

Summary of Key Community Pharmacy Provisions in House Health Care Reform Bill (10/29/09)

I. Medicaid Reimbursement:

- The new Medicaid FUL for multiple source drugs would be established at 130 percent of the weighted average AMP (determined on the basis of manufacturer utilization of monthly average manufacture prices). A multiple source drug would be defined as having at least two sources of supply. The Secretary can perform such calculation by using a smoothing process to reduce significant month-to-month variations as a result of rebates, discounts and other pricing practices (added from the July 14 bill). The new FULs would go into effect in January 2011.
- Manufacturer would exclude the following from AMP calculations:
 - (i) customary prompt pay discounts extended to wholesalers;
 - (ii) bona fide service fees paid by manufacturers;
 - (iii) reimbursement by manufacturers for recalled, damaged, expired, or otherwise unsalable returned goods;
 - (iv) sales directly to, or rebates, discounts, or other price concessions provided to, pharmacy benefit managers, managed care organizations, health maintenance organizations, insurers, mail order pharmacies that are not open to all members of the public, or long term care providers;
 - (v) sales directly to, or rebates, discounts, or other price concessions provided to, hospitals, clinics, and physicians, unless the drug is an inhalation, infusion, or injectable drug;
 - (vi) rebates, discounts, and other price concessions required to be provided under agreements under subsections (f) and (g) of section 1860D–2(f).

Weighted average AMPs for brands and generics would be posted.

II. Medicare Part B DMEPOS:

- **Accreditation exemption (same as in July 14 bill):**
 - (i) Pharmacies that supply Part B diabetic testing supplies, canes and crutches are exempted.
 - (ii) Those suppliers that submitted an accreditation application before August 1, 2009, are deemed to have met the accreditation until the Accreditation Organization acts on the application.
- **Surety bond exemption:**

Pharmacies would be eligible for a waiver of the surety bond requirement if the pharmacy has 5 years of DMEPOS billings with no final adverse action during that time.
- **Competitive Bidding:**

The Comptroller General of the US shall conduct a study to evaluate the potential establishment of a program under Medicare for the (government) purchase of DMEPOS from manufacturers through competitive bidding.

III. PBM Transparency

- For qualified plans contracting with PBMs through the health insurance exchange, the PBM must provide at least annually the following information to the Commissioner and the plan.
 - (i) Number and total costs of prescriptions filled by retail and mail order pharmacy
 - (ii) Estimate of aggregate average payments, per weighted prescription volume, made to mail and retail and average amount per prescription that the PBM was paid by the plan
 - (iii) Estimate of aggregate average payments, per weighted prescription volume, received from manufacturers (such as rebates and price concessions) and a description of the types and amount of payments that were shared with the plan and the % of prescriptions for which the PBM received such payments
 - (iv) Overall % of generic drugs dispensed at retail and mail and the % of cases when an available generic is dispensed
 - (v) Number of cases where individuals were switched to a higher cost drug, the rationale and a description of such policies
- Information remains confidential except for law enforcement purposes or for the Comptroller General, Med-PAC, Secretary, or CBO to review.
- Annual public report to be prepared by Commissioner providing aggregate or average information. Such info will not disclose confidential or trade secret information.

IV. Medication Therapy Management

- Pharmacists' Involvement in Medical Home Pilot Project - The bill includes non-physician practitioners – such as pharmacists – as part of the medical home concept in the delivery of MTM services for which they can be reimbursed.
- The October 29 House bill includes what was in the Senate HELP bill Section 213, and the similar Butterfield amendment to the July House bill, which would establish a grant program that would test new and innovative methods to deliver MTM services by pharmacists, especially in the treatment of chronic medical conditions.
- **GRANTS** Also retained is a section that would require the Secretary to establish an innovations in interdisciplinary care training program consisting of awarding grants to and contracts with eligible entities:
 - (i) to test, develop, and evaluate health professional training programs (including continuing education) designed to promote—
 - (1) the delivery of health services through interdisciplinary and team-based models, which may include patient-centered medical home models, medication therapy management models, and models integrating physical, mental, or oral health services; and

- (2) coordination of the delivery of health care within and across settings, including health care institutions, community-based settings, and the patient's home; and
- (ii) to implement such training programs

V. **Mandatory Health Insurance Provisions Affecting Pharmacies as Businesses:**

The following provisions remain the same from the July bill:

- **Employers.** Employers must either provide health insurance to their employees or make a contribution to help fund affordable health insurance. Employers that choose to offer coverage contribute at least 72.5 percent of premium for workers, 65 percent for families. However, if the coverage is unaffordable for low-wage workers, that worker can choose subsidized coverage in the Exchange and the employer makes a contribution to the Exchange. Employers who do not offer qualified coverage contribute 8 percent of their payroll to help cover expenses of employees who seek coverage through the Exchange.
- **Small business protections.** Small businesses with annual payrolls below \$500,000 are exempt from requirements to offer or contribute to coverage, including the 8 percent payroll contribution for failure to provide health benefits to their workers. As a result of this exemption, 86 percent of America's businesses are exempt from any requirement to provide coverage to their employees. The 8 percent requirement is phased in for small businesses with an annual payroll between \$500,000 and \$750,000. There is also a tax credit program to help low-wage small businesses offer coverage to their employees. *The figures in the July bill were only \$250,000 to \$400,000.*
- **Small business tax credits.** Small business tax credits are available for businesses with 10 or fewer employees and \$20,000 or less in average wages. The credits phase-out if the employer has 25 or more employees or if average wages are \$40,000 or more. The credits are available on rolling basis for the first two years that an employer offers qualified coverage.

VI. **Public Health Insurance Option:**

- **A public health insurance option would be established in the new health insurance exchange.** In 2013, firms with up to 25 employees can enter the Exchange; in 2014, firms with up to 50 employees; in 2015, firms with up to 100 employees; in 2015 and beyond, Commissioner can allow larger employers as appropriate.
- Payment rates would be determined through provider negotiations with the Secretary. The rates can be no lower than Medicare rates but no higher than the rates paid by other plans in the exchange.
- Medicare providers would be considered to be providers in the exchange unless they opt out.