



## Specialty Tier Reform Update – Week of September 7, 2015

By Mark Hobracczk, JD, MPA

### STATES

#### California

#### ***Bill to limit out-of-pocket drug costs heads to Governor's desk***

The Assembly concurred this week with Senate amendments to A.B. 339, sending the legislation on to Governor Jerry Brown (D) just prior to the September 11<sup>th</sup> close of the legislative session.

A.B. 339 would require non-grandfathered health plans offering outpatient prescription drug coverage on or after January 1, 2017 to limit cost-sharing to no more than \$250 for a 30-day supply of an individual prescription, or \$500 for bronze tier plans as defined by the Affordable Care Act (ACA). These are consistent with those recently adopted by Covered California—the health insurance Marketplace created pursuant to the ACA (see Specialty Tier Reform Update for Week of May 25<sup>th</sup>). They would sunset on January 1, 2020 without additional legislation.

The caps would also apply for federally-defined high deductible health plans, but only after the annual deductible has been satisfied. For non-grandfathered individual and small group products the outpatient drug deductible would not exceed more than twice these caps.

The bill also would prohibit formularies from “discouraging the enrollment of individuals with health conditions and [not reducing] the generosity of the benefit” for a particular condition in a manner that is “not based on a clinical indication or reasonable medical management practices.” This is a change from the initial versions of A.B. 339 that prohibit insurers from moving all or most drugs for a specific condition into drug tiers requiring consumer pay a percentage coinsurance.

Other provisions of A.B. 339 would require these plans cover non-formulary drugs determined to be medically necessary and apply the same cost-sharing as for a formulary drug. Starting in 2017, plans must maintain a pharmacy and therapeutics committee responsible for developing, maintaining, and overseeing any drug formulary list.

Legislative analyses for A.B. 339 cited the federal civil rights complaint filed by The AIDS Institute and other consumer groups as the impetus for this legislation (see Specialty Tier Reform Update for Week of June 2, 2014), as well as a 2015 *New England Journal of Medicine* study showing that insurers are increasingly attempting to make plans so costly for sicker patients that it dissuades them from enrolling.

The bill was sponsored by Health Access California and backed by a wide array of consumer groups including PSI, the AIDS Healthcare Foundation, the Arthritis Foundation, and the Hemophilia Council of California. Insurers and business groups largely lined up against the legislation.

Governor Brown has not stated whether he intends to sign A.B. 339 prior to the October 11<sup>th</sup> deadline to do so.