

## **Physicians Ability to Care for Patients**

ACOFP is promoting and protecting **Physicians' Ability to Care for Patients** by advancing the principles of the Patient Centered Medical Home; protecting the physician-patient relationship, with attention to palliative and end-of-life care; reducing the expansion of scope of practice for non-physician providers; reducing regulatory burden placed upon physicians by the Federal government, state governments, and third party payers – especially for those with in-office laboratories; and monitoring development of a national databank for controlled substances.

June 2008

## **Medicaid Tamper Resistant Prescription Pad Requirement**

On April 1 the first phase of the new requirement on the use of tamper-resistant prescription pads in the Medicaid program went into effect. The Centers for Medicare and Medicaid Services (CMS) now prohibit Medicaid payment for covered outpatient drugs using written scripts, unless executed on tamper-resistant prescription pads.

According to CMS, to be considered "tamper-resistant," prescription pads must contain at least one of the three characteristics by April 1 and all three characteristics by October 1, 2008. The characteristics are one or more industry-recognized features designed to prevent 1) unauthorized copying of a completed or blank prescription form; (2) erasure or modification of information written on the prescription pad by the prescriber; (3) the use of counterfeit prescription forms.

States are free to exceed the baseline standard as to what constitutes a tamper-resistant prescription pad. Each State Medicaid agency has issued its own guidance on this requirement and this information can be obtained by contacting the State Medicaid agencies. States that currently have tamper-resistant prescription laws and/or regulations in effect all have acceptable examples of the characteristics listed.

CMS also has clarified that the limitation on payment and the requirement for the use of tamper-resistant prescription pads does not apply to: (1) Drugs provided in nursing facilities, intermediate care facilities for the mentally retarded, institutions for mental disease, and other specified institutional and clinical settings; (2) Prescriptions when the managed care entity pays for the prescription; (3) Electronic prescriptions transmitted to the pharmacy; (4) Prescriptions faxed to the pharmacy; or (5) Prescriptions communicated to the pharmacy by telephone by a prescriber. Furthermore, a pharmacy may fill an entire prescription on an emergency basis provided that the prescriber provides the pharmacy with a verbal, faxed, electronic, or compliant written prescription within 72 hours after the date on which the prescription was filled.

January 08

## **E-Prescribing Bill Introduced**

The "Medicare Electronic Medication and Safety Protection (E-MEDS) Act of 2007" (S. 2408) was introduced on December 5 by Senators John Kerry (D-MA), Debbie Stabenow (D-MI), John Ensign (R-NV),

and Mel Martinez (R-FL). The bill would require physician participation in the Medicare Electronic Prescription Drug Program. The findings of the bill reference the IOM recommendation that all physicians implement and use e-prescribing technology by 2010. However, this particular bill requires physicians to begin participation by 2011 to avoid penalty.

**One-time bonus payment for start up costs:** Physicians would be eligible for a one-time bonus payment based upon coding in submitted claims over a specified period while meeting a threshold of volume or proportion. (All at the Secretary's discretion) Services must be classified as E&M, include the making of a prescription that could be made using e-prescribing under the law.

The one time/physician payment amount would vary based upon when the period begins (2008 or 2009 = \$2,000; 2010 or 2011 = \$1,500; 2012 or beyond = \$1,000)

**On-going bonus for use:** Physicians would be eligible for an ongoing bonus payments based upon coding in submitted claims over a specified period while meeting a threshold of volume or proportion. (All at the Secretary's discretion) Services must be classified as E&M, include the making of a prescription that could be made using e-prescribing under the law.

The bonus shall be equal to one percent of the allowed charges for said services.

**Penalty:** Physician services that are furnished after January 1, 2011 that are classified as E&M, and in connection had a prescription made that could have been made electronically but was not will have the fee schedule payment amount reduced by 10 percent. Prescriptions for controlled substances would be excluded as by law they are currently not eligible to be prescribed electronically.

However, the Secretary has authority to grant a waiver until January 1, 2012 or January 1, 2013 in cases of demonstrated hardship or unforeseen circumstances as defined by the Secretary.

**Reporting:** Within two years after enactment of this Act, the Administrator of CMS will provide a written report to Congress. Items included shall be percentage of Medicare physicians participating in the program, estimated saving resulting, and progress in reducing avoidable medical errors.

Within two years after enactment of this Act, the Comptroller General also will provide a report to Congress. Items included shall be factors influencing adopting of e-prescribing by physicians, and the impact on physicians in individual or small group practices as well as those practicing in rural areas.