

Medicare Minutes

Kerry N. Weems Nominated to Oversee CMS

President Bush recently nominated Kerry N. Weems, current deputy chief of staff to Health and Human Services (HHS) Secretary Mike Leavitt, to head the Centers for Medicare and Medicaid Services (CMS). Weems previously served as acting assistant secretary for budget, technology and finance (ASBTF) and chief financial officer, during which he provided expertise and advice to the ASBTF on the largest budget of any federal department. Weems was responsible for all budgetary program policy and management issues, including the formulation of the HHS budget and its presentation to the Office of Management and Budget and Congress.

If confirmed by the Senate, Weems would succeed Mark McClellan, who resigned in October. Leslie Norwalk has served as acting CMS administrator since McClellan's departure.

Under the Bush administration, several issues remain on the agenda for CMS in the immediate future. If approved, Weems would be responsible for overseeing the ongoing reconfiguration of the CMS payment systems including the regulation that will set next year's payment rate for inpatient hospital services under the inpatient prospective payment system (IPPS). IPPS payment cuts of 2.4% over the next 2 years have been proposed as has expansion of the number of billing codes for hospital services to direct more accurate payment for seriously ill patients.

CMS continues to promote the expanded use of healthcare information technology and reporting to develop a transparent healthcare system by improving public access to information on healthcare service quality and costs. New payment policies for post-acute care are being developed, and CMS plans to reduce the number of health insurance companies that administer payments to healthcare providers from approximately 50 to just 15.

First-year Impact of Medicare Part D

Findings on the market impact of the Medicare Part D prescription drug program's first year, based on comprehensive statistical analysis of 2006 prescription data, have been released by Wolters Kluwer Health (WKH). The study was based on a statistical sampling of the "standard eligible" patient segment and was undertaken to determine the true magnitude of the donut hole. Conclusions include:

- 32% of (4.2 million) Medicare Part D standard eligibles entered the donut hole by the end of 2006; those with multiple drug prescriptions entered earlier than others.
- Generic drugs took 4% to 5% more market share than brands.
- Medicare Part D was responsible for 1.6% of the 4.3% growth in prescription drugs.
- Increased discontinuation of medication or switching to generics was noted. Beneficiaries were least likely to switch to generic brands of beta-blockers, thyroid hormones, and diabetes medications (among the top 10 most prescribed drug classes). They were most apt to switch to generics of antiulcer drugs and diuretics.
- Medicare copays averaged \$10 to \$15 higher (35%-52%) than commercial copays among standard eligibles.

A white paper providing in-depth analysis was published by WKH at: www.wkhealth.com.

CMS Proposes Payment Changes for Medicare Home Health Services

A proposed CMS rule designed to ensure more appropriate payment for services provided by Medicare home health agencies (HHAs), while establishing incentives for more efficient care for beneficiaries, also contains the annual update to the Medicare home health prospective payment system (HH PPS) rates, including an estimated additional \$140 million in payments in 2008. CMS will evaluate home health care quality using

Outcomes and Assessment Information Set (OASIS) data. Under the proposed rule, HHAs that submit the required quality data will receive payments of 2.9% for 2008. Payment to HHAs that do not submit quality data would be reduced by 2% to 0.9% for 2008.

Two National Quality forum-endorsed measures would be added to the 10 that are currently reported: (1) emergent care for (deteriorating) wound infections, and (2) improvement in status of surgical wounds. A summary of the proposed HH PPS refinements compared to the current HH PPS payment system is available at: www.cms.hhs.gov/apps/media/press/factsheet.asp?Counter=2134

Prepare for Patient Questions About Medicare Prevention Benefits

HHS and CMS have launched *A Healthier US Starts Here* campaign, focused on motivating seniors and others with Medicare to make the most of Medicare's prevention and healthy lifestyles services.

To be sure you're ready to discuss preventive services with your patients, follow this link to the quick reference chart that provides the codes for your office staff to use in billing for preventive services: www.cms.hhs.gov/MLNProducts/downloads/MPS_QuickReferenceChart_1.pdf. Also see Todd Goldberg's *A Primer on Medicare Preventive Services* on page 16 of this issue.

Medicare's P4P a Bust?

A study recently published in *JAMA* reports that hospitals participating in Medicare's pay-for-performance pilot program were not (significantly) more likely than nonparticipating hospitals to provide better treatment. Researchers at Duke University led by Eric Peterson, compared the treatments and outcomes for 5 conditions at 54 hospitals participating in the Medicare pilot program with treatments and outcomes at 446 hospitals not participating in the program. Among the findings were that compliance with recommendations for treatment of myocardial infarction increased from 87% to 94.2% at participating hospitals, compared to an increase from 88% to 93.6% at nonparticipating hospitals. In all, researchers found a "slightly higher rate of improvement for 2 of 6 targeted therapies" but concluded that "overall, there was no evidence that im-

provements in in-hospital mortality were incrementally greater at pay-for-performance sites."

