

S. 1954 Pharmacy Access Improvement (PhAlm) Act of 2007

Introduced by Senators Baucus and Grassley on August 2, 2007, along with ten other Senators as sponsors, this bill is designed to ³ensure greater access to pharmacies for Medicare beneficiaries and strengthen Medicare drug benefit policies for America's pharmacists² [Baucus/Grassley press release]. The bill would:

- Require drug plans to reimburse pharmacies more quickly
- Require the establishment of information hotlines for pharmacists and physicians
- Restrict the practice of ³co-branding² of Part D prescription drug cards
- Make it easier for pharmacies that serve a disproportionate number of low income patients to join drug plan networks, including 340B pharmacies
- Require CMS to establish standards with respect to access for enrollees who are residing in long-term care facilities to a long-term care network pharmacy
- Require Part D plans to disclose their list of MAC prices prior to contracting with a network pharmacy
- Require HHS OIG to conduct a study of the cost of dispensing and submit a report by December 1, 2008

Thanks to the following for their concise summaries on S.1954:

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*information has been made available through <http://www.rxmt.org/>.

APhA Summary

The Pharmacy Access Improvement (PhAIM) Act of 2007 (S. 1954) As Introduced August 2, 2007

Section 1. Short Title

Section 2. Strengthening Standards for Access to Pharmacies

- Amends the pharmacy access standards to secure the participation of a sufficient number of pharmacies in a plan's network by limiting what counts to pharmacies that are accessible to the general public. The new language specifies that closed pharmacies (such as pharmacies that dispense drugs by mail order only or are located in a hospital or nursing home, except that a closed pharmacy shall be included if the pharmacy is operated by the Indian Health Services, an Indian tribe or tribal organization, or an urban Indian organization) do not count.
- Amends the TRICARE access standards to address plans having preferred pharmacies by requiring that plans that designate pharmacies as preferred or non-preferred may only count in-network preferred pharmacies when determining whether the plan's network meets the TRICARE access standards.
- Amends the any willing pharmacy section to prohibit plans from "timing out" the ability of a pharmacy to join a network. Specifically, the language adds to the section, "A previous refusal by a pharmacy of an offer to participate, or the expiration of such an offer, shall not be grounds to exclude a pharmacy from participation under this subparagraph."
- Amends the any willing pharmacy section to address 340B pharmacy participation
 - By prohibiting their explicit exclusion. Specifically, the language states, "A prescription drug plan shall not exclude a pharmacy from participation solely on the basis that such pharmacy is a covered entity under section 340B of the Public Health Service Act."
 - By authorizing the Model Safety Net Pharmacy Addendum to Pharmacy Contract to meet a plan contract's terms and conditions.
 - By permitting 340B entities to waive or reduce cost-sharing.
- Strengthens convenient access standards
 - By clarifying the current law addressing access standards for enrollees who are residing in long-term care facilities and for pharmacies operated by the Indian Health Service, Indian tribes and tribal organizations, and urban Indian organizations.
 - By directing the Secretary to establish rules for convenient access to in-network pharmacies that dispense extended (90-day) supplies that are modeled after the rules for convenient access to pharmacies.
- Addresses undisclosed maximum allowable costs (MAC) by directing plans, whose contract with a pharmacy references MAC lists or pricing, to disclose through an Internet website and a toll-free telephone number
 - Any such lists or pricing to the pharmacy at the time of offering such contract; and

- Information updated not less frequently than every 7 days on such lists or pricing to pharmacies that have entered into such a contract.
- Effective 180 days post-enactment of this Act.

