February 21, 2018

Margaret Brodie, Director
Department of Health and Social Services
4501 Business Park Boulevard Building L
Anchorage, AK 99504

Re: Importance of Medicaid Formulary Access for Rare Disease Patients

Dear Director Brodie:

As organizations representing millions of Americans with rare diseases, we are writing to you about the importance of preserving patient access to orphan therapies in your Medicaid program. In sending this letter, we hope to foster a dialogue with you on the best way to engage with patient organizations and other rare disease experts to improve patient access to innovative new medicines.

Any disease affecting fewer than 200,000 Americans is considered rare. With nearly 7,000 rare diseases identified and 30 million Americans affected, the population represented by our organizations is incredibly diverse. It is likely that your Medicaid program has only encountered rare diseases within the context of coverage decisions for individual disorders. Even in isolation, however, individual coverage determinations can have widespread effects on the health of rare disease patients by creating new norms for coverage of breakthrough medicines approved by the Food and Drug Administration (FDA).

In making coverage decisions for individual drugs, our organizations recognize that states are under immense pressure to control health care costs in Medicaid in order to protect services for all beneficiaries. However, we believe that these decisions disproportionately affect rare disease patients because they are not suffering from a more prevalent condition even though they are no less deserving of treatment options. Further, we believe the rare disease community has not done enough to inform state Medicaid agencies about the regulatory approval process for breakthrough treatments, especially pertaining to the use of surrogate endpoints in approval decisions.

As a first step in addressing these important concerns, we wish to provide further context about the obstacles encountered by rare disease patients in seeking coverage for new treatments, and the tools FDA uses to accelerate the approval of medicines for untreated conditions.

The Impact of Adverse Medicaid Utilization Decisions on Rare Disease Patients

In an effort to better control Medicaid costs, several states are seeking to use 1115 waivers to enact “commercial-style” formulary restrictions for their programs. Our organizations have seen firsthand how such restrictions can overrule the prescribing decisions of physicians, resulting in patients being unable to access the medicines best suited to treat their condition. These restrictions inhibit quality care by causing lapses in medication adherence and delays in use of

medicines that provide an enhanced clinical benefit.[6] Over time, this will not only result in poorer health outcomes for beneficiaries but raise health care costs for states.

Formulary utilization measures can certainly promote the use of lower cost medicines, including generics. However, there are instances when these restrictions are applied even if there are no cheaper therapeutically equivalent medicines available for patients to take. In these instances, patient access is blocked for the only FDA-approved medicine available to treat their condition.

Further, the underlying assumption supporting the use of formulary restrictions– that they will significantly lower costs – is not borne out by recent research analyzing the impact of orphan therapies used to treat rare diseases on overall health care spending. Nationwide, the volume of prescriptions for orphan drugs is relatively low because of the small patient populations. The orphan drug share of the total volume of pharmaceutical use in the U.S. was just 0.3% in 2016.[7] Additionally, nationwide spending on orphan drugs accounted for only 7.9% of all drug purchases.[8] Looking specifically at the Medicaid program in 2016, spending on rare disease medicines accounted for only 1% of all Medicaid spending.[9]

State Concerns Regarding Medications Approved Via FDA's Accelerated Approval Program

Our organizations are aware that your state may also be broadly concerned about its role in providing access to breakthrough medications approved by FDA via its Accelerated Approval Program. As organizations that work closely with FDA and Congress to improve approval pathways for innovative treatments, we can shed light on this program in regard to the safety and effectiveness of new drugs to treat rare diseases.

Accelerated Approval was created over 25 years ago to facilitate and speed the availability of new treatment options for serious conditions that fill an unmet need by analyzing "surrogate endpoints" when it is not possible to analyze more traditional indicators. It is often impossible to conduct large-scale, randomized, placebo-controlled trials within rare diseases as there simply are not enough patients to participate and, in some diseases, reliable clinical endpoints may not exist that can be measured in a reasonable timeframe. With overwhelming bipartisan Congressional support and approval, FDA has implemented innovative methods to evaluate orphan therapies. Without these unique tools for FDA to evaluate orphan therapies, individuals with rare diseases would be left without any treatment because traditional clinical trials would be impossible to conduct.

