



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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MEMORANDUM

DATE: March 29, 2012

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: H.B. 265 [Delaware Cancer Treatment Access Act]

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 265 which requires State-regulated health insurers with plans covering both prescriptions and major medical services to allow patients the option of "pill-based" therapy at no greater cost than intravenous or injected therapy. Similar legislation has been enacted in Washington, D.C. and 15 other states. SCPD strongly endorses the proposed legislation.

Attached please find a recent News Journal article and articles from other states for facilitated reference. The articles describe the need for "parity" in cancer treatment by making drugs available in pill form available to patients at the same cost as traditional intravenous or injected anticancer treatment. The News Journal article recites as follows:

Cancer treatment is undergoing what (Dr. Stephen) Grubbs called a "revolution". Grubbs, who helped draft the legislation, said traditional chemotherapies often also kill healthy cells since the drugs douse the body in chemicals meant to kill rapidly dividing cells. Newer drugs, often available in oral form only, target cellular pathways or proteins specific to cancer cells, or trigger the immune system to fight them, sparing patients from negative side effects such as hair loss.

(Rep.) Hudson said cancer patients can spend up to four hours at a time, one to three days a week, receiving IV anti-cancer medications, and they have to be driven to and from appointments because of the potential for nausea. Oral drugs allow patients to receive treatment at home and go to work or live life as usual.

According to the January 18, 2012 NJ Spotlight article, the American Cancer Society offered similar commentary in support of New Jersey legislation signed by Governor Christie on January 17, 2012:

“Oral chemotherapy is truly the wave of the future in cancer care,” the American Cancer Society said in written testimony to the legislature. “Oral treatments offer patients distinct advantages over traditional intravenous chemotherapy, including the fact that they are targeted therapies which attack only the cancer cells, leaving healthy cells alone. There is no scientific or medical rationale for categorizing orally-administered drugs differently than IV drugs.”

Also attached is an April 1, 2010 analysis of the fiscal impact of this type of legislation in Connecticut. Based on experience in other states, the analysis concluded that the legislation “would have no impact on the state budget”.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: The Honorable Jack A. Markell
Mr. Brian Hartman, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

Hb 265 cancer treatment 3-29-12



Lawmakers target disparity in cost of oral, IV cancer medications

A new bill unveiled by a group of bipartisan Delaware lawmakers is aimed at eliminating the difference in cost between oral and intravenous anti-cancer medications for patients. Similar bills have passed in Washington, D.C., and 15 other states, including New York and New Jersey.

Currently, IV-administered anti-cancer therapies are covered by health benefits, and patients pay a co-pay for the treatments. However, most oral anti-cancer drugs fall under prescription benefit plans, where a patient may be required to pay up to 30 percent of the cost of the drug.

Dr. Stephen Grubbs, an oncologist at Christiana Care Health System and a member of the Medical Society of Delaware, said a month's supply of oral anti-cancer drugs can, in some cases, run \$5,000 to \$10,000 per month.

Rep. Deborah D. Hudson, R-Fairthorne, is sponsoring the "oral parity" bill because she believes patients living with cancer shouldn't have to pay more for one type of treatment over another.

"If an insurance company covers IV drug A, they should cover oral drug A, so it

wouldn't be a financial decision what therapy to pick," Hudson said Wednesday when the legislation was announced. "It just compounds the anxiety for cancer patients."


Cancer is the second-leading cause of death in Delaware, as in the rest of the U. S., though the cancer incidence and death rates are higher in Delaware than the rest of the nation.

Cancer treatment is undergoing what Grubbs called a "revolution." Grubbs, who helped draft the legislation, said traditional chemotherapies often also kill healthy cells since the drugs douse the body in chemicals meant to kill rapidly dividing cells. Newer drugs, often available in oral form only, target cellular pathways or proteins specific to cancer cells, or trigger the immune system to fight them, sparing patients from negative side effects such as hair loss.

Meghan Buzby, an advocate with the International Myeloma Foundation, said 35

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percent of the oncology drugs in development are oral and some existing oral cancer drugs do not have IV counterparts. She said patients often have to try several different therapies to find one that works and may get only a couple of years on a particular therapy before they have to turn to other options. If patients are limited by cost, their options for second-line treatment are also limited.

The proposed bill is not a mandate for health insurers to cover cancer treatments. Instead, it would require insurers that cover cancer treatments to cover all at the same level.

Hudson said cancer patients can spend up to four hours at a time, one to three days a week, receiving IV anti-cancer medications, and they have to be driven to and from appointments because of the potential for nausea. Oral drugs allow patients to receive treatment at home and go to work or live life as usual. But as long as the cost disparity exists, oral treatments may continue to be an option only for those who can afford the extra expense.

