American Pharmacists Association

February 23, 2024

[Submitted electronically via: mdh.regs@maryland.gov]

Jourdan Green
Director, Office of Regulation and Policy Coordination
Maryland Department of Health
201 West Preston Street, Room 512
Baltimore, MD 21201

RE: Proposed Rule Changes to COMAR 10.09.21: .02-.06

Dear Director Green:

The Maryland Department of Health (MDH) recently issued proposed rules regarding services provided by a pharmacist, due to Governor Wes Moore signing HB 1151/SB 678 during the 2023 Regular Session. The American Pharmacists Association (APhA) would like to thank Governor Moore, Secretary Laura Herrera Scott, MD, MPH, and the Department for their quick work in beginning to implement the law. We appreciate the opportunity to provide comments on this rule package as many of our members will be impacted by these changes.

APhA is the largest association of pharmacists in the United States advancing the entire pharmacy profession, including 12,228 licensed pharmacists in Maryland. APhA represents pharmacists in all practice settings, including community pharmacies, hospitals, long-term care facilities, specialty pharmacies, community health centers, physician offices, ambulatory clinics, managed care organizations, hospice settings, and government facilities. Our members strive to improve medication use, advance patient care, and enhance public health. In Maryland, APhA represents pharmacists and students who practice in numerous settings and provide care to many of your beneficiaries. As the voice of pharmacy, APhA leads the profession and equips members for their role as the medication expert in team-based, patient-centered care. APhA inspires, innovates, and creates opportunities for members and pharmacists worldwide to optimize medication use and health for all.

In general, we are concerned the proposed rule package as written will not achieve the original intent of the legislation. The following recommendations will ensure pharmacists provide a new level of access and quality of care to Medicaid beneficiaries as reimbursed under the medical benefit, as intended by HB 1151/SB 678.

Reimbursement under the Medical Benefit
The intent of HB 1151/SB 678 was to mandate coverage of all services within a pharmacist's state scope of practice aligned with how all other health care professional services are covered. Pharmacists are intended to be the recognized provider type that orders, renders, and bills for services under the medical benefit using current procedural terminology (CPT) codes similar to those used by other health care professionals

(physicians, advanced practice registered nurses, physician assistants, etc.) providing outpatient services. These services are distinct from the dispensing of medications and should *not* be reimbursed under the pharmacy benefit.

CPT Codes for Pharmacists' Services

APhA has concerns that the proposed list of CPT codes for pharmacists to report and bill for their services does not adequately represent the scope of services pharmacists provide, as authorized by the Maryland Board of Pharmacy. **At a minimum, it is essential that evaluation and management office or other outpatient services codes 99202-99205 and 99211-99215 be included on the fee schedule as these codes appropriately describe the most common services pharmacists will be providing to patients.** The addition of 99202-99205 and 99211-99215 on the pharmacists' fee schedule is aligned with how many other state Medicaid plans are implementing their pharmacist provider programs.

The following list details APhA's recommended set of CPT codes that reflect the complexity and time for various pharmacist patient care services. Patient care services provided by pharmacists have been historically undervalued despite the extensive published literature showcasing the high therapeutic and economic value associated with these services.[1,2] To appropriately value the services provided by pharmacists, establish parity with services of other providers, and assure involvement by pharmacists in increasing access to care for Marylanders, we recommend that MDH adopt this set of CPT codes for pharmacists' services in the Medicaid program. The following codes are currently not included on MDH's "Pharmacists Professional Fee Schedule,"[3] or the proposed rule changes. APhA strongly recommends the inclusion of these codes:

- Immunization Administration for Vaccine/Toxoids: 90460-90474
- Therapeutic, Prophylactic, and Diagnostic Injections and Infusions: 96372
- Office or Other Outpatient Services: 99203-99205, 99212-99215
- Counseling Risk Factor Reduction and Behavior Change Intervention: 99401-99402, 99406-99407

Many of the CPT codes included in the list above are recommended because they are aligned with codes many other state Medicaid programs are including on pharmacists' fee schedules, they are comparable with codes that other healthcare professionals utilize and appropriately describe pharmacist patient care services. As an example, the Nevada Department of Health and Human Services Division of Health Care Financing and Policy, in drafting rules for the implementation of Senate Bill 190[4] and Senate Bill 325[5] has proposed allowing pharmacists to bill many of the codes included above, including, but not limited to 99203-99205 and 99212-99215. We would strongly recommend MDH consider including all of the CPT codes on this list to ensure patients can receive necessary pharmacist care services while aligning with other states' implementation of similar laws.

