An Act to Improve Health Care by Investing in VALUE

Massachusetts Health and Human Services Secretary Marylou Sudders

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Five themes

This health care reform legislation builds upon the foundation of prior health care legislation and aims to:

1. Prioritize behavioral health and primary care
2. Manage health care cost drivers
3. Improve access to high-quality, coordinated care
4. Promote insurance market reforms
5. Stabilize distressed community hospitals and health centers

Prioritize behavioral health and primary care

Prioritize investments in primary care and behavioral health within the cost growth benchmark

Payers and providers must increase combined expenditures on primary care and behavioral health by 30% over three years

- Recognizing systems will have varying baselines, the legislation does not prescribe how systems achieve the target
- System-wide performance on target will be measured and reported through CHIA's Annual Report and the HPC's Cost Trends Hearing
- Leveraging the existing framework used for reporting and measuring the cost growth benchmark, individual provider and payer performance against the target will be measured by CHIA beginning in CY23 (for their year 3, i.e., CY22 performance)
  - CY2019 spending to serve as baseline, from which CY22 spending will be measured against
- Provider and payer entities that do not achieve the target will be referred by CHIA to the HPC and if determined appropriate, subject to a performance improvement plan (PIP)

Prioritize behavioral health and primary care

Encourage behavioral health practitioners to accept insurance

- Require payers to use a standardized credentialing form so providers only need to complete one application
- Promote behavioral health reimbursement parity through the establishment of a rate floor for certain services
- Discourage utilization of out-of-network BH services through increased payer reporting and DOI oversight

Develop behavioral health professional workforce

- Require payers to reimburse non-licensed behavioral health professionals in training working in clinical settings
- Establish a Board of Registration of Recovery Coaches, per the recommendations of the Recovery Coach
- Commission, to credential and standardize the recovery coach position to promote payer reimbursement

Promoting timely access to appropriate behavioral health treatment

- Require payers to maintain accurate and updated provider directories
- Prohibit payers from denying coverage or imposing additional costs for same-day behavioral health and certain medical visits
- Require acute care hospitals to maintain clinical capacity to provide or arrange for the evaluation, stabilization and referral of patients with behavioral health conditions in emergency departments

Manage cost drivers to protect consumers

Prohibit surprise billing for emergency and unplanned services rendered by an out of network provider at an in-network facility

- Division of Insurance to develop an out-of-network default rate, as a percentage of the Medicare fee schedule, to apply as the default payment rate for emergency and unplanned services

Limit use of facility fees

- Two pronged approach to address facility fees:
  - Site-specific limits - providers prohibited from charging a facility fee for services rendered in a hospital outpatient department/satellite located more than 250 yards from the main hospital campus
  - Service-specific limits – providers prohibited from charging a facility fee for evaluation and management visits, diagnostics and imaging at HOPD/satellite location regardless of distance from main campus

Strengthen enforcement of the cost growth benchmark through financial penalty on entities exceeding benchmark

- Revenues collected will be directed to the Community Hospital and Health Center Investment Trust Fund

Manage cost drivers to protect consumers

Manage High Drug Costs

Subject manufacturers of certain high-cost, recently-approved drugs to HPC accountability process

- CHIA to identify and refer to HPC drugs that cost >$50K per person per year
- Consistent w/ HPC processes for payers and providers

Impose penalty on manufacturers that increase the price of a drug by greater than CPI +2% in a given year

