PROJECT HISTORY - 2018

HEALTH CARRIER PRESCRIPTION DRUG BENEFIT MANAGEMENT MODEL ACT (#22)

Description of the Project, Issues Addressed, etc.

In 2013, the Regulatory Framework (B) Task Force was charged to review NAIC existing models related to health insurance to determine whether they needed to be amended in light of all the changes made by the federal Affordable Care Act (ACA). During that review process, the Task Force decided that revising the *Health Carrier Prescription Drug Benefit Management Model Act* (#22) was a priority for state insurance regulators, carriers and consumers given the expanded role state insurance regulators were given in overseeing prescription drug formulary issues under federal regulations implementing the provisions of the ACA. In addition, in November 2015, the Health Insurance and Managed Care (B) Committee adopted a 2016 charge directing the Regulatory Framework (B) Task Force to review and, if necessary, consider revisions to Model #22 to address issues related to: 1) transparency, accuracy and disclosure regarding prescription drug formularies and formulary changes during a policy year; 2) accessibility of prescription drug benefits using a variety of pharmacy options; and 3) tiered prescription drug formularies and discriminatory benefit design.

In February 2016, the Regulatory Framework (B) Task Force established the Model #22 (B) Subgroup, with Wisconsin as chair, to begin working on revising Model #22. In April 2016, the Subgroup began meeting every other week to review and discuss the comments received on Model #22 by the Jan. 22, 2016, public comment deadline. During its conference calls, the Subgroup discussed a myriad of issues, including the model's application and scope, Pharmacy and Therapeutics (P&T) committee conflict of interest requirements, consumer disclosures, mid-year formulary changes, and nondiscrimination formulary and prescription drug benefit design. The Subgroup finished its review of the comments in September 2017 and released a second draft of proposed revisions to Model #22 with a Oct. 17, 2017, comment deadline. The Subgroup held three conference calls to discuss the comments received. The Subgroup adopted the proposed revisions to Model #22 on Nov. 7, 2017, via conference call and submitted the draft to the Regulatory Framework (B) Task Force for its consideration. The Regulatory Framework (B) Task Force adopted the proposed revisions on Dec. 2, 2017. The Health Insurance and Managed Care (B) Committee adopted the revisions on Dec. 3, 2017.

The proposed revisions to Model #22 include a number of enhancements, including more specific requirements in Section 5—Requirements for the Development and Maintenance of Prescription Drug Formularies and Other Pharmaceutical Benefit Management Procedures concerning P&T committee establishment and how it develops and manages a health carrier's formulary and pharmacy benefit management procedures (PBMPs). The revisions also enhance provisions concerning a P&T committee's conflict of interest policies and procedures. The proposed revisions to Model #22 also enhance and clarify requirements in Section 6—Information to Presces Petd Tcrequirements whenever a health carrier makes or approves a change

Additional revisions to Model #22 include revisions to Section 7—Medical Exceptions Approval Proc Requirements and Procedures adding an expedited medical exceptions process and adding a new sectio Section 8—Nondiscrimination in Prescription Drug Benefit Design.

Name of Group Responsible for Drafting the Model and [illegible]

With respect to the nondiscrimination in formulary benefit design provision, the Subgroup considered three options: 1) not include nondiscrimination language because it exists in other models; 2) include general nondiscrimination language that state insurance regulators may want to reference to ensure things are nondiscriminatory; or 3) include a more extensive proposal along the lines of the proposed draft language. After extension discussion, as reflected in Section 8, the Subgroup decided: 1) the model should include a nondiscrimination section containing some general language to allow state insurance regulators to look at PBMPs and formulary structural issues to make sure they are not discriminatory; 2) there should be a reference to federal nondiscrimination provisions that may apply; and 3) there should be a reference to existing NAIC models with nondiscrimination language that states may want to consider if developing implementing regulations to this model.

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PROJECT HISTORY - 2003

HEALTH CARRIER PRESCRIPTION DRUG BENEFIT MANAGEMENT MODEL ACT (#22)

Description of the project, issues addressed, etc.

This model law was drafted to address an issue of increasing concern t rgg 0 Td[a)0.9(d5.55Tw 0.859(0 Td( )Tj-0.4 (Td( )T89(