
DRUG BENEFIT NEWS

Closing Part D Gap Could Force Retroactive Drug Benefit Adjustments for Plans, PBMs

Several industry experts agree that Medicare Part D benefits would improve substantially under the recently passed Senate and House health care reform bills, though they disagree on which proposed changes to the program will likely survive reconciliation. Only the House version would eliminate the sizable “doughnut hole” coverage gap by 2019 — and other changes it proposes could cause a headache for payers in the form of retroactive benefits adjustments and could force the White House to go back on a deal it struck with the drug industry last year to defray drug expenses for seniors who fall into the coverage gap.

Both bills share provisions to reduce the doughnut hole coverage gap, but differ in the way they would accomplish it. Under the current system, Medicare beneficiaries each year receive coverage for \$2,700 in total prescription expenses, at which point the program stops covering drug costs — the doughnut hole — until total out-of-pocket expenses exceed \$4,350 and Medicare again picks up the cost.

To help fill the coverage gap, both the Senate and House bills call on drug companies to provide a 50% price discount to low- and middle-income beneficiaries using brand-name drugs and biologics — a discount that was part of an \$80 billion deal struck among Senate leaders, the White House and the drug industry trade group Pharmaceutical Research and Manufacturers of America (PhRMA) last year (*DBN* 7/03/09, p. 3). Both bills also call for reducing the size of the gap by raising the ceiling on the initial coverage period by \$500, which would take effect this month in the House version and not until July in the Senate version.

This would pose the biggest challenge for Medicare Part D plans and PBMs, because the bids and benefit designs for 2010 have already been approved, warns Jean LeMasurier, senior vice president for public policy at Gorman Health Group LLC. “If the House provision is enacted, retroactive adjustments would be required since system changes could not be made prospectively,” she tells *DBN*.

In addition, the House bill goes further than the Senate by proposing to eliminate the doughnut hole en-

tirely by 2019. This would be done in stages, beginning in 2011, by progressively increasing the initial coverage limit and decreasing the annual out-of-pocket threshold. For Medicare beneficiaries, this would mean initially facing a larger coverage hole in 2011 and 2012, after which it would grow smaller more rapidly and eventually be eliminated completely. In contrast, the Senate version only raises the lower level of the doughnut hole to \$3,200.

LeMasurier says the Senate has signaled that it would likely follow the House provision and fully cover the doughnut hole. “Assuming they can find the money, we would expect the House provision to prevail,” she says. And Lauren Fuller, the Academy of Managed Care Pharmacy’s (AMCP) assistant director of government relations, points out that the House is “very, very determined to see their provision through — and they’ve made that clear from the beginning.”

Donna Burtanger, senior director of Medicare markets at Silverlink Communications, Inc., isn’t convinced that Congress will completely phase out the doughnut hole in the final health reform package. “The price tag is just too high,” she tells *DBN*.

What Will It Cost to Close the Gap?

There are currently no estimates on how much completely eliminating the doughnut hole would cost. Instead, the Joint Committee on Taxation and the Congressional Budget Office predicted that closing the gap could save \$43 billion over the next 10 years because of PhRMA’s 50% discount and other concessions. Mathew Hosford, director of pharmacy operations at Wellmark Blue Cross & Blue Shield of Iowa and South Dakota, remains skeptical of PhRMA’s \$80 billion “contribution” to shrink the doughnut hole. “Whether this contribution is paid for by raising drug prices remains to be seen,” he tells *DBN*. “It may become a choice between better drug coverage or lower premiums.”

It seems that seniors burdened by financial concerns also are having to find their own ways to avoid falling into the doughnut hole. According to a new Medco Health Solutions, Inc., survey, about 60% of Medicare beneficiaries have taken steps to delay reaching the

doughnut hole, such as using generic medications and asking their doctors for free drug samples.

Another way to pay for filling the gap would require drug makers to provide rebates for people who are dually eligible for Medicare and Medicaid — an option that remains in the House bill, but breaks Congress' deal with PhRMA, according to Burtanger. PhRMA also opposes the proposal in the House bill that would allow the HHS secretary to negotiate Part D drug prices directly with drug companies. Meanwhile, the Senate bill specifically prohibits the secretary from participating in negotiations between plans and drug manufacturers.

Most industry experts seem to think the Senate will prevail on this issue. "I think it's unlikely that we'll see the HHS secretary negotiating directly with the drug manufacturers, as the Congressional Budget Office did not attach any cost-savings metrics to this measure," Burtanger says. LeMasurier agrees. "So far, the administration appears to be honoring the PhRMA agreement. And as we understand the agreement, Part D negotiation would be left out of health care reform."

Other Medicare Part D issues that were passed in the Senate bill include:

◆ **Eliminating drug waste in long-term care** by requiring Part D stand-alone Prescription Drug Plans and Medicare Advantage plans with prescription drug coverage to "utilize dispensing techniques"— such as daily, weekly or automated dose dispensing — in order to reduce waste associated with 30-day fills in long-term care facilities.

◆ **Establishing an independent Medicare advisory board** to present Congress with comprehensive proposals to reduce excess cost growth and improve quality of care. The board would be prohibited from making proposals that ration care, raise taxes or Part B premiums, or change Medicare benefit, eligibility or cost-sharing standards.

◆ **Giving authority to the HHS secretary** to identify classes of clinical concern to be protected on Part D plan formularies.

◆ **Requiring a uniform exceptions and appeals process** for Part D plans to use.

◆ **Requiring disclosure of information from PBMs** that enter into contracts with Medicare Part D plans and plans operating in the proposed exchange. PBMs would have to disclose to plan sponsors generic fill rates and the percentage of prescriptions filled through retail, community and mail-order pharmacies; the aggregate amount of all rebates, discounts or concessions received from drug manufacturers; and the differences between the price paid by the plan sponsor to the PBM and the price the PBM pays to the dispensing pharmacy.

Part D Provisions to be Debated

The House proposed several other changes to Medicare Part D that it will debate with the Senate during reconciliation. For starters, the House bill clarifies that Part D plans may offer generic drugs to enrollees with zero copayments to encourage the use of lower-cost generic drugs. Although it was expected to be offered as an amendment during Senate debate, no modification was adopted before the bill was passed, according to AMCP.

And while the issue of marketing violations also is not addressed in the Senate bill, the House bill establishes new criteria for determining marketing violations by giving greater discretion to the HHS secretary or CMS to impose penalties on Medicare Part D plans that violate marketing requirements. In addition, the House limits CMS's authority to waive state licensure requirements in situations where the state has certified that the Part D plan's application is substantially complete.

Steve Miller, M.D., chief medical officer at Express Scripts, Inc., says many pharmacy benefit managers will have trouble keeping pace with the changes to Medicare Part D that are on the horizon. "But we are excited to take on the challenge of implementation of the changes," he tells *DBN*.

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