Section 3. Prompt Payment by PDP's and MA-PDP's

- Requires prompt payment of clean claims to pharmacies except mail-service and long-term care pharmacies.
 - Defines clean claim as a claim “that has no defect or impropriety (including any lack of any required substantiating documentation) or particular circumstances requiring special treatment that prevents timely payment from being made on the claim.” Claims are deemed clean if the PDP or MA-PDP does not provide notice to the claimant of any deficiency in the claim within 10 days of the date the claim is submitted.
 - Within 10 days of the claim being submitted, a PDP or MA-PDP shall notify a claimant if their claim is not clean and shall list all the additional information or documentation necessary for the proper processing and payment of the claim.
 - A PDP or MA-PDP shall pay any portion of a claim that is clean.
 - Claims submitted electronically must be paid within 14 days; claims submitted otherwise must be paid within 30 days. The date of payment for electronic payments is the date the money is transferred and for other payments is the date the payment is submitted to the mail carrier for delivery.
 - Late payments are subject to a defined interest rate.
 - Electronically submitted claims must be paid by an electronic transfer of funds per the request of the pharmacy.
- Protects the rights of claimants
 - By stating that nothing in the paragraph shall be construed as prohibiting or limiting a claim of action an individual or organization would like to take against a PDP.
 - By preventing a PDP from retaliating against an individual or providing for exercising a right of action under this paragraph.
- Effective 1 year post-enactment of this Act.

Section 4. Medicare Part D Informational Resources and Customer Service.

- Directs the Secretary of Health and Human Services to establish a 24-hour, toll-free line dedicated to pharmacists.
- Directs PDP's to establish a toll-free line dedicated to pharmacists and one dedicated to physicians and providers.
- Shall apply to plan years beginning January 1, 2008 or after.

Section 5. Restrictions on Pharmacy Co-Branding by PDP's and MA-PD's

- Prohibits a PDP from displaying the name, brand, logo or trademark of any pharmacy on a patient's ID card
- Requires plan marketing material that includes co-branding to also include the following disclaimer in large, off-set, bold-face type: Other pharmacies are also available in our network.
- Effective 60 days post-enactment of this Act.

Section 6. Submission of Claims by Pharmacies Located in or Contracting with Long-term Care Facilities

- Requires that contracts with pharmacies located in or contracting with long-term care facilities to have no less than 30 days (but not more than 90 days) to submit claims to the sponsor for reimbursement.
- Shall apply to plan years beginning January 1, 2008 or after.

Section 7. OIG Study and Report on Dispensing Fees

- Directs the Inspector General of the Department of Health and Human Services (DHHS) to conduct an analysis of the cost of dispensing Part D drugs. Such analysis must take into consideration:
 - Any reasonable costs associated with a pharmacist's time to
 - Check for information about an individual's coverage;
 - Perform necessary clinical review and quality assurance activities, such as activities to identify and reduce the frequency and patters of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs including education on therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse, and any other clinical review and quality assurance activities required under Federal or State law.
 - Costs incurred by the pharmacist that are associated with
 - The measurement or mixing of a covered Part D drug;
 - Filling the container for such a drug;
 - Physically providing the completed prescription to an individual enrolled in such a plan;
 - Delivery;
 - Special packaging;
 - Overhead related to the pharmacy or the section of the facility that is devoted to a pharmacy, and its maintenance (including the equipment necessary to operate such a pharmacy or such section and the salaries of pharmacists and other pharmacy workers); and
 - Geographic factors that impact operational costs.

- The variation in costs described above based on
 - Whether the pharmacist is dispensing a standard or extended supply of a covered Part D drug;
 - Whether the pharmacy is an independent or chain pharmacy;
 - Whether a product dispensed is a specialty pharmacy product; and
 - Whether the pharmacy is located in, or contracts with, a long-term care facility.
- The increase in dispensing fees, taking into consideration the costs above that is sufficient to create an incentive for a pharmacist to promote the substitution of covered general alternative therapies.
- By December 1, 2008, the Inspector General of DHHS shall submit a report to the Secretary of Health and Human Services on the study. The report shall include
 - The average cost to dispense a prescription under Part D, determined with respect to the area in which a PDP or MA-PDP is offered, including with respect to each PDP region.
 - The findings of the study, with respect to
 - The variation in costs studied; and
 - The increase in dispensing fees studied.

Section 8. Regular Update of Prescription Drug Pricing Standard Required

- Directs the PDP's and MA-PDP's that use the cost of a drug as a standard for pharmacy reimbursement to update such standard no less frequently than once every 7 days, beginning with an initial update on January 1 of each year, to accurately reflect the market price of acquiring the drug.
- Shall apply to plan years beginning January 1, 2008 or after.

*Thank you APhA and others for breaking these bills down and sharing them with us!

*Thanks to Jim Smith, Executive Director of MPA, for making this information available to all of us!