Connecticut Department of Social Services

Making a Difference

Testimony of Commissioner Michael P. Starkowski Before the Human Services, Insurance and Real Estate, and Public Health Committees February 14, 2010

HB 6322 AN ACT CONCERNING STATE PRESCRIPTION DRUG PURCHASING

Senators Musto, Crisco, and Stillman, Representatives Tercyak, Megna, and Ritter, and distinguished members of the Human Services, Insurance and Real Estate, and Public Health Committees, thank you for the opportunity to submit written testimony on House Bill 6322 – An Act Concerning State Prescription Drug Purchasing.

We understand that the purpose of this bill is to use the combined purchasing power of the Department of Social Services (DSS) and the Office of the State Comptroller (OSC) to negotiate better rates for pharmacy reimbursement. We have a number of concerns that would lead us to oppose this legislation until they can be resolved.

We have not yet determined under what Medicaid authority DSS could enter into an exclusive contract with Caremark as the sole provider of retail pharmacy products through its network of pharmacy providers. This would appear to violate provisions that would require that DSS enroll any willing retail pharmacy provider that agrees to our pricing.

A second, equally significant concern is that the legislation contemplates that DSS would have a cooperative agreement with OSC and that OSC would contract with CareMark for pharmacy services <u>on our behalf</u>. DSS does not believe that an indirect contractual relationship through OSC, even if permissible under current law, would provide sufficient direct control over the PBM contractor. This direct control is essential. As the single state agency for Medicaid, DSS is responsible for compliance with applicable state and federal laws and must be able to ensure timely compliance with any change in

applicable laws. It must be able to monitor, find fault, and administer corrective actions, including application of financial sanctions, without interference by or reliance on an intermediary. Moreover, the medical assistance recipients who rely on the Department's pharmacy services are among the states' most fragile and medically complex populations. We are accountable for and must directly oversee quality and access of services provided to our populations. DSS is responsible for administering a multitude of programs including Medicaid, CADAP, ConnPACE, HUSKY B and Charter Oak with specific programmatic requirements including varying cost-share requirements and benefit maximum requirements. In addition, we must be able to ensure appropriate administration of the PDL and associated prior authorization procedures. A direct contract, or possibly even a joint contract, would provide the Department with the necessary administrative control of this program.

Other issues are as follows:

- Claims would be processed twice, first by Caremark and then by the Medicaid claims system (HP), with associated costs of duplication. Unlike HP, Caremark claims processing would only be reimbursable at 50%. In addition, our fellow Medicaid administrators with experience in this area indicate that Pharmacy Benefit Managers (PBMs) may have difficulty mirroring Medicaid payment rules and benefit limitations resulting in significant payments by PBMs that are subsequently rejected by Medicaid claims systems.

- It is not clear whether this proposal would eliminate access to 340B pharmacies and their associated savings.

- Use of mail order services are of concern due to the transient nature of the client population.

- Implementation cannot be done under proposed timeframe without considerable resources and coordination required from multiple entities to establish the eligibility connections and to comprehend the complex program coverage hierarchy rules for clients changing in and out of the different programs.

- Considerable effort would be required to implement all of the current processing rules, edits/audits established in interChange, DSS' Medicaid

claims processing system, to ensure a claim processes appropriately for each of the department's five programs.

Another alternative to achieve similar savings is to have DSS mirror the pharmacy reimbursement rates that are in the CareMark contract. This will achieve the savings more quickly, at no additional cost, with no additional systems changes, no additional strain on DSS resources, no time consuming contractual amendments, no additional federal approvals required, no delay or disruption in either federal reimbursement, federal reporting, rebates or supplemental rebates and immediate guaranteed federal compliance.

That is why, as stated in the pharmaceutical bulk purchasing report required pursuant to PA 09-206 and issued in October 2010, "CMS advised the committee that making adjustments to our existing state statutes and state plan to mirror the rates of the state employee and retiree program would be a more efficient and less burdensome way to achieve savings."