Bonuses totaling \$17.6 million were awarded to 123 hospitals during the first year of the study and 115 hospitals in the second year. The lowest-performing hospitals faced potential financial penalty, but no penalties were imposed, the researchers said. Study author Eric Peterson said, "One read on this is that the carrots have to be bigger." For more information on this study, see: <http://jama.ama-assn.org/cgi/content/short/297/21/2373>. For an alternate viewpoint, see "Bonus Pay Pays Off for Improved Quality," in the March/April issue of *Medicare Patient Management*, also available at: www.medicarepatientmanagement.com/issues/02-02/MPM02-02_Bonus.pdf

HSS Regulatory Updates

CMS plans to tighten security regulations this summer and propose the following rulings:

- Data dissemination processes for the National Provider Identifier
- e-prescribing standards under the Medicare Part D drug benefit program
- Exemption for some investigatory materials in databases from certain provisions in HIPAA
- Formation of a standard plan for electronic claims attachments
- Identification of version 8.1 of the National Council for Prescription Drug Programs' SCRIPT standard as a "backward compatible" update

HHS's semiannual regulatory agenda is available at: www.access.gpo.gov/su_docs/fedreg/frcont07.html.

Medicare Cuts Will Reduce Access to Doctors: AMA Poll

According to a survey of 9000 physicians released in June by the American Medical Association (AMA), Medicare's planned 10% decrease in payments to physicians will limit seniors' access to doctors.

"The AMA is deeply concerned by the alarming news that 60% of America's physicians will be forced to limit the number of new Medicare patients they will be able to care for next year when Medicare cuts physician payments," AMA Board Chair Dr. Cecil B. Wilson said in a prepared statement.

Healthcare Sponsors Voluntarily Suspend PFFS Marketing

CMS announced in June that in response to concerns about marketing practices, 7 healthcare sponsors signed an agreement in mid-June to voluntarily suspend marketing of private fee-for-service (PFFS) plans. The 7 insurers include United Healthcare, Humana, Wellcare, Universal American Financial Corporation (Pyramid), Coventry, Sterling, and Blue Cross/Blue Shield of Tennessee.

CMS will evaluate each plan to determine if systems and controls are in place to meet the conditions specified in its 2008 Call Letter (see www.cms.hhs.gov/PrescriptionDrugCovContra/Downloads/CallLetter.pdf) and the May 25, 2007 guidance (see www.cms.hhs.gov/quarterlyproviderupdates/downloads/cms4130p.pdf).

Said Leslie V. Norwalk, Esq., acting administrator of CMS, “This voluntary agreement demonstrates that CMS and the plans are stepping up to ensure that deceptive marketing practices end immediately, and that beneficiaries understand what they are purchasing. Through a variety of methods, including our ‘secret shopper’ program...CMS is proactive in protecting beneficiaries from rogue agents.”

The plans that have signed the agreement will be actively monitored to ensure they do not engage in marketing while the voluntary suspension is in place. CMS will apply a full range of available penalties—including suspension of enrollment, suspension of payment for new enrollees, civil-monetary penalties, and termination of the plan’s involvement in the Medicare program—to any violators. Beginning October 1, 2007, these updated conditions will be in effect for all sponsors of PFFS plans.

To have the suspension lifted, PFFS plans must meet the following:

- All materials, including but not limited to advertisements, enrollment materials, and materials used at sales presentations by employees or contracted representatives of a health insurance company will include the model disclaimer language provided by CMS in its May 25, 2007 guidance.
- All representatives selling the product will pass a written test that demonstrates thorough familiarity with the Medicare program and the plan product.
- A provider outreach and education program will help ensure that providers have reasonable access to the plan terms and conditions of payment, and provider relations staff will be readily accessible to

- assist providers with questions concerning the plan.
- Outbound education and verification calls will be made to all beneficiaries requesting enrollment to ensure that they understand the plan rules.
- Lists of planned marketing and sales events provided to CMS will include events sponsored by delegated brokers, agents, and the plan.
- When asked by CMS, plan sponsors will provide a complete list of all representatives marketing a PFFS product and authorize CMS to make that list available to state insurance departments on request.

“We want to underscore that corrective action plans already in place will remain in effect until full compliance is attained, and investigations underway involving fraud or criminal activity will continue to their appropriate conclusion,” added Norwalk.

Slow Part D Reimbursement Hurts Independent Pharmacies

Independent community pharmacies are feeling a disproportionately negative impact of the Medicare Part D prescription program, according to the National Community Pharmacists Association (NCPA).

NCPA’s annual comprehensive financial and demographic survey of independent pharmacies (called NCPA-Pfizer Digest) showed numerous store closings, stagnating average total prescription sales, and decreasing net operating income.

According to Bruce Roberts, RPh, executive vice president and CEO of NCPA, the only factor to explain these changes was the launch of CMS’ Medicare Part D plan. States Roberts, “Patient access to medication is jeopardized when stores are forced out of business by government programs. This contradicts Part D’s original intent of ensuring drug coverage to all Medicare recipients. In fact, former CMS administrator Mark McClellan once proclaimed Part D’s ‘access requirements will only be satisfied with broad participation of community pharmacies.’ That goal can only be met if Congress passes legislation ensuring community pharmacies are paid promptly and have business negotiations rights.”

Survey data show that in the last year the number of community pharmacies decreased from 24,500 to 23,348, a 5% loss. Average gross profits fell to 22.8% from 23.6%. Net operating income declined 30% from 3.7% to 2.6%.

More information is available at: www.ncpanet.org/pdf/2006ncpafizer-prelimdata.pdf. **MPM**