

January 28, 2015

Mr. Roman Kulich, President and CEO
Coventry Health Care
3200 Highland Avenue
Downers Grove, IL, 60515

Re: Coverage of HIV medications and high cost sharing for frequently-prescribed HIV medications

Dear Mr. Kulich,

We are writing to express our serious concerns regarding the coverage and cost of HIV medications in Coventry Health plans in Illinois. We believe that these plans could be discriminatory against people with HIV.

We are specifically concerned with your placement of all HIV single table regimens tier 5, classified as non-specialty drugs. We are also concerned by your decision not to cover Tivicay, an important component of several medication regimens recommended by nationally-accepted guidelines. Given these categorizations and poor drug coverage, there is no regimen recommended by the U.S. Department of Health and Human Services HIV medication guidelines available from Coventry without a tier 5 drug, resulting in mostly unaffordable drug coverage for HIV positive consumers.

We urge you to **immediately amend your formularies to include Tivicay and make all HIV medications generally accepted as part of the standard of care for HIV available in cost sharing tiers that will allow people with HIV access to these essential medications.** These medications play an important role in the management of HIV infection for a majority of people with HIV who are on treatment; their exclusion from QHP formularies creates a second class of health insurance coverage for individuals purchasing coverage through the Marketplaces.

We note that the Centers for Medicare and Medicaid Services (CMS) criticized practices like the ones found in Coventry's formulary in their recent *Notice of Benefit and Payment Parameters for 2016 Proposed Rule* (the Proposed Rule) because placing HIV medications on the highest cost tiers undermines access by making these medications unaffordable to consumers.¹ CMS, in the Proposed Rule, criticized this practice, noting,

“if an issuer places most or all drugs that treat a specific condition on the highest cost tiers, we believe that such plan designs effectively discriminate against, or discourage enrollment by, individuals who have those chronic conditions.”²

Under 45 CFR § 147.104(e), CMS further indicates that insurers may not

“employ marketing or benefit designs that will have the effect of discouraging the enrollment of individuals with significant health needs.”

Moreover, CMS, in the Proposed Rule, stated,

“we have become aware of benefit designs that we believe would discourage enrollment by individuals based on age or based on health conditions, in effect making those plan designs discriminatory, thus violating this prohibition.”

In addition to the CMS proposed rule, the Illinois Department of Insurance has issued a bulletin stating clearly that that issuers are not considered to be providing essential health benefits if a benefit design or

implementation of its benefit design discriminates based on an individual's age, expected length of life, degree of medical dependency or other health conditions. The purpose of the bulletin is to remind issuers that the prohibition on discrimination applies equally to all health conditions, including but not limited to individuals with HIV/AIDS.

As such, we caution you to ensure that covered HIV medications are not placed in tiers that require such high cost-sharing as to make them unavailable to the average consumer.

Lastly, we would like to call to your attention to the recent agreement made between the Coventry Healthcare of Florida and the Florida Office of Insurance Regulation that significantly reduced cost-sharing for HIV drugs on QHPs offered by Coventry on the Florida Marketplace. These changes came about after the AIDS Institute and NHeLP filed a complaint with the U.S. Department of Health and Human Services Office for Civil Rights, charging four Florida health plans with unlawful discrimination against people living with HIV and AIDS. We applaud Coventry for its decision to amend its cost-sharing levels in Florida and hope Coventry plans in Illinois will replicate such plan structures.

With the enactment of the ACA, thousands of individuals living with HIV in Illinois have access to the QHPs you offer. By imposing such high cost sharing, your plan design limits access to DHHS guideline preferred medications. As a result, individuals living with HIV enrolled in your Illinois plans will not have access to the simplified drug regimens that promote treatment adherence. This will inevitably cause more serious HIV-related complications, jeopardize the health of individuals and increase the risk of transmission of HIV to the detriment of sexual partners and ultimately their communities.

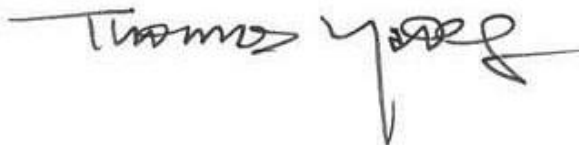
We strongly urge you to provide coverage for the drug Tivicay and ensure that all HIV medications generally accepted as the standard of care are available at reasonable cost sharing levels to ensure access to the treatment that is critical to keeping people with HIV healthy.

Thank you for your prompt attention to these matters. Should you have any questions or wish to further discuss these matters, please contact Ramon Gardenhire at rgardenhire@aidschicago.org or Tom Yates at Tom@aidslegal.com.

Sincerely,



Ramon Gardenhire
Vice President of Policy
AIDS Foundation of Chicago



Tom Yates
Executive Director
AIDS Legal Council of Chicago

cc: James Stephens, Acting Illinois Department of Insurance
Jennifer Koehler, Illinois Health Insurance Marketplace
Jennifer Hammer, Special Counsel to Governor Bruce Rauner
State Representatives Sara Feigenholtz, La Shawn Ford, Greg Harris, Thaddeus Jones, and Rita Mayfield
Elena Butkus

¹ 79 Fed. Reg. 70674 (November 26, 2014). Available at <http://www.gpo.gov/fdsys/pkg/FR-2014-11-26/pdf/2014-27858.pdf>.

² *Id.*