

Fraud, Waste, and Abuse in Prescription Drug Benefits

Fraud, waste and abuse are problems that plague almost every sector of health care in the United States. The Centers for Medicare and Medicaid Services (CMS) estimates that fraud, waste and abuse cost taxpayers billions of dollars annually within Medicare and Medicaid alone. Although the actual amount of money lost to fraud is unknown, the estimates range from as much as 3 percent to 10 percent of all health care expenditures.¹ Private payers, including managed care organizations and self-insured companies, also struggle with ways to reduce the incidence of inappropriate spending. While they are frequently mentioned together, fraud, waste and abuse are actually three separate problems, and different policy approaches are necessary. This statement discusses ways that fraud, waste and abuse can affect prescription drug benefits in both commercial and public settings.

Fraud

Fraudulent activity² within pharmacy benefits can take many forms, including patients acquiring prescriptions under false pretenses, providers writing illegitimate prescriptions and pharmacies processing phantom claims. AMCP supports efforts by both federal and state governments that enhance law enforcement's ability to combat the actions of individuals who falsify prescription information or providers who write prescriptions for patients who intend to abuse the drugs. AMCP also supports efforts to encourage the adoption of electronic prescribing systems, which could reduce the incidence of fraud at the pharmacy point-of-sale.

One area where health plans and pharmacy benefit management companies (PBMs) can also help combat fraud is through their pharmacy networks. By having the flexibility to only contract with pharmacy providers that can be verified as legitimate, health plans and PBMs can reduce fraudulent payments from taking place, instead of relying on a "pay and chase" system. To this end, AMCP is opposed to requirements that managed care organizations contract with any pharmacy willing to meet the terms and conditions of an organization's contract, also known as "any willing provider" requirements. Without such requirements, a managed care organization may refuse to contract with a pharmacy that is suspected of fraudulent activity, such as a pharmacy that files claims and receives payments for prescriptions that are never filled.

Requirements stipulating that all “clean” claims be paid within a certain time frame also reduce a health plan or PBMs ability to combat suspected fraud. Frequently, these laws require payment within a time frame that is inadequate for a payer to conduct a thorough investigation into suspected fraudulent activity. AMCP supports exemptions from these laws that would allow a health plan or PBM to suspend payment when there is credible evidence of fraud. Such a common-sense solution would allow plans to combat suspected fraud before payments are made, instead of attempt to recover payments after the fact.

Waste

Pharmaceutical waste can take several forms. Prescription drugs that are made available to a patient, but are not administered to or taken by the patient is a simple definition of waste. This would include prescriptions that are picked up by a patient, but for whatever reason are not taken as directed, either due to side effects, lack of perceived benefit or other medication adherence issues. It can also include instances wherein a prescriber discontinues a prescription, leaving a supply of medicine unused, or during transitions of care, when a patient may be transferred between medical facilities and unused medication may be thrown away or when a patient passes away. When any of these situations occur, prescription drugs are not only wasted, but patient outcomes could be compromised as well. A well-designed pharmacy benefit will include programs to support patient adherence and compliance with their drug therapy and will improve outcomes and decrease waste. Examples of such programs could include trial periods for maintenance medication before longer-term prescriptions are filled or drug therapy management programs that include patient outreach by pharmacists or other health care professionals to help ensure compliance and manage any side effects a patient may experience that could cause them to discontinue, or otherwise alter treatment.

Waste also encompasses patient medications that are inappropriate, ineffective or have an alternative that is less expensive, but just as effective. For example, dispensing a brand-name version of a drug that has a generic counterpart when there is no legitimate medical reason to do so can unnecessarily increase costs to patients as well as payers. Similarly, it is not uncommon for multiple therapeutic alternatives to exist for a single condition or disease state, and the cost of each treatment option can vary widely. AMCP supports efforts to make generic substitution an easy process for pharmacists and prescribers and opposes regulations that would unnecessarily place a burden on either party in order to make a substitution. AMCP also supports allowing managed care organizations the flexibility to design pharmacy benefits that encourage the use of therapeutic treatment options that are most appropriate in terms of both patient outcomes and costs to both the patient and payer.