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[6] Streeter, S.B., Schwartzberg, L., Husain, N.,Johnsrud, M. "Patient and plan characteristics affecting abandonment of oral oncolytic prescriptions." American Journal of Managed Care. 2011. 175 (5 Spec No.): SP38---SP44.

[7] Need citation for this figure

[8] Trends in Orphan Drug Costs and Expenditures Do Not Support Revisions in the Orphan Drug Act: Background and History. National Organization for Rare Disorders. October 2017. https://rarediseases.org/wp-content/uploads/2017/10/NORD-IMS-Report_FNL.pdf

[9] Coverage of Rare Disease Therapies in Medicaid and Medicare and the Impact on Patient Care. Jay Greissing, Dir. U.S. Government Relations and Policy, Shire. February 2016. http://www.cbinet.com/sites/default/files/files/Greissing_Jay_pres.pdf

The use of surrogate endpoints is one these innovative tools. These endpoints are scientifically accepted indicators of patient health used to determine drug effectiveness. For example, surrogate endpoints, such as tumor shrinkage, have been used to support the accelerated approval of cancer drugs for over two decades. Moreover, every treatment for HIV/AIDS on the market was approved using a surrogate endpoint (HIV viral load and patient CD4 count), because it was not possible to identify an underlying clinical endpoint. Other examples include the use of blood pressure and cholesterol to examine the effectiveness of medications to treat heart disease. As with these examples, the surrogate endpoints used to approve breakthrough treatments for rare diseases must demonstrate substantial evidence of effectiveness from adequate and well-controlled clinical investigations.

FDA and Congress have repeatedly affirmed that drugs granted accelerated approval must meet the same statutory standards for safety and effectiveness as those granted traditional approval and do not represent a lower standard.[10] As such, accelerated approval is a full approval, not a partial, interim, or conditional approval. If states misinterpret the accelerated approval pathway or reject the rigorous process used by FDA to evaluate innovative treatments, the net effect is to turn back the clock to a time in which rare disease patients have no role in determining what is best for their own health and little hope for new medical breakthroughs to fight their disease. Before making judgements on which patients should or should not benefit from new medicines, we implore Medicaid agencies to better understand FDA's process for approving innovative treatments and facilitate enhanced engagement with rare disease patients and the organizations that represent them.

How States and Rare Disease Patient Organizations Can Support Patients

There are several actions that can be taken to help states address these issues. First, as your state considers seeking 1115 waivers from the Centers for Medicaid and Medicare Services (CMS), we encourage you to strongly consider the implications for rare disease patients before proposing any restrictions to accessing newly approved orphan therapies. Specifically, waivers that seek an exemption to Section 1927 of the Social Security Act (42 U.S.C. §1396a(a)(54)) may harm patients seeking coverage for new medications that provide an enhanced clinical benefit over existing treatment options. Moreover, excluding coverage for drugs that utilize FDA's expedited programs like accelerated approval could rob rare disease patients, many of whom are children, of access to FDA-approved medicines that may be their *only* treatment option.

Second, and as previously noted, our organizations are seeking better opportunities to engage with you about the orphan drug approval process and specific coverage decisions. To that end, Tim Boyd at the National Organization for Rare Disorders (NORD) is available to facilitate contacts with any of our organizations to discuss the issues raised within this letter (Tim can be reach via email at tboyd@rarediseases.org). Please also feel free to reach out to each organization directly to discuss our specific patient populations.

[10] Food and Drug Administration Safety and Innovation Act (FDASIA) § 901

Finally, given the Federal prioritization of innovative orphan product development, our organizations believe policies should be explored that provide states additional assistance to cover these products for Medicaid beneficiaries. We would appreciate feedback from your state on the necessity and potential structure of such assistance, and on other opportunities to innovate when it comes to meeting the needs of the rare disease community.

On behalf of our patients, thank you for your consideration of this letter and for your continued commitment to improving patient access in the Medicaid program. We look forward to further collaboration with you on these important issues.

