

# ACA Marketplace Landscape

*U.S. Conference on AIDS  
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# Back in 2014 . . .

- The AIDS Institute reviewed qualified health plans (QHPs) available on the ACA Marketplace in Florida
  - Goal was to inform Ryan White clients about QHP options
  - 10 Issuers/36 Silver-level plans available
  - Looked at formularies for HIV drug coverage & cost-sharing structure

# Discovered Discriminatory Design

- 4 Issuers placed all HIV Rx on highest cost-sharing tier, a.k.a. “adverse tiering”
- Patient cost-sharing for all HIV Rx under these issuers’ plans was much higher than under other plans
  - 40% - 50% co-insurance
  - High deductibles
- Restrictive Utilization Management
  - prior authorization
  - Quantity limits

# ACA's Nondiscrimination Provisions

- The Affordable Care Act prohibits discrimination against individuals
  - with disabilities, including HIV/AIDS, and
  - with “significant health needs”
- Insurers barred from
  - Denying coverage to persons with preexisting conditions
  - Excluding coverage of a preexisting conditions
  - Imposing annual or lifetime limits on benefits
  - Using plan benefit designs that discourage enrollment

# Discrimination Complaint

- TAI & NHeLP filed complaint with Federal Office for Civil Rights/HHS (OCR)
  - Named 4 Issuers: CoventryOne, Cigna, Humana, and Preferred Medical
  - Alleged discrimination through adverse tiering against PLWHIV in violation of ACA
  - Asked HHS to remedy the unlawful conduct & decertify any QHPs that were in continued non-compliance
- Filed in 2014 but still pending
- HHS wants states to address

# Results of Discrimination Complaint

Florida Insurance Commissioner (FOIR) took action

- Used two State laws:
  - Insurance plans cannot discriminate based on AIDS
  - Review plans for compliance with ACA law
- Entered into discussions with issuers
- All 4 issuers agreed to make changes to 2015 formularies
  - Moved generics to lower tiers
  - Lowered co-insurance, capped copays
  - Removed restrictions

# Impact beyond FL & HIV

- TAI, NHeLP, AHF met with Aetna & Cigna (Jan. 2015)
- Aetna (Coventry) announced *nationwide* changes (March 2015)
  - Moved all HIV Rx (except Fuzeon) to either generic or non-preferred brand
  - Co-payments of between \$5 and \$100, after deductible (instead of 50% co-insurance)
  - Mail-order or retail pharmacy option, 90-day supply
- Humana (March 2015)
  - Continuing 10% cap for HIV drugs through 2016 *in Florida*
  - *Nationwide*--moved **all specialty drugs** below a \$600 monthly threshold to lowest tiers (generic or brand)

# Issuer Follow-Up Continues

- Florida Office of Insurance Regulation conducted market examination of Humana
- Resulting Consent Order (Feb. 2016)
  - Humana agreed to “maintain procedures to ensure that it does not by effect or design treat people living with HIV/AIDS less favorably than any other condition.”
  - Fined \$500,000 for failing to cooperate with investigators

# 2015 Florida Plans

- For HIV--better but still saw issues with some plans:
  - Commonly-prescribed HIV Rx not covered
    - Only 3 plans covered all 4 approved STRs (Triumeq excluded by 10 plans)
    - No plan covered Vitekta, newest integrase inhibitor
  - All HIV Rx or all branded Rx, on highest cost-sharing tiers
    - 30% to 50% coinsurance
    - High Rx deductible (\$500 to \$1,500)
- Less favorable coverage for hepatitis across plans
  - Some or all curative HCV treatments not covered
  - All hepatitis Rx on highest cost-sharing tiers with coinsurance
  - All or most hepatitis Rx subject to prior authorization
  - Quantity limits

# FL Ins. Commissioner Memo to Issuers

## Instructions/Cautions for 2016 Plan Review

- find plans discriminatory if cost-sharing for HIV Rx not as favorable as benchmark plan (\$40, \$70 or \$150 and \$200 for Fuzeon)
- review all plans for all Rx for discrimination through formula design, benefit design, or medical management techniques and decertify plans that engage in these practices
- require all plans to attest to non-discrimination

### Officer or Director Attestation Non-Discrimination of Formulary Drug List

For Policy Form(s) \_\_\_\_\_

Pursuant to Section 624.26, Florida Statutes, this is an attestation of the policy form's compliance with:

