States District Court for the District of Columbia has decided to allow the merger between CVS and Aetna. The AMA and other stakeholders (the "amici") had opposed the merger after coming to the conclusion that it would likely substantially lessen competition in many health care markets, to the detriment of patients. Ultimately, however, the court concluded that "although the amici raised substantial concerns that warranted serious consideration" the harms raised "were not sufficiently established to undermine the Government's conclusion to the contrary."

"Despite an unprecedented review that dragged many details of this merger into the light, today's decision ultimately fails patients, will likely raise prices, lower quality, reduce choice, and stifle innovation," AMA President Patrice A. Harris, MD, MA, stated. "The American people and our health system will not be served well by allowing a merger that combines health insurance giant Aetna Inc. with CVS Health Corporation – the nation's largest retail pharmacy chain, specialty pharmacy, pharmacy benefit management (PBM) and Medicare Part D Stand-Alone Prescription Drug Plan (PDP) insurer."

Despite the outcome, Judge Leon's extensive review of the government's proposed settlement signals an important change in how health care mergers will be reviewed moving forward with the judge specifically stating that evidence provided by third parties (like AMA) that persuasively demonstrates actual or likely harm to the public interest will overcome the government's presumption of accuracy when the government contends that a proposed final antitrust judgment is in the public interest. Per Judge Leon, under such circumstances, settlements allowing such mergers will be denied.

AMA urges the passage of NY bills that would increase access to MAT

The AMA and the Medical Society of the State of New York are urging New York Governor Andrew Cuomo to sign legislation that would help ensure patients with opioid use disorder receive lifesaving MAT without delay or administrative denial. The AMA sent a letter to (PDF) Governor Cuomo in

support of assembly bills (A.) 2904 and 7246.

Earlier this year, New York enacted a law to eliminate prior authorization requirements for the MAT covered by an insurance plan formulary, but that law also meant that a patient stabilized on one form of MAT may face hassles if they change insurance plan coverage.

When a patient seeking care for an opioid use disorder is forced to delay or interrupt ongoing treatment due to a health plan utilization management coverage restriction, such as prior authorization, there often is a negative impact on their care and health. With respect to opioid use disorders, that could mean relapse or death from overdose. For physicians the very manual, time-consuming processes required in these prior authorization policies interrupt care and cause providers to divert valuable resources away from direct patient care. It is clear that a growing number of states are removing prior authorization for MAT. A. 2904 and A. 7246 are vital steps to further support patients' long-term recovery.

For more information on repealing prior authorization requirements, contact the AMA's Daniel Blaney-Koen. To learn more about what the AMA is doing to fight the opioid epidemic visit end-opioid-epidemic.org.

One resident's commitment to advocating for pregnant patients with opioid use disorder

Even though maternal and fetal medicine fellow Tani Malhotra, MD, knows that the stigma of substance use disorder runs deep, she knows that it's her professional responsibility to not only have difficult conversations with her patients—but also to speak up for her patients to policymakers.

"Many of my patients feel like their medical disease is a moral failing," she said. "They're often very scared because they don't know what will happen to them or their baby."

In her work on the Pennsylvania Opioid Task Force and a leader in the AMA Resident and Fellow Section, Dr. Malhotra said that her policy research has made her more committed to advocacy. She pointed to how many states have criminally charged pregnant women for opioid use, the fear of having a child removed from the mother if he or she is born with neonatal abstinence syndrome, and the challenges new mothers face after giving birth when public benefits are stopped post-delivery.

The AMA Opioid Task Force issued a new recommendation this year to directly address maternal and fetal health. The Task Force believes it is essential to specifically highlight the important roles of physicians and policymakers in ensuring the unique needs of pregnant, postpartum and parenting women and children are met. Opioid use disorder among women of reproductive age and pregnant,

postpartum and parenting women has increased over recent years, mirroring the epidemic seen in the general population. Yet, threats of incarceration, immediate loss of child custody, and other potential punishments drive pregnant, postpartum and parenting women away from vital prenatal care and treatment. The Task Force noted that research has found that non-punitive public health approaches to treatment result in better outcomes for both moms and babies.

"There are so many challenges, and we need to change a lot of state law, but there also are really great, evidence-based programs helping pregnant women and their babies," Dr. Malhotra said, pointing to a grant program operated by Metro Health in Cleveland, the Maternal Opiate Medical Support Project (MOMS) (PDF) as well as ongoing efforts at Metro Health. Promoting the positive effects of treatment, she said, is an essential part of her advocacy.

"It takes time to build trust in the community for women who are pregnant to trust us," said Dr. Malhotra. "If a state has policies that will put them in jail or take away their baby, outcomes are going to be worse. That's why in addition to my work as a physician, I take my responsibility as an advocate just as seriously."

Learn more about what physicians across the country are doing to combat the opioid epidemic.

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