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PHARMACY BENEFITS MANAGEMENT UPDATE

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ABOUT US

Stimulus Bill Proposes Additional Privacy and Security Requirements

The economic stimulus bill calls for increased privacy and security standards to accompany the adoption of electronic recordkeeping and other elements of a more electronic healthcare system. If passed (which is expected soon), the bill makes significant changes to HIPAA privacy and security requirements for covered entities and their business associates, including (1) new disclosure/reporting requirements when unauthorized access, use, and disclosures occur; (2) prohibitions on using PHI for fundraising purposes; (3) additional enforcement mechanisms, including authorizing states to file suits for enforcement, allowing patients to share in recoveries, increasing civil penalties, and making criminal penalties applicable to individuals; (4) providing electronic health records to patients in an electronic format; (5) restrictions on the sale of information by pharmacies and PBMs; and (6) additional accounting requirements.

State of Washington Proposes Restrictions on Use of Health Information

The State of Washington has introduced a bill that would prohibit health care providers, including pharmacists and pharmacies, health carriers, pharmacy benefit managers, or their business associates, subsidiaries, or affiliates from sharing, selling, or using health care information for the purpose of marketing prescription drugs to patients (i.e., refill reminders, therapeutic interchanges). The bill would make such activities a violation of law, constituting "an unfair or deceptive act in trade or commerce". The bill provides for civil damages and legal fees for violations, and courts would have authority to award triple damages.

Maine Introduces Legislation Requiring Proportional Copay Adjustments for Short-Term Prescriptions

Maine has introduced legislation that would require insurers, HMOs, TPAs, and PBMs to adjust a member's copayment to accommodate short-term prescriptions. The proposed bill would require that the copayment be adjusted to be proportional for a days supply of 14 days or less when short-term prescribing for that person is determined to be appropriate by the prescriber. If passed, this requirement would apply to policies, contracts, and certificates executed, delivered, issued for delivery, continued or renewed in Maine on or after January 1, 2010.

Iowa Addresses Prompt Pay, PBM Operations, Pharmacy Audits and Terminations

Iowa has implemented new rules relating to prompt pay, PBM operations (i.e., pharmacy complaint tracking/reporting), pharmacy audits (restrictions and limitations on scope, timing, manner, and process of audits), and pharmacy termination requirements/restrictions. Certain of these requirements must be reflected in contracts between a PBM and plan and in contracts with pharmacy providers.

The Phoenix Law Group of Feldman Brown Wala Hall and Agena, PLC is one of the few law firms in the country with an entire practice group devoted exclusively to pharmacy benefits and operations. What sets our practice group apart? For starters, it is made up entirely of attorneys that have in-house counsel experience, giving us significant expertise in an extremely complex industry.

Primarily representing pharmacy benefit managers (PBMs) and retail pharmacy chains, we work with our clients daily as an extension of their in-house legal departments. Because we get to know our clients thoroughly, we understand how to achieve their business goals, and are able to provide each with pragmatic advice and workable solutions. From contract development and negotiation, to structuring operations to meet regulatory requirements, our experience allows us to handle a client's needs seamlessly without wasted time getting up to speed.

CMS Releases Draft 2010 Medicare Part D Reporting Requirements

CMS released proposed reporting requirements in 74 Federal Register 3051 to change Medicare Part D reporting for contract year 2010. The comment period for the proposed changes ends March 17, 2009. The proposed Part D reporting requirements would increase/add reporting for: (1) enrollment requests and transactions, (2) fraud and abuse monitoring, (3) long term care (LTC) pharmacy compliance; (4) utilization management; (5) prompt payment; and (6) e-prescribing. The proposed Part D reporting requirements would delete certain reporting requirements for overpayments and LTC pharmacy rebates. The proposed requirements would also change the frequency of submitting some existing reports from quarterly to bi-annually or annually. A crosswalk comparing the proposed contract year 2010 Part D reporting requirements to contract year 2009 Part D reporting requirements is available at the following link:

<http://www.cms.hhs.gov/PaperworkReductionActof1995/PRAL/itemdetail.asp?filterType=none&filterByDID=0&sortByDID=2&sortOrder=descending&itemID=CMS1219383&intNumPerPage=10>

Phoenix Business Journal named The Phoenix Law Group Of Feldman Brown Wala Hall & Agena to the list of largest specialty firms in Phoenix for its Pharmacy Benefits and Operations practice.

For additional information that impacts the pharmaceutical benefit industry, visit PLGTRACK.COM or contact Samantha Brown sbrown@phoenixlawgroup.com, Laurel Wala lwala@phoenixlawgroup.com, or Cami Agena cagena@phoenixlawgroup.com at The Phoenix Law Group www.phoenixlawgroup.com.

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