



CMA Weekly Alert – March 9, 2006

## SECOND PROGRESS REPORT ON MEDICARE PART D IS AT ODDS WITH WHAT EXPERTS’ REPORTS SHOW

HHS Secretary Leavitt’s Progress Report II on the Medicare Prescription Drug Benefit (Feb. 22, 2006)<sup>1</sup> describes Part D’s first 53 days in positive terms. The Secretary describes increasing enrollment of beneficiaries into Part D plans, declining prices for prescription drugs, and the success of the marketplace. Reports by experts tell a very different story on all points.

Secretary Leavitt’s report says...	Expert reports say...
“Enrollment is going up.” “More than 25 million enrollees are now receiving prescription drug benefits.”	The Kaiser Family Foundation reports that most of the 15.9 million Medicare beneficiaries who are enrolled in Part D plans had drug coverage in 2005 under either Medicaid or Medicare Advantage plans. These 15.9 million enrollees represent 54% of the 29.3 million that CMS projected as its Part D enrollment target for 2006. Only 24% (5.4 million) of the 22.9 million beneficiaries who do not have other prescription drug coverage and who are most likely to enroll, have voluntarily enrolled in Part D plans. <sup>2</sup>
“Costs are going down.”	The Minority Staff of the House Committee on Government Report, Special Investigations Division, found that prescription drug prices for the 10 most popular drugs used by seniors increased more in the seven weeks between December 2005 and February 2006 than in all of calendar year 2005; that drug plans with the lowest prices had the highest price increases during that seven-week period; <sup>3</sup>

<sup>1</sup> “Secretary’s Progress Report II on the Medicare Prescription Drug Benefit” (Feb. 22, 2006), <http://www.hhs.gov/medicare2final.pdf>.

<sup>2</sup> Kaiser Family Foundation, “Medicare: Tracking Prescription Drug Coverage Under Medicare; Five Ways to Look at the New Enrollment Numbers” (Feb. 2006), <http://kff.org/medicare/upload/7466.pdf>.

<sup>3</sup> Minority Staff, House Committee on Government Reform, Special Investigations Division, “Medicare Drug Plan Prices Are Increasing Rapidly” (Feb. 2006), <http://www.democrats.reform.house.gov/Documents/20060221102046-85441.pdf>.

	<p>that drug plan prices are 14% higher than Medicare drug card prices for the same drugs; that the 14% increase in Part D prices is higher than increases in the consumer price index, drug prices generally, or manufacturers' average wholesale prices.<sup>4</sup> In another report, the Staff found that prescription drug prices in the San Francisco Bay Area, offered on March 1, 2006 by 10 leading drugs plans for 10 drugs with the highest sales to beneficiaries in 2004, were 77% higher than prices negotiated by the federal government, 60% higher than prices available in Canada, 4.8% higher than prices available on Drugstore.com, and 1.1% higher than prices available at Costco.<sup>5</sup></p>
<p>“The marketplace is working. Competition among drug plan choices is slowing down spending growth.”</p>	<p>Stephen W. Schondelmeyer, Professor of Pharmaceutical Management &amp; Economics at the University of Minnesota, testified at a House Committee on Government Reform's Minority Briefing on Implementation of the New Medicare Drug Benefit (Jan. 20, 2006) that “effective competitive pressure is not likely to occur” under Part D because beneficiaries have incomplete or imperfect information, leading to “asymmetric markets” (and justifying government intervention).<sup>6</sup></p>
<p>“Many states believe their Medicaid payments for prescriptions are higher than payments under the competitive Medicare drug plans.”</p>	<p>Professor Schondelmeyer testified that Medicare prices were 14-50% above prices that Medicaid would have paid for prescription drugs (comparing prices offered by all 41 PDPs in one Minnesota zip code during the first two weeks of 2006). PDP prices were generally 20-30% higher than Medicaid prices and within</p>

<sup>4</sup> Minority Staff, House Committee on Government Reform, Special Investigations Division, “Medicare Drug Plan Prices Are Higher than Medicare Drug Card Prices” (Feb. 2006),

<http://www.democrats.reform.house.gov/Documents/20060221101849-23735.pdf>.

<sup>5</sup> Id.

