
EPRESCRIBING PERSPECTIVES

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1. What's Happening in Washington?

by *Tony Schueth, Editor-in-Chief*

During the past 6 months, trade media - including ePrescribing Perspectives - have alerted you to four initiatives that could profoundly impact ePrescribing: 1) Medicare, Part D ePrescribing rules and regulations, 2) ePrescribing pilots, 3) a Stark exception and 4) a "safe harbor" from prosecution under anti-kickback laws. What is the status of each?

ePrescribing Rules and Regulations

In February, the Centers for Medicare & Medicaid Services (CMS) issued a notice of proposed rule making (NPRM) on which the industry had the opportunity to comment. There were some 100 respondents, including individuals, software companies, coalitions, trade associations and other stakeholders. Under the Medicare Drug Improvement and Modernization Act of 2003 (MMA), rules and regulations must be published by September 2005.

On August 16, Tony Trenkle, director, Office of eHealth Standards and Services, told attendees at a National Council for Prescription Drug Programs (NCPDP) educational conference in Philadelphia that they will be published in the Federal Register, which is generally published on the second and fourth Fridays of each month. The way it's going, we should expect the rules and regulations to be published on September 23.

What will they contain? Well, from the NPRM, we know there will be foundation standards. CMS proposed five: (1) NCPDP SCRIPT, (2) ANSI X12N 270/271 for eligibility between physicians and health care plans, (3) NCPDP Telecommunications for eligibility between pharmacies and plans, (4) NCPDP Drug History and (5) NCPDP Formulary and Benefits. We would be shocked if SCRIPT wasn't named a foundation standard; however, we know there is some industry opposition to Drug History and the combination of 270/271 and Formulary and Benefits. Still, these standards bring a great deal of value, so we'd give them about a 75% chance of being named foundation standards. We'll find out later this month.

This wasn't all that was in the NPRM. A more controversial section addresses federal preemption of state rules and regulations. The MMA opened the door for federal preemption, and CMS has asked for feedback in the NPRM. Several stakeholders - including Point-of-Care Partners - supported the concept in their NPRM responses because states have been perceived as barriers to ePrescribing. Nevertheless, taking powers away from states is not something of which Republicans are generally supportive, and they are obviously in power in Washington. We expect CMS is spending a lot of time on this topic.

As ePrescribing stakeholders, you should keep your eyes on this. According to Mr. Trenkle, Medicare Prescription Drug Plans and clinicians who are prescribing electronically would be required to comply with

foundation standards by January 1, 2006.

ePrescribing Pilots

To paraphrase the MMA, where there is adequate industry experience with a transaction, it could be named a standard immediately. This is what CMS will do with the previously described foundation standards. Where a transaction isn't being widely used by the industry, it should be pilot tested.

In the April 18 issue of ePrescribing Perspectives (www.pocp.com/2005April18), we speculated about what could be pilot tested based National Committee on Vital and Health Statistics (NCVHS) recommendations to the US Department of Health and Human Services (HHS). CMS told us this was a bid process, so it couldn't give us much information except that we should see the requests for proposal (RFPs) by "late spring." Well, it's September and we still haven't seen them.

At the NCPDP educational conference, Mr. Trenkle said that we could see the RFPs in the "summer of 2005." The official last day of summer is September 21.

The only statutory requirement for pilots is that they begin January 1, 2006. The reality is that it will be difficult for some of them to begin on that date. The government has given us little time to pull together the coalitions. For goodness sakes, we don't even know what the pilots will be. We can talk and speculate all we want, but nothing substantive will happen until we have a sense of the scope.

Besides the start date, we know that CMS and the Agency for Healthcare Research and Quality (AHRQ) are teaming to fund the pilots, though we don't know the budget. We also know that rolling or phased starts are possible, and that the results of the pilot will be presented to Congress in April 2007.

Stark Exception and Safe Harbor

On May 16, Health Data Management broke the story that HHS planned to publish proposed rules in May that would enable organizations to assist physicians in adopting ePrescribing for the Medicare, Part D drug benefit program and, in August, would provide a "safe harbor" enabling other organizations to help physicians offset the cost of ePrescribing technology. Its source was the HHS semiannual regulatory agenda. These proposed rules have yet to be published.

We can't even speculate as to why things seem to have slowed down in Washington. We're disappointed, but not surprised.

At the same time, our sense is that these are creating the desired effects of stimulating the industry relative to electronic prescribing. Point-of-Care Partners has certainly had a number of stakeholders look to us to help sort out their ePrescribing strategy. If you need help, drop us a line.

2. What Should ePrescribing Stakeholders Do About Medicare, Part D?

The Medicare Drug Improvement and Modernization Act of 2003 (MMA) created the Part D pharmacy benefit. Some ePrescribing stakeholders are overwhelmed in responding to the landmark legislation. Others are bracing for its impact. Still others are curiously sitting on the sidelines and watching what's happening. Everyone should have an interest.

In the December 5, 2003 issue of ePrescribing Perspectives (www.pocp.com/2003december05.htm), we outlined the components of the MMA that pertain to ePrescribing. In the article above, we provide an update,

the most pertinent of which are the foundation standards. As we noted above, Prescription Drug Plans and clinicians will be required to be compliant with foundation standards by January 1, 2006.

As the deadline approaches, increased attention is being paid to ePrescribing. Nowhere is this greater than among Part D payers. If they are required to process eligibility and drug history and provide formulary and benefit information, how are they going to do that?