- **45 CFR 156.122 (Prescription Drug Benefits)**
- **45 CFR 156.125 (Prohibition on Discrimination)**
- **Section 627.429 or Section 641.3007, Florida Statutes (Prohibition on Discrimination regarding HIV/AIDS)**

as they relate to the Policy Form's Drug Formulary. More specifically, the Formulary Drug List:

- (1) Covers a range of drugs across a broad distribution of therapeutic categories and classes and recommended drug treatment regimens that treat all diseases where a drug treatment regimen is appropriate, and does not substantially discourage enrollment of any group of enrollees.
- (2) Provides appropriate access to drugs that are included in broadly accepted treatment guidelines and are consistent with general best practice formularies currently in widespread use.
- (3) Does not discourage enrollment of individuals with chronic health needs.
- (4) Does not use a benefit design that discriminates based on an individual's age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions.
- (5) Does not place most or all drugs that treat a specific condition on the highest cost tiers.
- (6) Does not have drugs that are "mail order only;" all drugs are available through retail (brick-and-mortar or non-mail order) pharmacies.
- (7) Does not discriminate on the basis of HIV or AIDS as required by Section 627.429 or Section 641.3007, Florida Statutes.

The Company:

- (8) Has procedures in place that allow enrollees to request and gain access to clinically appropriate drugs not covered by the plan.
- (9) Has developed and documented procedures to ensure appropriate drug review and inclusion on the formulary drug list, as well as make clinical decisions based on scientific evidence, such as peer-reviewed medical literature, and standards of practice, such as well-established clinical practice guidelines.

# 2016 Florida Plans

- HIV Rx Improvement across all plans!
  - No 2016 Florida plans placed *all* HIV Rx in highest tier
  - More affordable cost-sharing, most following FOIR's directive
- But still have concerns:
  - Some plans not covering all HIV Rx (e.g., new single-tablet regimens)
  - Deductibles are increasing → coinsurance more burdensome
  - Prior authorization for almost all HIV Rx (Florida Blue)
  - Prior authorization for Truvada (several issuers)
  - High co-insurance for other Rx (non-HIV) + impact of high deductibles

