The GLP-1 Coverage Conundrum: Managing Costs for Group Health Plans

by Kaitlyn Malkin on March 20, 2025

Many employers are facing challenges in incorporating high-cost GLP-1 medications, such as Mounjaro, Ozempic, Rybelsus, Trulicity, and Wegovy, into their group health plans, as they must balance the cost to the group health plan against the interests of participants and beneficiaries in the treatment. The Integrated Benefits Institute reported that 87% of the plans surveyed provide some GLP-1 coverage to varying degrees:

- 35% of plans cover GLP-1s for diabetes only;
- 23% of plans include coverage for obesity care and cardiovascular risk reductions;
- 29% of plans offer comprehensive coverage across all conditions; and
- 12% of plans do not provide any GLP-1 coverage, but up to 43% of that number intend to implement some form of GLP-1 coverage in the next 12 to 24 months.[1]

Many plans (i) do not wish to cover GLP-1 medications or (ii) seek to curb overprescribing due to the cost of the medication and uncertainty regarding the side effects associated with long-term use. Since nearly 40% of Americans are considered "obese," and due to the extensive marketing efforts surrounding GLP-1s, there is a high likelihood of increased healthcare costs related to coverage. Indeed, the total number of GLP-1-prescribing providers increased by 228% from July 2020 to May 2023.[2]

The primary argument for providing GLP-1 coverage, despite its cost, is that other healthcare costs related to participants' obesity may decrease. Annual medical expenditures for obese participants typically range from 1.7 to 3.3 times those for a participant without comorbidities, so health plans are weighing the potential for medical cost decreases if the use of GLP-1s increases.[3]

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[1] Integrated Benefits Institute, Balancing Advancement & Affordability, Adopting High-Cost Pharmacy Benefits.

[2] Ruthy Glass, *New Demand in an Old Market*, IQVIA (September 5, 2023).

[3] Jessica Naber, Austin Barrington, and Bryce Platt, *Employers and Targeted Obesity Care: Exploring the Concept of an Obesity Center of Excellence*, Milliman (February 2024).

After summarizing potential litigation risks for group health plans that seek to control costs by excluding or limiting GLP-1 coverage for weight loss, this post identifies and discusses medical management techniques that a group health plan could consider using to manage costs should it decide to provide GLP-1 coverage for weight loss.

Required Level of Coverage of GLP-1s

There are no federal mandates related to coverage of GLP-1 medications for self-insured plans subject to the Employee Retirement Income Security Act ("ERISA"). California considered requiring fully-insured health plans to cover obesity treatment, including GLP-1 medications, but the proposed bill failed in February 2024. Currently, no states require group health plans to cover GLP-1 medications.

Risk of Discrimination Claims

Even though GLP-1 coverage is not required, a group health plan may risk facing discrimination claims if it excludes or limits GLP-1 coverage for weight loss to reduce costs, including:

- **Employment Discrimination**. Most jurisdictions do not consider obesity to be a disability under the Americans with Disabilities Act ("ADA"), except for Louisiana and Mississippi,[4] unless obesity is caused by an underlying health condition. Washington State classifies obesity as a disability under its non-discrimination laws, and multiple cases have been filed alleging the exclusion of GLP-1s from health plans is a discriminatory practice on the basis that obesity is a disability under state law.[5] Michigan, New York City, San Francisco, and other municipalities prohibit discrimination on the basis of weight, regardless of whether the individual

[4] Courts in Louisiana have found that obesity can be a physical impairment under the ADA if obesity substantially limits the employee in a major life activity, and courts in Louisiana and Mississippi have found that obesity can be a perceived disability if the employer regards the obesity as a disorder that substantially limits a major life activity. *See Melson v. Chetofield*, No. CIV.A.08-3683, 2009 WL 537457 (E.D. La. Mar. 4, 2009) (holding that an employee's obesity was a disabling impairment under the ADA because it substantially limited one of her major life activities, even though there was an underlying physical impairment); and *Lowe v. American Eurocopter, LLC*, No. 1:10CV24-A-D, 2010 WL 5232523 (N.D. Miss. Dec. 16, 2010) (holding that the court is unable to find that obesity can never be a disability under the ADA and that a plaintiff may be considered disabled due to obesity under the ADA if her employer perceived her weight as an impairment).

[5] See Complaint, *Simonton v. Washington State Health Care Authority et al.*, (Wash. Sup. Ct. 2023), No. 23-2-03017-34; and Complaint, *Herzog v. Kaiser Foundation Health Plan of Washington et al.*, (Wash. Sup. Ct. 2024), No. 24-2-06109-6 KNT; and Complaint, *Solorio v. Regence BlueShield*, (Wash. Sup. Ct. 2023), No. 23-2-10004-2.

has a disability. In Maine, a complaint has been filed alleging that an obesity treatment exclusion under a group health plan violates the ADA and the Maine Human Rights Act on the basis that severe obesity is a disability and that the employer's group health plan excludes all treatment for obesity while covering treatment for other disabilities.[6] A restriction or exclusion of GLP-1 coverage under a group health plan should be examined under Federal, state, and local non-discrimination laws before implementation to gauge the risk of litigation.

