

December 15, 2022

Daniel Tsai  
Deputy Administrator and Director  
Center for Medicaid and CHIP Services  
7500 Security Blvd.  
Baltimore, MD 21244

Dear Deputy Administrator Tsai,

Thank you for your ongoing work to ensure that Medicaid and Children's Health Insurance Plan (CHIP) beneficiaries have access to vaccination, testing, and treatment in response to the COVID-19 pandemic. As healthcare providers authorized to provide these clinical services, pharmacists are eager to serve as a point of care access for Medicaid and CHIP beneficiaries.

Your guidance clarifying the requirement for states to enroll and reimburse provider types authorized by the Public Readiness and Emergency Preparedness (PREP) Act declaration to provide vaccination services, including vaccine counseling, has improved the ability of pharmacists to provide these services to Medicaid and CHIP beneficiaries.

**We urge you to provide similar guidance to states regarding enrollment and reimbursement of providers, including pharmacists, authorized to order and administer testing and treatment under the PREP Act, as you did for vaccine ordering and administration. To ensure beneficiary access to care, we ask that your guidance clarify that states should reimburse clinical services provided by pharmacists at the same rates as other non-physician providers.** Such guidance would help ensure Medicaid and CHIP beneficiaries have appropriate access to American Recovery Plan (ARP) Act mandated benefits.

Unfortunately, states remain uncertain regarding whether the requirement to reimburse pharmacists for services related to vaccination, authorized under the PREP Act and mandated under the ARP Act, also applies to testing and treatment services provided by pharmacists.

Most states have not created a mechanism for pharmacists to enroll in and be reimbursed by their Medicaid and CHIP programs for clinical services necessary to prescribe testing and treatment mandated by the ARP Act. **Only eight states currently provide a mechanism for payment of pharmacists for PREP-Act-authorized, clinical services necessary for pharmacists to prescribe Paxlovid (AK, CA, CO, ID, NM, NY<sup>1</sup>, OR, WA).** Forty-two states,

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<sup>1</sup> Despite pharmacists providing a comparable service to any other provider in New York, they are restricted from billing the same HCPCS codes other providers would bill for a comparable encounter and are instead limited to two codes that do not accurately describe pharmacists' clinical services related to patient evaluation and initiation of treatment. See New York State Medicaid Policy and Billing Guidance for Pharmacy Reimbursement of COVID-19 Oral Antivirals.

and the District of Columbia, do not appear to provide a payment mechanism for these services. This failure of states to create such a payment mechanism and ensure that payment is equivalent to other non-physician providers undermines Medicaid and CHIP beneficiary access to mandatory benefits.

As explained in your letter to state health officials<sup>2</sup> and CMS's Vaccine Toolkit<sup>3</sup>, "because the authorizations in the HHS COVID-19 PREP Act declaration preempt conflicting state law, if a person is authorized to administer COVID-19 or childhood vaccines under the HHS COVID-19 PREP Act declaration, a state may not deny Medicaid or CHIP reimbursement to that person for the vaccine administration on the basis of a state law that is preempted by the declaration." It is our understanding that this interpretation creates a similar obligation for states to provide Medicaid and CHIP reimbursement to persons authorized by the PREP Act to order and administer COVID-19 tests or treatments.

Your letter to state health officials also emphasizes that Medicaid's freedom-of-choice of provider requirement at section 1902(a)(23)(A) of the Act creates an additional expectation that states provide Medicaid coverage for mandatory benefits administered by any person who is authorized to provide such services under the PREP Act declaration. This requirement would appear to extend not only to vaccination, but also to testing and treatment benefits described in sections 9811 and 9821 of the ARP Act.

However, your guidance to state health officials regarding mandatory Medicaid and CHIP coverage of COVID-19 testing services does not specifically indicate whether states should reimburse PREP-Act-authorized providers for clinical services necessary for testing and treatment.<sup>4</sup> Your guidance to state health officials regarding mandatory Medicaid and CHIP coverage of COVID-19-related treatment under the ARP Act explains that the ninth amendment to the PREP Act declaration authorized licensed pharmacists to order and administer COVID-19 therapeutics (such as monoclonal antibodies) subcutaneously, intramuscularly, or orally, as authorized, approved, or licensed by the FDA. This guidance further indicates that "CMS expects to provide more information to states soon about the implications of the ninth amendment to the HHS COVID-19 PREP Act declaration for Medicaid and CHIP coverage of COVID-19 therapeutics that are administered subcutaneously, intramuscularly, or orally. We anticipate that the Medicaid and CHIP coverage implications of this amendment will be similar