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[1] Giberson S, Yoder S, Lee MP. Improving Patient and Health System Outcomes through Advanced Pharmacy Practice. A Report to the U.S. Surgeon General. Office of the Chief Pharmacist. U.S. Public Health Service. Dec 2011. Available at: https://www.accp.com/docs/positions/misc/improving_patient_and_health_system_outcomes.pdf

[2] Murphy EM, Rodis, JR, Mann HJ. Three ways to advocate for the economic value of the pharmacist in health care. Journal of the American Pharmacists Association. August 2020. Available at: https://www.sciencedirect.com/science/article/abs/pii/S1544319120303927

[3] Maryland Department of Health Pharmacists Professional Fee Schedule. Available at https://health.maryland.gov/mmcp/provider/Documents/Transmittals_FY2024/PT%2029-24%20MD%20Medicaid%20Reimbursement%20for%20Services%20Provided%20by%20Pharmacists%20Scope%20of%20Practice%2C%20Effective%20January%201%2C%202024.pdf

[4] Nevada Senate Bill 190. Available at https://www.leg.state.nv.us/Session/81st2021/Bills/SB/SB190_EN.pdf

[5] Nevada Senate Bill 325. Available at https://www.leg.state.nv.us/Session/81st2021/Bills/SB/SB325_EN.pdf

In addition to these codes, it is imperative that necessary CPT codes for the administration of all Clinical Laboratory Improvement Amendments of 1988 (CLIA)-waived tests are added to the pharmacists' fee schedule. Additionally, it is necessary that the reimbursement of CPT-codes for CLIA-waived tests be at parity for other provider types, to ensure pharmacy providers are not under-reimbursed for the cost of point-of-care tests administered at the pharmacy.

Submission of a state plan amendment

To support the implementation of this program, we believe that an additional state plan amendment (SPA) may be necessary to allow for reimbursement of pharmacist services as described in above, resulting in increased access to these services for Marylanders. Below are recommended changes we encourage MDH include in their SPA:

- Attachment 3.1A
    - Page 11-A and 11-B
        - Recommend addition of pharmacists as a provider type under parts 2b and 2c (Page 11-A and 11-B) to allow pharmacists working in Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) the ability to enroll as direct ordering and rendering providers with MDH and be reimbursed for their patient care services within the categorically needy program.
    - Page 19-4
        - Covered Services
            - Recommend removing part B under Covered Services, as patient assessment with regards to contraceptives is included within part A.
        - Limitations
            - Recommend removing parts B, H and L.
                - Part B: Pharmacists must be able to receive reimbursement for services associated with 'routine care', including, but not limited to, medication management services, comprehensive disease state management, and immunization administration.
                - Part G: Pharmacists must be able to receive reimbursement for telehealth services from a parity perspective with other providers.
                - Part L: Pharmacists must also be able to receive reimbursement for services performed while they are "consulting regarding prescribed drugs"; for example, services such as medication management services. These services are distinct from the dispensing of medications.
- Attachment 3.1B
    - Page 2
        - Recommend inclusion of pharmacists as provider types under parts 2b and 2c to allow pharmacists working in FQHCs and RHCs the ability to enroll as direct ordering and rendering providers with MDH and be reimbursed for their patient care services within the medically needy program.
    - Page 3
        - Recommend the addition of pharmacists under part D, "Other Practitioner's Services", to ensure coverage of pharmacist patient care services under the medically needy program. APhA recommends the coverage of these services for

the medically needy population be consistent with coverage for the categorically needy population.

- Attachment 4.19B
  - Page 25
    - Recommend removing sub-bullet under program limitations that state the provider may not bill the program for "professional services rendered by mail or telephone". Similar to the recommendation for Attachment 3.1A, pharmacists must be able to receive reimbursement for telehealth services from a parity perspective with other providers.

In addition to the preceding recommendations, APhA would like to ensure that pharmacists are reimbursed for the entirety of these services in parity to other mid-level providers, such as nurse practitioners (NPs) and physician assistants (PAs) as was intended by HB 1151/SB 678.

Recognizing pharmacists as providers in FQHC and RHCs
Pharmacists in all practice settings provide highly valuable services, which are important in maintaining the health of patients especially for underserved communities receiving care in FQHCs and RHCs. To ensure appropriate access and sustainability of these clinics, we recommend allowing pharmacists in all practice settings, including FQHCs and RHCs, the ability to enroll as direct ordering and rendering providers with MDH and be reimbursed for their patient care services. APhA additionally recommends that pharmacists' services be applied to the prospective payment system for bundled payments provided to FQHCs and RHCs. Other states have submitted SPAs that list pharmacists as other licensed practitioners to bill for similar services, and APhA encourages MDH to take similar steps.

Coverage of Pharmacists' Services in Managed Care Plans
Our final consideration is regarding fee-for-service and managed care beneficiaries. APhA recommends that services provided by pharmacists be available to all beneficiaries including those enrolled with a managed care plan. Furthermore, APhA encourages that services provided by pharmacists be applied to managed care plans' medical-loss ratio and to their capitation rates. APhA believes this will ensure equitable access to services provided by pharmacists across beneficiary groups.

We greatly appreciate the Department's work to quickly implement this law. APhA believes that with the recommended highlighted changes in these comments, Marylanders will have greater access to the numerous patient care services provided by their trusted, local pharmacists. Thank you for your time and consideration of our comments. If you have any questions or require additional information, please don't hesitate to contact E. Michael Murphy, PharmD, MBA, APhA Advisor for State Government Affairs by email at mmurphy@aphanet.org.

Sincerely,

Michael Baxter

Michael Baxter
Vice President, Federal and State Legislative Affairs
American Pharmacists Association

cc: Governor Wes Moore
Delegate Harry Bhandari

Senator Pamela Beidle
Aliyah Horton, Executive Director, Maryland Pharmacists Association