Carolee Polek, an oncology nurse and associate professor in the College of Health Sciences at the University of Delaware, said some patients on oral treatments have been cutting their pills in half or taking them every other day instead of daily, which decreases their benefit.

Comparing patients with cancer to warriors, Polek said: "You can't have second-line treatment as you go into battle for the rest

of your life."



Zoom

Dr. Stephen Grubbs, an oncologist at Christiana Care

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Gov.
Christie
Signs Law
Covering Oral Cancer Drugs

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Health insurance coverage now guaranteed for both chemo and oral medications

By Beth Fitzgerald, January 18, 2012 in Healthcare

New Jersey cancer patients will get the same health insurance coverage for oral cancer drugs sold as prescription medications and taken in their own homes as they now get for chemotherapy drugs delivered intravenously at healthcare facilities under legislation signed Tuesday by Gov. Chris Christie.

The American Cancer Society of New York and New Jersey said pricing parity for oral and injected cancer drugs will encourage patients to use the most appropriate drug without being influenced by their out-of-pocket costs.

Some cancer patients have faced hundreds of dollars a month in oral cancer drug bills depending on their description drug plan, said Blair Horner, vice president of advocacy for the cancer society.

The new law requires health insurers to cover orally administered cancer medications on a basis that is no less favorable than the terms that apply to injected anti-cancer medications. Insurers are prohibited from subjecting oral cancer drugs to any prior authorization, dollar limits, co-payments, deductibles, or coinsurance standards that don't apply to intravenously-administered or injected drugs.

"Medical research over the past decade has provided cancer patients with alternatives to the traditional intravenous and injected cancer drugs," said bill co-sponsor Sen. Loretta Weinberg (D-Bergen). "It is imperative that we update our laws."

But Ward Sanders, president of the New Jersey Association of Health Plans, pointed out that the law didn't address the underlying issue of the high cost of prescription drugs.

"Some patients who need or choose oral chemotherapy drugs rather than traditional intravenous chemotherapy have faced real difficulty affording their medications, because some pharmaceutical companies have priced the drugs so high that they are out of reach," he said. "Unfortunately, this law fails to address the high prices of these drugs and rather, benefits only about 30 percent of New Jerseyans with certain types of insurance. This law is a missed opportunity to more broadly assist consumers who need access to care."

A quarter of the nearly 500 cancer drugs now in the research pipeline will be oral medications, Horner said. "Many new chemotherapy drugs come in pill form that patients can take at home, rather than intravenous injections administered at a medical facility. In New Jersey, there can be a big difference in the coverage insurance companies provide for orally administered medications versus coverage for intravenous treatments. Advancements in cancer treatments are useless if patients don't have access to or can't afford them."

Horner said the cost differential results because the intravenous cancer drug is covered by the health plan as part of the medical coverage for treating cancer. But the oral chemotherapy drug usually falls under the

patient's prescription drug plan, and depending on the plan, the individual may be required to pay a significant share of that cost.

"It is not true for every [health] plan, but patients who rely on oral cancer drugs can face [significant] out-of-pocket costs – so much so that they may choose not to have the therapy, which could affect their health," Horner said. Fourteen states, including New York, have passed cancer drug parity laws.

"Oral chemotherapy is truly the wave of the future in cancer care," the American Cancer Society said in written testimony to the legislature. "Oral treatments offer patients distinct advantages over traditional intravenous chemotherapy, including the fact that they are targeted therapies which attack only the cancer cells, leaving healthy cells alone. There is no scientific or medical rationale for categorizing orally-administered drugs differently than IV drugs."

Dean J. Paranicas, chief executive of the HealthCare Institute of New Jersey, whose members are drug research and development firms, said the law gives patients "access to the medications that their doctor feels is most appropriate" and will "provide another treatment option when deciding on a therapeutic course of action to fight this deadly disease."

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Newsday

<http://www.newsday.com/opinion/oped/opinion-a-cancer-drug-parity-law-would-help-patients-1.1974691>

OPINION: A cancer-drug parity law would help patients

June 3, 2010 by KAREN DeMAIRO



Karen DeMairo of Plainview is a senior patient services manager for the Long Island Chapter of The Leukemia & Lymphoma Society.

It's news we all hope to avoid: You or a loved one has cancer.

Now brace yourself for another blow: Getting the right treatment at an

affordable price can be next to impossible. It's a problem that's become commonplace around the nation, and it happens all too often in New York State.