# 2016 Florida Plans

## Hepatitis Rx Coverage Issues Persist

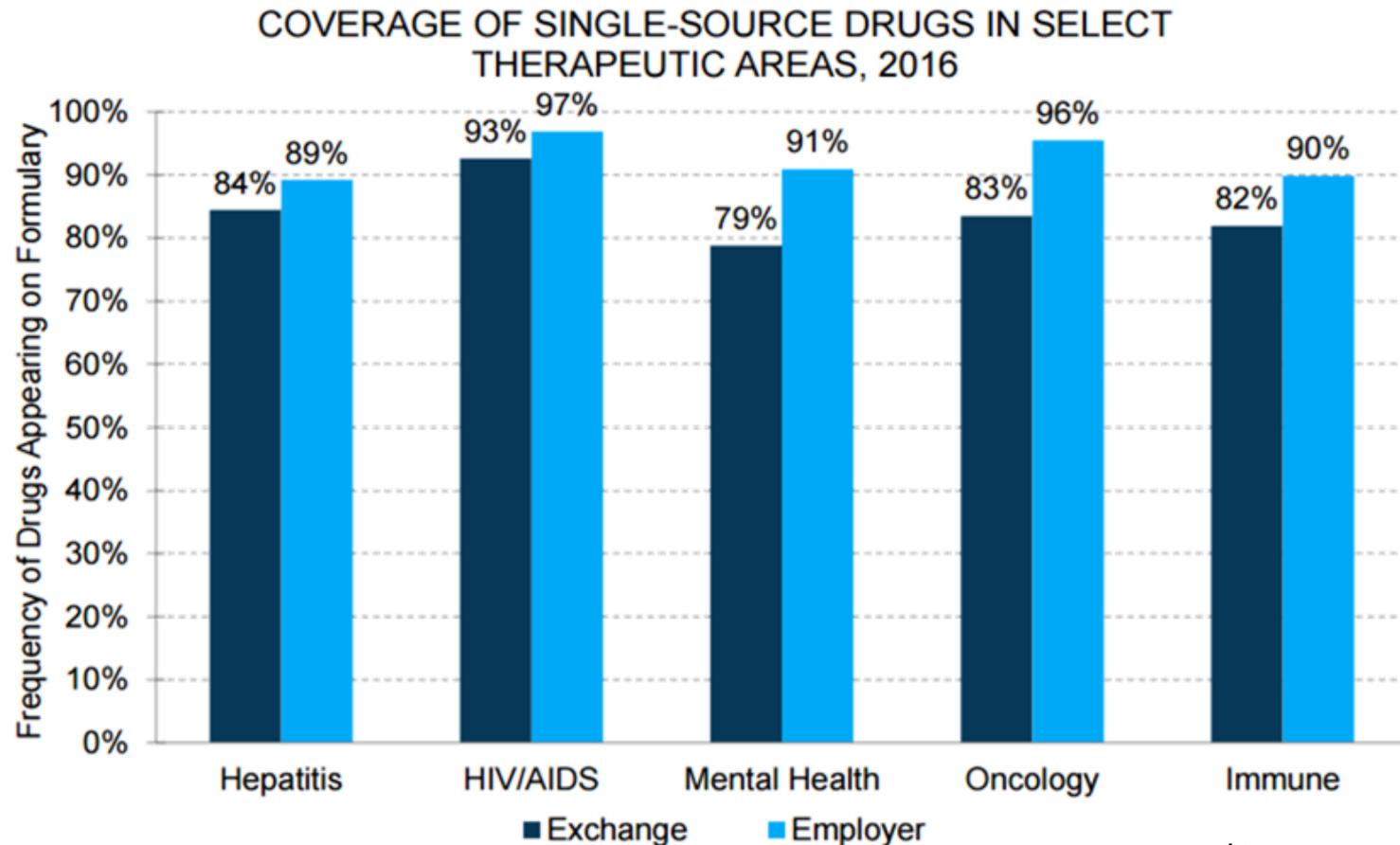
- Limited coverage of newer curative HCV Rx
- 6 of 9 issuers charge 20-50% coinsurance for all or most HBV & HCV Rx
  - Humana places almost all HCV Rx on Tier 5 with 40-50% co-insurance *after* \$3,800 deductible
  - Aetna & CoventryOne: Tiers 4 & 5, 40-50% co-insurance *after* \$2,750 deductible
  - HealthFirst, Molina, Florida Health Care: Tiers 4 & 5, 20-30% co-insurance
- Excessive prior authorization, step therapy, quantity limits
- United Healthcare provides the best coverage:
  - Most hepatitis Rx on Tiers 2-4 with \$40, \$80, \$160 co-pays
  - Rx exempt from deductible—first dollar coverage

# Florida Advocacy re HCV Rx

- TAI & Alliance for Patient Access sent letter to FOIR in April
  - Issuers discouraging enrollment through adverse tiering, high patient cost-sharing, excessive prior authorization, quantity limits
  - Meetings with FOIR
- Lawsuit against Florida Blue settled in June
  - Florida Blue agreed to provide access to Harvoni to all beneficiaries
  - Removed fibrosis score restrictions
- Lawsuit against United HealthCare settled last week
  - *Nationwide* United agreed to remove
    - fibrosis score restrictions
    - abstinence requirements
  - Court approval still pending

# 2016 Plans Nationwide

*Coverage improvement in some Rx classes but not all  
QHPs' coverage less favorable than employer plans*

