

# Policy Update: The New Health Reform Law

Presented by  
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## Presentation Outline

- Background on HCR
- Structure of New Law
- Implementation Schedule
- Key Provisions
  - Impacting Pharmacists and Pharmaceuticals
  - Impacting Care for Seniors
- Questions and Answers

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## What HCR Does

- Expands Coverage
- Changes Incentives for Employers and Individuals
- Changes Incentives for Providers
- Introduces New Efficiencies
- Changes Services Provided
- Targets Fraud, Waste, Abuse

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### Eliminating Cost-Sharing for Certain Dual-Eligibles

- ✦ Cost-sharing (co-pay) is eliminated for dual-eligibles enrolled in a home & community-based service (HCBS) waiver program who would otherwise be eligible for institutional care
- ✦ Extends "LTC Definition"
- ✦ Begins: *On or after* January 1, 2012

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### Pharmaceutical Waste in LTC

- ✦ "require Part D sponsors to renegotiate contractual terms with long-term care pharmacies to reduce days' fill dispensed for tablets and capsules, for instance, in the short-term to seven days, and by a later date (3-5 years) to automated dose dispensing wherever practicable."
- ✦ Jan. 2012 implementation

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### Pharmaceutical Waste in LTC

**Issues:**

- ✦ \$6.1 billion savings over ten years
  - ✦ Does not account for costs to pharmacists, payors and facilities.
- ✦ Likely result is multiple variations in how the pharmacy is required to package and dispense medications to a single facility.
- ✦ Increases costs and burdens to pharmacy and facility

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### Part D MTM Programs

Requires plans to included

- ✦ Comprehensive review of medications, in-person or via telehealth services – by a licensed pharmacist or other qualified health provider
- ✦ Action plan (standardized format developed by the HHS Secretary)
- ✦ Written summary of the review
- ✦ Enrollment must take place on a quarterly basis and allow for an opt out
- ✦ Begins: 2012

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### MTM Community-based Programs

- ✦ Creates a program to support medication management services by local health providers.
- ✦ Help manage chronic disease, reduce medical errors, and improve patient adherence to therapies while reducing acute care costs and reducing hospital readmissions

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### Formulary Requirements for PDPs & MA-PDs

- ✦ Codifies the 6 classes of clinical concern (protected drug classes)
  - ✦ Anticonvulsants
  - ✦ Antidepressants
  - ✦ Antineoplastics
  - ✦ Antipsychotics
  - ✦ Antiretrovirals
  - ✦ Immunosuppressants
- ✦ Allows the HHS Secretary to
  - ✦ Selectively allow Part D plans to exclude a particular drug from a protected class
  - ✦ Allow Part D plans to place utilization management restrictions on drugs in protected classes
  - ✦ Determine classes of clinical concern through rulemaking
- ✦ Begins: January 1, 2011

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# Medicaid

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## Excluded Drug Classes

- ✦Removed from the Medicaid excluded drug classes list
  - ✦Benzodiazepines
  - ✦Barbiturates
  - ✦Smoking cessation drugs
- ✦Begins: *On or after* January 1, 2014

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## Drug Manufacturer Medicaid Rebates

Applies to 2010 and after

Brand Drugs

- Minimum rebate increases to 23.1% (from 15.1%)
- Applies to drugs provided through Medicaid MCOs.

Generic Drugs

- Rebates increased to 13% (from 11%)

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### Pricing: Average Manufacturer Price (AMP)

- January 2008, states were to begin using AMP to set reimbursement for Medicaid multi-source drugs (replaces AWP)
- Rate was to be 250% of lowest cost product in a therapeutic category
- Court intervention stopped policy
  - ✦ Chain and community pharmacy groups get court injunction in Dec 2007 – just weeks before policy set to take effect
- New Health Reform Law sets new benchmark

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### New AMP: How it Will Work

- As early as Oct 2010, CMS (federal gov't) will set the Federal Upper Limit (FUL) for Medicaid multi-source medications based on:
  - Monthly AMPs for drugs in a therapeutic class
  - FUL is set for each class based on 175% of the weighted average of AMPs for all products in class
  - Each state has latitude on product-specific reimbursement, but FUL establishes ceiling for aggregate Medicaid reimbursement for multi-source drugs

