Insurers Accused of Violating Health Law on HIV/AIDS Drug Coverage
By Kerry Young, CQ HealthBeat Associate Editor

Two advocacy groups are seeking federal action against four Florida insurance plans that they say discriminate against people with HIV by making drugs difficult to obtain under the health law.

The National Health Law Program and the AIDS Institute said Thursday that they filed a complaint with the Office for Civil Rights at the U.S. Department of Health and Human Services. The groups allege that CoventryOne, Cigna, Humana and Preferred Medical plans are violating the law (PL 111-148, PL 111-152) by structuring their drug coverage to create hurdles to access.

"The companies are going out of their way to discourage people with HIV/AIDS from enrolling in their plans—a blatantly illegal practice," said Wayne Turner, a staff attorney for the National Health Law Program, in a statement.

The groups wants the civil rights office to investigate the plans and require the insurers to alter the design of benefits. In one example cited by the groups, a plan puts all HIV drugs into a category called Tier 5 with more cost sharing, specifically 40 percent co-insurance after a $1,000 deductible. Some medicines require prior authorization. The groups contend that these practices steer people with HIV/AIDS away.

Representatives for the advocacy groups said on a press call that their concern about these drug pricing options go beyond the discrimination that they allege is happening with the Florida plans at this time. Other plans may adopt similar practices to try to control costs if HHS allows these pricing models for HIV drugs to stand, they said.

Attempts to reach CoventryOne and Preferred Medical were not immediately successful. A Humana spokesman said that the company covers all HIV drugs, but may not do so for branded ones when generics are available. The medicines are most often covered in a specialty tier, which is either the 4th tier of 4-tier benefit plans or the 5th tier of 5-tier plans.

Other conditions that tend to covered in the specialty tier are treatments for rheumatoid arthritis, multiple sclerosis, hepatitis B & C, cancer, growth hormone disorders, anemia and osteoporosis, said Tom Noland, a Humana spokesman, in an email.

"Humana offers several plan choices so members can select the one that best meets their needs and budget. Once the out-of-pocket maximum is reached for the year, the plan pays 100 percent of the cost for any drug therapy, including HIV drugs," he wrote.

“For our exchange plans, members using these HIV medications would be responsible for satisfying their pharmacy deductible, and then for any applicable tier 5 co-insurance percentage (32-50 percent, depending on the plan) until their maximum out-of-pocket limit has been reached. At that point the plan would pay 100 percent of any additional costs.”
Cigna spokeswoman Karen Eldred said the company’s plans include coverage for all medically necessary HIV drugs and follow HHS guidelines.

“Cigna’s marketplace exchange plans offer consumers a variety of benefit options so they can pick one that best meets their needs,” Eldred said. “There are plans that offer the flexibility of a higher deductible and lower monthly premium and those that have higher premiums and lower cost sharing for greater predictability. “

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