

**STATEMENT OF THE  
AMERICAN COLLEGE OF PHYSICIANS  
TO THE HOUSE WAYS AND MEANS COMMITTEE  
SUBCOMMITTEE ON HEALTH**

**Hearing on "Implementation of the New Medicare Prescription  
Drug Benefit Known as Part D"**

**May 3, 2006**

The American College of Physicians (ACP) -- representing 119,000 physicians of internal medicine and medical students -- is the largest physician specialty organization in the United States. Our members provide medical care to the majority of Medicare beneficiaries and the College has advocated for many years for the addition of prescription drugs to the Medicare benefit. The passage by Congress of the Medicare Modernization Act of 2003, which added prescription drugs to Medicare through a Part D benefit, and the implementation of the Part D benefit by the Centers for Medicare and Medicaid Services (CMS) in January of this year have gone a long way to bring affordable life-improving and life-saving prescription drugs to the aged and disabled members of our society. The College believes that this expanded benefit will have a significant positive effect on the long-term healthcare of the nation.

The College recognizes that the implementation of a program of this dimension, perhaps the most significant change in Medicare since its inception in 1965, would reasonably experience some glitches and "growing pains." CMS has done a commendable job addressing a number of the early problems, which included:

- Many beneficiaries having difficulty making use of CMS informational resources – addressed by increasing the number of operators on 1-800-Medicare, making user-friendly modifications to the [www.medicare.gov](http://www.medicare.gov) website and providing increased funding to the State Health Insurance Programs (SHIPs).
- Many dual eligibles finding that they were not successfully auto-enrolled in a Part D plan – addressed by establishing a pharmacy point-of-service eligibility and enrollment procedure.
- Many beneficiaries finding that their current medications were not in their Part D plan formulary and not having enough time to either have their physician prescribe a therapeutically equivalent drug or request an exception– addressed by temporarily expanding the transition period from 30 to 90 days.
- Many states having to continue to provide their dual eligible beneficiaries with medications after Part D program implementation due to the problems these beneficiaries were encountering – addressed by establishing procedures to ensure that CMS reimburses these states for their accrued expenses.

However, through this statement, the College wants to inform the Subcommittee of several continuing problematic features of the Part D program that need to be addressed by CMS and may require some assistance from Congress. The College makes the following specific requests:

- **The College recommends that CMS use the full extent of its contractual authority to ensure the use of a standardized exceptions/appeals (coverage determination) request form by all drug plans participating in the Part D program.**
- **The College recommends that additional fair and effective guidelines regarding the use of drug plan utilization management tools be developed and implemented. It is further recommended that these guidelines be developed by a panel of stakeholders, including representatives of the physician organizations, pharmacists, drug plans and patient advocates.**
- **The College recommends that both Congress and CMS consider extending the enrollment deadline for the Medicare Part D benefit if there remain a large number of un-enrolled beneficiaries after May 15, 2006.**

The fact that as of the end of April over 27 million beneficiaries are directly benefiting from the prescription drug program – with 8 million having voluntarily enrolled in a Part D plan and another approximately 9 million having at least creditable coverage – reflects positively on the program and its implementation. Nonetheless, there remain aspects of the program that are problematic to the physicians that must prescribe these medications and to their patients. The College strongly recommends that the Subcommittee urge CMS to address the following issues:

- The need for increased standardization in the exceptions/appeals processes employed by the drug plans.

The average physician has anywhere from 10 – 20 organizations providing prescription drug plans to their patients. Each organization requires different information to be supplied and different forms to be completed by the physician as part of their exceptions/appeals process. The expectation for physicians and their staff to respond differently to each of the organizations is unreasonable. It places an excessive, unnecessary burden on the practices, and provides an inappropriate incentive to avoid filing such exceptions/appeals.

