



Drug Enforcement Administration Requests Comments

The Drug Enforcement Administration (DEA) issued a notice this month in the Federal Register requesting the public's feedback on whether the agency should revise existing regulations in order to make it easier for residents in long-term care facilities (LTCFs) to gain access to controlled substance medications. DEA is specifically seeking comments from practitioners, pharmacists, LTCFs, nurses, residents and families of residents in long-term care.

Representatives from all aspects of long-term care have long requested relief from the wait experienced by patients denied timely access to narcotic pain medications due to DEA regulations that are not compatible with the long-term care practice model. DEA's request for comment presents stakeholders with another opportunity to seek changes to the Controlled Substances Act (CSA) that would allow for the LTCF nurse to be recognized as the agent of the prescribing physician and to allow chart orders to be recognized as valid prescriptions for controlled substance medications.

The request for comments concludes with a list of 56 questions for which DEA would like comments. Some of these questions are fairly basic and reflect a need for more information and better understanding by DEA about fundamental aspects of LTCF operations. In other cases, the questions are attempting to solicit anecdotes or evaluate the scope or frequency of problems in LTCFs that result from DEA regulations.

Comments must be submitted to the docket no later than August 30, 2010, 12:00 midnight EDT. All comments must contain the reference "Docket No. DEA-337" in order to ensure proper handling.

Absolute Pharmacy, Inc. is actively working ASCP and SCPA to assist with this feedback.

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Provider Purchasing Group Explores Options for Pressure Reduction Mattresses

Provider Purchasing Group is currently reviewing proposals from suppliers of pressure reduction mattresses to update our contract offerings for our members. These products are increasingly becoming more advanced in terms of their pressure reduction capacity and overall benefit to our resident populations. Rated as appropriate for preventive pressure management and Stage 1 pressure ulcers, these products represent the majority of the mattresses used in long term care settings. With high density foams, graduated heel slopes and optional side bolsters, these mattresses have made standard innerspring mattresses obsolete in long term care applications. In addition, increased competition has led to significant innovations in product design while keeping costs in check.

Next step in the process is clinical evaluation of selected products. **This is perhaps the most significant difference in the model Provider Purchasing Group offers to our customers.** Before a product is ever brought under contract it is subjected to extensive trial in our member facilities. This gives us the best information on what products are most effective but also gives us a high confidence level that once a product is selected to be on our product list it will perform as our customers expect it will.

We anticipate final selection of supplier and a new contract will be in place by early September 2010. To learn more about the savings available under this contract or to explore the full portfolio of products offered by Provider Purchasing Group, call **Lisa Kelp at 330.498.3726,** lakelp@lccppg.com



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DMEPOS Competitive Bidding

The Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program is an essential tool to help Medicare set appropriate payment rates for DMEPOS items and services. Medicare currently pays for DMEPOS items using a fee schedule that is generally based on historic supplier charges from the 1980s which have been periodically updated to account for inflation. Numerous studies from the Department of Health and Human Services Office of Inspector General and the Government Accountability Office have shown that the fee schedule amounts for certain DMEPOS items are excessive; taxpayers and Medicare beneficiaries bear the burden of these excessive payments.

The DMEPOS Competitive Bidding Program replaces the existing outdated, excessive fee schedule amounts with market-based prices. Under the program, DMEPOS suppliers compete to become Medicare contract suppliers by submitting bids to furnish certain items in competitive bidding areas. The new, lower payment amounts resulting from the competition will replace the fee schedule amounts for the bid items in these areas. The payment amounts from the supplier competition for the first phase of the program are projected to result in average savings of 32 percent as compared to the current fee schedule prices. These new payment amounts are scheduled to go into effect on Jan. 1, 2011 in nine areas of the country. The program is expected to save more than \$17 billion over ten years.

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Concurrent Therapy and MDS 3.0

Under the MDS 3.0, therapy services are now located in Section O, Special Treatments and Procedures. The MDS 3.0 will allow facilities to capture minutes of concurrent therapy, which is the practice of one therapist treating multiple patients at the same time while the patients are performing different activities. However, concurrent therapy minutes will be calculated differently under the MDS 3.0 and RUG-IV than they are currently.

Under the MDS 2.0 and RUG-III, concurrent therapy minutes are counted as one-on-one therapy minutes. This means that if you provide 90 minutes of therapy to a group of three residents who are all doing different exercises, you can capture the entire 90 minutes for each resident on the MDS.

The following are excerpts from the Resident Assessment Instrument (RAI) User's Manual describing coding concurrent therapy minutes on

the MDS 3.0 and defining concurrent therapy under Medicare Part A and Part B:

Concurrent therapy coding instructions:

“Concurrent minutes—Enter the total number of minutes of therapy that was provided on a concurrent basis in the last 7 days. Enter 0 if none were provided. Concurrent therapy is defined as the treatment of 2 residents at the same time, when the residents are performing two different activities, regardless of payer source, both of whom must be in line-of-sight of the treating therapist or assistant for Medicare Part A. For Part B, residents may not be treated concurrently: a therapist may treat one resident at a time, and the minutes during the day when the resident is treated individually are added, even if the therapist provides that treatment intermittently (first to one resident and then to another).”

Source: *MDS 3.0 RAI User's Manual, Section O, Special Treatments and Procedures, p. O-14*

Definition of concurrent therapy:

“Medicare Part A: The treatment of 2 residents at the same time, regardless of payer source, both of whom must be in line-of-sight of the treating therapist or assistant.

Medicare Part B: The treatment of two or more residents at the same time is documented as group treatment. Regardless of whether those residents are doing the same or different activities.”

Source: *MDS 3.0 RAI User's Manual, Section O, Special Treatments and Procedures, p. O-18.*

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CMS to Review PECOS Enrollment Process

Medicare Working with Ordering and Referring Providers and Suppliers to Streamline Enrollment Process

The Centers for Medicare & Medicaid Services (CMS) is working with providers to address concerns about enrollment in the Provider Enrollment, Chain and Ownership System (PECOS) to ensure that Medicare beneficiaries continue to receive the health care services and items they need. PECOS is the electronic system used to enroll physicians and eligible professionals into the Medicare program.

While more than 800,000 physicians and other health professionals have enrolled and have approved applications in the PECOS system, some providers have encountered problems. CMS is continuing to update and streamline the process, and more providers have been enrolled in the past few days.

CMS issued an interim final regulation on May 5, 2010 implementing

provisions of the Affordable Care Act that permit only a Medicare enrolled physician or eligible professional to certify or order home health services, durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS), and certain items and services under Medicare Part B. The new law applies to orders, referrals and certifications made on or after July 1.

The Affordable Care Act provisions and the regulation were designed as steps to prevent fraud in Medicare by ensuring that only eligible and identifiable providers and suppliers can order and refer covered items and services to Medicare beneficiaries.

Many physicians and other providers and suppliers have continued to make good faith efforts to comply with the requirements of the law and

regulation. These efforts will be a significant factor in determining the procedures and processes that will be incorporated in the final rule. Please encourage your referring physicians to register so they can continue to refer home health services.

For more information
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