

BENEFIT NEWS BRIEFS

CMS Proposes Regulations Under the ACA Affecting the Medicare Part D Drug Program

The Centers for Medicare & Medicaid (CMS) has proposed revisions to the Medicare Advantage program and prescription drug benefit program (Part D) that would implement new benefits under the *Affordable Care Act* (ACA) and increase patient protections. The proposals would codify provisions providing important new benefits including the 50% discount on covered brand name drugs in the Part D coverage gap known as the “donut hole” as well as new tools to fight fraud and abuse in Medicare and improve patient protections.

The proposed regulations have a lengthy *Preamble* with a detailed Table of Contents for ease of use. A copy of the Table of Contents is available by “[clicking here](#).” You know it’s going to be a fun read when there are almost 130 acronyms listed in the document!

According to CMS, this proposed regulation:

- **Implement the Coverage Gap Discount Program:** Codify existing sub-regulatory guidance for the Coverage Gap Discount Program required by *Affordable Care Act* and address operational issues that have arisen since sub-regulatory guidance was first published.
- **Expand Part D Drug Coverage:** Expand the number of drugs required to be covered by Part D plans to include benzodiazepines and, for specified health conditions, barbiturates (both drugs are in the depressant therapy class), as required under the *Medicare Improvements for Patients and Providers Act of 2008 (MIPPA)*.
- **Cut Red Tape for Patients and Providers:** If a prescription is denied by a Part D plan, allow physicians to request reconsiderations with the Independent Review Entity (IRE) on their patient’s behalf without obtaining a signed authorized representative form.

- **Raise Quality Standards for Plans:** Provide CMS with explicit authority to terminate poor performing Medicare Advantage and Part D sponsors that have failed to achieve at least a 3-star rating under CMS' 5-star plan rating system for a period of three years.
- **Increase Flexibility in Part D Prescriptions:** Require Part D sponsors to provide, in certain cases, the option of a daily prorated cost-sharing rate for prescriptions for fewer than 30 days. This will enable prescribers to order trial fills for initial prescriptions and for beneficiaries to synchronize the times that all their multiple prescription drugs are available to refill.
- **Fight Fraud and Streamline Claims Filing:** Require Part D sponsors submitting prescription drug event (PDE) records to include prescribers' National Provider Identifiers (NPIs). Also, the proposed rule would require pharmacy benefit managers under Part D to report additional financial information to increase transparency. These changes would improve data collection and tracking, help better identify the prescriber of Part D medications, and assist our law enforcement partners in the conduct of investigations when there is suspected fraud associated with a prescription drug claim.
- **Expand Benefits for Dual Eligible Patients:** Allow high-quality Fully Integrated Dual Eligible (FIDE) Special Needs Plans (SNPs) the flexibility to offer supplemental benefits beyond those currently allowed for Medicare Advantage plans to better serve people eligible for both Medicaid and Medicare. This includes benefits such as non-skilled nursing activities in the home and in-home food delivery for vulnerable beneficiaries.

Once final, the proposed rule is currently set to be effective for Calendar Year 2013 operations. CMS is requesting public comments to these proposed changes for 60 days following the publication of the proposed rule in the *Federal Register* on October 11, 2011.

The full text of the proposed regulations can be found by "[clicking here](http://www.gpo.gov/fdsys/pkg/FR-2011-10-11/pdf/2011-25844.pdf)" or at: <http://www.gpo.gov/fdsys/pkg/FR-2011-10-11/pdf/2011-25844.pdf>.

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In *Client Bulletin 2011-63, DOL Audits of Union Apprenticeship and Training Funds*, the citation to the quotation on page two was inadvertently omitted.

The quotation was from: *Running Your Training Fund Like a Business*. Beebe, Lawrence R.; Benefits & Compensation Digest; v45 no6 pp 36-41 Jun 2008; journal article.

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