<sup>6</sup> Professor Schondelmeyer's testimony is at

<http://www.democrats.reform.house.gov/Documents/20060120130023-10578.pdf>.

	plus or minus 4% of the typical retail price. <sup>7</sup>
“The Medicare drug benefit is working for the vast majority of dual eligible beneficiaries in most states.”	The Kaiser Commission on Medicaid and the Uninsured reported that 31 state Medicaid directors (61%) in its February 2006 survey described widespread problems affecting a significant number of dual-eligibles (e.g., 49 states reported that dual-eligibles had been charged incorrect cost-sharing amounts; 43 states reported that dual-eligibles did not know the plan to which they had been auto-assigned; 43 states reported that beneficiaries could not obtain non-formulary drugs; 44 states reported that pharmacies lacked sufficient information to bill plans). In addition, 37 states implemented temporary programs to ensure that dual-eligibles obtain needed medications. States expressed concerns about the administrative challenges of the CMS Demonstration Project (announced Jan. 24, 2006) to reimburse states for the costs of their temporary programs. <sup>8</sup>
“Systems are improving and where we find problems, we are fixing them.”	The Kaiser Commission on Medicaid and the Uninsured concluded that “weeks, months or even years may be required to address all” Part D implementation issues. The Commission reported that state Medicaid directors expressed concerns with the Part D program beyond initial implementation issues: copayments (many dual-eligibles cannot afford the new copayments required by Part D); impact on pharmacies (Part D is a long-term burden on pharmacies; small pharmacies may close); formularies (one state director reported that 25% of dual-eligibles were assigned to plans with less than 60% of their drugs; another expressed concern about the impact of formularies on beneficiaries’ health; a third director

<sup>7</sup> Id.

<sup>8</sup> Vernon Smith, Kathleen Gifford, Sandy Kramer (Health Management Associates) and Linda Elam (Kaiser Commission on Medicaid and the Uninsured), “The Transition of Dual Eligibles to Medicare Part D Prescription Drug Coverage: State Actions During Implementation. Results from a 50-State Snapshot” (Feb. 2006), <http://kff.org/medicaid/upload/7467.pdf>.

	<p>“predicted that mental health patients (about half of the dual eligibles (according to this respondent) were at risk for long-term negative consequences”); potential future concerns (auto-enrollment will continue to be a problem; “turmoil” will continue “as plans drop out and contracts with pharmacies churn over time.”)<sup>9</sup></p>
<p>The Harris Interactive Survey found that “80% of seniors enrolled in Medicare drug plan approved of the prescription drug benefit.”</p>	<p>The Kaiser Family Foundation’s nationally representative tracking poll found that the Part D drug benefit was viewed less favorably by seniors in February 2006 than in August 2005. In February 2006, 45% of seniors viewed the Part D benefit unfavorably, and 23%, favorably. In August 2005, favorable and unfavorable views were each held by 32% of seniors.<sup>10</sup></p>

While the Secretary describes Part D in positive terms, the Centers for Medicare & Medicaid Services is proposing significant changes for 2007. Many of these changes reflect problems that beneficiaries have experienced in 2006. For example, the large number of plans available in each region is confusing to beneficiaries and those who help them with enrollment. The Draft 2007 PDP Call Letter proposes that sponsors be limited to two plans per region. Draft Transition Guidance for 2007 removes some of the plans’ flexibility, and substitutes mandatory provisions. The Draft Transition Guidance proposes to

- require plans to provide a 30-day first fill during the 90-day transition period, without regard to formulary restrictions or utilization management tools that would otherwise be in effect;
- require plans to provide written notice within 72 hours of the temporary fill, informing the enrollee of the temporary nature of the transition supply and providing instructions for finding a therapeutic alternative and filing for an exception;
- require multiple fills of non-formulary drugs for long-term care facility residents during a 90- day transition period.

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<sup>9</sup> Vernon Smith, Kathleen Gifford, Sandy Kramer (Health Management Associates) and Linda Elam (Kaiser Commission on Medicaid and the Uninsured), “The Transition of Dual Eligibles to Medicare Part D Prescription Drug Coverage: State Actions During Implementation. Results from a 50-State Snapshot” (Feb. 2006), <http://kff.org/medicaid/upload/7467.pdf>.

<sup>10</sup> Kaiser Family Foundation, “The Kaiser Family Foundation *Health Poll Report* Survey, Selected Findings on Seniors’ Views of the Medicare Prescription Drug Benefit” Chartpack (Feb. 2006), <http://kff.org/kaiserpolls/upload/7463.pdf>; Toplines, <http://kff.org/kaiserpolls/upload/7462.pdf>.

The extensive number and nature of proposed changes for 2007 suggests that, despite repeated claims to the contrary, CMS is aware that Part D and its implementation in 2006 have been seriously flawed.

The Center for Medicare Advocacy suggests that Congress begin again and create a real prescription drug benefit within the Medicare program.

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