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105TH CONGRESS
1ST SESSION

H. R. 1201

To amend title XVIII of the Social Security Act to establish a medication evaluation and dispensing system for Medicare beneficiaries, to improve the quality of pharmaceutical services received by our Nation's elderly and disabled, and to reduce instances of adverse reactions to prescription drugs experienced by Medicare beneficiaries.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1997

Mr. STARK introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend title XVIII of the Social Security Act to establish a medication evaluation and dispensing system for Medicare beneficiaries, to improve the quality of pharmaceutical services received by our Nation's elderly and disabled, and to reduce instances of adverse reactions to prescription drugs experienced by Medicare beneficiaries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Medication Evaluation and Dispensing System Act of 1997''.

SEC. 2. ESTABLISHMENT OF MEDICATION EVALUATION AND DISPENSING SYSTEM UNDER MEDICARE.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1888 the following new section:

''MEDICARE MEDICATION EVALUATION AND DISPENSING SYSTEM

''SEC. 1889. (a) ESTABLISHMENT.—

''(1) IN GENERAL.—In accordance with the requirements of this section, the Secretary shall establish and operate the Medicare Medication Evaluation and Dispensing System (hereafter in this section referred to as the 'MMEDS') to provide for—

''(A) prospective and retrospective review of prescription drugs furnished to Medicare beneficiaries (in accordance with subsection (b));

''(B) educating physicians, patients, and pharmacists regarding the appropriate use of prescription drugs (in accordance with subsection (c)); and

''(C) the establishment of standards for counseling Medicare beneficiaries (consistent

with the laws of the State in which a beneficiary resides) regarding the appropriate use of prescription drugs.

''(2) TREATMENT OF DRUGS NOT COVERED UNDER MEDICARE.—The MMEDS shall provide for review, information, and counseling with respect to any prescription drug furnished to a Medicare beneficiary without regard to whether or not payment may be made for the drug under this title.

''(3) MEDICARE BENEFICIARY DEFINED.—In this section, a 'Medicare beneficiary' is any individual entitled to benefits under part A or enrolled under part B.

''(b) REQUIREMENTS FOR REVIEW OF PRESCRIPTIONS.—

''(1) IN GENERAL.—The MMEDS shall provide on-line prospective review of prescriptions on a 24-hour basis and periodic retrospective review of claims.

''(2) PROSPECTIVE DRUG UTILIZATION REVIEW.—

''(A) IN GENERAL.—The MMEDS shall provide for on-line prospective review of each outpatient prescription drug prescribed for a Medicare beneficiary before the prescription is

filled or the drug is furnished, including screening for potential drug therapy problems due to therapeutic duplication, drug-to-drug interactions, drug-disease contraindications, and incorrect drug dosage or duration of drug treatment.

''(B) DISCUSSION OF APPROPRIATE USE.—In conducting prospective review under the MMEDS, any individual or entity that dispenses an outpatient prescription drug shall offer (consistent with the law of the State in which the patient resides) to discuss with the patient to whom the drug is furnished or the patient's caregiver (in person if practicable, or through access to a toll-free telephone service) information regarding the appropriate use of the drug, potential interactions between the drug and other drugs dispensed to the individual, and such other matters as the Secretary may require.

''(C) ADDITIONAL DUTIES.—In carrying out this paragraph, the Secretary shall—

''(i) develop public domain software which could be used by carriers and phar-

macies to provide the on-line prospective review; and

''(ii) study the feasibility and desirability of requiring patient diagnosis codes on prescriptions and the feasibility of expanding the prospective drug utilization review program to include the identification of drug-disease contraindications, interactions with over-the-counter drugs, and drug-allergy interactions.

''(3) RETROSPECTIVE DRUG UTILIZATION REVIEW.—As part of the MMEDS, the Secretary shall provide for a retrospective drug utilization review program to provide for the ongoing periodic examination of claims data and other records on outpatient prescription drugs furnished to Medicare beneficiaries in order to identify patterns of inappropriate or medically unnecessary patient care.

''(4) USE OF ELECTRONIC SYSTEM.—

''(A) IN GENERAL.—As part of the MMEDS, the Secretary shall establish, by not later than June 1, 1998, a point-of-sale electronic system for use by carriers and pharmacies in the submission of information respecting outpatient prescription drugs dis-

pensed to Medicare beneficiaries. Such system shall be consistent with the standards established by the National Council of Prescription Drug Programs.

''(B) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance in the use of the electronic system established under subparagraph (A) to carriers and pharmacies.

''(c) EDUCATION REGARDING APPROPRIATE USE OF PRESCRIPTION DRUGS.—

''(1) IN GENERAL.—Under the MMEDS, the Secretary (either directly or through contract) shall provide for an educational outreach program to educate patients, pharmacists, and other health care providers concerning—

''(A) instances or patterns of unnecessary or inappropriate prescribing or dispensing practices for outpatient prescription drugs,

''(B) instances or patterns of substandard care with respect to such drugs,

''(C) potential adverse reactions and interactions, and

''(D) appropriate use of generic products.

''(2) INFORMATION ON CHANGES IN PRESCRIBING AND DISPENSING PRACTICES.—Under the pro-

gram described in paragraph (1), the Secretary shall provide information (in such format as the Secretary considers appropriate) on changes in prescribing and dispensing practices to promote the appropriate use of prescription drugs.

''(d) PRIVACY PROTECTION.—The Secretary shall establish standards to protect from public disclosure any information provided by or through the MMEDS that identifies an individual and relates to the individual's physical or mental health and the identity of any individual (whether a patient or an individual involved in the prescribing, dispensing, or administration of the drug) who is the subject of such information.

