

# **National Community Pharmacists Association (NCPA) Center for Community Pharmacy Advocacy Update - Week Ending May 14th, 2011**

**NCPA Legislative Conference Congressional Speakers Lineup:** NCPA members attending the NCPA Legislative Conference May 23-25<sup>th</sup> will hear from key Members of Congress who support community retail pharmacy and the patients that we serve:

- Senate Armed Services Committee Member Roger Wicker (R-MS)
- House Republican Caucus Vice Chairperson Cathy McMorris Rodgers (R-WA)
- House Appropriations Committee Subcommittee Chair Jo Ann Emerson (R-MO)
- House Intelligence Committee Chairman Mike Rogers (R-MI) Congress
- House Armed Services Committee Member Dave Loebsack (D-IA)
- House Oversight and Government Reform Committee Member Peter Welch (D-VT)
- National Republican Congressional Campaign Committee Chairman Pete Sessions (R-TX)

## **PLEASE JOIN US IN WASHINGTON DC!**

**Pharmacy Anti-Trust Bill Introduced:** Congressman Weiner (D-NY) has once again introduced the *Community Pharmacy Fairness Act!* H.R. 1839 would provide a narrow anti-trust exemption which would allow groups of independent pharmacies to negotiate PBM contracts. This legislation is identical to H.R. 1204 which was introduced in the last Congress by Congressman Weiner and Senator Moran (R-KS) (formerly US Representative Moran). We thank Congressman Weiner for his continued support for community pharmacy and we ask all NCPA members to contact their Member of Congress to ask them to support this bill!

**PBM Audit Bill Close to Introduction:** We hope to have the *Pharmacy Competition and Consumer Choice Act* introduced by Monday, May 23rd. NCPA worked this week with the House and the Senate to get this bill introduced leading up to our annual Legislative Conference. This legislation would:

- **Give patients a true choice of pharmacy.** Patients would be protected from being denied coverage or financially punished for having their prescription filled at a community pharmacy rather than one owned by their plan's pharmacy benefit manager (PBM).
- **Establish new consumer protections.** Sensitive patient information could not be sold by a PBM without the health plan being notified in advance. In addition, patients would be shielded from solicitations by pharmacy benefit managers until the patient and plan provide written consent.
- **Level the playing field among pharmacies.** The bill would allow any licensed pharmacy willing to accept a health plan's terms and reimbursement rates to participate

in that plan, so long as the pharmacy is eligible to participate in federal and state health plans (which removes any providers that commit fraud).

- **MAC Updating.** Gives pharmacies basic information as to how a plan sets Maximum Allowable Costs, or MACs and requires those rates to be updated frequently to reflect changes in drug costs and keep pharmacies whole.
- **Allow oversight for fraud, not abusive pharmacy audits.** Legitimate anti-fraud efforts could continue, but pharmacies would not be penalized by commission-driven auditors over minor typographical or clerical errors.

**NCPA Seeks TRICARE DOD Pharmacy Program Copay Freeze:** The full House Armed Services Committee marked up the FY12 Defense Authorization bill this week. The final mark did not include a co-pay freeze for prescriptions dispensed at retail pharmacies. We will continue to work at the full House of Representatives level as well as with the Senate to continue this important patient protection so that TRICARE patients do not have any greater incentives to use TRICARE mail order.

**Senators Contact FTC Regarding CVS Caremark Investigation:** This week, Chairman Pryor (D-AR) and Ranking member Wicker (R-MS) sent a letter to the FTC regarding the status of the FTC investigation of CVS Caremark. Senators Pryor and Wicker serve as Chairman and Ranking Member of a subcommittee of the Commerce committee which has jurisdiction over the FTC. Please thank these and other Members of Congress who are helping us keep this issue on the front burner at the FTC.

