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Sent: Monday, December 2, 2024 12:55 PM

To: Carl Schmid <cschmid@hivhep.org>

Subject: RE: ACA Discrimination Complaint: HIV Treatment Coverage by Harvard Pilgrim-Rhode Island

Good afternoon,

I hope this message finds you well and thank you again for your correspondence. I am writing in response to the complaint submitted by the HIV+Hepatitis Policy Institute, dated November 8, 2024, alleging that Harvard Pilgrim is in violation of CFR 156.122(a)(3)(iii)(H) regarding coverage of HIV treatment medications.

Upon review of this matter, Harvard Pilgrim's formulary complies with the Rhode Island state benchmark requirements for HIV drugs, and appears to meet 45 CFR 156.122, having been validated using the CMS SERFF Formulary Review Suite template. Further, the formulary was also reviewed and approved by Harvard Pilgrim's Pharmacy and Therapeutics (P&T) Committee, which confirmed that it provides a broad range of clinically appropriate drugs for people with HIV.

Harvard Pilgrim informed OHIC that members with fully-insured commercial health plans in Rhode Island, currently on HIV medications not covered in the 2025 formulary, will have their coverage grandfathered. Additionally, a member's treating provider can request formulary exceptions if the provider deems non-covered drugs medically necessary (pursuant to 230-RICR-20-30-14.7(K)).

In conclusion, while the formulary may not include every HIV treatment regimen, this does not automatically indicate a violation of CFR 156.122(a)(3)(iii)(H). As a general matter, OHIC does not maintain the authority to opine on the clinical appropriateness of the drugs covered by an insurer's formulary, as long as the formulary meets state benchmarks and complies with state and federal law. Additionally, as noted above, the formulary exception process provides protections for consumers regarding alternative medications not included in the carrier's formulary.

Please feel free to reach out if you have any further questions or need additional information.

Best,
Courtney

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