



January 15, 2008

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-0016-P
P.O. Box 8014
Baltimore, MD 21244-8014

***Re: CMS-0016-P: 42 CFR Part 423 Medicare Program; Proposed Standards for
E-Prescribing Under Medicare Part D; Proposed Rule***

Dear Sir/Madam:

The Food Marketing Institute (FMI) appreciates the opportunity to comment on the Center for Medicare and Medicaid Services (CMS) proposed rule regarding standards for e-prescribing under Medicare Part D.

FMI conducts programs in research, education, industry relations and public affairs on behalf of its 1,500 member companies – food retailers and wholesalers – in the United States and around the world. FMI's U.S. members operate approximately 26,000 retail food stores with a combined annual sales volume of \$340 billion – three quarters of all retail food store sales in the United States. FMI's retail membership is composed of large multi-store chains, regional firms and independent supermarkets. Its international membership includes 200 companies from 50 countries.

FMI's retail members also operate more than 14,000 in-store pharmacy departments. We estimate that supermarket pharmacies account for nearly 14 percent of all outpatient prescription drugs dispensed in the United States. Based on current industry trends toward larger store formats and the convenience of one-stop shopping, we anticipate that the number of pharmacies located in supermarkets will continue to increase in the coming years, as will the number of prescriptions that are dispensed on an outpatient basis from these community settings.

FMI is pleased with the recent advances in e-prescribing and supports efforts to spur its adoption and utilization. Prescribers, pharmacies and patients all benefit from the efficiencies associated with true computer-to-computer e-prescribing. Studies have shown that e-prescribing is associated with a reduction in medication errors, higher utilization of cost-saving generic medications, improved patient compliance and enhanced overall quality of care.

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Adoption of NCPDP SCRIPT 8.1

FMI supports the adoption of NCPDP SCRIPT 8.1 and the retiring of NCPDP SCRIPT Version 5.0. Supermarket pharmacies are currently using version 8.1 of the SCRIPT standard, therefore conversion to NCPDP SCRIPT 8.1 would not require any significant enhancements for the majority of our members to become compliant with this rule. The various transactions used within the SCRIPT standard (i.e. Get message, Status response, Error response, New prescription, Prescription change request, Prescription change response, Refill prescription request, Refill prescription response, Verification, Password change, Cancel prescription request and Cancel prescription response) are not currently in production, but some of our retail members are already certified in these transactions. These transactions should not be mandated, but their use should be determined by trading partner agreement.

Medication History

We agree with the Agency that a standard for the medication history transactions could provide a uniform communications mechanism for prescribers, dispensers and payers; provide support for reconciliation of useful data from a large number of sources; and raise awareness of its availability and use among providers. However, as noted by CMS, support for the Medication History transaction was not made available in NCPDP SCRIPT 8.1 Standard until October 2005, too late to be considered as a foundation standard.

The Medication History transaction, as an optional set of messages, has not been widely implemented and system level support is not available to many retail pharmacies. Therefore, we support the adoption of Medication History as a standard but we recommend that its use should not be mandated at this time. FMI is concerned that mandating Medication History as a requirement may lead to both prescribers and pharmacies discontinuing e-prescribing in order to avoid this requirement. More experience with the Medication History transaction needs to be obtained before the industry “as a whole” would be able to implement this part of the 8.1 SCRIPT Standard.

Formulary and Benefit Transactions

Though we recommend that the use of the Formulary and Benefit transactions be adopted in the standards, we do not believe its use should be mandated at this time. It is FMI’s understanding that the prescriber community has unresolved issues with the current Formulary and Benefit transactions used in NCPDP SCRIPT Version 8.1. The use of the Formulary and Benefit transactions can be mandated in future versions of the NCPDP SCRIPT standard once existing issues have been resolved.

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Adoption of the National Provider Identifier (NPI)

FMI agrees with using the NPI as the sole identifier for pharmacies. In order to engage in HIPAA compliant transactions, a pharmacy must obtain an NPI. Therefore, all pharmacies that participate in e-prescribing would have an NPI.

The NPI is acceptable to use as an identifier for the prescriber, but it should not be used as the sole identifier for the prescriber in the SCRIPT Standard. Prescribers are only required to obtain an NPI if they engage in HIPAA compliant transactions and some may not engage in these transactions. The SCRIPT Standard itself is not considered a HIPAA compliant transaction. If the NPI is mandated as the sole identifier for prescribers some prescribers may not be able to engage in e-prescribing.

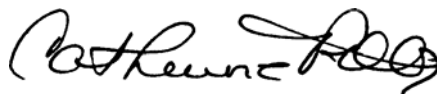
Proposed Compliance Date

Since the industry is already using SCRIPT Standard version 8.1 we do not foresee any issues with the proposed implementation date. A one year implementation from date of rule promulgation should be adequate for most prescribers and dispensers who are still using SCRIPT Standard version 5.0.

Conclusion

We support CMS' proposal to continue to foster adoption of true e-prescribing and appreciate the opportunity to share our comments with the Agency. If we can be of any assistance, please do not hesitate to contact me at 202-220-0631.

Sincerely,



Catherine M. Polley, RPh
Vice President, Pharmacy Services