



# pharmacy & 2011 technology conference

August 27 - 30, 2011 ■ Boston Convention & Exhibition Center ■ Boston, MA

- Date:** Tuesday, August 30, 2011
- Time:** 11:00 a.m. – noon
- Location:** Boston Convention & Exhibition Center, Meeting Level 2, Room 253 AB
- Title:** **Healthcare Reform and Medicaid Update**  
ACPE # 0206-0000-11-522-L03-P (0.1 CEU)
- Speakers:** Don L. Bell II, National Association of Chain Drug Stores  
Julie Khani, National Association of Chain Drug Stores
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## Learning Objectives:

At the conclusion of this knowledge-based program, participants will be better able to:

- Identify key health care reform provisions for pharmacy
- Explain new Medicaid policy initiatives
- List opportunities for pharmacy to play an expanded role in the delivery of healthcare homes, accountable care organizations, and other coordinated care models

Don't forget to obtain continuing education credit for your participation in this session. Instructions for processing your statement of credit online are included in your registration bag.

## Health Reform and Medicaid Update

Julie Khani, Vice President, Public Policy  
Don Bell, Senior Vice President and General Counsel

## Health Reform and Medicaid Update

- Medicaid Expansion
- Opportunities for Expanded Role for Pharmacy
- Acquisition Cost-Based Reimbursement
- Retail Survey Price (RSP)
- Reimbursement and Patient Access Rule
- Average Manufacturer Price (AMP)
- Healthcare Reform Litigation

## Medicaid Expansion

- Created by Congress in 1965
- Funded jointly by the federal government and the states
- States operate their own programs within broad federal guidelines
- Medicaid eligibility and benefits vary widely from state to state

## Medicaid Expansion

- Patient Protection and Affordable Care Act (ACA) Expanded Medicaid Eligibility
  - Ends population-based eligibility
  - Individuals up to 133% of FPL eligible
  - Estimated to expand Medicaid population by 16 million

### Expanded Role for Pharmacy

- Health Home for Medicaid Beneficiaries
- Accountable Care Organizations
- Community-Based Care Transition
- MTM in the Treatment of Chronic Disease

### Average Acquisition Cost – Federal and State Efforts

- Increased skepticism about AWP and WAC
- Belief by policymakers that AWP will no longer be available after September 2011
- NASMD white paper recommending AAC
- Implementation in Alabama and Oregon
- CMS to create national AAC benchmark

### Average Acquisition Cost – Alabama

- Collaborative process, involving pharmacy and other stakeholders
- Desire to reimburse pharmacies accurately for product, and for cost to dispense
- AAC collected via pharmacy invoices, \$10.64 dispensing fee based on COD study
- Would like to utilize pharmacy professional services, include in medical home, other delivery reform initiatives

### Average Acquisition Cost – Oregon

- AAC collected via pharmacy invoices, tiered dispensing fee based on volume
- Less than one year after implementation, state reduced dispensing fee, chain pharmacy paid at lowest rate, regardless of volume
- SPA seeking approval of dispensing fee reduction awaiting action at CMS

### Average Acquisition Cost – CMS

- Following pressure from states, CMS announced plans to collect a national AAC benchmark
- National Average Drug Acquisition Cost – CMS goal to have data for states' use by year end
- Move to acquisition cost-based benchmarks must include accurate dispensing fee
- Will evaluate geographic, chain, independent variations
- Publish a monthly reference file

### Average Acquisition Cost – CMS

- Random, **voluntary** survey
- 2,000-2,500 pharmacies monthly
- Invoice purchase records from most recent 30 day period
- Second survey to evaluate discounts, rebates, chargebacks, etc not on invoice
- Many questions remain

### Average Acquisition Cost – CMS

- Subscribe to CMS ListServe
- [https://subscriptions.cms.hhs.gov/service/subscribe.html?code=USCMS\\_589](https://subscriptions.cms.hhs.gov/service/subscribe.html?code=USCMS_589)
- Email questions to: [rps@cms.hhs.gov](mailto:rps@cms.hhs.gov)

### Retail Survey Price (RSP)

- Created by the Deficit Reduction Act of 2005 authorizes CMS to conduct a "nationwide survey of consumer purchase prices"
- Medicaid payment rates for 50 most widely prescribed drugs will be ranked and compared to RSP
- ACA clarified RSP should not include mail or long term care sales, also adds requirement to post average RSP for multiple source drugs

## Reimbursement And Patient Access

- **Federal Patient Access Law** - 42 U.S.C. § 1396a(a)(30)(A)
  - Medicaid reimbursement rates must attract enough providers to give patients adequate access to care
  - Major basis for challenging reimbursement cuts
- **Supreme Court Case**
  - May providers sue to enforce the patient access law?
  - Challenge to 10% cut by California
  - States and feds vs. providers and patients

## Reimbursement And Patient Access

- **CMS Proposed Rule Would Not...**
  - Mandate particular reimbursement rates
  - Require states to conduct cost studies
  - Authorize providers to challenge rates
- **But The Proposed Rule Would...**
  - Mandate regular assessments of access
  - Require special access reviews when cutting rates
    - CMS will not approve cuts without access studies
  - Require “Corrective Action Plan” for access problems

## Average Manufacturer Price (AMP)

- **AMP**
  - Average price paid to manufacturer for drugs distributed to “Retail Community Pharmacies”
  - Definitions improved in health reform law
- **FULs**
  - AMPs will be used to calculate “Federal Upper Limits” on Medicaid reimbursement for generic drugs
  - Method of calculating improved in health reform law
    - FUL = at least 175% of average AMP for 3+ generic products

## AMP

- **Proposed AMP Rule Expected Soon**
  - Law effective Oct 2010, but CMS postponed for rule
- **Issues To Watch In New AMP Rule**
  - Inclusion of improper sales
  - The default rule / adequate documentation issue
  - “5i” drugs
  - Bona fide services fees
  - Other uses of AMPs
  - Financial impact

## Healthcare Reform Litigation

- **Two Basic Issues**
  - Is the insurance mandate unconstitutional?
  - If so, should the entire law be eliminated?
- **Why Pharmacies Care**
  - Survival of AMP and other pharmacy provisions
  - Increased coverage = increased prescriptions
  - Major cuts possible if no insurance mandate

## Healthcare Reform Litigation

- **Appeals Court Decisions**
  - 6<sup>th</sup> Circuit: Law upheld
  - 11<sup>th</sup> Circuit: Insurance mandate struck down but remainder of law upheld
  - 4<sup>th</sup> and DC Circuits: Pending
- **Supreme Court Will Decide**
  - No final decision for a year or more
  - 5-4 decision predicted, but outcome uncertain

## Questions or Comments?

Julie Khani: [jkhani@nacds.org](mailto:jkhani@nacds.org)

Don Bell: [dbell@nacds.org](mailto:dbell@nacds.org)