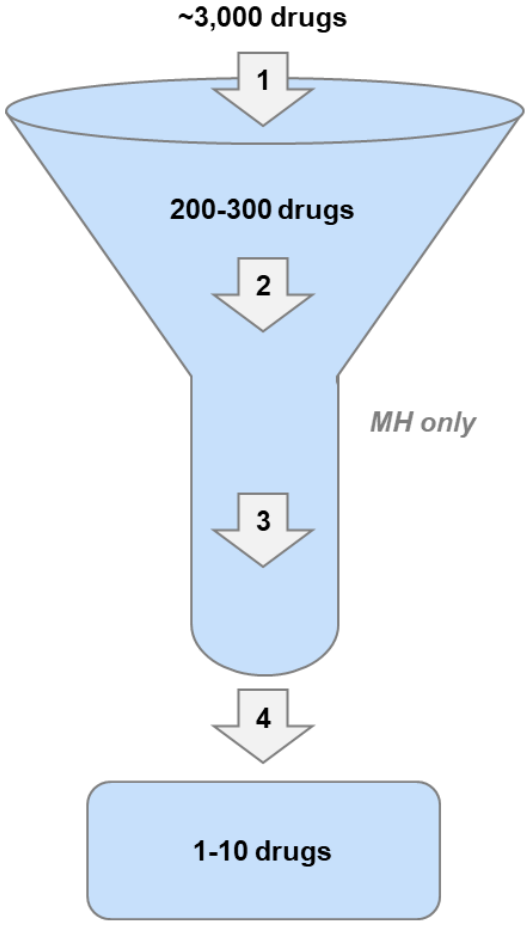
- Penalty would be equal to 80% of the increase amount in excess of CPI +2% on a per unit basis of drugs sold or distributed in the Commonwealth

Increase state oversight and authority over Pharmacy Benefit Managers (PBMs) through Division of Insurance certification and require reporting to CHIA

Restrict PBMs from including gag clauses in contracts and require that pharmacists ensure consumers pay the lowest cost for a prescription at the point of purchase

Require representatives from pharmaceutical industry to participate in cost trend hearings

HPC Accountability Process & Penalty



MassHealth

Step 1 (Identify high-cost drugs + negotiate):
MassHealth identifies drugs >$25k net price per utilizer or >$10M total net spend (~200+ drugs) for direct negotiations to pursue supplemental rebate agreements

Step 2 (Public comment process):
If no supp. rebate agreement reached, publish target price and consider public feedback

Step 3 (HPC review):
HPC evaluates referred manufacturers through confidential disclosures and (potentially) public hearings

***Step 4* (HPC Determination)**
HPC issues final determination on whether manufacturer's drug price is unreasonable or excessive.

Commercial

* Proposal in FY20 GAA
*New commercial process

a) new to market >$50k cost per utilizer/ per year [~30-40 drugs/ year]

b) price increase >CPI+2%

Impose penalty on excess price increase

Improve access to high-quality, coordinated care

Improve scope of practice standards

- Allow nurse practitioners and psychiatric nurse mental health clinical specialists to independently prescribe without a supervising physician
- Create mid-level dental position to provide preventive and basic dental services
- Align practice standards for optometrists and podiatrists with other states
- Join the multi-state Nurse Licensure Compact

Define and expand access to telemedicine

- Establish a regulatory framework for telehealth services
- Prohibit payers from denying coverage based on the sole fact that the service is provided via telemedicine to ensure coverage parity

