

National Community Pharmacists Association (NCPA)
Advocacy Center Update
Week Ending August 19th, 2011

NCPA OPPOSES ESI-MEDCO MERGER

CONTACT YOUR MEMBERS OF CONGRESS TODAY!

NCPA launched a Congressional campaign to convince the Federal Trade Commission (FTC) to DENY the merger of ESI and Medco. We ask all NCPA members to contact their House and Senate offices and ask them to contact the FTC, urging that the merger be denied. Approval of the merger means higher drug prices, less competition, more egregious PBM practices, fewer consumer choices, and more mail order!

Time is of the essence! Please act today! Thank you.

NCPA Congressional Visits Opposing Express Scripts-Medco Acquisition: As you know, NCPA's primary focus on Capitol Hill the last few weeks has been Congressional engagement with the FTC regarding the proposed ESI-Medco merger. Currently, 2 Members of Congress have sent letters to the FTC urging them to block the merger, Congressman Don Young (R-AK) and Congresswoman Jan Schakowsky (D-IL). Additionally, Congressman John Conyers (D-MI), the highest ranking Member of the House Judiciary Committee sent to Congressman Lamar Smith, Chairman of the House Judiciary Committee urging the committee to hold a hearing on the proposed merger.

We are also working with a group of House republicans, lead by Rep. Cathy McMorris Rodgers, on a multi-Member letter to the FTC. Likely Members to sign the letter: Rep. Bonner (R-AL), Rep. Marino (R-PA), Rep. Gohmert (R-TX), Rep. Coble (R-NC), Rep. Rogers (R-AL) and Rep. Gerlach (R-PA). Additionally, we have 7-10 House Members who have expressed a strong interest in signing the letter. More information to follow.

NCPA also met with the Senate Judiciary anti-trust subcommittee this week. They requested a meeting to discuss the potential merger and the negative impact on patients, small business pharmacies and employers.

NCPA participated in Hill visits for the following Members of Congress this week:

- **HOUSE MEETINGS:** Rep. Bonner (R-AL), Rep. Marino (R-PA), Rep. Gohmert (R-TX), Rep. Coble (R-NC), Rep. Rogers (R-AL), Rep. Gerlach (R-PA), Rep. Slaughter (D-NY), Rep. Pompeo (R-KS), Rep. Paulsen (R-MN), Rep. Mica (R-FL), Rep. Campbell (R-CA) and Rep. McKinley (R-WV)
- **SENATE MEETINGS:** Sen. Ayotte (R-NH), Sen. Isakson (R-GA), Sen. Moran (R-KS), Sen. Bill Nelson (D-FL), Senate Aging and Judiciary Anti-Trust Committee (Kohl D-WI, Mike Lee-R-UT), Sen. Sessions (R-AL), Sen. Klobuchar (D-MN) and Sen. Corker (R-TN)

Pharmacy Visits: Members of Congress continue to schedule pharmacy visits. There are currently 10 visits scheduled for the month of August.

Texas Congressional Town Hall: Congressman Lloyd Doggett will be participating in a special town hall in San Antonio, hosted by the Texas Pharmacy Business Council, to discuss a game plan for mobilizing Texas congressional opposition to a federal CMS waiver needed to authorize statewide managed care for Medicaid in Texas and the associated carve-in of pharmacy benefits into the managed care program. Congressman Doggett, a longtime pharmacy champion, has taken the lead in Congressional opposition to the federal waiver, which would authorize statewide managed care for Texas Medicaid.

CDC Letter of Support for H.R. 1971/S. 1058: The Chain Drug Consortium and their member companies has written a letter (see attached) of support for the H.R. 1971/S. 1058, the Pharmacy Competition and Consumer Choice Act of 2011. This legislation would reform PBM auditing practices and well as require PBMs to disclose more information to pharmacies about contractual reimbursement terms, including MACs. This letter of support is significant because it shows that current PBM practices do not just negatively impact the small business pharmacies.