Abuse

Between 1999 and 2006, almost 14,000 deaths from prescribed opioids occurred annually.³ Studies reveal that the drugs are being prescribed more widely for chronic non-cancer pain and that safety measures are needed to ensure proper prescribing. Managed care organizations must carefully balance the unique and varied needs of patients who are taking these medications against the probability of abuse. Likewise, pharmacists and prescribers have an obligation to assure that prescriptions are dispensed for legitimate medical conditions. Patients should be provided appropriate pain care. At the same time, the Academy supports measures to prevent abuse of prescription drugs as well as prescription drug benefit plans.

Additionally, the Academy supports programs that gather dispensing information about controlled substances so that the pharmacist has a resource for checking “pharmacy and doctor shopping” patterns.⁴ These behaviors have been identified by the U.S. Department of Justice as the most frequent way for individuals to secure access to prescription opioids, the most commonly abused class of prescription drugs.⁵

Managed care organizations can play a role in the detection and prevention of prescription drug abuse by providing information on patient utilization to prescribers as well as pharmacists filling prescriptions at the point of sale. It is incumbent upon prescribers to ensure that patients are not receiving prescriptions for the same medication from multiple sources, and for them to act on any information communicated by a managed care organization regarding patient utilization patterns. Pharmacy edit messages sent to pharmacists at the point of sale that detect early refills for controlled substances in particular should include the entire patient profile when available, regardless of the dispensing pharmacy. Warning messages that alert pharmacists to patterns of drug seeking behavior should not be ignored or overridden by the pharmacist until the pharmacist has been satisfied that the patient is not using the drug benefit as a means of funding inappropriate drug use.

In the commercial and Medicaid managed care markets, managed care organizations have successfully implemented several innovative programs that seek a balance between patient access and abuse prevention and that build on the prescription drug monitoring programs in the states.⁶ One such method is restricting patients suspected of abuse to receiving medications from one prescriber and one pharmacy or chain of pharmacies. Unfortunately, current laws can prevent managed care organizations from effectively combating prescription drug abuse in all markets. Within the Medicare Part D prescription drug benefit, plan sponsors are prohibited from restricting pharmacy and provider access, denying payment to pharmacies that are suspected of aiding and abetting individuals abusing drugs and from communicating information about suspected beneficiaries with other Part D plan sponsors. Current regulations also allow Medicare beneficiaries who receive the low income subsidy to switch Part D plans up to 12 times a year.

According to a study by the U.S. Government Accountability Office (GAO), the majority of Medicare beneficiaries who engage in suspicious behavior receive the low income subsidy and are therefore able to simply move from plan to plan if any restrictions are placed upon them.⁷ AMCP supports sensible changes to current law that would allow Part D plan sponsors to help combat the problem of prescription drug abuse.

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Please see AMCP's website for revisions and updates to our *Where We Stand* series:

www.amcp.org/PositionStatements.

¹ The National Health Care Anti-Fraud Association (NHCCA), [http://www.nhcaa.org/eweb/DynamicPage.aspx?webcode=anti_fraud_resource_cent&wpscode=TheProblem\)fHCFraud](http://www.nhcaa.org/eweb/DynamicPage.aspx?webcode=anti_fraud_resource_cent&wpscode=TheProblem)fHCFraud)

² See also AMCP's *Where We Stand on Fraud, Waste and Abuse in the Medicare Part D Prescription Drug Benefit*, available online: <http://www.amcp.org/positionstatements>.

³ Trescott CE et al. Group health's initiative to avert opioid misuse and overdose among patients with chronic noncancer pain. *Health Affairs*. 2011; 30; 1420–1424.

⁴ NIH, National Institute on Drug Abuse, *Prescription Drug Abuse*. November 2014. Available online: <http://www.drugabuse.gov/publications/research-reports/prescription-drugs/director>.

⁵ DOJ, National Prescription Drug Threat Assessment 2010 (NPDTA 10) (Johnstown, Pa.: February 2010).

⁶ The majority of the states either have an operational prescription monitoring program (PMP) or have adopted legislation authorizing a prescription monitoring program. PMPs collect data from pharmacies on dispensed controlled substance prescriptions and are important tools in the effort to curb major sources of prescription drug diversion. *Prescription Monitoring Programs: An Effective Tool in Curbing the Prescription Drug Abuse Epidemic*. Brandeis University PMP Center of Excellence, February 2011.

⁷ GAO, *Medicare Part D: Instances of Questionable Access to Prescription Drugs*, GAO-11-699 (Washington, DC: Sept. 6, 2011). Available online: <http://www.gao.gov/products/GAO-11-699>.