Typically, a patient with private insurance pays a \$20 co-payment for intravenous (IV) chemotherapy every three weeks. But, private insurers often deny payment for cutting-edge, oral chemotherapy, leaving patients to pay thousands of dollars each month.

For example, taking the drug Gleevec in pill form is the only option for many patients with chronic myelogenous leukemia, a blood cancer. It is highly effective, with an 89 percent five-year survival rate, but costs for patients paying cash can be nearly \$5,000 a month. Although about 80 percent of privately insured patients have access to Gleevec for less than \$200 a month, those who are uninsured or underinsured must look elsewhere for assistance.

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Many pharmaceutical manufacturers, including the maker of Gleevec, offer assistance programs that provide free medications to patients who qualify. But in some cases, the financial burden is so great that patients or family members are forced to get a second job to pay for essentials like their mortgage, groceries, utilities and the lifesaving drugs needed to have a fighting chance against cancer.

Why? In most health plans, insurance covers most or all of the cost of chemotherapy when administered through an IV in a medical office, but not the pill version of chemotherapy that's taken at home. The recently passed federal health care reforms would do nothing to change this.

State lawmakers are considering bills that would fix this problem by requiring insurance plans to cover IV chemotherapy and oral chemotherapy equally. It would be best if the legislation also included protections for patients who already have access to lifesaving medicines at a reasonable co-pay.

Connecticut is poised to approve its version this month. Nine other states, including Vermont, Hawaii and Oregon, have already enacted similar bills. In New York, and at least 20 other states, the debate rages.

Insurers oppose the measure, arguing that chemo pills are more expensive than IV drugs and that a coverage mandate could raise insurance costs for everyone. Supporters challenge the notion that equity will result in increased health care costs. In fact, recent studies indicate that treating oral and IV chemotherapy drugs equally in health insurance plans adds less than 50 cents to most plans' monthly costs. Moreover, the pill form of chemo treatment may be cheaper than IV. Taking a pill in one's home is undoubtedly less expensive than treatment received in a medical facility.

As with many things in Albany, the legislation's success may depend less on the merits of the bill than on the strength of the interest groups standing in its way. In this case, it's the insurance lobby. The losers are cancer patients fighting to access the best, most affordable treatment possible.

Oral chemotherapy treatment is the future - experts estimate that a quarter of the anti-cancer agents in development will be administered orally. Given this fact, it's clear that insurance companies must catch up with technology by covering oral cancer treatments. Not doing so forces too many patients to choose between a chance at survival and personal bankruptcy.

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Oral Chemotherapy Bill Signed into Law in New York State

Posted: September 29, 2011 | **Author:** [lymphomaprogram](#) | **Filed under:** [Lymphoma News](#), [Patient Education](#) | **Tags:** [cancer treatment](#), [cyclophosphamide](#), [etoposide](#), [health insurance](#), [New York State](#), [Oral Chemotherapy](#), [procarbazine](#) | [Leave a comment](#) »

On September 23 New York Governor Andrew Cuomo signed into law a bill that requires health plans to cover orally administered chemotherapy treatments at a cost equal to intravenously or injected chemotherapy treatments. The bill will go into effect January 2012.

Traditional intravenous chemotherapy drugs administered in a hospital or clinic are often included as a medical benefit under a patient's health insurance plan. However, many oral chemotherapies are defined as a prescription benefit and frequently require much higher out-of-pocket costs for patients, or they have been unavailable to patients with financial caps on their prescription benefit.

For lymphoma patients, oral chemotherapy agents that are sometimes used include cyclophosphamide (cytoxan), etoposide (VP-16), and procarbazine (matulane).

Regarding the new legislation, [Dr. John Leonard](#), the Clinical Director of the Weill Cornell Lymphoma Program, said, "This is a very important law to allow our patients access to some of the crucial drugs that they need. A great deal of credit goes out to those who highlighted this issue for our legislators and asked them to take these steps. It speaks to the importance of having all of us take an active role in encouraging government policies that can improve outcomes for patients. "

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DISEASES; INSURANCE - HEALTH;



April 1, 2010

2010-R-0179

INSURANCE COVERAGE FOR ORAL CHEMOTHERAPY

By: Janet L. Kaminski Leduc, Senior Legislative Attorney

You asked for background information related to sSB 50, *An Act Concerning Oral Chemotherapy Treatments*. Specifically, you asked for (1) an explanation of the disparity between insurance coverage for intravenous versus oral chemotherapy treatment and (2) the estimated cost of covering oral chemotherapy the same as intravenously-administered chemotherapy.