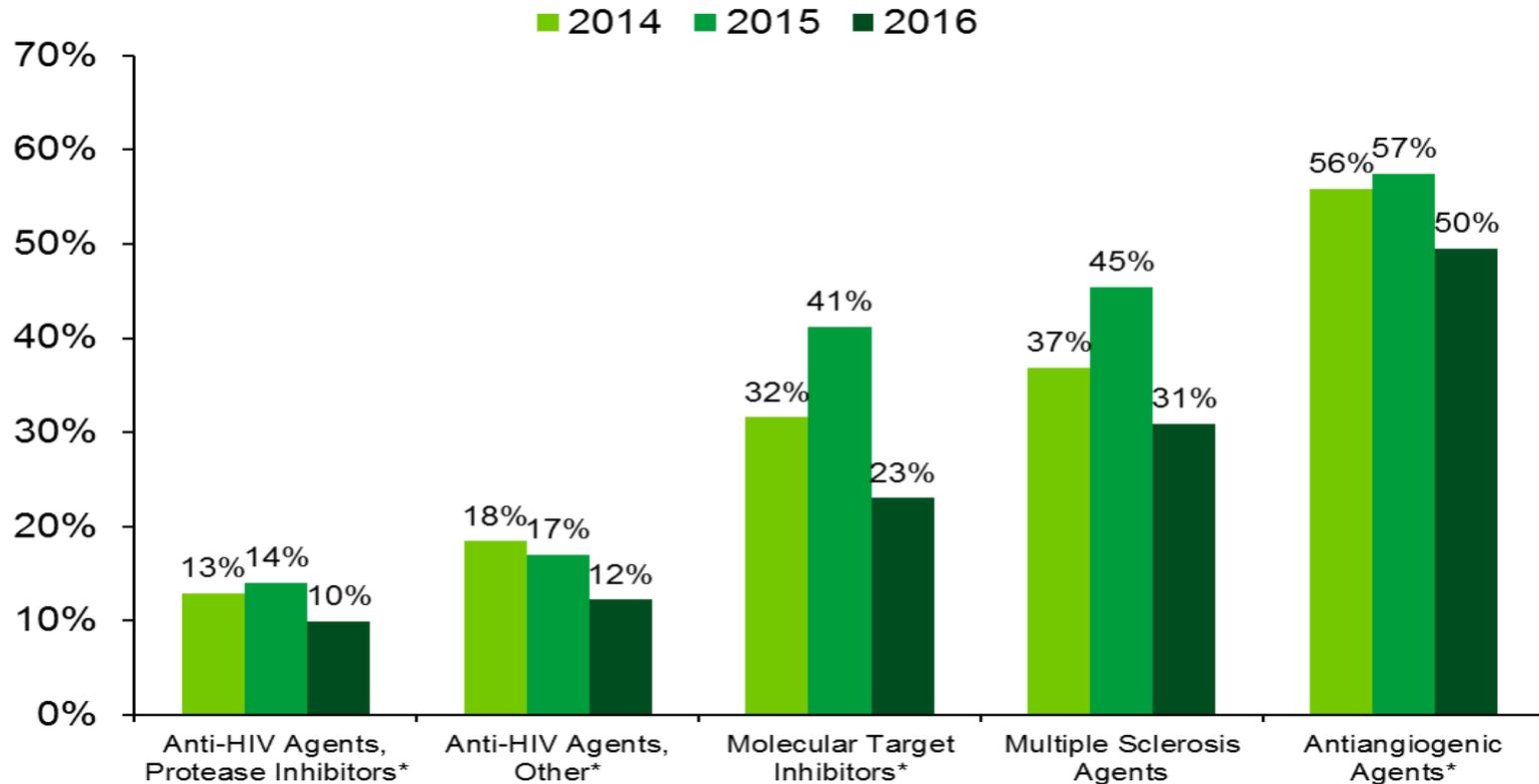


(Source: Avalere Health)

