Oversight Subcommittee Hearing: “The Opioid Crisis: The Current Landscape and CMS Actions to Prevent Opioid Misuse”

January 17, 2018

On January 16, 2018, the U.S. House Ways and Means Oversight Subcommittee held a hearing on the current condition of the opioid crisis and efforts by Centers for Medicare and Medicaid Services (CMS) to prevent opioid abuse. The hearing focused on the tools in place to collect data and the utilization of that data by CMS to take appropriate action. Current recommendations from the Office of the Inspector General (OIG) and the Government Accountability Office (GAO) were discussed with regards to improvement and impact.

Attending members of the subcommittee each made statements that encouraged bipartisanship and echoed Chairman Lynn Jenkins’ (R-KS) sentiment for need to urgently improve current measures for monitoring and preventing opioid misuse. Members discussed the proposed Medicare Part D “lock-in program,” the position of Medicare Part D plan sponsors on the new requirements, the expansion of medication assisted treatment (MAT) and other addiction treatment measures, the utilization of prescription drug monitoring programs (PDMPs), and the interdisciplinary fight against opioid fraud and abuse.

This was the Oversight Subcommittee’s first hearing on the opioid crisis. Members looked to gain insight into the status of monitoring and prevention measures via the testimonials given by the leading agencies.

MEDICARE PART D INITIATIVES TO ADDRESS OPIOID MISUSE

As CMS is one of the nation’s largest payers of prescription drugs, the agency holds a critical position in identifying and preventing opioid misuse. The Medicare Part D program provides prescription drugs to more than 42 million beneficiaries. In 2016, one in three of these beneficiaries filled a prescription for opioids and eighty percent of these opioids are considered at the highest risk for abuse. In 2017, CMS developed several initiatives to respond to the opioid crisis under the Opioid Strategy of the Department of Health and Human Services (HHS).

The Principal Deputy Administrator for Operations at CMS, Kimberly Brandt, addressed the subcommittee on the state of CMS strategies and initiatives. Brandt stated that CMS intends to adapt best practices through quality metrics for plan sponsors, data analysis of prescribing patterns, and specialized care coordination for high risk beneficiaries using opioids. CMS has expanded its oversight of

1 OIG. Opoids in Medicare Part D: Concerns about Extreme Use and Questionable Prescribing, July 2017.
Medicare Part D plans in their compliance to requirements meant to protect beneficiaries and prevent opioid overutilization. Brandt echoed CMS’ confidence that plan sponsors are well positioned to identify individuals at risk for opioid abuse and to employ appropriate care management interventions for high risk beneficiaries. CMS will ensure compliance by requiring all Medicare Part D sponsors to submit a written strategy for addressing overutilization of prescription opioids in Spring 2018.2

Changes to Overutilization Monitoring System (OMS) Criteria

Brandt expressed that CMS has improved Part D’s Overutilization Monitoring System (OMS), which reports high risk beneficiaries to Medicare Part D plans, by refining the criteria used to find at risk beneficiaries. Beginning in 2018, CMS changed criteria used to identify and report beneficiaries if they have received opioids from more than three prescribers and more than three pharmacies; if they have received opioids from five prescribers regardless of the number of pharmacies; and if their use of opioid use exceeds an average daily morphine equivalent dose (MED) of 90mg for any duration in the last six months.

Once identified, these beneficiaries are reported to plans. The plans are then required to manage the case via contacting prescribers and beneficiaries to assess the potential risks and to, if necessary, put edits in the plans that will result in rejection of claims or quantities.3 These alterations to OMS criteria were made based on HHS OIG recommendations. Furthermore, Brandt stated that CMS continues to expect plan sponsors to implement soft and/or hard formulary-level opioid safety alerts at the time of dispensing. However, hard edits are still not required as these alerts cannot be resolved by the pharmacist and necessitate prescriber or sponsor authorization.4

“Lock In” Policy Largely Favorable to Turn Tide in the Opioid Fight

In November 2017, CMS proposed a framework under which Part D plan sponsors may establish drug management programs for beneficiaries at-risk for prescription drug abuse. This rule, under The Comprehensive Addiction and Recovery Act of 2016 (CARA), will allow sponsors to limit at-risk beneficiaries’ access to coverage of controlled substances to a selected prescriber and/or to a selected pharmacy.5 The proposal will utilize OMS and Part D Opioid Drug Utilization Review (DUR) Policy with the Medicare Part D lock-in program. This integrated system will provide plan sponsors with a powerful tool to better manage care for high risk beneficiaries. CMS held a listening session for stakeholders and accepted public comment on proposed rule until January 16, 2018.