SUMMARY

Health insurance policies often cover most or all of the cost of chemotherapy when administered intravenously in a medical office. However, the same policies treat the pill version of chemotherapy as prescription drugs, meaning a person typically pays a larger share of the cost than if the treatment was intravenously administered (A. Levin Becker, *Chemotherapy or Pills? Difference Can Be Hundreds of Dollars*, Hartford Courant, March 11, 2010, copy enclosed).

The Insurance and Real Estate Committee favorably reported sSB 50 (File No. 160) on March 11, 2010. The bill requires health insurance policies to cover oral chemotherapy on at least as favorable a basis as intravenous chemotherapy. While Connecticut has not performed an actuarial study of the cost impact of this proposal, a study by Milliman Inc. estimates it will increase premiums on average by 50 cents per member per month.

Vermont, which studied the impact of similar legislation before enacting into law, determined the requirement would have a negligible impact on premiums. California and Indiana have also reported a negligible impact on premiums for their similar legislation.

The Office of Fiscal Analysis (OFA) has determined that sSB 50 would have no impact on the state budget and a potential impact on municipalities' budgets.

SUBSTITUTE SENATE BILL 50

Effective January 1, 2011, sSB 50 requires certain health insurance policies that cover intravenously- and orally-administered anticancer medications prescribed by a licensed practitioner with prescribing authority to cover the orally-administered medication on at least as favorable a basis as the intravenously-administered medication. It prohibits a policy from reclassifying anticancer medications or increasing the patient's out-of-pocket costs for the medications as a way to comply.

The bill applies to individual and group health insurance policies delivered, issued, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services, including coverage under an HMO plan. It also applies to individual health insurance policies that provide limited benefit health coverage. Due to federal law, state insurance benefit mandates do not apply to self-insured benefit plans.

BACKGROUND

The Insurance and Real Estate Committee heard public testimony on sSB 50 on February 18, 2010. Numerous testifiers described the current situation with respect to insurance coverage for intravenous versus oral chemotherapy.

Chemotherapy administered intravenously is covered as a medical expense under most comprehensive health insurance policies. This means an insured person goes to an outpatient facility or hospital to receive the chemotherapy treatment and pays the associated medical visit copayment or deductible as required by the insurance policy, until he or she reaches the policy's out-of-pocket maximum. Once the person has paid the maximum amount, the policy pays in full.

However, for those people who take their chemotherapy orally, either in pill or liquid form, treatment is covered as a prescription drug, not as a medical expense. Thus, the insured person must pay the related prescription drug copayment or deductible. Depending on the policy terms, the amount a person has to pay out of pocket for the oral chemotherapy can be much higher than if it were treated as a medical expense. If the policy has limited prescription drug coverage with an annual maximum, a person may quickly reach that maximum, having to then pay the full cost of the chemotherapy out of pocket.

The most widely-used oral chemotherapy drugs in use range in wholesale price from \$2,200 to \$7,900 per month, according to the New York Times (A. Pollack, *Insurance Lags as Cancer Care Comes in a Pill*, April 15, 2009, copy enclosed).

For related information, see OLR Research Report 2009-R-0311, *Health Insurance Coverage for Cancer Pills* (enclosed).

ESTIMATED COST OF COVERAGE PARITY

Connecticut has not undertaken an actuarial review of the proposed mandate to determine the estimated cost impact on health insurance policies. However, according to the Hartford Courant article, Milliman Inc. prepared a report in 2009 for GlaxoSmithKline, which makes oral chemotherapy drugs. Milliman estimated that treating oral and intravenous chemotherapy drugs equally in health plans would increase the cost of health insurance by less than 50 cents per member per month on average. The exact amount would vary by plan due to the wide range of plan designs.

In Vermont, the Department of Banking, Insurance, Securities, and Health Care Administration studied the impact of implementing a requirement for health insurance coverage of oral chemotherapy and issued a report on January 15, 2009 (copy enclosed). The department determined the impact to premiums would be negligible, up to a 0.5% increase. In performing the study, the department researched cost information from Indiana, California, and Oregon, which have passed similar legislation. California and Indiana reported negligible impacts. Oregon's insurance department did not track or study the impact on premiums.

According to the Office of Fiscal Analysis, which reviews the impacts of legislation on the state and municipal governments, sSB 50 would have no impact to the state budget and a potential cost to municipalities. The OFA Fiscal Note indicates, "The bill is not anticipated to impact costs to the state employee and retiree health plans since the state's pharmacy benefit manager currently covers oral chemotherapy drugs with a \$25 copayment." OFA further states, "The bill's provisions may increase costs to fully-insured municipal plans which do not currently offer the coverage mandated. The coverage requirements may result in significant increased premium costs when municipalities enter into new health insurance contracts on or after January 1, 2011."

JKL:ts