Testimony in Opposition to House Bill No. 259

Submitted by

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To

Alaska House of Representatives
House Labor and Commerce Committee

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Committee Chair Olson, Vice Chair Johnson, Honorable members of the Alaska House Labor and Commerce Committee; my name is Eric Douglas and I am the Director of Government Affairs for CVS Caremark over the Western United States. Thank you for allowing me the opportunity to testify before you today. CVS Caremark respectfully submits this testimony in opposition to House Bill 259 ("HB259"). This bill consists of four Sections covering numerous audit practices and procedures which are overly prescriptive and would hinder our ability to perform audit functions on behalf of our clients. Therefore, we ask that you reject HB259.

Background and Information Regarding Fraud and Use of Audits

CVS Caremark is the leading pharmacy health care provider in the country. Through our integrated offerings across the entire spectrum of pharmacy care, we are uniquely positioned to provide greater access to care, engage plan members in behaviors that improve their health, and lower overall health care costs for health plans and their members. As one of the country's top PBMs, we also provide access to a network of more than 65,000 pharmacies, including over 7,300 CVS pharmacies. Our relationship with our network pharmacies is a critical component to the value we bring to our clients and their beneficiaries. To deter fraud and ensure contract pharmacies comply with CVS Caremark quality assurance requirements, we audit a minimum of five-percent (5%) of contracted pharmacies annually. CVS Caremark audits network pharmacies based on statistical analysis of claims data or as a result of state regulatory authorities and clients informing us about potential violations. PBMs look for errors, irregularities and

suspicious patterns over time and claims are compared with historical information as well as claims submitted by similarly situated pharmacies, e.g. geographically, by volume, etc. Substantial changes in the volume of claims submitted or the dollar amount of claims form particular pharmacies can also be in indication of fraudulent activity.

Following an audit, CVS Caremark allows a pharmacy 30 days to submit additional documentation on claim discrepancies. This is especially important to a pharmacy that has itself been a victim of fraudulent activity by one or more of its employees. Unacceptable findings discovered by an audit may include the submission of a fraudulent claim or a pharmacy consistently demonstrating a failure to follow the claims submissions policies clearly outlined in their Provider Manual. However, the more common type of fraud discovered is a "phantom" billing where a claim is submitted by a pharmacy but cannot be supported by a valid prescription on audit.

For pharmacies that have unacceptable audits or have submitted fraudulent claims, our Management Review Committee meets quarterly to review unacceptable and fraudulent activity to determine if continued membership in our network places our clients and their beneficiaries at risk. The Committee is made up of CVS Caremark employees from various cross-functional departments. Additionally, when we find irrefutable evidence of fraud we report it to the appropriate authorities and state agencies. CVS Caremark is active in both the National Association of Drug Diversion Investigators ("NADDI") and the National Health Care Anti-Fraud Association ("NHCAA"). These two organizations and their members make it their mission to assist in investigating and prosecuting pharmaceutical drug diversion.

"Health care fraud is a pervasive and costly drain on the U.S. health care system. In 2008, Americans spent $2.34 Trillion dollars on health care. Of these trillions of dollars spent, the Federal Bureau of Investigation ("FBI") estimates that between 3 and 10 percent (3%-10%) was lost to health care fraud." [i]

In 2010 alone, a joint health care fraud and prevention effort between the U.S. Department of Justice and the Department of Health and Human Services resulted in the recovery of more than $4 Billion in taxpayer dollars. A not insignificant portion of the recovered money came from uncovering pharmacy fraud schemes that included fraudulent billing practices and illegal dispensing of medications.[ii]

CVS Caremark recommends that the government not impose onerous pharmacy audit restrictions that will lessen PBM's ability to detect and recover monies resulting from fraudulent activity, abuse and wasteful spending in our healthcare system.

Conclusion

CVS Caremark sincerely appreciates the opportunity to submit our testimony regarding this legislation. HB259 unfortunately would create unreasonable restrictions on legitimate and necessary audits of prescription drug claims filed by pharmacies. HB259 would weaken the ability of an insurer, MCO or PBM to protect their clients, detect fraud, reject invalid claims and recoup our clients' money when improperly billed. CVS Caremark asks for your "NO" vote, rejecting HB259.

I will be pleased to answer any questions the Committee members may have and again, thank you for the opportunity to testify before you today.

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[i] National Heath Care Anti-Fraud Association, "Combating Health Care Fraud in a Post-Reform World: Seven Guiding Principles for Policymakers", October 2010, available online at: http://www.nhcaa.org/eweb/docs/nhcaa/PDFs/Member%20Services/WhitePaper_Oct10.pdf

[ii] U.S. Department of Health and Human Services & U.S. Department of Justice, "Health Care Fraud and Abuse Control Program Annual Report for Fiscal Year 2010," January 2011, available online at: http://oig.hhs.gov/publications/docs/hcfac/hcfacreport2010.pdf