Seeking Input on Proposed Policy for Medicaid/CHIP Formulary, PDL, and Prior Authorization Management Transition

The Health and Human Services Commission's (HHSC) Vendor Drug Program (VDP) currently oversees the outpatient drug benefit for Medicaid fee-for-service (FFS) and Medicaid and Children's Health Insurance Program (CHIP) managed care, including the management of a single program-wide formulary, preferred drug list (PDL), and prior authorization (PA) requirements. Section 533.005 of the Texas Government Code requires Medicaid and CHIP MCOs to exclusively use VDP's formulary, PDL, and PA requirements found in Sec. 531.073 (b), (c), and (g). This statute and the requirement expire on August 31, 2023. Under current law, these statutory requirements will no longer apply and management of these functions will transfer to each Managed Care Organization (MCO) on September 1, 2023.

In preparation, HHSC is working with the Centers for Medicare and Medicaid Services (CMS) to obtain guidance regarding formulary, PDL, and PA requirements to comply with federal provisions for amount, duration, and scope as required by 42 C.F.R. § 438.210(a)(2). Additionally, HHSC will collaborate with the Texas Department of Insurance on CHIP requirements.

HHSC seeks public input on the following draft contract requirements for this transition. Stakeholders may submit comments via survey no later than 5:00 p.m. (central time) on December 4, 2022. HHSC may propose additional contract requirements based on further guidance or information from CMS or TDI.

For questions, contact Gabi Simpson at gabi.simpson@hhs.texas.gov.

Proposed Uniform Managed Care Contract Amendments

#	Amount, scope, and duration consistency
1	MCO formularies, PDLs, and PAs must be set in accordance with federal regulations. 42 CFR § 438.210 requires MCOs provide services in an amount, duration, and scope that are no less than the amount, duration, and scope for the same services furnished to beneficiaries under FFS Medicaid. The MCO may establish a formulary, PDL, and PAs as long as they demonstrate coverage consistent with the amount, duration, and scope of the FFS formulary, PDL, and PAs. A beneficiary would receive at least the same medically necessary care with any contracted Medicaid MCO as he or she would in FFS Medicaid.
	Formularies
2	MCOs may establish their own formulary.
3	The formulary must be the same for all Medicaid programs that the MCO is contracted to provide services for.
4	Section 1927(d) of the Social Security Act and 42 CFR § 438.3 require MCOs to cover all drugs that are in the Medicaid Drug Rebate Program (MDRP), also known as covered outpatient drugs. If a drug is in the MDRP but not included in the MCO's formulary, the MCO must cover the drug for the member through a PA.
5	MCOs may add drugs that are not on the Texas Medicaid VDP FFS formulary if that drug is in the MDRP.
6	MCOs cannot include drugs on the formulary or otherwise provide coverage of a drug that is not in the MDRP. However, MCOs must provide coverage for all medically necessary drugs for members ages 20 and under even if the drug is not in the MDRP. MCOs must approve these requests for coverage through special request from the prescriber, as required by 1905(r) of the Social Security Act. MCOs must establish a process to receive and approve these requests.
7	MCOs must utilize a pharmacy and therapeutics (P&T) committee and/or a Drug Utilization Review (DUR) Board. The committees may work in tandem or independent of the other, if all committee requirements for both committee types are met: (a) A P&T committee must maintain written documentation of the rationale for all decisions regarding the drug list development and revisions. The committee must follow the membership and meeting standards specified in 45 CFR § 156.122(3)(i) and (ii).

	(b) The DUR Board must comply with the requirements described in 42 CFR § 456, Subpart K, and 42 U.S. Code § 1396r–8 as if such requirements applied to the MCO instead of the State. The MCO must implement and maintain a process to ensure that its formulary is reviewed and updated, no less than bi-annually, by the MCO's Pharmacy and Therapeutics committee and/or DUR Board.
8	The MCO's CHIP formulary must be based on their Medicaid formulary. The CHIP formulary must cover the same drugs and may only exclude drugs that are not covered under CHIP. Exclusions include contraceptive medications prescribed only for the purpose of primary and preventive reproductive health care, and medications for weight loss or gain.
9	MCOs must provide access to certain products (e.g., limited home health supplies, vitamins, minerals, and vaccines) identified on the VDP formulary. MCOs must include at least one product on the MCO's formulary for each product group or class listed on the Texas Medicaid VDP formulary and provide access to the other options through a PA. MCOs may develop a preferred list of products.
	PDL and PAs
10	The MCO must implement and maintain a process to ensure that its PDL and PAs are reviewed and updated no less than annually by the MCO's Pharmacy and Therapeutics committee and/or DUR Board.
11	A drug that is not included in the MCO's PDL may be subject to PA.
12	An MCO may choose to implement a tiered formulary which divides drugs into groups usually based on cost. MCOs may require members to try lower tier drugs before using higher tier drugs. For drugs in a higher tier, the only additional PDL PA the MCO can add is a requirement for the member to fail the lower tier drug(s).
13	The MCO may not require a PA for any drug exempted from PA requirements by state and federal law, including antiretroviral drugs. The MCO may not require a PDL PA for drugs in a (HHSC) designated protected classes identified in Chapter 16 of the Uniform Managed Care Manual (UMCM). HHSC protected classes include anticonvulsants, antihemophilic, antineoplastic (i.e., anti-cancer), antiretroviral (i.e., anti-HIV), medication assisted treatment drugs, medications used to treat multiple sclerosis, contraceptives, and medications used to treat sickle cell.
	Networks and Reimbursement
14	The MCO must adhere to the VDP Specialty Drug List for specialty drugs provided through selective specialty pharmacy contracts. The MCO's policies

	and procedures must comply with Texas Administrative Code, Title 1, Part 1, Part 15 § 353.905 and § 354.1853 and include processes for notifying Network Pharmacy Providers.
15	HHSC will continue to cover the cost of drugs excluded from the capitation rate through non-risk payments to MCOs. MCOs must cover all non-risk drugs and to adhere to any required HHSC PDL or clinical PA requirements as noted in Chapter 16 of the UMCM.
	Communication
16	The MCO must publish and maintain its current formulary, PDL, and PA criteria on the MCO's website in an easy to access and searchable, without a requirement for the member to enter credentials to view the information. MCOs must make a printed version available to Members upon request pursuant to 42 CFR 438.10(i).
17	The MCO must make available a service that provides the MCO's formulary and PDL details, at no charge, that health care providers may use on the internet and easily access from handheld devices that they use at the point of care. The service will inform prescribers about all non-preferred medicines that require PA.
18	The MCO must have a process in place to notify members, prescribers, and participating pharmacies of any new PA requirements or changes at least 60 days in advance of the effective date of the change. At minimum, this process must include a notification of changes that is posted to the MCOs website where members, prescribers and pharmacies can easily access the information.
19	MCOs must send VDP the link to the MCO's formulary, PDL, and PA requirements and keep this link updated. VDP will compile and include the links in a single document available to prescribers, members, and pharmacies on the VDP website.
	Contract Oversight
20	VDP will review MCO's formulary, PDL, and PA policies and procedures at readiness. MCOs may not implement the formulary, PDL, or PA requirements until VDP provides approval to the MCO. VDP will review each MCO's formulary, PDL, and PA requirements for compliance at least once annually. MCOs must provide VDP with a current copy of the formulary, PDL, and PA requirements upon request.

	**VDP will release more specifics as readiness requirements are developed.*