

From: info@caaccess.org [mailto:info@caaccess.org]
Sent: Thursday, October 20, 2011 4:32 PM
Subject: ALERT: Possible Medicare Part B Cuts

Good afternoon,

As a member of California Partnership for Access to Treatment (CPAT), we know you are concerned about patients' access to care and treatment. Proposed cuts to Medicare Part B would prohibit many Medicare beneficiaries with serious illnesses like cancer, arthritis and MS from getting their medication from their doctors. Medicines that are biologics and injected in a doctor's office are at risk because of the Super Committee's proposed rate cuts.

We urge you to contact Congressmen Xavier Becerra, Kevin McCarthy and Devin Nunes via phone or email to tell them cutting Medicare Part B is not the answer. A fact sheet is below and a letter written by the Association of Northern California Oncologists to Congressman Becerra is attached for your reference. Please send us a copy of letters so we can compile a massive book of letters from people who are concerned about this issue.

If you have questions or would like more information, please contact Brandon Stephenson (323-466-3445) or Jason Dumont (916-658-0144) to discuss how your organization can communicate your concerns and help prevent cuts to this vital program.

The contact information for the congressmen is:

- [Xavier Becerra](#) (202-225-6235)
- [Kevin McCarthy](#) (202-225-2915)
- [Devin Nunes](#) (202-225-2523)

FACT SHEET: ADDITIONAL CUTS TO MEDICARE PART B DRUGS SHOULD NOT BE OFFERED AS PAY FORS

• **Medicare coverage of physician-administered drugs under Part B provides patients with cancer, multiple sclerosis, rheumatoid arthritis, and other grievous illnesses access to the critical medicines they need - administered in the safe, reliable setting they require.** Part B provides our most frail seniors with access to a narrowly defined, limited number of medicines administered by a health care professional (e.g. medicines that must be either injected or infused under the direction of a physician).

• **Providing Part B drugs to patients requires physicians to follow complex procedures.** Many Part B products are injected or infused directly into the patient's bloodstream; involve treatment regimens that call for ongoing clinical monitoring and

patient education; require detailed clinical knowledge to determine appropriate dosing, to mix, and to deliver in sterile conditions; and have special handling and complex storage requirements mandated by the U.S. Food and Drug Administration (FDA) as part of their product labeling. And unlike pills that patients can take themselves at home, Part B drugs are purchased directly by physicians, who then bill these products to Medicare along with the other services that they provide to patients during their office visits.

• **ASP+6% reimbursement for Part B drugs has driven down Medicare costs.** A few years ago, as part of the Medicare Modernization Act (MMA), Congress reformed Part B drug reimbursement and payment amounts were dramatically reduced; The Congressional Budget Office (CBO) estimated ASP+6% would save Medicare \$16 billion. Payments are now set using market-based Average Sales Price (ASP) data, which reflects an average of the prices – including negotiated discounts and rebates – paid by physicians and other drug purchasers.

-In a 2007 report, the Medicare Payment Advisory Commission (MedPAC) noted, “As intended by the policy, payment rates for drugs were reduced to levels closer to provider purchase prices and payment rates for drug administration increased.”¹ CMS has agreed with this assessment and noted that ASP has benefited patients. Specifically, a 2009 report commissioned by the agency stated, “The payment reforms appear to have controlled Medicare expenditures for Part B drugs and to have reduced beneficiaries’ out-of-pocket liabilities for these drugs.”²

-A recent study by the Moran Company of ASP prices from 2006-2011 found that total payments and units remained stable, while medical inflation (CPI-M) increased by 21.6% over the same time period.³

• **Congress set the reimbursement rate for most Part B drugs at ASP+6%.** The “+6%” is used with the average sales price for several purposes:

-Acquisition costs vary. Physicians in large practices or who commonly use Part B drugs may negotiate discounts on drug prices based on purchasing volumes. Smaller physician offices, especially those in rural areas, are less likely to have significant purchasing power and, therefore, they acquire drugs at higher prices.

-A product’s acquisition cost is just one aspect of the overall costs incurred by a physician. Other costs that physicians must bear commonly involve (1) shipping fees, (2) supplies used in handling and preparing the products for use by ailing seniors, (3) overhead costs for storing the products, (4) staff time for clinical monitoring and education of patients; (5) staff time required to negotiate prices and order products; the activity of ordering products is complicated by the growing cancer drug shortage problem; and (6) some states impose taxes on the drugs.

