



CMA Weekly Alert (2 of 2) – November 10, 2005

CENTER FOR MEDICARE ADVOCACY PUBLISHES MEDICARE PART D POLICY PAPERS EXAMINING ACCESS TO DRUG COVERAGE

The Center for Medicare Advocacy has prepared three important policy papers examining access to the Medicare Part D (Prescription Drug) benefit. The papers, funded by the Kaiser Family Foundation, provide an overview of particular aspects of the Part D benefit and identify particular problems and concerns in program implementation. The papers are a useful analysis and summary of key information of importance to beneficiaries, their advocates, and those in policy positions who may be able to initiate corrective actions. The papers are available on the webpages of the Kaiser Family Foundation at www.kff.org and the Center for Medicare Advocacy at www.medicareadvocacy.org. Direct links are provided below.

The Exceptions and Appeals Process: Issues and Concerns in Obtaining Coverage under the Medicare Part D Prescription Drug Benefit, by Vicki Gottlich, Esq., examines rules for obtaining an exception to a plan's drug formulary. It provides an important critique and analysis of the claim of the Center for Medicare & Medicaid Services (CMS) that everyone who enrolls in a prescription drug plan will have access to all medically necessary prescriptions. To achieve this goal, plan enrollees may well have to challenge a plan's formulary, including its utilization management tools. The processes to make such a challenge will differ from plan to plan. They will include an exceptions process through which a beneficiary may ask the plan to cover a drug not on its formulary or to reduce cost-sharing for a formulary drug; an appeals process through which a beneficiary may request review of any denied claim; and a grievance process through which a beneficiary may complain about a problem that is not an appealable issue. <http://kff.org/medicare/upload/The-Exceptions-and-Appeals-Process-Issues-and-Concerns-in-Obtaining-Coverage-under-the-Medicare-Part-D-Prescription-Drug-Benefit-Issue-Brief.pdf>

Medicare Part D: Issues for Dual Eligibles on the Eve of Implementation, by Patricia Nemore, Esq., focuses on particular problems likely to confront those dually eligible for Medicare and Medicaid. It also describes policy issues raised for this population both by the immediate, mandatory transition from Medicaid to Medicare at the end of 2005 and by ongoing Part D implementation.

The article begins with the daunting prospect of major change in obtaining coverage of necessary drugs for one of Medicare's most vulnerable populations. Dual eligibles are the poorest, sickest and most expensive to treat consumers of health care resources. They generally require more services, use more drugs, and have poorer healthcare outcomes.

For these beneficiaries, December 31, 2005 signifies the end of Medicaid prescription drug coverage for the more than 6 million beneficiaries of full Medicaid services who are also eligible for Medicare. Beginning January 1, 2006, these dually eligible beneficiaries will get their drugs covered through Medicare's new prescription drug benefit, known as Part D, which was enacted as part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

The significance of this loss of Medicaid coverage cannot be overstated: Part D requires fewer

beneficiary protections than does Medicaid. As a result, dually eligible beneficiaries may find, on January 1, 2006, that they have access to fewer drugs, higher copayments, no assurance of access to prescription drugs if they are unable to pay the copayments and no assurance of coverage pending appeal. <http://kff.org/medicare/upload/Medicare-Part-D-Issues-for-Dual-Eligibles-on-the-Eve-of-Implementation-Issue-Brief.pdf>

Medicare Prescription Drug Coverage for Residents of Nursing Homes and Assisted Living Facilities: Special Problems and Concerns, by Toby S. Edelman, Esq., discusses the impact of the Part D prescription drug benefit on residents of nursing homes, assisted living facilities, and board and care facilities. The paper identifies rules that are based on care setting (nursing homes vs. non-nursing home) as well as rules that are based on source of payment (private-pay vs. dually-eligible). Questions examined include:

- For all long-term care residents - who will have authority to act on behalf of a resident who has cognitive impairments, but no authorized representative?
- For nursing home residents - how will differences between Part D and the Nursing Home Reform Law be resolved and by whom?
- For assisted living and board and care residents who are Medicaid beneficiaries - how they will be able to pay their Part D co-payments?

<http://kff.org/medicare/upload/Medicare-Prescription-Drug-Coverage-for-Residents-of-Nursing-Homes-and-Assisted-Living-Facilities-Special-Problems-and-Concerns-Issue-Brief.pdf>

The Center for Medicare Advocacy is grateful for the support of the Kaiser Family Foundation in the production of this important body of work.

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