

Congress of the United States
Washington, DC 20515

July 26, 2007

Dennis Smith, Director
Center for Medicaid and State Operations
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington D.C. 20201

Dear Mr. Smith:

We are writing to express our concern regarding a provision within the Iraq War Supplemental Appropriations bill (Public Law 110-28) which has the potential to significantly impede the ability of Medicaid beneficiaries to receive prescription medications from local community pharmacies.

Under Section 7002 (b) of PL. 110-28, all Medicaid prescriptions must be written on “tamper resistant” paper in order to be eligible for federal reimbursement beginning October 1, 2007. Currently, most physicians do not use these types of pads, nor are supplies readily available.

Last year, doctors wrote approximately 330 million prescriptions for Medicaid beneficiaries; that’s 11 percent of the nearly 3.1 billion total prescriptions written every year. To implement this requirement in just three short months’ calls for thousands of new prescriptions and refills to be written on these “tamper-proof” pads. While we support health care fraud prevention initiatives, it is unrealistic to implement the “tamper proof” pad mandate in this period of time, without hurting Medicaid patients and thousands of pharmacy businesses. Small family owned pharmacies are particularly vulnerable.

Additionally, the October 1, 2007 implementation date leaves little time for federal and state Medicaid officials to educate doctors and pharmacists about the requirement. This places an unfair burden on doctors who have little time to comply.

While Congress has instructed Centers for Medicare and Medicaid (CMS) to begin implementing the new requirement in the fall, we strongly believe that due to its direct impact on Medicaid beneficiaries and local pharmacies who serve Medicaid clientele, the requirement must be carefully implemented and especially its impact on patients and pharmacies must be understood. We urge CMS to address the following issues prior to implementing this new process:

- Provide immediate guidance on the definition of tamper-resistant prescription pads and indicate which of the current state-based tamper-resistant prescription pad programs will meet CMS criteria.

- Determine who is responsible for the additional cost of these new pads and where they can be obtained.
- Outline the logistics and time needed for printing and distributing the millions of pads to tens of thousands of prescribers.
- Clarify the applicability for use of tamper resistant prescriptions in cases of telephone orders, electronic and faxed prescriptions.
- Determine applicability for use of tamper resistant prescriptions and prescription orders for patients in long-term care facilities, such as hospitals and healthcare institutions.
- Provide guidance indicating that during the program's initial implementation phase, pharmacists will be held harmless and receive prompt payment for filling legitimate prescription orders necessary to the continuity of patient care even when those orders may not fully meet the tamper-resistant requirements.
- Lay out the actions pharmacists must take when Medicaid recipients present a prescription on a non-compliant prescription pad.

Thank you for your attention to these important issues. We look forward to working with you to address these concerns prior to the October 1, 2007 implementation date.

Sincerely,

Paul A. [unclear]

W. [unclear]

Main [unclear]

Paul Davis

Virginia [unclear]

Stephen [unclear]

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Mark [unclear]

Ron [unclear]

Ann [unclear]

Stephanie [unclear]

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Bill Gromper John Hayes

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Phil Gromper for 7 Dollars

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CC: Chairman Dingell, House Committee on Energy & Commerce
Ranking Member Joe Barton, House Committee on Energy & Commerce