Obama's Actions Could Put HIV Patients at Risk | Commentary

By Carl Schmid

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The Affordable Care Act was heralded by many, including my organization, The AIDS Institute, as a major step in improving the U.S. health care system. While we remain firmly committed to it, two aspects of its implementation have fallen short of our high expectations. Recent actions by the Obama administration can potentially erode patients' ability to obtain medications and limit access to health care for many of the nation's sickest and most in-need, including people with HIV and AIDS.

Two major tenets of the ACA that gained broad congressional support were ensuring affordable health care and ending discrimination based on health conditions. However, HIV and AIDS patients are still facing discrimination and debilitating medical expenses, because the portion of costs patients are expected to pick up for medications on which they rely is so high as to be prohibitively expensive.

For example, several of the silver health care plans in the Florida exchange place all HIV drugs in the highest tier of prescription drug formularies. Humana places all HIV drugs on Tier 5, requiring a 50 percent co-insurance payment after a $1,500 prescription deductible. That means the patient is responsible for 50 percent of the cost of the drug until the out-of-pocket limits are reached. CoventryOne, Cigna and Aetna are employing the same tactics in Florida, and we are seeing this being repeated throughout the country.

Plans are also making it harder for patients to access the medications that their providers prescribe by putting in place additional hoops and bureaucracy. Many patients must obtain prior authorization for medications, and some plans are doing this for every HIV drug, essentially singling out patients with HIV. Worst of all, some plans are not even offering the drugs that patients need most. These actions run contrary to the very law passed by Congress that established the exchanges. The ACA includes strong language that prohibits discrimination based on an individual's disability or health condition and bans plan issuers from designing benefits in a way that will discourage individuals with significant health needs from enrolling, such as by making patient costs prohibitively high.

However, the administration has not even issued regulations to implement the antidiscrimination section of the ACA and is taking no action to enforce it. Without enforcement, we are concerned that plans that have not yet engaged in these practices, such as Florida BlueCross/Blue Shield, Ambetter and Molina and others in Florida, could engage in discriminatory benefit design next year.
If the ACA is going to work for people living with HIV and AIDS and others with chronic conditions, the Obama administration needs to take steps to ensure that plans are not engaging in discriminatory measures. They need to enforce the law that Congress passed.

Additionally, recently proposed regulatory changes by the Obama administration to the Medicare Part D program that provides medications to the elderly and disabled, could inflict damage on already vulnerable populations. Despite Part D providing value and success to both beneficiaries and taxpayers for the past 10 years, the Centers for Medicare and Medicaid Services has proposed a rule that would limit access to medications.

Until now, Part D required access to all medications within the “six protected classes” of drugs, which include antiretrovirals used by people with HIV and AIDS. This classification was created and subsequently enacted into law as part of the ACA due to patients’ needs and the fact that the minimum of only two drugs per class were insufficient. In the name of cost saving, the administration is proposing to limit the medications covered in three classes: immunosuppressants, antidepressants and antipsychotics.

This proposal has caught the attention of the Congress and was the subject of a House Energy and Commerce Health Subcommittee hearing on Feb. 26. While these days it is hard to find agreement between Republicans and Democrats, in this case, wide opposition to this proposal came from both sides of the aisle.

Sadly, the true cost will be the pain inflicted on patients due to a severe restriction in access to medications. In many cases, this will necessitate alterations to effective treatment plans. CMS fails to take into account that not all medications in each class are the same and providers prescribe medications that best meet the needs of their patients. Altering those treatments could have an adverse impact on patients with complex health needs. We are very worried that antiretrovirals could soon be the next class to lose protection.

The Obama administration has done much to improve the health and well-being of many Americans, including people with HIV and AIDS, but we believe they are not currently implementing the law that Congress passed and prioritizing the interests of patients as they should be. Therefore, we urge them to withdraw the proposal to change drug coverage in Medicare Part D that has enabled access to medications that best meet patient needs. Additionally, we remain committed to the successful implementation of the ACA but insist on enforcement of the anti-discrimination policies Congress included to protect vulnerable populations.

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