National Community Pharmacists Association (NCPA)
Government Affairs Update - Week Ending February 6th, 2010

Proposed Federal 2011 Budget: Congress held hearings and briefings with officials from the Obama Administration to hear the details of the President's FY 2011 Budget proposal, which was released last Monday. The budget serves as a draft blueprint for Federal revenues and spending for the 2011 fiscal year, but many of the President's proposals often never see the light of day in Congress.

In the past, community pharmacy has seen some surprise policy proposals in the President's budget, but this year, there are no real surprises. For example, there are no proposals to cut Medicaid generic drug reimbursements; no proposals to cut DME reimbursements; no proposals for TRICARE mail order drugs; and an increased emphasis on routing out fraud, waste, and abuse in prescription drug programs

Health Care Reform: Congressional Democrats are still trying to determine if they can agree on a path forward on comprehensive health care reform. While not admitting defeat, even the President this week admitted that there might be a comprehensive health care reform bill this year. NCPA continues to look for opportunities to move forward on some of our priorities that were included in the health care reform bills, such as the Medicaid AMP fix and PBM transparency.

Impact of Jobs Creation Bills on Small Businesses: This week, Senate Democrats introduced their jobs agenda for the coming weeks. The Senate bill is very similar to the House bill passed in mid-December. Some of the provisions that would provide benefits to small businesses, including community pharmacies, include: tax credit for hiring new employees; higher expensing limits and faster equipment write-offs; expanded lending and credit programs; and, unemployment insurance and COBRA extensions. Congress wants to pass a jobs bill before the end of the month.

DME Accreditation Exemption: We are cautiously optimistic that a permanent exemption for pharmacies that meet certain criteria from DME accreditation requirements will be included in the Senate's jobs bill package, which should be released on Monday. The legislation that passes the Senate will have to be merged with the House's jobs bill. Exempting pharmacies from these requirements has bipartisan support in the House and the Senate. That exemption could be passed by the end of the month.

Even though Congress appears very close to enacting a permanent exemption, however, CMS has told NCPA that they will start sending revocation notices after Friday, February 12th to pharmacies that are not yet fully accredited or in the accreditation process. For pharmacies that are in the accreditation process, they have until March 1st to get their accreditation done and submitted to CMS. Pharmacies that have sent in a surety bond, but 1) will not have their accreditation finished by March 1st ; or, 2) have elected not to be accredited, must either have "stepped down" from selling DME supplies (using an 855S application) or voluntarily terminated from the program by Friday, February 12th.

Even if a pharmacy sent in an 855S in late September or early October to "step down", the pharmacy will have to send in another "step down" application again to the NSC before February 12th. While each pharmacy will have to make its own business decision, if a pharmacy 'steps down", it will take less time to get back into the program than if CMS revokes a pharmacy's billing number. If an unaccredited pharmacy's DME billing number is revoked, however, the pharmacy will not be able to get back into the program for another year according to CMS.

HHS Secretary Sebelius' testified before the House Energy and Commerce Committee this week, and she was asked if CMS was going begin revoking Part B billing numbers before Congress could pass legislation which induced a DME accreditation exemption. The Secretary said she did not know what CMS planned to do but would respond to the Committee in writing.

House Government Oversight and Reform Committee (HOGOV): HR 4489, the Federal Employees Health Benefits Program (FEHBP) Prescription Drug Integrity, Transparency, and Cost Savings Act, was recently introduced. The subcommittee for the Federal Workforce, Post Office and the District of Columbia will be holding a hearing next Wednesday. Richard Beck (Texas Pharmacy Business Council) will be testifying on behalf of NCPA.

In summary, the bill is intended to lower costs of prescription drugs in the FEHBP and to provide the Office of Personnel Management (OPM) with more oversight authority over the prescription drug benefit. Specifically, the Act would prohibit certain ownership relationships; require Pharmacy Benefit Managers (PBMs) to return 99 percent of all monies received from manufacturers for FEHBP business; restrict drug switching by PBMs; and require total transparency and disclosure of all contract terms and related information to OPM.

Valcyclovir Availability: NCPA is aggressively challenging Ranbaxy's policies to only distribute generic Valtrex to large chain pharmacies. We are contacting Members of Congress and regulators to see a remedy for these discriminatory policies toward community pharmacies.
TRICARE Vaccinations: NCPA is urging the Department of Defense to increase the number of vaccines that can be administered by network pharmacies to TRICARE beneficiaries. TRICARE began allowing pharmacists to provide flu, H1N1 and pneumonia immunizations late last year. NCPA encourages DoD to cover all vaccines that are TRICARE eligible vaccines and those that are included on the CDC adult immunization schedule. Given the nature of the TRICARE population NCPA also urges consideration of expansion to any vaccines recommended for travel.

Consumer Products Safety Commission Certificate of Compliance Requirements: NCPA participated on a call with members of the HDMA regulatory committee regarding the Consumer Product Safety Improvement Act. NCPA posed questions to the wholesalers regarding their plans to work with independent pharmacies to generate a general certificate of conformity when necessary. Wholesalers are still working internally to determine how to tackle this new requirement. HDMA will follow up with NCPA next week after gathering more info from members.

Medicare Recoupments: NCPA, NACDS and NASPA sent a letter to CMS this week asking the agency stop a recent practice in which CMS is recouping from pharmacies payments for Part B DME items that were made several years ago. CMS claims that these DME items should have be billed to other parts of the Medicare program. Pharmacies would likely find it difficult if not

impossible to appropriately bill another part of the Medicare program for claims that were dispensed many year ago. We are also seeking a meeting with CMS to ask them to stop this practice.

Oregon ADAP Program: NCPA drafted and submitted letter to Oregon Health Authority urging them not to shift the Aids Drug Assistance Program (ADAP) to a mandatory CVS Caremark mail order contract. NCPA stressed the importance of this patient population receiving a high level of care and contact with their community pharmacist and urged the state to consider the creation of a network of community pharmacies that could serve this population in some fashion, or at least include this network as an option to any mail-order program

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