- **Affordable Care Act ("ACA") Section 1557 Discrimination**. Section 1557 of the ACA prohibits covered entities from discriminating in certain health programs and activities based on disability, which is defined as a physical or mental impairment that substantially limits one or more major life activities as evidenced by a permanent or substantial impairment. A federal district court in Maine dismissed a Section 1557 disability discrimination claim alleging that exclusion of all obesity treatment from the group health plan was discriminatory, concluding that the participant failed to plausibly show that she was disabled merely based on her body mass index ("BMI") or that the insurer ever regarded her as disabled.[7] Although this particular claim was unsuccessful, the possibility exists that obesity, or obesity as a symptom of an underlying condition, could be considered a disability under Section 1557, and such a claim could potentially prevail.
- **Health Insurance Portability and Accountability Act ("HIPAA") Discrimination**. HIPAA prohibits group health plans and issuers from discriminating against an individual concerning eligibility or coverage based on a health status-related factor, which includes an individual's medical condition or disability. HIPAA's nondiscrimination requirements do not prohibit a group health plan from excluding coverage for a specific disease or for certain treatments or drugs, so long as those exclusions are the same for all similarly situated participants and beneficiaries, and the employer is not purposely targeting individuals with a particular medical condition. A discrimination suit could be filed alleging HIPAA discrimination based on exclusion of treatment related to a health condition such as obesity.

[6] Class Action Complaint of Discrimination in Employment Maine Human Rights Commission, *Whittemore v. University of Maine System*, filed June 4, 2024.

[7] Court Rejects ACA Section 1557 Discrimination Claim for Weight-Loss Drugs, EBIA Weekly (March 6, 2025).

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Use of Medical Management Techniques

If GLP-1s are covered under a group health plan, plan sponsors should consider implementing medical management techniques to control the cost to the plan while ensuring coverage is available for medically necessary purposes. CMS encourages utilization management tools, such as prior authorization, step therapy, and quantity limits, to be applied at the point of sale and requires prior authorization to ensure that GLP-1 medications are prescribed for a medically accepted indication.[8]

Standard medical management techniques in this area are described below. If a group health plan considers implementing medical management techniques to reduce GLP-1 expenses, it should also weigh the potential risks associated with implementing these strategies.

1. **Introducing a Deductible**. GLP-1 prescription drugs are not included on the ACA preventive service list, so a plan may introduce a deductible for this category of prescription drugs, provided that GLP-1 coverage is not required for preventive diabetes services—the deductible cannot be applied for that purpose.
2. **Implementing BMI Requirements**. A group health plan may impose BMI requirements for certain weight loss coverage, such as bariatric surgery. Current guidelines from the United States Preventive Services Task Force, the entity that determines which treatments are considered preventive care under the ACA, recommend preventive obesity treatment based on a BMI of 30 or higher for intensive, multicomponent behavioral interventions. A group health plan may impose stricter BMI requirements for GLP-1 coverage than those for preventive care or bariatric surgery coverage. HIPAA's nondiscrimination requirements do not prohibit a plan from imposing criteria for obtaining coverage for specific treatments or drugs, provided that these criteria are applied equally to all participants and beneficiaries. Since BMI is unrelated to a particular medical condition, the plan could restrict access to GLP-1 coverage to those with a BMI greater than 30, 35, or even 40 if this restriction applies to the entire plan and is unrelated to an underlying medical condition, such as diabetes.

[8] *HPMS Memos for WK 4 March 18-22*, CMS.GOV (March 22, 2024). CVS Caremark also notes with respect to GLP-1 coverage that "rigorous utilization management is strongly recommended. Most plan sponsors cover these medications only for FDA-labeled/clinical compendia-supported conditions. Formulary strategies also effectively manage client costs by reducing the net unit costs for payers." Daniel Knecht, *Understanding GLP-1s and their dynamic marketplace and workplace trends*, New England Employee Benefits Council (June 6, 2024).

