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Featured *Health Business Daily* Story, Feb. 9, 2017

Drug Benefits May See Changes As Part of ACA Repeal Process

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By Angela Maas, Managing Editor - February 3, 2017 - Volume 18 Issue 3

As Congress wrestles with how to repeal and replace the Affordable Care Act (ACA), one state — Minnesota — just considered a provision in an insurance premium relief law that would have allowed insurers to pick and choose which benefits, including many prescription drug benefits, they wanted to cover under various policies.

Although state lawmakers ultimately rejected the measure as part of the final bill, it could be a harbinger for possible new laws curtailing benefits if the ACA ultimately is repealed.

Minnesota's \$326 million health insurance premium relief law, which was signed by Gov. Mark Dayton (D) on Jan. 26, had included an amendment by Rep. Steve Drazkowski (R) that would have given insurers the ability — assuming the ACA is repealed — to sell policies that exclude some or all of 34 different types of benefits.

These potentially excluded benefits included a variety of coverages involving prescription drugs, including benefits for maternity, cancer, diabetes, chemical dependency/alcoholism and mental health. Insurers also would have been able to exclude from coverage off-label uses of drugs.

An advertisement for Drug Benefit News. It features a red box with white text on the left and a stack of two magazine covers on the right. The top cover is titled "DRUG BENEFIT NEWS" and has a date of "April 21st". The bottom cover is also titled "DRUG BENEFIT NEWS" and has a subtitle "News, Data and Business Strategies for Health Plans, Employers, PBMs and Pharma Companies".

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Drazkowski called the proposal “a la carte pricing,” and said it would allow insurers to sell policies including only the benefits that consumers actually needed, thereby driving down premiums. Some 125,000 Minnesota residents had been hit with premium hikes of 50% or more for the 2017 plan year, leading the legislature to enact premium relief in the form of retroactive rebates and premium discounts which take effect over the next few months.

Following hundreds of phone calls and emails from around the state, the GOP-controlled state legislature agreed to strip the Drazkowski amendment from the bill that ultimately reached Dayton's desk. However, similar legislation could crop up in other states.

The Academy of Managed Care Pharmacy (AMCP), which is monitoring legislative proposals on both the federal and state levels, is urging state lawmakers and officials to consult with managed care pharmacy professionals while drafting legislation, says CEO Susan Cantrell, R.Ph.

“AMCP believes that any health benefit plan that replaces the Affordable Care Act must include a comprehensive prescription drug benefit,” Cantrell tells *DBN*. “We also urge lawmakers to allow the flexibility necessary to develop the most beneficial and cost-effective plans possible, and to foster innovation in the marketplace. AMCP supports care delivery using value-based models that improve outcomes and promote wide use of health care dollars.”

Under the ACA, state lawmakers currently are not able to pick and choose benefits — including drug benefits — to cover under different policies. However, that may change if the ACA is repealed.

As one of the first executive orders of his presidency, Trump ordered HHS to ensure the law is being “efficiently” implemented. He asked HHS to “minimize the unwarranted economic and regulatory burdens of the Act, and prepare to afford the States more flexibility and control to create a more free and open healthcare market.”

Specifics on HHS Actions Are Unknown

It's not clear exactly what actions HHS will pursue as part of this executive order; Trump's nominee for HHS secretary, Rep. Tom Price (R-Ga.), hasn't yet been confirmed by the Senate. However, it's possible that Price, an advocate of market-driven health care solutions, could significantly loosen the requirements for a minimum set of health benefits under the ACA.

For example, many observers expect Price at a minimum to eliminate the requirement for insurers to cover contraceptives. But he has the regulatory authority to go much further to trim the package of benefits currently deemed “essential” under the ACA, and that could affect drug coverage for a variety of conditions.

Price also could use HHS's Medicaid waiver authority to grant states permission to experiment with their Medicaid programs, which again could affect drug coverage in those programs. Ultimately, some Republicans and the Trump administration would like to turn Medicaid into a block grant program, which would provide states with significant latitude to trim both beneficiaries and benefits.

Finally, Price could use Trump's executive order to grant many more waivers to customers covered by the individual mandate. If this occurs, it could mean that the individual market in many states skews older, sicker and more expensive for 2018, and that could make insurers less likely to participate in those markets or drive up premiums for those with coverage.

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