Sincerely,

Acid Maltase Deficiency Association (AMDA)
ADNP Kids Research Foundation
Adrenal Insufficiency United
Adult Polyglucosan Body Disease Research Foundation
Alpha-1 Foundation
ALS Association
American Autoimmune Related Diseases Association (AARDA)
American Syringomyelia and Chiari Alliance Project
Amyloidosis Foundation
Amyloidosis Research Consortium
Amyloidosis Support Groups
Angelman Biomarkers and Outcome Measures Alliance
APS Foundation of America, Inc
Association for Creatine Deficiencies
Autoinflammatory Alliance
Benign Essential Blepharospasm Research Foundation
Bridge the Gap - SYNGAP Education and Research Foundation
CdLS Foundation
Children's Cardiomyopathy Foundation
Children's PKU Network
Children's Tumor Foundation
Chloe's Fight Rare Disease Foundation
CJD Aware!
CMTC-OVM the Netherlands
Congenital Hyperinsulinism International
Cooley's Anemia Foundation
cureCADASIL
CureCMT4J/Talia Duff Foundation
CurePSP

The Degos Disease Support Network
Dravet Syndrome Foundation
Dystonia Advocacy Network
Dystonia Medical Research Foundation
Fabry Support & Information Group
FACES: The National Craniofacial Association
Fat Disorders Research Society
Fibrolamellar Cancer Foundation
FOD (Fatty Oxidation Disorders) Family Support Group
Foundation Fighting Blindness
Foundation for a Angelman Syndrome Therapeutics
Foundation for Atypical HUS
Foundation for Prader-Willi Research
Friedreich's Ataxia Research Alliance (FARA)
GBS|CIDP Foundation International
Glut1 Deficiency Foundation
The Guthy-Jackson Charitable Foundation
HCU Network America
Hereditary Neuropathy Foundation
Hermansky-Pudlak Syndrome Network Inc.
Histiocytosis Association
HSAN1E Society
The Hyper IgM Foundation
Immune Deficiency Foundation
Indian Organization for Rare Diseases
International Fibrodysplasia Ossificans Progressiva (FOP) Association
International Foundation for CDKL5 Research
International FOXG1 Foundation
International Pemphigus & Pemphigoid Foundation
International Rett Syndrome Foundation
International Waldenstrom's Macroglobulinemia Foundation (IWMF)
Interstitial Cystitis Association
The Jansen's Foundation
Kids With Heart National Association for Children's Heart Disorders, Inc.
Klippel-Feil Syndrome Freedom
LAL D Aware
The Life Raft Group
Li-Fraumeni Syndrome Association (LFSA / LFS Association)
Lung Transplant Foundation

Lymphangiomatosis & Gorham's Disease Alliance
MEBO Research, Inc.
Mila's Miracle Foundation
MLD Foundation
Moebius Syndrome Foundation
The M.O.R.G.A.N. Project
MPN (Myeloproliferative Neoplasms) Research Foundation
The Myasthenia Gravis Foundation of America
The Myelin Project
The Myositis Association
The National Adrenal Diseases Foundation
National Ataxia Foundation
National Eosinophilia Myalgia Syndrome Network
National Fabry Disease Foundation
National MPS Society
National Niemann-Pick Disease Foundation
National Organization for Rare Disorders (NORD)
National Tay-Sachs & Allied Diseases Association
National Urea Cycle Disorders Foundation
National Spasmodic Dysphonia Association
NephCure Kidney International
Neurofibromatosis Northeast
The Oral Cancer Foundation
Organic Acidemia Association
PANDAS Network
PANDAS/PANS Advocacy and Support
Phelan-McDermid Syndrome Foundation
PKD Foundation
Platelet Disorder Support Association
Prader-Willi Syndrome Association (USA)
Prevent Blindness
Pulmonary Hypertension Association
Rare and Undiagnosed Network (RUN)
Rare Army
RASopathies Network USA
Rett Syndrome Research Trust
Rothmund-Thomson Syndrome Foundation
RYR-1 Foundation
Scleroderma Foundation

Shwachman-Diamond Syndrome Foundation
The Snyder-Robinson Foundation
Soft Bones, Inc.: The U.S. Hypophosphatasia Foundation
Spastic Paraplegia Foundation
Spinal CSF Leak Foundation
SSADH Association
Stiff Person Syndrome Support Group
Tarlov Cyst Disease Foundation
Tom Wahlig Foundation
The Transverse Myelitis Association
Tuberous Sclerosis Alliance
Turner Syndrome Society of the United States
United Leukodystrophy Foundation
US Hereditary Angioedema Association
Vasculitis Foundation
Vestibular Disorders Association
VHL Alliance
Wilhelm Foundation
Worldwide Syringomyelia & Chiari Task Force