

Fraud, Waste and Abuse in the Medicare Part D Prescription Drug Benefit

The Academy of Managed Care Pharmacy (AMCP) is deeply concerned about reports of fraud, waste and abuse within the Medicare Part D prescription drug benefit. AMCP has been a vocal proponent of the program, which has provided much-needed prescription drug coverage to millions of Medicare beneficiaries, increasing their access to affordable prescription drugs. However, the program has unfortunately become a target for fraud, waste and abuse, costing taxpayers millions of dollars annually and potentially threatening the integrity of the benefit as a whole. Fraudulent activity within pharmacy benefits can take many forms, including patients acquiring prescriptions under false pretenses, providers writing illegitimate prescriptions and the trafficking of counterfeit drugs. Although this statement focuses on issues related to fraud, waste and abuse within the Medicare Part D prescription drug benefit, similar considerations are applicable to other pharmacy benefit programs, both private and public. AMCP supports the following changes to reduce the incidence of fraud, waste and abuse in the benefit.

Under current law, Part D plan sponsors are required to meet stringent network requirements with the intention of ensuring that all beneficiaries have adequate access to care. One of these requirements is that a plan must network with any pharmacy that is willing to meet the terms and conditions laid out by the plan sponsor (often referred to as “any willing provider” requirements). This requirement prevents a plan sponsor from refusing to contract with a pharmacy that the plan sponsor suspects is engaging in fraudulent activity, such as a pharmacy filing claims and receiving payment for prescriptions that are never filled. Lifting the any willing provider requirement would allow plan sponsors to simply refuse to contract with a pharmacy where the plan sponsor has detected evidence of fraud. While proponents of any willing provider requirements argue that they are necessary in order to ensure adequate patient access to services, the law also currently requires plan sponsors to meet the same geographic access requirements as the Department of Defense’s TRICARE program, requirements that AMCP believes are adequate. AMCP also believes that the competitive nature of the Part D benefit sufficiently ensures appropriate patient access to care. Plan sponsors are motivated to build a robust network of both retail and mail order pharmacies in order to compete effectively for members.

With the passage in 2008 of the Medicare Improvements for Patients and Providers Act (MIPPA), Part D plan sponsors were required to begin paying all “clean” electronic claims within 14 days of receipt and all other “clean” claims within 30 days of receipt. This “prompt pay” regulation requires plans to pay claims rapidly, often before they can be adequately

vetted by the plan sponsor's internal fraud control team. Plan sponsors have little recourse to delay payment, and while payments may be recovered in instances of fraud, this is often a difficult, if not impossible, task. AMCP supports amending current law to allow plans to withhold payments to pharmacies that are suspected of fraud. This common-sense solution would allow plans to combat suspected fraud before payments are made, instead of attempt to recover the payments after the fact.

AMCP also believes Congress should adequately fund the Center for Program Integrity, anti-fraud division within the Centers for Medicaid and Medicare Services (CMS), through the annual appropriations process. This division is responsible for identifying and prosecuting suspected instances of fraud and is currently underfunded. With appropriate support, CMS can combat fraud, waste and abuse in the Medicare and Medicaid programs, saving the taxpayers millions of dollars on an annual basis.

Fraud, waste and abuse are unacceptable within any health care program, especially within health care programs that are financed through taxpayer dollars. In a time of diminishing financial resources, it is more important than ever that Medicare providers, including Part D plan sponsors, are effectively able to combat suspected fraud. AMCP recognizes the seriousness of this problem and is supportive of efforts that would reduce the instance of fraudulent activity.

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