''(e) ASSISTANCE FOR PARTICIPATING PHARMACISTS.—

''(1) IN GENERAL.—The Secretary shall provide to each pharmacist meeting the requirements of paragraph (2)—

''(A) a distinctive emblem (suitable for display to the public) indicating that the pharmacy participates in the MMEDS, and

''(B) upon request, such technical assistance as the Secretary determines may be necessary for the pharmacist to submit information

to and retrieve information from the electronic system established under subsection (b)(4).

''(2) REQUIREMENTS DESCRIBED.—A pharmacist meets the requirements of this paragraph if the pharmacist is legally authorized under State law (or the State regulatory mechanism provided by State law) of the State in which the drug is received by the beneficiary to dispense outpatient prescription drugs and meets other participation standards established by the Secretary with respect to the following:

''(A) Maintenance of patient records.

''(B) Accuracy of information submitted under the MMEDS.

''(C) Patient counseling.

''(D) Performance of drug use review activities under the MMEDS.

''(f) ADOPTION OF MEDICAID PROGRAMS.—To the extent considered appropriate by the Secretary, the MMEDS with respect to drugs furnished in a State may include elements applicable to the furnishing of covered outpatient drugs under the State Medicaid program under section 1927.''.

(b) RECOMMENDATIONS ON COORDINATION WITH PROGRAMS UNDER OTHER PLANS.—Not later than Octo-

ber 1, 1998, the Secretary of Health and Human Services shall submit recommendations to Congress on measures—

(1) to ensure the coordination of information collected and disseminated under the Medicare Medication Evaluation and Dispensing System established under section 1889 of the Social Security Act (as added by subsection (a)) with information provided to and collected from similar programs providing services to Medicare beneficiaries enrolled in health care plans (including plans of an organization described in section 1833(a)(1)(A) of such Act or an eligible organization with an agreement in effect under section 1876 of such Act, plans serving as primary plans section 1862(b) of such Act, and Medicare supplemental policies described in section 1882 of such Act); and

(2) to avoid the duplication of services provided under such System with services provided under such similar programs.

(c) SPECIAL RULES FOR CARRIERS.—

(1) USE OF REGIONAL CARRIERS.—Section 1842(b)(2) of the Social Security Act (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

''(E) With respect to activities related to the Medicare Medication Evaluation and Dispensing System under section 1889, the Secretary may enter into contracts with carriers under this section to perform the activities on a regional basis.''.

(2) ADDITIONAL FUNCTIONS.—Section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking ''and'' at the end of subparagraph (I); and

(B) by inserting after subparagraph (I) the following new subparagraphs:

''(J) if it makes determinations with respect to outpatient prescription drugs which are subject to the Medicare Medication Evaluation and Dispensing System under section 1889, will receive information transmitted under the electronic system established under section 1889(b)(4);

''(K) will enter into such contracts with organizations described in subsection (f)(3) as the Secretary determines may be necessary to implement and operate (and for related functions with respect to) the electronic system established under section 1889(b)(4); and''.

(3) PAYMENT ON OTHER THAN A COST BASIS.—Section 1842(c)(1)(A) of such Act (42 U.S.C. 1395u(c)(1)(A)) is amended—

(A) by inserting ''(A)'' after ''(c)(1)'',

(B) in the first sentence, by inserting '', except as otherwise provided in subparagraph (B),'' after ''under this part, and'', and

(C) by adding at the end the following:

''(B) To the extent that a contract under this section provides for activities related to the Medicare Medication Evaluation and Dispensing System under section 1889, the Secretary may provide for payment for those activities based on any method of payment determined by the Secretary to be appropriate.''.

(4) USE OF OTHER ENTITIES.—Section 1842(f) of such Act (42 U.S.C. 1395u(f)) is amended—

(A) by striking ''and'' at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting ''; and'', and

(C) by adding at the end the following:

''(3) with respect to activities related to the Medicare Medication Evaluation and Dispensing System under section 1889, any other private entity

which the Secretary determines is qualified to conduct such activities.''.

SEC. 3. RECOMMENDATIONS ON MEDICARE COVERAGE OF PHARMACIST PROFESSIONAL SERVICES.

Not later than the expiration of the 2-year period which begins on the date of the initial operation of the Medicare Medication Evaluation and Dispensing System under section 1889 of the Social Security Act (as added by section 2(a)), the Secretary of Health and Human Services shall submit to Congress (in consultation with actively practicing pharmacists)—

(1) an analysis of the effect on net aggregate expenditures under the Medicare program from the establishment and operation of such System; and

(2) such recommendations as the Secretary considers appropriate regarding the coverage of and payment for pharmacist professional services under part B of the Medicare program as the Secretary considers appropriate, except that the Secretary may recommend coverage of and payment for such services only under a methodology which does not result in an increase in net expenditures under the program (taking into account reductions in expenditures under the program as a result of demonstrable

reductions in the inappropriate use of outpatient prescription drugs).

SEC. 4. DISTRIBUTION OF CONSUMER GUIDE TO OUTPATIENT PRESCRIPTION DRUGS.

Not later than January 1, 1998, the Secretary of Health and Human Services shall publish and disseminate a consumer guide to outpatient prescription drugs to assist Medicare beneficiaries in reducing expenditures for outpatient prescription drugs and to assist individuals and entities furnishing items and services to such beneficiaries in determining the cost-effectiveness of such drugs.

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