State Policies for Lowering Drug Prices to Improve Patient Access to Affordable Medicines

PROBLEM: States are facing high and rising costs for prescription drugs,[1,2] hurting families, businesses, and state budgets.

SOLUTION: States should work to implement policies aimed at lowering drug prices to improve patients' access to affordable medicines while maintaining incentives for meaningful drug innovation. State policy solutions should address two key issues:

- **Market Distortions:** The way drugs are paid for and delivered in the US can also have an outsized impact on the prices and availability of drugs to the patients who need them. Manufacturers use rebates, in addition to co-pay coupons, and free samples to incentivize the use of higher cost therapies,[3] and manufacturers often pay millions of dollars a year to patient groups to help advocate on their behalf.[4] Lack of transparency in contracting further enables manufacturers and other supply chain entities to maintain higher drug prices and spending.[5]
- **High Launch Prices and Unjustified Price Increases:** Drugs are launching at higher prices each year,[6] particularly for specialty products[7] which typically treat chronic, complex, or rare conditions, and may require special handling or patient monitoring. These drugs are becoming a larger percentage of the pharma pipeline and, in turn, drug spending.8 Even after they are launched, many drug prices continue to escalate year-over-year.[9] This is the opposite price trend of other consumer products and of drug prices in many other countries, where drug prices fall over time.[10]

Market Distortions

- **Prohibit prescription drug manufacturers from offering coupons or discounts to cover insurance copayments or deductibles** for a brand name drug if a lower cost generic is covered under the individual's health insurance.
- **Facilitate greater transparency between PBMs and their state clients, including Medicaid programs.** This includes (1) ensuring that PBM clients receive all the rebates negotiated on their behalf, and (2) that spread pricing arrangements — where PBMs pay pharmacies less for prescriptions than what they charge their clients — are fully transparent. This ensures that clients can evaluate offers from competing PBMs and choose the lowest cost alternative.
- **Ensure that substitution laws provide maximum ability for pharmacists to substitute the lowest cost biologic** for patients at the pharmacy counter.

High Launch Prices and Unjustified Price Increases

- **Require manufacturers to pay an inflation penalty for brand name drugs** purchased by commercial sector plans that increase their prices faster than inflation.
- **Implement reference pricing (e.g. international prices, MFPs)** as the ceiling price for all purchases of a referenced drug and reimbursements for a claim for a referenced drug when the drug is dispensed, delivered, or administered to patients in the state.
- **Establish a prescription drug affordability board (PDABs)** to negotiate lower prices or set upper payment limits (UPLs) for drugs that significantly impact budgets for the state and patients. UPLs could leverage Maximum Fair Prices (MFPs) negotiated by Medicare or reference international prices.
- **Ensure Medicaid is collecting rebates on physician administered drugs,**[11] by facilitating the implementation of policies and systems that ensure the collection of all rebates for physician-administered drugs.
- **Leverage public purchasing power** across a variety of state payers by creating a purchasing consortium to pool resources and negotiating power to lower drug costs.

ENDNOTES

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