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January 2009

PHARMACY BENEFITS MANAGEMENT UPDATE

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CMS ISSUES FINAL RULE ON "LOCK-IN" PRICING UNDER MEDICARE PART D

On January 6, 2009, CMS issued a press release regarding its final rule on "lock-in" vs. pass-through pricing. While the final rule allows "lock-in" pricing between a PBM and a Part D plan sponsor, it requires the difference in the amount paid to pharmacies and the amount paid by the plan to the PBM to be reflected as an "administrative expense", and not part of the drug cost. For purposes of the beneficiary's cost share, Part D plans will be required to base it off the amount paid to the pharmacy, not the amount paid by the plan. The final rule becomes effective January 1, 2010. The CMS press release can be found at:

http://www.cms.hhs.gov/apps/media/press_releases.asp.

CMS RELEASES PART D 2010 DRAFT CALL LETTER

On January 8, 2009, CMS released its 84 page 2010 Draft Call Letter to assist Part D plans in preparing bids for the upcoming year. The Call Letter focuses primarily on new regulatory requirements and other new policy clarifications for Medicare Part D. Comments to the draft call letter are due to CMS by January 30, 2009.

CMS RELEASES 2010 MEDICARE PART D APPLICATIONS

On January 6, 2009, CMS released the 2010 Part D Applications. The Applications require Part D plan sponsors to provide citations to language in the plan sponsor contracts and in the pharmacy contracts addressing the new MIPPA requirements (i.e., prompt pay). Applications must be submitted to CMS by February 26, 2009. The PDP and MAPD Applications can be found at:

<http://www.cms.hhs.gov/PrescriptionDrugCovContra/Downloads/PDPAApplication.pdf>
<http://www.cms.hhs.gov/PrescriptionDrugCovContra/Downloads/MAPDApplication.pdf>

Laurel Wala, Esq.



OIG IDENTIFIES "HOT TOPICS" FACING HHS

OIG has identified the most significant management and performance challenges facing HHS in the coming year, including the following which were listed as "Hot Topics" by the OIG for Medicare Part D -- Drug pricing and rebates; Fraud and abuse safeguards; Access to accurate information. The OIG report can be found at:

http://www.oig.hhs.gov/publications/challenges/files/TM_Summary08.pdf

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ABOUT US

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.

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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