Define urgent care centers and require broader insurance coverage

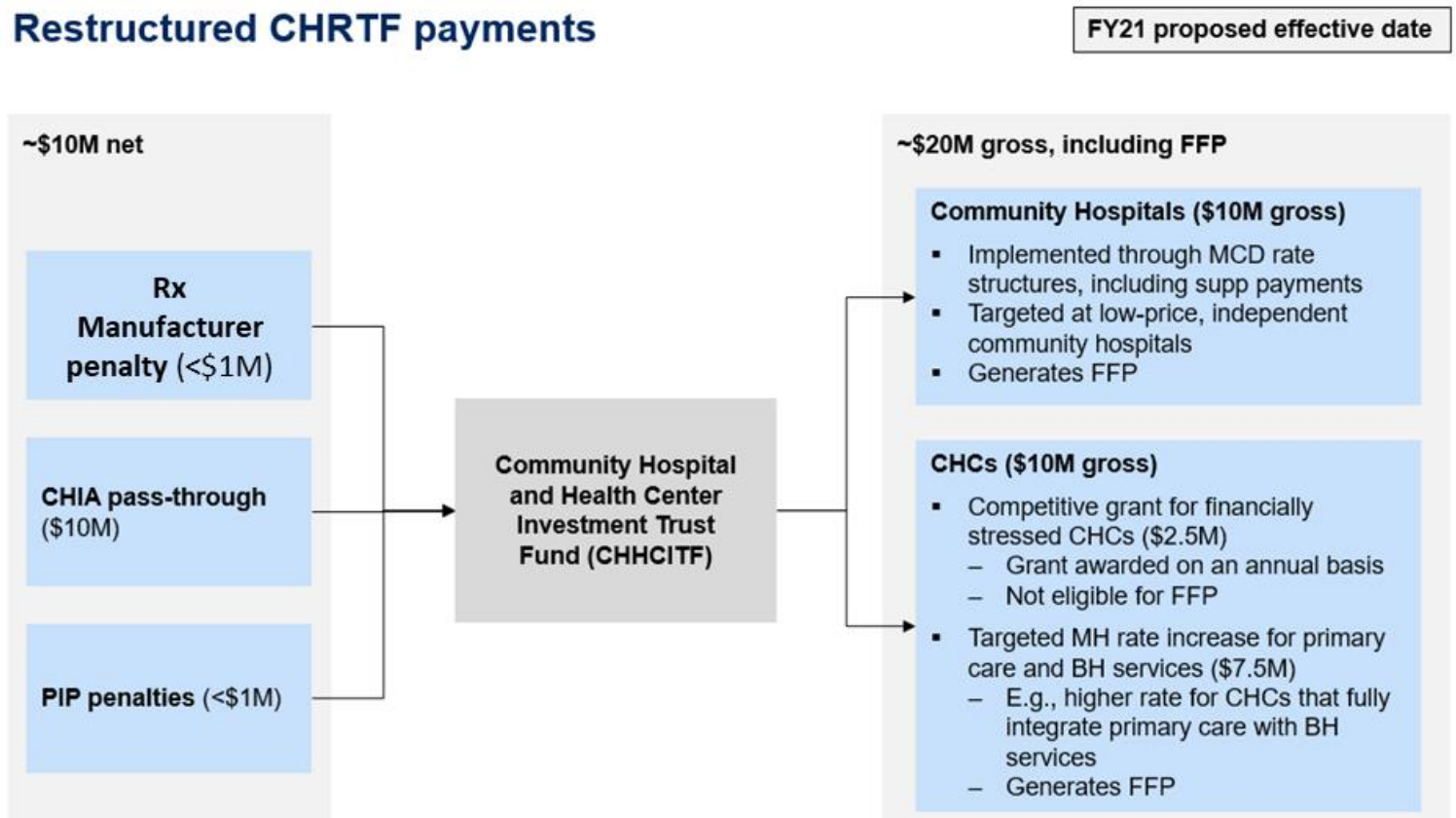
- Define urgent care services as those that are episodic in nature, generally provided on a walk-in basis, and available to the general public
- Require entities providing urgent care services to be licensed as a clinic and accept MassHealth members, provide certain behavioral health services and meet standards related to primary care integration

Promote health information exchange, ensure quality measure alignment and transfer 11 boards that license or certify medical and behavioral health professionals to the Department of Public Health

Deposit $15 million into the Health Safety Net Trust Fund to support care provided to uninsured and underinsured patients by acute care hospitals and community health centers

Stabilize distressed community hospitals and health centers

- Community Hospital and Health Center Investment Trust Fund (CHHCITF) to be funded through continued transfers from CHIA ($10M), and revenues collected through a penalty on drug manufacturers for excess price increases and penalties on entities referred to HPC for exceeding the benchmark
- Funds would be equitably distributed to community hospitals and health centers



Promote Market Insurance Reforms

Ensure small employers have access to all options in the merged market

- Remove provisions requiring groups of 1-5 to purchase only through brokers
- Require carriers to list and offer all of their merged market products
- Promote uptake of high-value insurance products:
  - Require carriers with >5,000 members to offer at least 1“innovative product” (e.g. tiered and limited network plans) in at least 2 geographic regions
  - Increase premium differential for tiered/limited products
  - Promote robust provider participation by preventing participating providers from opting out of high-value products

Merged Market Commission

- Executive Order to conduct a comprehensive study of the merged market and emerging trends and dynamics impacting the market
- Chaired by the Commissioner of the DOI
- Include payer, employer, broker, and consumer representatives
- Recommendations due by April 30, 2020