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November 20, 2015

Steven Costantino
Commissioner, Department of Vermont Health Access
312 Hurricane Lane, Suite 201
Williston, VT 05495

Re: DVHA Criteria for Treatment with DAA Hepatitis C Drugs

Dear Steven:

I am writing to ask the Department of Vermont Health Access to change its criteria for authorizing treatment with direct-acting antiviral (DAA) drugs for Medicaid patients with Hepatitis C (HCV).

On November 5, 2015, the Centers for Medicare and Medicaid Services (CMS) released a notice entitled *ASSURING MEDICAID BENEFICIARIES ACCESS TO HEPATITIS C (HCV) DRUGS*.¹ In this notice CMS expresses concern that states are “restricting access to DAA HCV drugs contrary to the statutory requirements in section 1927 of the [Social Security] Act by imposing conditions for coverage that may unreasonably restrict access to these drugs.” The examples of inappropriate criteria include limiting treatment to beneficiaries whose liver damage has progressed to metavir fibrosis score F3 or F4, and requiring DAA HCV drugs to be prescribed by or in consultation with specific types of providers, like gastroenterologists, hepatologists, or infectious disease specialists.

The criteria on DVHA’s website for authorization of treatment with DAA HCV drugs include these exact frowned-upon factors:²

- Member must have Metavir fibrosis score of 3 or 4
- Prescriber must be a hepatologist, gastroenterologist or infectious disease specialist

Per the CMS guidance, these restrictions are out of compliance with the requirements in section 1927 of the Social Security Act in that they unreasonably restrict coverage of an effective treatment. We ask that DVHA immediately remove these restrictions so that Vermont Medicaid beneficiaries can obtain HCV drugs when they are medically necessary.

Please respond with Vermont’s plan and timeline for making the changes required by the CMS guidance.

Sincerely,
/s/ Trinka Kerr, Chief Health Care Advocate

¹ Centers for Medicare and Medicaid Services, Medicaid Drug Rebate Program Notice (Release no. 172), *Assuring Medicaid Beneficiaries Access to Hepatitis C Drugs*, available at <http://www.medicare.gov/Medicare-CHIP-Program-Information/By-Topics/Benefits/Prescription-Drugs/Downloads/Rx-Releases/State-Releases/state-rel-172.pdf>.

² Department of Vermont Health Access, Pharmacy Benefit Management Program, Vermont Preferred Drug List and Drugs Requiring Prior Authorization, updated 10/16/15, available at <http://dvha.vermont.gov/for-providers/1vermontpdl-effective10-16-15-septminutes-20151015-final.pdf>.

The Office of the Health Care Advocate, previously named the Office of Health Care Ombudsman, is a special project of Vermont Legal Aid.