As outrage over the potent, but pricey hepatitis C treatments escalates, payers are feeling the heat. Concerned that patients face harmful coverage restrictions, a fresh crop of lawsuits was recently filed by consumers against both insurers and the Medicaid program in the state of Washington. At the same time, the New York Attorney General accelerated an investigation of several carriers over the issue.

All of this activity followed warnings last fall from the Obama administration that state Medicaid programs may be violating federal law by restricting access to hepatitis C medicines. By then, consumers had also filed nearly a dozen lawsuits against insurers in California for denying coverage, as did inmates against the Massachusetts prison system.

These moves, of course, reflect the cost of the medications. The treatments may promise cure rates exceeding 90%, but the price tags on the first batch of the antivirals—Sovaldi and Viekira Pak—have ranged anywhere from $63,000 to $94,500, depending upon dosage and regimen. Although costs may drop now that Merck entered the market with Zepatier, priced at $54,600, the hepatitis C medications continue to strain budgets, especially as more people are tested.

But coverage restrictions—notably treating the sickest patients while denying medication to others who also are infected—are prompting a growing backlash that is predicted to continue unless payers alter their guidelines. “This has become a crucial issue for payers,” says Roger Longman, who heads Real Endpoints, a research firm that tracks pharmaceutical reimbursement topics. “We’re going to see more pressure applied on them.”

Indeed, more litigation is being considered, according to Kevin Costello, a senior associate director at the Center for Health Law and Policy Innovation at Harvard Law School, which is working with the attorneys who filed a class-action lawsuit against the Washington State Health Care Authority. The lawsuit alleges the program rations treatments for only the sickest patients to meet financial goals.

Last year, the American Association for the Study of Liver Diseases revised its guidelines to emphasize that, while the sickest patients should be treated first, any patient with hepatitis C whose doctor recommends treatment should not be denied. In its update, the organization chastised payers for denying treatment when a doctor has prescribed one of the medicines.

Changing coverage policies
Meanwhile, the pressure seems to be producing results. Earlier this year, Anthem Blue Cross in California eased its coverage restrictions so that all patients with hepatitis C qualify for treatment. Recently, the Washington State Insurance Commissioner surveyed insurers and found they are gradually updating coverage criteria, although specifics were lacking.

Similarly, a spokeswoman for the New York Health Plan Association also maintains that plans are revising coverage, noting that the state’s Drug Utilization Board, which oversees coverage for the state Medicaid program, plans to review access to hepatitis C treatments at an upcoming meeting. She adds, however, that plans have been following clinical guidelines and says there is no evidence that coverage has been withheld.

An investigation by New York Attorney General Eric Schneiderman may offer a window into the future beyond just hepatitis C medications, according to one Wall Street analyst. Schneiderman is, effectively, arguing that there may be “deceptive advertising in terms of what is being covered,” Sanford Bernstein analyst Ronny Gal wrote in a recent investor note.

What if, for instance, Schneiderman files a lawsuit against one or more insurers and wins? Presumably, this would help drug makers, because such an outcome would limit what health plans could do with their formularies.

Another expert, however, believes it may not come to that. Payers are simply pushing back as hard as they can to remain solvent, says Randy Vogenberg, a partner at Access Market Intelligence, a consulting firm that specializes in managed care, and a member of Managed Care’s Editorial Advisory Board. “Any spotlight could be troublesome for insurers, especially during selling season as well as merger reviews,” he says. “But I think these [lawsuits and probes] will get resolved.”

By Ed Silverman

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