

The Centers for Medicare & Medicaid Services (CMS) issued a memorandum to Part D plan sponsors outlining the tools they can and should employ to prevent payment for inappropriate overutilization of drugs, particularly painkillers such as opioids. These steps come as the Administration announces that the Department of Justice (DOJ) has secured \$5.6 billion in government-wide fraud recoveries for 2011, a 167 percent increase from 2008. This includes \$2.9 billion in health care fraud recoveries. Since 2009 DOJ has collected a total of \$8.4 billion in health care fraud. These efforts build on significant progress already made by the Obama Administration to fight fraud across the health care sector – progress that has been sped up by resources from the Affordable Care Act, and the inter-agency collaboration between the Department of Health and Human Services and Department of Justice, known as the “Health Care Fraud Prevention and Enforcement Action Team” (HEAT).

As CMS reviews comments from Part D sponsors and other stakeholders on how the Part D program can more successfully control for inappropriate overutilization, the memorandum clarifies existing policy regarding controls sponsors can now implement:

- **Prompt Pay Regulations:** The memorandum clarifies that compliance with clean claims regulations does not prevent sponsors from establishing drug utilization management and quality assurance programs to prevent overutilization that are required under existing regulations.
- **Reporting Fraudulent Activity and Drug-Seeking Behavior:** The memorandum reminds sponsors of their responsibility to notify the Medicare Drug Integrity Contractors (MEDICs) of potential fraud, waste and abuse.
- **Prior Authorization, Retrospective Review and Protected Class Drugs:** The memorandum reiterates that sponsors may submit for CMS review reasonable prior authorization requirements on drugs, such as opioids, that are susceptible to abuse and diversion. For drugs that are among the protected classes, sponsors can conduct retrospective reviews to identify patterns of overutilization and require documentation to determine medical necessity as a condition of payment for subsequent claims.
- **Less than 30 Day Prescribing:** As part of their interactions with prescribers, Part D sponsors may promote less than 30 day prescribing of drugs that are more susceptible to abuse

or diversion.

A fact sheet describing CMS anti-fraud efforts, including the new tools provided by the Affordable Care Act is attached and also available at:

https://www.cms.gov/apps/media/fact_sheets.asp