# 2016 Plans Nationwide

## *Adverse Tiering Still an Issue*

PERCENTAGE OF SILVER PLANS PLACING ALL COVERED DRUGS IN THE CLASS ON THE SPECIALTY TIER

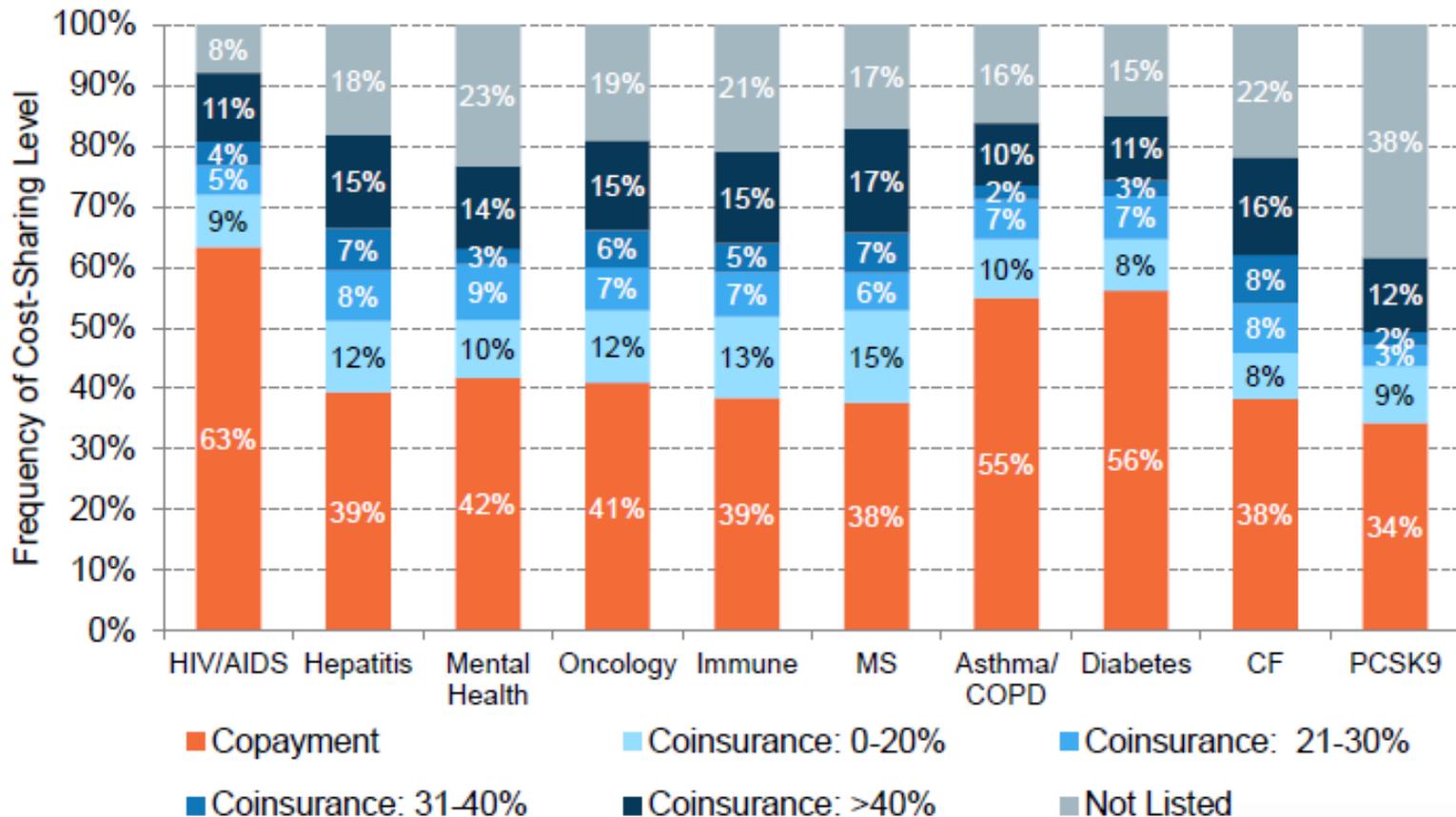


(Source: Avalere Health)

