

October 4, 2010

Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Room 445-G Hubert Humphrey Building
Attention: OCIO-9989-NC
200 Independence Avenue, SW
Washington, DC 20201

Re: Document ID: OCIO-9989-NC. Request for Comments Regarding Exchange-Related Provisions in Title I of the Patient Protection and Affordable Care Act [45 CFR Part 170]

To Whom It May Concern:

Thank you for the opportunity to submit our comments on the above referenced Request for Comments. The National Community Pharmacists Association (NCPA) represents America's independent community pharmacists, including the owners of more than 23,000 community pharmacies, pharmacy franchises and chains. Together, they employ over 300,000 full-time employees and dispense nearly half of the nation's retail prescription medicines.

C. State Exchange Operations – 1311(d)

The Role of the Exchange in Promoting Transparency and Accountability: Incorporate Mandated PBM Transparency Requirements for Exchange Plans in a Consistent Manner in Federal Regulations

Included in the Federal health care reform legislation are transparency provisions that will be required of the Pharmacy Benefit Managers (PBMs) that manage prescription drug coverage under an Exchange health plan. Under Title VI Section 6005 of PPACA, PBMs that serve the health plans in the exchange will be required to confidentially disclose to the Secretary and the plans information on:

- The percent of all prescriptions provided through retail pharmacies compared to mail order and the generic dispensing rate and substitution rates of each;
- The aggregate amount and types of rebates, discounts and price concessions that the PBM negotiates on behalf of the plan and the aggregate amount of these passed on to the plan sponsor;
- The average aggregate difference between the amount the plan pays the PBM and the amount that the PBM pays the retail and mail order pharmacy

Even though PBMs were initially created to work on behalf of plan sponsors, they have grown increasingly complex with multiple streams of revenue. It is only by having PBMs provide data to plan sponsors that these sponsors will have any sense of trust that they are actually getting a good deal from the PBMs. These mandatory PBM transparency requirements were included in Federal health care reform legislation in recognition of the fact that such disclosures will grant the Secretary and the health plans better insight into the revenue streams of the PBMs.

Access to this critical information will enable the Secretary and the health plans to better evaluate and in turn negotiate contracts for prescription drug benefit administration in order to contain costs and maximize consumer protections. In recognition of the fact that health plans and consumers benefit when PBMs are subject to regulation, a number of states have passed legislation requiring PBMs to register with the state, disclose certain information, or refrain from overly aggressive auditing of pharmacies. It is our understanding that these state regulations will remain intact and will co-exist with the Federal PBM disclosure requirements required of PBMs operating under state exchanges.

To date, there has been no clear direction as to where these new Federal PBM disclosure requirements should be included. In order to ensure that these mandated PBM transparency disclosures are communicated and implemented in a consistent and meaningful manner among all plans in each exchange, NCPA believes that federal exchange regulations must require that all exchange plans include the PBM transparency requirements in any contract into which they enter with a PBM.

D. Qualified Health Plans (QHPs) – 1311(c)

The Role of the Exchange in Ensuring Meaningful Coverage and Access to a Sufficient Choice of Pharmacy Providers

PPACA requires that qualified health plans in an Exchange “ensure a sufficient choice of providers.” However, the legislation does not provide any standards for how this should be interpreted. NCPA recommends that with regard to prescription drug benefits offered under an Exchange plan, beneficiaries should be able to utilize or access their local community pharmacy.

Community pharmacies represent the most accessible point in patient centered health care, with 92% of Americans located within five miles of a retail pharmacy. Typically, consumers do not need an appointment to talk with a pharmacist in a community pharmacy about prescription or over-the-counter medications or about any other health-related concern. By ensuring that beneficiaries have ready access to a trusted pharmacy care provider or “safety net” of local community pharmacies, Exchange plans could potentially enhance positive patient outcomes.

NCPA recommends that any pharmacy willing to accept the terms of the offered pharmacy contract be allowed to participate in an exchange pharmacy network. In addition, co-pay differentials should be prohibited so that there are no incentives to use only a certain type of pharmacy provider (such as mandated or coerced mail order). However, we also believe that, similar to Medicare Part D, TRICARE and other government-funded programs, minimum pharmacy access standards should be required of plans operating in the exchanges, such as those used in Medicare Part D and TRICARE. These standards stipulate that 90% of plan enrollees in urban areas shall have access to a retail pharmacy within 2 miles of their residence; 90% of plan enrollees in suburban areas shall have access to a retail pharmacy within 5 miles of their residence; and 70% of plan enrollees in rural areas shall have access to a retail pharmacy within 15 miles of their residence. Exchanges must also follow existing state freedom of choice or any willing provider laws.

E. Quality

The Role of the Exchange in Emphasizing Wellness and Health Promotion Activities: Inclusion of Pharmacist in Preventative Care Activities and Collaborative Care Models

PPACA stipulates that “qualified health plans” that operate in an exchange must implement a quality improvement strategy that provides increased reimbursement or other incentives for a number of activities. These include improvement of health outcomes through various activities including medication and care compliance; efforts to prevent hospital readmissions; vaccinations; and implementation of health and wellness promotion activities, all services that pharmacists currently provide to patients. Just as the practice of medicine has undergone a change in focus from treatment of disease-states to preventative care, pharmacy has gone from an emphasis on medication dispensing to one of effective medication use and achieving optimal patient outcomes.

In addition, PPACA also includes a number of other provisions that recognize the added value that pharmacists can bring to the health care system through their administration of medication therapy management services to ensure safe and appropriate medication use. The Federal legislation establishes several programs that could be incorporated into exchange plans. These include integrated care models designed to ensure that pharmacists are engaged in team based approaches to delivering care including medical homes, accountable care organizations and community health teams. These also include transitional care activities in which pharmacists help to promote appropriate medication use when patients are transferred from one treatment setting to another.

Pharmacists are now authorized to administer most routine immunizations based on various criteria in all fifty states. Many Medicare beneficiaries currently receive their annual flu and pneumonia vaccinations each year from a pharmacist. These services are covered under Medicare Part B and other vaccinations are reimbursed under Part D. Pharmacists can have an expanded role in the administration of vaccinations to consumers covered under exchange plans and to do so would most likely reduce the costs to the health plan in providing these vaccinations. There are several private insurance plans that currently recognize and reimburse pharmacists for the administration of vaccines.

With respect to increased reimbursements for quality improvements, measures specific to pharmacists quality improvement activities are being developed and pilot tested. These can be used by health plans in the Exchange to pay pharmacies for quality improvement activities. Pharmacies understand that our health care system is moving toward more performance-based payments. These new validated quality measures will assess, for example, the impact of pharmacists' interventions on medication adherence and the potential for reducing adverse reactions from medications. Pharmacists also believe that their interventions that improve medication use also help reduce hospitalizations, nursing home admissions, and emergency room visits.

NCPA would recommend that HHS encourage states to recognize and incorporate the emphasis on preventative care and collaborative care models expressed in Federal health care legislation as they establish provider networks. Inclusion of pharmacists in these activities and recognition of their expertise in safe and appropriate medication use can help to reduce costs and promote optimal patient outcomes.

Conclusion

As you gather information from all interested stakeholders on this *Request for Comments Regarding Exchange Related Provisions in Title I of the Patient Protection and Affordable Care Act*, NCPA respectfully urges you to consider these issues. We appreciate the opportunity to share our concerns and recommendations with you. Thank you.

Sincerely,



John M. Coster, PhD., RPh.

Senior Vice President, Government Affairs