**NCPA Working on DME Competitive Bidding Legislation:** Legislation will be introduced soon that will keep retail diabetic supplies outside of the Medicare DME competitive bidding program. We are working very closely with Reps. Aaron Schock (R-IL) and Peter Welch (D-VT) to introduce legislation when Congress returns from recess. We believe this legislation is a sensible, targeted approach to preserve patient access and the quality of care. The legislation would:

- Exempt diabetic supplies (test strips, monitors, lancets, glucose control solutions) sold at small pharmacies from the competitive bidding program;
- Define small pharmacies as those under common ownership with no more than ten other retail community pharmacy stores;
- Allow any retail community pharmacies to continue to furnish blood glucose self-testing equipment and supplies, through shipping or delivery to a beneficiary's home, regardless of the method of delivery.

**House and Senate Congressional Community Pharmacy Caucus Re-Launched:** We are excited to announce that Reps. Cathy McMorris Rodgers (R-WA) and Anthony Weiner (NY), past co chairs of the Congressional Community Pharmacy Caucus, have reintroduce the caucus in this past week. There is also action be taken on the Senate side to start the first ever Senate Community Pharmacy Caucus. We are confident that we will get substantial support in both the House and Senate.

**NCPA Meets with CMS on DME Audits:** NCPA met with the Office of Financial Management at CMS regarding medical record documentation requirements for diabetic testing supplies and diabetic shoes. CMS representatives understood the lack of fairness in requiring suppliers to be responsible for the availability or completeness of a diabetes patient's medical records to support the medical necessity needed for reimbursement. They understood that DME suppliers have no mechanism in place to require prescribers to produce patient records to suppliers or to ensure that prescribers' records are sufficient to justify medical necessity. At this stage, CMS is trying to develop a solution to the problem and is seeking suggestions from NCPA and others. CMS is planning to host a town hall meeting on audits and diabetic testing supplies in the near future.

**NCPA Discusses Part B Recoupment Issues with CMS:** NCPA held a conference call with CMS regarding recoupment efforts where a beneficiary is a Medicare Advantage or hospice beneficiary and the pharmacy's claims processing system indicated that the patient was a Part B beneficiary. CMS agreed to review examples of these recoupment efforts and to investigate the situation further. However, at this time, CMS is asserting that pharmacies are failing to do enough research or dig deep enough into a patient's eligibility status. NCPA maintains that the eligibility files are not real-time, which is a CMS-based problem.

**NCPA Analyzing New Medicaid Patient Access Regulation:** The proposed regulation requires states to take certain measures to justify rate cuts, a policy which NCPA supports and which the state Medicaid directors oppose. The proposed rule would make it much more challenging for a state to get approval to reduce fee for service provider rates under Medicaid. CMS is proposing to require states to determine data elements based on a framework to measure and monitor enrollee needs, availability of care and providers, and utilization of services. This data and the analysis of it would be publicly available and would have to be furnished to CMS with any proposal that reduces provider rates or restructures them in a way that could result in an access issue. NCPA will be submitting comments on the proposed rule, which are due in early July.

**NCPA Participates in HRSA Update Call:** The HRSA Patient Safety and Clinical Pharmacy Services Collaborative (PSPC) program held a call to provide updates on the program to the Leadership Council, of which NCPA is a member. The Collaborative is focused on treating the highest risk patients, with multiple challenging conditions through the use of interdisciplinary teams and community partnerships. PSPC is working to bring all the efforts on coordinated care into alignment (Patient Centered Medical Home, Accountable Care Organizations, Transitions of Care). The goal is to have 500 of these communities up and running by end of 2012 with the ultimate goal that by 2015, 3,000 communities will have an integrated delivery system that assures optimal health outcomes and patient safety.

**NCPA Attends Congressional Briefing on Medication Adherence:** NCPA attended an event of the Partnership to Fight Chronic Disease with Senator Mike Crapo (R-ID) this week. The event focused on examining private sector solutions to improve medication adherence. Key themes centered on the need for better care coordination, and how medication adherence is a key component of that coordination. The current management of chronic diseases is draining the health care system, and the focus of this briefing was to examine a successful MTM program with a city employer, who championed for its employees to receive the medication management and counseling services of pharmacists.

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