Request For Hearing on H.R. 1946, Preserving Our Hometown Independent Pharmacies Act of 2011: NCPA is finalizing letters which circulated in the states of Texas and Virginia for pharmacists to sign that urges the Chairman of the Judiciary Committee (Rep. Lamar Smith-TX) and Subcommittee Chairman (Rep. Bob Goodlatte-VA) to support a hearing for H.R. 1946, a bill which would allow for a narrow anti-trust exemption to allow independent pharmacies to collectively negotiate PBM contracts. We appreciate all the support we received in Texas and Virginia and hope to deliver the letters to Reps. Lamar Smith and Bob Goodlatte very soon. We are always cautiously optimistic that there will be a hearing on this legislation in the House Judiciary Committee.

OIG Report Compares Medicaid and Medicare Part D drug rebates and reimbursements:

OIG released a report comparing Medicaid and Medicare Part D drug rebates for 2009. The OIG found that, for the same 100 brand-name drugs examined, rebates reduced Part D expenditures by 19% and Medicaid expenditures by 45%. Put another way, Medicaid collected nearly two-thirds as much in rebates as Part D (\$2.9 billion vs. \$4.5 billion) for brand-name drugs, despite having only about one-fourth of the expenditures (\$6.4 billion vs. \$24 billion). Comparing pharmacy reimbursement between Medicare Part D and Medicaid, as to brand-name drugs, pharmacy reimbursement under the two models was virtually identical. Where the difference was more than 2%, Medicaid always paid more. On generics, Medicare reimbursed pharmacies more than Medicaid about one-third of the time and Medicaid paid more the other two-thirds of the time. The OIG report indicates that Medicaid pays pharmacies on average three percent more for generics, as opposed to Medicare.

Rules Released to Make Health Plan Benefit and Coverage Information Easier to Understand:

On August 17, HHS, DOL and Treasury proposed new rules under the Affordable Care Act that will require health insurers and group health plans to provide consumers with clear, consistent and comparable information about their health plan benefits and coverage. These new materials are scheduled to become available in 2012. Specifically, the proposed regulations will ensure that all consumers have access to: (1) a summary of benefits and coverage; and (2) a uniform glossary of terms commonly used in health insurance coverage, such as “deductible” and “co-pay”. The standard summary, which can be no more than four double-sided pages, would have to include information about the policy a consumer is considering such as its premium and deductible costs, covered benefits, and coverage limitations and exceptions. In addition, the summary would have to include coverage examples that show how much a consumer would pay in three common scenarios: having a baby, treating breast cancer, and managing diabetes. The summary required under the proposed rules will use a uniform glossary to replace the technical terms commonly used by insurance companies. Specific to pharmacy, the glossary will most likely include definitions for such terms as “prescription drug coverage”—and NCPA will be actively engaged in ensuring that any such definitions are accurate and will make recommendations for improvement. The proposed rules benefit from the public process led by the National Association of Insurance Commissioners (NAIC) and a working group composed of stakeholders. NCPA provided input to the NAIC led efforts.

Senators Call on CMS to Examine Potential Over-Prescribing of Atypical Antipsychotics to Nursing Home Residents:

NCPA held a call this week of members of the LTC Advisory Board and updated them on activities of the NCPA Advocacy Center. Specifically, we discussed a letter sent to CMS recently from Senators Grassley and Kohl calling on federal officials to examine whether PBM’s contribute to the unnecessary use of atypical antipsychotics among nursing home patients. Their concerns stem from a May OIG report finding that most prescriptions for these medications were for off-label uses. NCPA is working on a one-page

document that will contain recommendations on how to best manage the use of these drugs in nursing home patients by using the expertise of the consultant pharmacist and long-term care pharmacy services.

John M. Coster, Ph.D., R.Ph.
Senior Vice President, Government Affairs
Director, Advocacy Center
National Community Pharmacists Association (NCPA)
100 Daingerfield Road
Alexandria, VA 22314
703-683-8200 X1184 - office
571-214-3936 - cell
john.coster@ncpanet.org