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<sup>2</sup> Medicaid and CHIP Coverage of Standalone Vaccine Counseling. (<https://www.medicaid.gov/federal-policy-guidance/downloads/sho22002.pdf>)

<sup>3</sup> see section II of Coverage and Reimbursement of COVID-19 Vaccines, Vaccine Administration, and Cost-Sharing under Medicaid, the Children's Health Insurance Program, and Basic Health Program (Vaccine Toolkit), <https://www.medicaid.gov/state-resource-center/downloads/covid-19-vaccine-toolkit.pdf>

<sup>4</sup> Medicaid and CHIP Coverage and Reimbursement of COVID-19 Testing under the American Rescue Plan Act of 2021 and Medicaid Coverage of Habilitation Services. (<https://www.medicaid.gov/federal-policy-guidance/downloads/sho-21-003.pdf>)

to the implications for Medicaid and CHIP coverage of the HHS COVID-19 PREP Act declaration and authorizations related to ordering and administering COVID-19 vaccines.”<sup>5</sup>

We urge CMS to publish this planned guidance to states as soon as possible. In the absence of guidance from CMS clarifying the obligations of state Medicaid and CHIP programs to reimburse pharmacists for clinical services related to all ARP Act mandated benefits, states have not taken steps to enroll and reimburse pharmacists for these services, including for clinical services necessary to prescribe Paxlovid.

Sincerely,

ASHP (American Society of Health-System Pharmacists)  
Academy of Managed Care Pharmacy  
Alabama Pharmacy Association  
Alabama Society of Health-System Pharmacists  
American Association of Psychiatric Pharmacists  
American College of Clinical Pharmacy  
American Pharmacists Association  
American Society of Consultant Pharmacists  
California Society of Health-System Pharmacists  
Colorado Pharmacists Society  
Connecticut Society of Health-System Pharmacists  
CVS Health  
Fairview Health Services  
Florida Pharmacy Association  
Florida Society of Health-System Pharmacists  
Georgia Pharmacy Association  
Georgia Society of Health-System Pharmacists  
Illinois Council of Health-System Pharmacists  
Indiana Pharmacy Association  
Iowa Pharmacy Association  
Kansas Council of Health-System Pharmacy  
Kentucky Pharmacists Association  
Kentucky Society of Health-System Pharmacists  
Louisiana Society of Health-System Pharmacists  
Maine Society of Health-System Pharmacists  
Massachusetts Society of Health-System Pharmacists  
Michigan Society of Health-System Pharmacists  
Minnesota Society of Health-System Pharmacists  
National Alliance of State Pharmacy Associations  
National Community Pharmacists Association

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<sup>5</sup> Mandatory Medicaid and CHIP Coverage of COVID-19- Related Treatment under the American Rescue Plan Act of 2021. (<https://www.medicaid.gov/federal-policy-guidance/downloads/sho102221.pdf>)

National Pharmaceutical Association  
Nebraska Pharmacists Association  
Nevada Pharmacy Alliance  
Nevada Society of Health-System Pharmacists  
New Jersey Society of Health-System Pharmacists  
New Mexico Pharmacists Association  
New York State Council of Health-System Pharmacists  
North Dakota Pharmacists Association  
North Dakota Society of Health-System Pharmacists  
Oklahoma Pharmacists Association  
Oregon Society of Health-System Pharmacists  
Oregon State Pharmacy Association  
Pharmacy Society of Wisconsin  
Rhode Island Society of Health-System Pharmacists  
Society of Infectious Diseases Pharmacists  
South Carolina Society of Health-System Pharmacists (SCSHP)  
South Dakota Society of Health-System Pharmacists  
Tennessee Pharmacists Association  
Texas Pharmacy Association  
Texas Society of Health-System Pharmacists  
Utah Society of Health-System Pharmacists  
Vermont Pharmacists Association  
Vermont Society of Health System Pharmacists  
Virginia Pharmacists Association  
Virginia Society of Health-System Pharmacists  
Walgreens  
Washington State Pharmacy Association  
West Virginia Society of Health-System Pharmacists