

National Community Pharmacists Association (NCPA) Government Affairs Update - Week Ending April 24th, 2010

Congress is in session until Memorial Day, and Financial Reform and the Federal Budget for 2011 are expected to dominate the agenda. However, HHS continues to work expeditiously to implement many of the provisions of the new health care reform law that go into effect in both the short and long term. NCPA members can access two documents on the "NCPA Members only" section of the NCPA website that will help pharmacists better understand the impact of the new law on their patients and businesses. One document summarizes the major provisions of the health care reform law. The other has a timeline that shows when the various provisions affecting pharmacy go into effect. We are also working on the following issues at the legislative and regulatory levels:

NCPA Legislative Conference (May10th-12th): All our speaker slots are FULL for the legislative conference - we have Senators Harkin, Grassley and Tester and Congressmen Levin, Emerson, Herger as well as representatives from CMS (Medicaid and Medicare programs), DEA, HHS, FDA, and HRSA. We are looking forward to a great program. Please go to the NCPA website for more information.

CVS/Caremark: During the legislative conference, we will be asking our members to ask Members of Congress to send letters to the FTC, asking that the agency more forward expeditiously with the CVS Caremark investigation and stop the anticonsumer and anticompetitive practices of this PBM.

Excluding Diabetes Supplies from DME Competitive Bidding: We are working with Members of Congress to introduce a bill that would exclude diabetes supplies sold at small community pharmacies from Medicare DME competitive bidding/national mail order. CMS is expected to release proposed regulations later this spring that will describe how the agency expects to expand the program in 2013.

Prompt Pay for Part D LTC Claims: We are also working with Members of Congress to introduce legislation that would require Part D plans to pay LTC pharmacy claims promptly - 14 days for clean electronic claims - same as for traditional retail pharmacy claims.

Drug Safety: The House is expected to take up drug safety legislation before Memorial Day recess. We expect that a potential amendment may be offered by Congressmen Buyer (R-IN) and Matheson (D-UT) that would establish a track and trace system for prescription drugs down to the pharmacy level. We also need to determine whether drug safety gives us an opportunity to reaffirm the pharmacists right to compound drugs from bulk ingredients, or to defend against attempts to limit the pharmacist ability to compound.

DEA "Nurse as Agent" Issue in LTC Facilities: We are working on a proposal with NABP that would allow the DEA to register LTC facilities so that nurses in the facility

can act as agents of physicians for the purpose of transmitting controlled substance prescription to the pharmacy, and chart orders can be recognized as legitimate prescriptions for the purposes of dispensing controlled substances. This is the proposal that was discussed several weeks ago at a Senate Aging Committee hearing on this issue.

LTC Part D Short Cycle Dispensing: There is a meeting this week with CMS to discuss the impact that Part D LTC short cycle dispensing will have on small pharmacies. We will be presenting the results of a new NCPA members survey on this issue to help inform the discussion. We are also looking at the possibility of doing a COD study for LTC pharmacies. Part D plans are supposed to implement short-cycle dispensing in LTC facilities starting 2012 to reduce pharmaceutical waste.

Redesignating PSE-containing products as prescription items: NCPA submitted a statement for the record at a hearing held in the Senate on the potential designation of pseudoephedrine containing OTC products as schedule IV controlled substances. Based on member feedback, NCPA opposed the redesignation of PSE as a controlled substance for both cost and quality of care reasons. Senator Wyden (D-OR) is in the process of drafting a bill that would move these products to schedule IV. Manufacturers of these products have committed to paying for an electronic system that would allow for better tracking of PSE sales in retail pharmacies (to reduce the sales of these products for illicit methamphetamine production) as a way of averting moving these products to prescription status.

Medicare DME Pharmacy Accreditation Exemption: We continue to field many questions from NCPA members about the exemption, and are having a call with CMS on May 6th to talk more about how they will implement the exemption for pharmacies. Pharmacies are exempt from DME accreditation until January 2011, and can continue to be exempt if they meet certain criteria. CMS is expected to issue guidance sometime soon about how pharmacies can qualify for the exemption after January 2011.

MTM Pharmacy Grant Program: NCPA and other pharmacy groups met this week with the Agency for Health Research and Quality (AHRQ) to discuss funding for the pharmacy MTM grant program in the health care reform bill. It doesn't look like funding will be available until Federal FY 2012 at the earliest, but we continue to try and work with Congressional staff to try and find money to fund the program as soon as possible. This grant program is one of many programs that Congress authorized but didn't fund. We also are starting to look at how pharmacies can take full advantage of the new patient care models established under the bill.

Medicare and FOX Insurance: We continue to work with CMS to try and resolve the issues of how pharmacies can get paid for unpaid February Part D FOX Insurance claims. CMS terminated FOX from the program in early March. CMS is claiming that this "nonpayment" issue is a contractual issue between pharmacies and FOX (Procare is the PBM), but we are pressing them that they need to be more proactive and aggressive in getting pharmacies paid.

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