Gary Cantrell, Deputy Inspector General for Investigations, stated in his testimony that OIG identified approximately 90,000 Medicare Part D beneficiaries who are at high risk of opioid misuse. These beneficiaries were selected based on the two factors; those who received extreme amounts of opioids (average daily MED above 240 mg for the entire year) and those who appeared to be “doctor shopping.” OIG investigated the questionable billing patterns and the cost of medically unnecessary opioid

prescriptions. Accordingly, OIG’s top recommendation for CMS was the implementation of the lock-in program to reduce opioid fraud and inappropriate use of opioids among Part D beneficiaries.\(^6\)

When Congressman Schweikert (R-AZ) asked about how to move forward in the combat against opioid misuse, Cantrell responded that currently, the Medicare Part D lock-in program was the area to focus efforts. Congressmen Meehan (R-PA) and Ranking Member Neal (D-MA) stated their support of the lockin system in their statements. Brandt was not able to comment on specific questions regarding designated distributors for beneficiaries in the lock-in program since the proposed rule has very recently closed and public comments still need to be reviewed. The ways in which CMS will gain agreements from prescribers and pharmacies for the lock-in program were not discussed. The final rule on lock-in programs will be effective beginning of 2019.

RECOMMENDATIONS OFFER SLOW CHANGES TO CURRENT FRAMEWORK

CMS highlighted that while prevention through OMS and the new lock-in program are the main areas of focus, access to intervention and treatment is also a critical part of tackling the opioid epidemic. Brandt stated that CMS is working on providing additional screenings for beneficiaries suffering from Opioid Use Disorder (OUD) and on increasing access to MAT intervention. Moreover, CMS is requiring Part D formularies to include the opioid overdose reversal drug, naloxone, to promote better access and options to their members.\(^7\) Congresswoman Chu (D-CA) stated that CMS should further expand treatment measures to include alternative options such as acupuncture and asked whether GAO can measure the impact of such integrative practices on OUD interventions. Elizabeth Curda, Director of Healthcare at GAO, responded that the impact is difficult to measure at this time although GAO can research and make recommendations in the future.

Several Congressmen expressed their frustrations in the continuous inability to coordinate efforts to combat the opioid epidemic despite the improved tools agencies utilize. Congressmen Kelly (R-PA) and Rice (R-SC) questioned ability of CMS to interpret the data that it is tracking and accumulating. Congressman Rice gave an example of a beneficiary in Washington, D.C. who received opioids from 42 different prescribers and 37 pharmacies in one year and was not caught by the tracking systems in place. Principal Deputy Brandt assured the Congressmen that CMS has made big strides and will soon have comprehensive Medicaid data from all states in addition to Medicare Part D data. Brandt stated CMS’ dedication to utilize feedback and recommendations from OIG, GAO, and stakeholders to figure out better ways to have the right prevention and treatment, at the right setting, at the right time to address opioid abuse and fraud.

CMS’ proposed rule for lock-in programs also included new “preclusion list” rule. Under this rule, Part D plan sponsors or pharmacy benefit managers must reject a pharmacy claim for a Medicare Part D drug if the prescriber has had their Medicare billing privileges revoked due to questionable billing patterns. OIG Deputy Inspector, Gary Cantrell, had also stated that questionable patterns raise significant concern about prescribers’ operations. This rule is aimed to protect Part D beneficiaries and hold the fraudulent prescribers accountable. Together with the lock-in program and improved OMS criteria, CMS hopes the

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preclusion list will help combat the crisis on multiple fronts. The Oversight Subcommittee stated that the committee will meet routinely on addressing the opioid crisis.

*Prepared by Applied Policy for AMCP