Recently, an American Medical Association (AMA) work group, which included ACP, other provider organizations and patient advocate group representatives, and representatives of the healthcare insurance industry, developed a standardized exceptions/appeals (coverage determination) form that can be used for all covered Part D drugs except biotech and other high-cost specialty drugs. Acceptance of this form by all drug plans would significantly improve this situation. While CMS has designated this form as a “best practice,” the **College recommends that CMS use the full extent of its contractual authority to ensure the use of the standardized exceptions/appeals**

**(coverage determination) request form by all drug plans participating in the Part D program.**

- There is a need to establish additional guidelines that limit the inappropriate use of drug plan utilization management tools (e.g. prior authorization, step therapy, quantity limits).

The experience of our members during the first four months of the Medicare Part D implementation is that these drug utilization management tools are being excessively utilized. Members are complaining of having to process multiple prior authorizations or step therapy requests each day. At a minimum, the large number of Medicare beneficiaries now covered under the Part D benefit radically increases physician exposure to these drug utilization management procedures. Furthermore, our members have the impression that the Part D plans are employing these cost-containing techniques at a much higher level than had previously been used in the commercial market.

The use of these tools results in increased physician workload through requiring the physician to engage in lengthy phone calls with the Part D plan or to complete various forms. The effects of these additional hurdles also cause dangerous delays in patients getting needed medications and they take clinical time away from other patients. Finally, these procedures provide an inappropriate incentive for physicians not to prescribe the drugs requiring these additional procedures.

While CMS has already developed a set of guidelines for the use of these utilization management tools, the College believes that the current guidelines are not sufficient. **The College recommends that additional fair and effective guidelines regarding the use of drug plan utilization management tools be developed and implemented that ensure the accessibility to beneficiaries of medically necessary medications, that are respectful of the needs of the providers, and are responsive to the cost efficiency considerations of the plans. It is further recommended that these guidelines be developed by a panel of stakeholders, including representatives of physician organizations, pharmacists, drug plans and patient advocates.**

- The possible need to extend the Medicare Part D enrollment date past the current May 15, 2006 deadline.

The College believes that Congress and CMS need to seriously consider extending the Medicare Part D enrollment date past the current May 15, 2006 deadline. This issue potentially could have a profound affect on the ability of large numbers of beneficiaries to enroll and take advantage of the new prescription drug benefit. Congress and CMS must maintain focus on the best interests of the beneficiaries.

Despite the large number of Medicare beneficiaries that are currently taking advantage of the Part D benefit, there remain over 7 million beneficiaries (as of the end of April) without creditable coverage who have not yet enrolled. While some portion of this group

may still enroll prior to the May 15 deadline, there may remain a large number of the elderly or disabled who do not enroll in a timely manner – and will thus incur a significant financial penalty if they choose to enroll in the future. This penalty may make it prohibitive for them to enroll in the program in the future. Our members report that a large number of these current non-enrollees remain confused about the Part D plan --- it is extremely complex and their lack of understanding makes them fearful of making a poor drug plan choice. This observation is confirmed by a recent Kaiser Family Foundation poll that found that one of the most frequent reasons provided by beneficiaries without current drug coverage for not enrolling in a plan is it is “too complicated.”<sup>1</sup> **The College requests that both Congress and CMS consider extending the enrollment deadline for the Medicare Part D benefit if there remain a large number of un-enrolled beneficiaries after the May 15, 2006 deadline.** This extra time could allow additional beneficiaries to consult available informational resources, further discuss the issue with their physicians and loved ones, and work through their problems with understanding the new benefit. Providing time to allay beneficiaries’ confusion and fear is a good reason to eliminate this barrier to improved availability of these important medications.

The American College of Physicians is pleased that the Health Subcommittee is reviewing the implementation of the Medicare Part D prescription drug benefit. The addition of prescription medicine to the Medicare benefit is long overdue, and the College intends to continue to work with Congress and CMS to ensure the effective implementation of this very important program.

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<sup>1</sup> Kaiser Family Foundation. Kaiser Health Poll Report Survey: Seniors’ Early Experience with the Medicare Prescription Benefit. April 2006. Available at [www.kff.org](http://www.kff.org).