

**State of Vermont**  
**Department of Vermont Health Access**  
312 Hurricane Lane, Suite 201  
Williston VT 05495-2807  
<http://dvha.vermont.gov>

[Phone] 802-879-5900  
[Fax] 802-879-5651

*Agency of Human Services*

December 15, 2015

Ms. Trinka Kerr  
Chief Health Care Advocate  
Vermont Legal Aid  
P.O. Box 1367  
Burlington, VT 05402

**RE: RESPONSE TO LETTER OF NOVEMBER 20 REGARDING TREATMENT OF  
CHRONIC HCV INFECTED PATIENTS**

Dear Trinka:

The Department of Vermont Health Access is in receipt of your letter dated November 20, 2015, regarding Medicaid criteria for Treatment with direct-acting antiviral drugs that treat Hepatitis C infections.

In your letter Vermont Legal Aid requests that the Department alter its prior authorization criteria for direct acting antiviral medications for the treatment of Hepatitis C. The basis for your request is a November 5, 2015, Medicaid Drug Rebate Program Notice, Release No. 172.

In this notice the Centers for Medicare and Medicaid services reminds its state partners regarding the Rules of Medicaid Drug Coverage. More specifically, CMS reminds states that the parameters of Section 1927 (d) (1) regarding permissible restrictions of outpatient medications (like the single source medication for Hepatitis C) including formularies, prior authorization, scope, utilization and frequency reviews.

In the CMS release, the federal government points out that certain restrictions “may” unreasonably restrict access to the medications for Hepatitis C. The federal government also reiterated the need for compliance with Section 1927 when states establish certain limitations. CMS encourages states to exercise sound clinical judgment in limiting access to medications. While some of Vermont’s current criteria are listed as a concern by CMS, we do not read the letter as a demand to any state, let alone Vermont.

We want to assure Legal Aid we have gathered sound clinical judgement regarding the criteria we use for the prior authorization of Hepatitis C medication. As required by 42 U.S.C § 1396r-8 (d) (1) (Section 1927 of the Social Security Act), we have a prior authorization program that meets the requirements of the Act. More specifically, we have used and accepted the expertise and recommendation of our Drug Utilization Board (as you know composed of physicians and

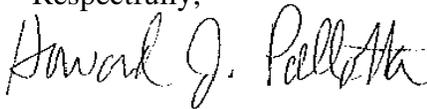


pharmacists) to place restrictions on Hepatitis C medication. These restrictions of the medication have been made based upon the drug use review program required in 42 U.S.C. § 1396r-8 (g) (2). The drug use review has both a prospective and retrospective element and both reviews provide for the application of standards to improve the quality of care and conserve program funds or personal expenditures.

We believe our actions regarding the limitations of Hepatitis C medication are proper. We will, as required by law, continue to monitor the drug's usage, including a case by case determination when we receive a prior authorization request.

We do appreciate the concerns you have raised.

Respectfully,

A handwritten signature in black ink that reads "Howard J. Pallotta". The signature is written in a cursive style with a large initial "H".

Howard J. Pallotta  
General Counsel

cc: Tom Simpatico, Aaron French, Nancy Hogue, Steven Costantino