



May 10, 2021

The Honorable Susan Lontine
Chairwoman, House Health and Insurance Committee
Colorado State House of Representatives

Re: Vivent Health Support for PBM Reform and HB 1297

Dear Chairwoman Lontine and Committee Members:

On behalf of Vivent Health, please accept this written testimony in support of Pharmacy Benefit Manager (PBM) reform and House Bill 1297. I appreciate the opportunity to share our support, and opportunities to improve, this important piece of legislation.

Vivent Health is a nationally-recognized provider of integrated, comprehensive health services for people living with HIV. At our location in Denver, Vivent Health provides medical, dental, mental health, onsite-pharmacy and social services to more than 1,000 people living with HIV, and thousands of additional Coloradoans at-risk for HIV. Vivent Health's unique HIV Medical Home is delivering amongst the highest quality patient outcomes for HIV specialty clinics across the United States.

Pharmacy Benefit Managers were originally intended to help manage and reduce costs for insurers by serving a hybrid role of plan administrator and drug cost negotiator. These savings were to then be passed on to consumers in the way of premium cost containment, lower out of pocket costs for medications and enhanced outcomes.

Unfortunately, not only have consumers not realized the proposed benefits that PBMs were to create, the contracting and business practices PBMs engage in are creating overly burdensome contracting environments and lost revenue for even the highest performing safety net providers such as Vivent

Health. Furthermore, PBMs are often not willing to negotiate terms of the network agreements, instead offering a 'take it, or leave it' approach for smaller community based and independent pharmacies.

HB 1297 takes important steps to help rectify these problems. Specifically, the bill will accomplish the important following changes:

- Requiring pharmacy accreditation standards be consistently applied within established networks
- Requiring real-time responses from patients related to their costs, benefits and coverage
- Requiring registration of PBMs by insurers
- Prohibiting repetitive, unnecessary onsite audits
- Prohibiting PBMs from restricting patient access to drug benefits at in-network pharmacies
- Prohibiting PBMs from charging needlessly high fees for adjudicating patient claims
- Prohibiting medication formulary changes that would impact patients during the plan year.

Together, these changes will make important, positive changes in the delivery of health care to individuals across Colorado. It is important the HB 1297 is passed and that Colorado continues to address nefarious PBM practices. However, I would be remiss if I did not also mention a significant way that this bill could be amended that would further protect patients and the health care safety net in Colorado from unfair PBM practices.

Discriminatory Reimbursement

Discriminatory reimbursement is a practice by Pharmacy Benefit Managers and other health payors that negatively impacts 340B program covered entities by offering them lower reimbursement for medications simply because of the covered entity's participation in the 340B program. This practice runs counter to the established intent and purpose of the 340B

program, namely, to help covered entities 'stretch scarce federal resources' to reach 'more eligible patients' and provide 'more comprehensive services. Savings generated in the 340B program should be used to further patient care, not to pad the pockets of insurance companies or their PBMs. Other states have outlawed these discriminatory reimbursement practices for 340B drugs and Colorado should do the same.

Co-pay Accumulator Reform

Given the high price of medications and other out of pocket costs for insured individuals, many pharmaceutical manufacturers offer co-pay assistance programs to help low and moderate income individuals afford their medications, especially for the growing number of individuals covered by high deductible plans. Unfortunately, in 2018, PBMs and insurers started 'co-pay accumulator programs.' Under these programs, PBMs and insurers disregard third party payments made on behalf of insured individuals, often leaving patients with exorbitant out of pocket costs for their care.

Other states have put in place laws to require insurers to apply patient co-pay assistance toward meeting deductibles and out-of-pocket maximums on high deductible plans. To protect high risk patients with complex medical needs, Colorado should consider doing the same.

Thank you for the opportunity to provide written testimony in support of PBM reform. Please do not hesitate to contact me if I can provide additional information on how PBMs negatively impact the ability of Colorado to achieve the goal of ending HIV as an epidemic.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Keeton", with a long horizontal flourish extending to the right.

Bill Keeton
Vice President and Chief Advocacy Officer

Cc: Members, Colorado House Health and Insurance Committee