# 2016 Plans Nationwide

*More than 10% of QHPs require >40% co-insurance for non-generics.*

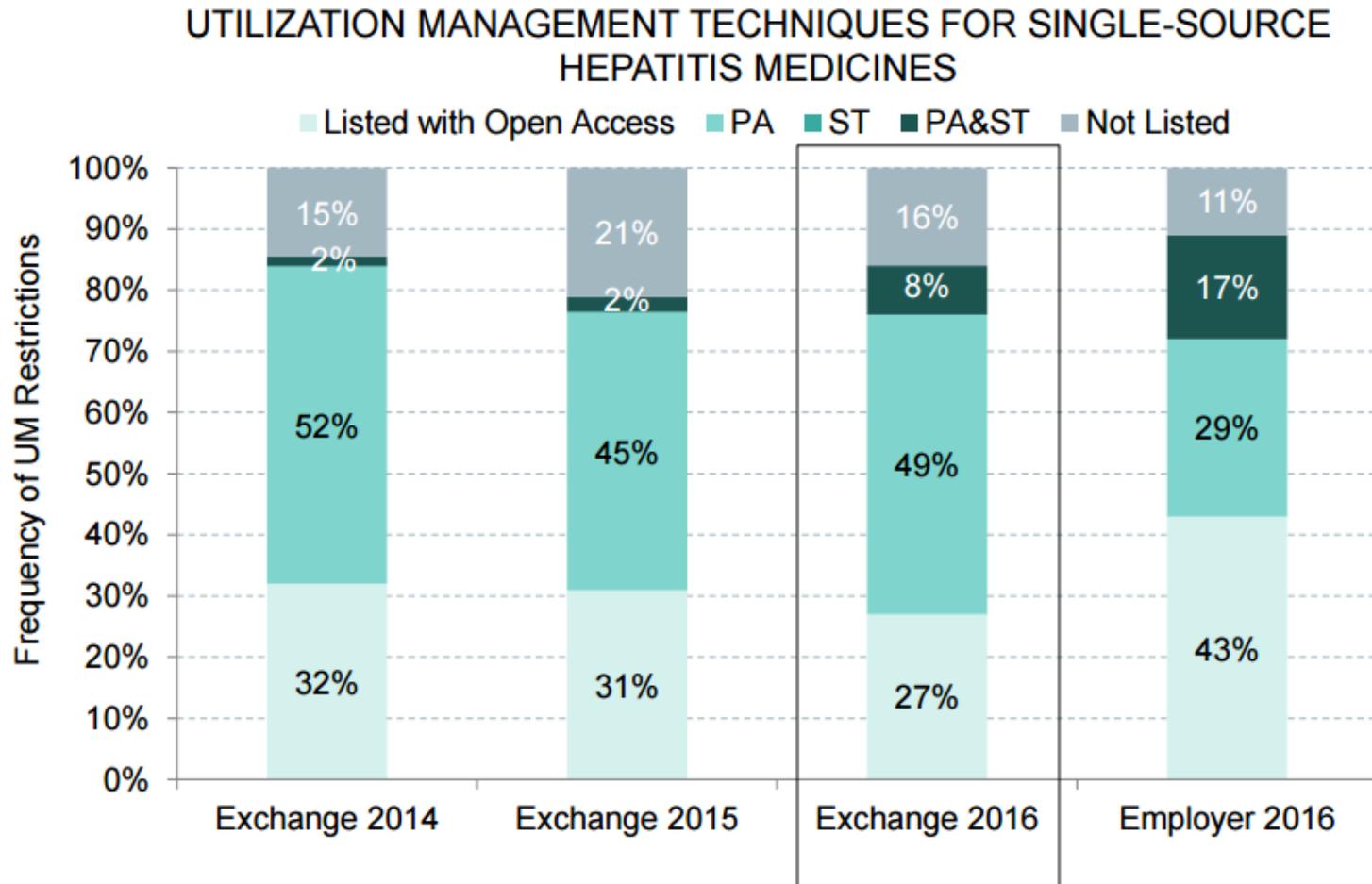
**COST-SHARING LEVELS FOR SINGLE-SOURCE DRUGS IN SELECT THERAPEUTIC AREAS, SILVER EXCHANGE PLANS, 2016**



(Source: Avalere Health)

# 2016 Plans Nationwide

*QHPs increased utilization management for hepatitis Rx by nearly 20%*



(Source: Avalere Health)

# Florida 2017 Plan Review

- FL Insurance Commissioner issued another memo:
  - Renewed 2016 requirements for HIV coverage & benefit design, limited cost-sharing
  - Added review of multiple conditions for formulary adequacy & adverse tiering:
    - HIV
    - hepatitis C
    - breast & prostate cancers
    - rheumatoid arthritis
    - bipolar disorder & schizophrenia
    - Diabetes
    - Multiple Sclerosis

# Florida 2017 Plan Review

# of Rx covered in each tier

List all Rx on formulary to treat each condition

*Chronic Conditions Template for Plan Year 2017 Filings*

Company Name: \_\_\_\_\_  
 IC Company Code: \_\_\_\_\_  
 NAIC Group Code: \_\_\_\_\_  
 HIOS Issuer ID: \_\_\_\_\_  
 Formulary ID: \_\_\_\_\_

\*Please read instructions completely before completing this template.

Chronic Conditions*	Prescription Tiers					Available Drugs
	Enter the number of drugs covered in each tier.					Please list all drugs (by their RXCUI) which are available in this formulary for the treatment of each of the specified chronic conditions and separate entries with commas. The information entered into this column is not required to be differentiated by tier.
	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5+	
Bipolar Disorder						
Breast Cancer						
Diabetes						
Hepatitis C						
HIV						
Multiple Sclerosis						
Prostate Cancer						
Rheumatoid Arthritis						
Schizophrenia						

# Conclusion

- We have seen improvement, but room for more
- Filing 2014 Discrimination Complaint made significant impact:
  - Even though no decision by Office for Civil Rights
  - Florida State Insurance Commissioner's role critical
  - Press coverage
  - Moved Issuers in Florida to improve HIV Rx coverage
  - Prompted change by some issuers nationwide & for other non-HIV Rx
  - Reflected in federal regulations & guidance re nondiscrimination & benefit design
- Advocacy is Key:
  - Filing complaints in other states and for conditions other than HIV
  - Involve state insurance commissioners
  - Meet with Issuers

# Thank you!

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