Of course, RxHub could help. Created in 2001, RxHub is a universal, standardized communication framework that links prescribers, pharmacies, pharmacy benefit managers (PBMs) and benefit plans for the purpose of sharing prescription benefit information and exchanging prescriptions electronically. It pioneered use of the X12N 270/271 eligibility transaction in support of ePrescribing. RxHub's drug history transaction became the starting point for the NCPDP's Drug History standard. And the company played a leadership role with MediMedia, EDS and others in creating NCPDP's Formulary and Benefits standard. Not surprisingly, RxHub says interest in its services is surging.

In July, the company announced a partnership with SXC, which processes claims for Prime Therapeutics, among other PBMs. While it has made no formal announcements since then, RxHub executives report signing two other PBMs, being at the "redline" phase of contract negotiations with two others and having dialogue with still others. This isn't the universe of PBMs, but it's a substantial component of it.

Apparently, the obstacle is that RxHub was founded by the three largest PBMs of the time - AdvancePCS (now part of CareMark), Express Scripts and Medco - and there's concern about "helping" their competitors by signing onto something created by the three. That's understandable, but the only two alternatives are contracting with a competitor of RxHub or going direct.

RxHub competitors are few. For formulary and benefits information, MediMedia is noteworthy with 3,500 formularies, most of the major software companies and a deep, rich base of content. The formulary aggregator also has a number of Medicare, Part D formularies.

For eligibility and drug history, there is NetRx, which has a relationship with a small PBM and dialogue with others. Still, the PBM "Plan B" to RxHub has been to go direct. Software companies report having to send eligibility requests to multiple hubs and receiving histories from more than one source. We suspect that will increase.

In general, software companies have to accommodate the foundation standards, whatever they may be. That may be more difficult for some than others, depending on the respective model. These vendors also face the challenge of obtaining Medicare, Part D formularies. As noted above, MediMedia has some of them today. We're also aware that CMS plans to publish them for free. While little is known about this process, we understand that software companies will be able to access them directly. However, it may make more sense to use an aggregator, such as MediMedia or RxHub.

To be sure, there's a lot to sort through and keep track of. Keep an eye on ePrescribing Perspectives for some of this information. If you'd like some concentrated attention on your situation, drop us a line.

3. News and Announcements

Frankly, the summer has been slow relative to ePrescribing announcements. Here's a list of relevant news and announcements:

- You still have until today, September 9, to respond to public comments on the **Electronic Health Record**

System Functional Model (www.hl7.org/ehr). There's a great deal related to electronic prescribing, including: medication lists; manage allergy and adverse reaction lists; ordering medication; medication administration; order sets; care plans, guidelines and protocols; support for drug interaction checking; medication recommendations and others.

- On August 8, **Allscripts** and **Medem** reported that the companies will provide free electronic prescribing and interactive personal health records to aid in the care of the hundreds of thousands of Americans displaced by Hurricane Katrina.
- On August 30, **Sun Microsystems** and **InstantDx** announced an initiative to jointly provide a new electronic health record. Based on the Sun Java Integration Suite and **InstantDx's OnCallData**, the solution "is designed to provide a complete electronic patient record that will enable the health care community to take advantage of a real-time, Web-based, point-of-care healthcare information network."
- On August 30, **AIS's Today in eHealth Business** published results of a reader survey in which health care IT experts were asked about ePrescribing. The publication found more believe that ePrescribing saves time more than money. This is interesting. For most small-business people, time is money. Furthermore, many practices have found they could reduce nurses or other full-time equivalents when they effectively implement an ePrescribing program.
- On August 29, **NDC** was acquired by **Per-Se Technologies, Inc.** and **Wolters Kluwer NV** for \$700 million.
- In August, **HIMSS** hosted a series of Webinars on ePrescribing. On August 11, Patricia Hale, Ph.D., M.D., F.A.C.P., CMIO, **Glen Falls Hospital** of Gansevoort, NY, presented "Introduction to Electronic Prescribing," an review of the ePrescribing process. On August 18, Kirk Paul Kirkman, CEO, **ZixCorp**, presented "The Five Foundations of Successful ePrescribing Programs," a presentation designed to pass along lessons learned. On August 25, Sandra White, vice president, **MediMedia**, and Michael Burger, product manager, ePrescribing, **Emdeon**, presented "Get It Right the First Time: Consult Formulary Before ePrescribing," which explained how formulary is a key decision support tool in the ePrescribing process.
- On August 9, **SureScripts** announced certification of **Axolotl's Elysium EMR** and Prescription Management solution. On August 2, it announced certification of **Quest Diagnostic's Care360** physician portal.
- The August 2 issue of **AIS's Today in eHealth Business** reported that **PiperJaffray** senior analyst, Sean Weiland, said the Patient Safety and Quality Improvement Act of 2005 falls short of its original goal of reducing 100,000 deaths by providing matching grants for IT, including CPOE and ePrescribing. Instead, it encourages reporting of medication errors, something that 22 states already mandate. The bottom line, according to Mr. Weiland, is that the bill is a symbolic gesture.
- On August 2, HMD Weekly reported that **Blue Cross Blue Shield of South Carolina** is expanding an ePrescribing program, offering high-prescribing physicians \$500 to offset the cost of a personal digital assistant and printer. The offer is available to the first 300 prescribers who write 200 prescriptions per month. The ePrescribing solution is **CareMark's iScribe**.
- According to **Accenture's** Health and Life Sciences Division, more than 90 percent of consumers believe that electronic health records (EHRs) can improve medical care and reduce the number of hospital errors. Will consumers drive EHR adoption?

ABOUT US

Point-of-Care Partners, LLC is a growing eHealth consulting firm with active practices in ePrescribing and regional health information organizations (RHIOs). We help organizations develop and execute winning strategies based on lessons learned, current trends and key drivers.

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