3. **Imposing Step Therapy/Fail-First Programs for Weight Loss**. Step therapy/fail-first programs are a medical management technique that requires the use of generally less expensive treatments before allowing coverage of higher-risk, higher-cost treatment options. If a group health plan implements a weight management step therapy program that requires the use of less expensive or intrusive steps before the use of GLP-1 medications, this generally does not create additional compliance risk.[9] However, fail-first programs are considered non-quantitative treatment limitations that must be analyzed under the Mental Health Parity and Addiction Equity Act (MHPAEA) to ensure that any restrictions on mental health/substance use disorder benefits are no less stringent than those for medical/surgical benefits. Obesity is typically considered a medical condition that may require medical or surgical intervention, but some instances of obesity are caused by mental health conditions. In such cases, GLP-1 medications may be considered mental health/substance use disorder benefits. This does not mean that there is a specific risk in proceeding with a step therapy program, only that the requirements will need to be part of the plan's mental health parity analysis.

4. **Requiring Prior Authorization for GLP-1 Prescriptions**. Much like the step therapy/fail-first option described above, there is little additional risk in imposing prior authorization requirements to obtain GLP-1 coverage, ensuring the treatment is medically necessary. However, any prior authorization requirement will still need to be analyzed under the MHPAEA.

5. **Limiting GLP-1 Coverage to Those with FDA Approval**. Many group health plans limit coverage of new technologies and medications to those that have FDA approval for the treatment of a particular condition. Historically, FDA approval for the use of GLP-1 medications was limited to the treatment of diabetes; their use for weight loss was typically considered an "off-label" use of the medications, as the FDA had not approved them for that purpose. The FDA's recent approval (March 8, 2024) of Wegovy to reduce the risk of stroke and heart attack in adults with cardiovascular disease and who are either obese or overweight has complicated

[9] It seems unlikely that a step therapy or fail-first program would be considered a wellness program, but if a group health plan implements additional requirements and rewards for participation, the wellness program rules under HIPAA and the ADA may apply. For instance, gatekeeper provisions are prohibited under the wellness program rules if the gatekeeper provision requires employees to complete medical screening before accessing the medical plan or a benefit package under the plan or if the wellness program provides better access to benefits if the person does not present with a certain health factor, such as obesity. *See, e.g.*, *Final Regulations Under the Americans With Disabilities Act; Genetic Information Nondiscrimination Act*, 81 Fed. Reg. 31126, 31133-34 (May 17, 2016).

matters for group health plans. That is, group health plans that limit coverage to FDA-approved uses may provide GLP-1 coverage for weight loss in certain instances but exclude coverage for all non-FDA-approved indications. If a group health plan has an "off-label" use exclusion in place, most GLP-1s prescribed for weight loss would be excluded.

6. **Restricting GLP-1s in the Formulary**. Another option is to remove GLP-1s from the formulary by (1) restricting GLP-1s to non-weight loss usage or (2) eliminating GLP-1s entirely. Complete removal from the formulary is unlikely to be contemplated by a Pharmacy Benefit Manager ("PBM") because GLP-1s are commonly prescribed and effective medications for the treatment and prevention of diabetes. Many employers do not yet cover GLP-1s for weight loss because they have not been widely approved by the FDA for this purpose, as explained above. Group health plans are not required to cover all FDA-approved prescription drugs, and there are currently no mandates that require coverage of GLP-1s for preventive care. If a group health plan eliminates GLP-1s from its formulary for weight loss indications, the risk is limited to claims of disability discrimination in the jurisdictions outlined above.

7. **Limiting Coverage to Compounded GLP-1s**. Despite the lack of FDA approval, some group health plans offer coverage only for compounded GLP-1 medications as a more cost-effective way to provide GLP-1 access. Compounded drugs are pharmacy-mixed medications that the FDA permits during a market shortage, although the FDA does not evaluate these drugs for safety or efficacy. GLP-1 brand-name drugs have been on the FDA's shortage list, allowing many pharmacies to create more affordable off-brand GLP-1 alternatives. However, the FDA has announced that later this year, it will ban the compounding of certain drugs, including semaglutide and tirzepatide, the main components of brand-name GLP-1s, as there is no longer a shortage of GLP-1 components, meaning that this cheaper coverage option will not last and group health plans will need to find new ways to curb expenses.[10]

Conclusion

Currently, self-funded and fully insured group health plans are not required to cover GLP-1s for any purpose. However, because GLP-1s are a common form of treatment for diabetes, it may be difficult to exclude all GLP-1 coverage. If a plan sponsor intends to provide GLP-1 coverage for weight loss, it may want to consider implementing medical management

[10] FDA, *FDA clarifies policies for compounders as national GLP-1 supply begins to stabilize* (February 21, 2025).

techniques to reduce claims exposure associated with GLP-1 coverage. The risks associated with implementing medical management techniques or excluding GLP-1 coverage primarily lie in the possibility of employment discrimination claims against the employer; however, this risk is lower in jurisdictions that do not recognize obesity as a disability.

If you have questions about medical management or options to reduce claims exposure in your group health plan, please contact a member of Verrill's Employee Benefits & Executive Compensation Group.

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