



Academy of
Managed Care
Pharmacy®

June 12, 2012

The Honorable Max Baucus

Chairman

Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Ron Wyden

Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tom Carper

Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Orrin G. Hatch

Ranking Member

Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tom Coburn

Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Charles E. Grassley

Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

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Edith A. Rosato, RPh, IOM
AMCP
Alexandria, VA

Dear Chairman Baucus, Ranking Member Hatch, Senator Wyden, Senator Coburn, Senator Carper, and Senator Grassley:

The Academy of Managed Care Pharmacy (AMCP) is pleased to provide comments in response to your May 2, 2012 invitation to discuss efforts to better prevent and combat the problem of waste, fraud and abuse in the Medicare and Medicaid programs, and to identify solutions that improve current program integrity. The Academy believes fraud, waste and abuse are unacceptable within any health care program, especially within health care programs that are financed through taxpayer dollars, and strongly supports the objectives of your proposal.

AMCP is a national professional association of pharmacists and other health care practitioners who serve society by the application of sound medication management principles and strategies to improve health care for all. The Academy's more than 6,000 members develop and provide a diversified range of clinical, educational and business management services and strategies on behalf of the more than 200 million Americans covered by a managed care

pharmacy benefit.

Within the Medicare Part D program, fraud, waste, and abuse is believed to cost taxpayers millions of dollars annually, and if not remedied, will potentially threaten the integrity of the benefit as a whole. 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.

To protect beneficiaries and current program integrity, and to prevent fraud, waste, and abuse, the Academy recommends 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 attempting to recover the payments after the fact.

Specifically, the Secretary of Health and Human Services, acting through the Centers for Medicare and Medicaid Services (CMS), should have similar authority to suspend payments under Medicare Part D to pharmacy providers based on credible allegations of fraud as the Secretary has to suspend payments under Medicare Parts A and B under section 1862(o) of the Social Security Act (with necessary adaptations identified below).

The Academy recommends amending Medicare Part D to add a new provision to section 1860D-12 of the Social Security Act as follows:

- Prescription Drug Plan (PDP) sponsors shall report to the Secretary any credible allegation of fraud relating to pharmacy providers and suppliers furnishing items and services under the PDP.
- The Secretary may authorize a PDP sponsor to suspend payments to a pharmacy provider or supplier pending an investigation of a credible allegation of fraud against the pharmacy provider or supplier, unless the Secretary determines there is a good cause not to suspend such payments.
- The Secretary shall consult with the Inspector General of the Department of Health and Human Services in determining whether there is a credible allegation of fraud against a pharmacy provider or supplier.
- The process used to determine whether there is a credible allegation of fraud shall be similar to the process established for purposes of administering section 1862(o) of the Social Security Act.
- This provision would supersede the prompt payment requirements, the any willing pharmacy contracting requirements, and any other requirements to make Medicare payments to the subject pharmacy provider or supplier during the period of suspension.
- If the Secretary declines to pursue legal remedies, the Secretary may, in its discretion, establish procedures under which the subject pharmacy provider or supplier together with the PDP it serves may recommend a plan for the pharmacy to meet Medicare Part D requirements, and, if approved by the Secretary, would limit or end the payment suspension.

Attached, please find the proposed legislative language.

The Academy 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 and Medicaid providers are effectively able to combat suspected fraud. The Academy recognizes the seriousness of this problem and is supportive of efforts that would reduce the instance of fraudulent activity. On behalf of AMCP and the profession of managed care pharmacy, we stand ready to be of assistance and look forward to working with you and your staff.

If you have any comments or questions, please do not hesitate to contact me or AMCP's Director of Government Relations, Lauren Fuller, at 703-683-8416, or by email at lfuller@amcp.org.

Sincerely,

A handwritten signature in cursive script, appearing to read "Edith A. Rosato".

Edith A. Rosato, R.Ph., IOM
Chief Executive Officer