• **MedPAC notes that, for most physicians, the difference between ASP+6% and their costs for drugs is “slim.”** MedPAC also reports that “there are some drugs they [physicians] cannot purchase at the payment rate,” meaning that the

Medicare reimbursement rate is less than the physician's acquisition cost. As part of the legislative negotiations on ASP, MedPAC cautioned Congress that physicians need an additional percentage above ASP and specifically said that the percentage "should be set high enough to cover the costs of an efficient provider." 4

• **Due to the inclusion of prompt pay discounts in ASP, oncology clinics in effect are already reimbursed at less than their ASP+6%.** ASP includes prompt pay discounts, which are contractual discounts provided by manufacturers to wholesalers. Prompt discounts may be up to 2%⁵ and according to the Community Oncology Alliance "artificially reduces payments to cancer clinics and other purchasers" because the discounts are not passed on to physicians or their patients.⁶ Congress excluded prompt pay discounts from the Average Manufacturers Price (AMP) - which is used in Medicaid - as part of the Deficit Reduction Act of 2005 (DRA), but has not required corresponding changes for ASP. H.R. 905 aims to address this issue and remove prompt pay discounts from the ASP calculation.

• **Without an adequate reimbursement limit, many practices and clinics will be forced to close their doors and turn away senior patients.** A study in the Journal of Clinical Oncology found that, "...many practices pay prices above ASP +6 reimbursement for key products," and concluded, "...economic strain combined with inadequate reimbursement limits patient access to care when practices are forced to turn away patients or to go out of business."⁷

• **The proposed cuts to Medicare could mean thousands of cancer patients will be denied access to the life-saving treatments they need.** Community oncology practices are already reducing services and closing down because reimbursement rates have declined; A recent study by the Community Oncology Alliance indicates that in the past 3 1/2 years, 199 oncology clinics across the United States have closed and 369 are struggling financially.⁸ The proposed cuts to ASP+6% could put many of the nation's cancer providers at risk, particularly small and rural providers, and cause dangerous disruptions in care for extremely ill Medicare patients.

• **A key pending government report should shed some light on whether cutting reimbursement for Part B covered drugs and biologicals is worth the risks to patients and providers.** The Office of the Inspector General (OIG) for Health and Human Services (HHS) is planning a study in 2012 to determine whether changes in the reimbursement methodologies for the Part B drug program would result in significant savings. This study would be an important step in understanding the potential impact of changing Part B drug payment. However, the 2012 OIG study does not currently appear to address the consequences to patient access to care that could result from cutting Part B drug reimbursement. It would be premature for Congress to act before the OIG's recommendations are available and before directing the OIG or other government agencies to assess the impact of such cuts on patient access to lifesaving treatments.

• **Recent proposals by MedPAC and the President do not include ASP cuts.** ASP cuts were not included in the \$233 billion payfors that MedPAC identified to offset

a permanent doc fix in a September 2011 proposal. ASP cuts also were not included in the President's \$3.2 trillion deficit reduction plan.

Medicare Part B coverage provides America's seniors living with debilitating diseases such as cancer and multiple sclerosis with access to the critical physician-administered medicines they require. Congress should not look to Part B and ASP for further cuts. ASP is a market-driven system that has reduced government and patient expenditures while providing access to necessary and life-saving treatments. MedPAC and others have found that some physicians already have problems obtaining some products at or below the current ASP+6% rate. Reducing reimbursement could cause serious disruptions to a carefully balanced system.

Footnotes

1. MedPAC Report to the Congress: Impact of Changes in Medicare Payments for Part B Drugs (January 2007).
2. Cheh, V. Part B Drug Payment Reform: Lower Expenditures without Signs of Adverse Effects (August 28, 2009). Contractor No.: 500-00-0033(09).
3. The Moran Company. Trends in Weighted Average Sales Prices for Prescription Drugs in Medicare Part B, 2006-2011 (August 2011).
4. MedPAC Report to the Congress: Impact of Changes in Medicare Payments for Part B Drugs (January 2007). MedPAC Report to the Congress: Variation and Innovation in Medicare (June 2003).
5. 72 Fed. Reg. 39142, Final Rule, Medicaid Program: Prescription Drugs (July 17, 2007).
6. Community Oncology Alliance, Summary of the Problem and Legislation accessed on Oct. 3, 2011 at <http://www.communityoncology.org/UserFiles/files/e6c14902-aebb-4368-8d8f-b14234f95161/Prompt%20Pay%20Background%20and%20HR%20905%20Fix.pdf>
7. Favret, UB, Jordan, WM, Kirchof, MS, Neltner, ME, and Chudzik DA. "An examination of oncology drug purchasing compared to average sales price." J Clin Oncol 26: 2008 (May 20 suppl; abstr 20500).
8. Community Oncology Alliance: Community Cancer Center Practice Impact Report (March 2011).

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