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### AMP and Pharmaceutical Pricing Trends

- Trend is toward benchmarks established in statute and monitored/reported by government
- 2006 - Average Sales Price (ASP) replaces AWP in Part B reimbursement
- 2009 - AWP going away... FirstData Bank Settlement
- 2010 - Average Manufacturer Price (AMP) replaces AWP in Medicaid multi-source reimbursement
- Commercial market implications
- Untangling product reimbursement from payment for pharmaceutical care services

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## Other Pharmaceutical Provisions

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### Generic Biologics

- ✦ Establishes a pathway for the approval of biosimilar products
- ✦ Provides for 12 years of exclusivity for original (reference) biological product
- ✦ Protects 1<sup>st</sup> approved biosimilar product for 12 months
- ✦ Begins: March 30, 2020

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### Exclusion of Certain Pharmacies from Accreditation Requirements

- ✦ Affected pharmacies
  - ✦ Enrolled as a DMEPOS supplier
  - ✦ DMEPOS billing revenues less than 5% of total sales
  - ✦ Submission of attestation with evidence is required
- ✦ Must be accredited to take part in competitive bidding

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### Medicare Home Infusion

- ✦ Lacks cohesive Medicare benefit
- ✦ Legislation pending in House and Senate to cover medications, services, supplies and equipment.
- ✦ Health reform presents opportunity to address coverage
- ✦ Strong support lacking in Congress

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### PBM Transparency

- ✦ Applies to PBMs and Health Plans contracting with Medicare or the Health Exchanges
- ✦ Required to report to HHS Secretary the following:
  - ✦ Percentage of prescriptions dispensed through mail order versus retail
  - ✦ Generic dispensing rate
  - ✦ Rebates, discounts, and price concessions
  - ✦ Payment difference between:
    - ✦ Health plans and PBMS
    - ✦ PBMs and pharmacies

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### Annual Fee for Branded Prescription Pharmaceutical Manufacturers

- ✦ Annual fee imposed on pharmaceutical industry
  - ✦ \$2.5 billion in 2011
  - ✦ \$2.8 billion in years 2012-2013
  - ✦ \$3.0 billion in 2014-2016
  - ✦ \$4.0 billion in 2017
  - ✦ \$4.1 billion in 2018
  - ✦ \$2.8 billion in 2019 & thereafter
- ✦ Allocate across the industry based on market share
- ✦ Reduction in share for companies with sales < \$400 million

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## Provisions Impacting Senior Care

- ✦ Value-based Purchasing
- ✦ Bundled Payments
- ✦ Nursing Home Transparency

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## Medicare

### Value-based Purchasing

- HHS Secretary must submit plan to Congress by Oct 2011 on how to transition **skilled nursing facilities, ambulatory surgical centers, and home health providers** to value-based payments

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### NH Value-Based Purchasing Demo

- ✦ Implemented in July 2009: AZ, NY, WI
- ✦ Financial incentives NHs *that* demonstrate high standards for quality care.
- ✦ Assess NH performance based on selected performance measures.
- ✦ Payment pool for each State determined based on Medicare savings from reductions in Medicare expenditures, primarily from reductions in hospitalizations.

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### NH Value-Based Purchasing Demo

- ✦ NH participation is voluntary.
- ✦ 79 in New York , 62 in Wisconsin and 41 in Arizona
- ✦ Performance measure categories
  - ✦ Staffing (levels and stability): 30%
  - ✦ Potentially avoidable hospitalizations: 30%
  - ✦ Outcomes from State survey inspections: 20%
  - ✦ Quality measures (derived from the MDS): 20%
- ✦ Demo is 3 years; July '09 thru June '12

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### Bundled Payments for Acute/Post Acute Care

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### Medicare Bundled Payments

- Medicare *pilot program* gives single payment for acute care episode + 30 days after discharge
- Step 1: Implemented before 2013 for up to 8 conditions and voluntary
- Step 2: By 2016, HHS Secretary submits plan to Congress for expansion
- New Law gives explicit authority to HHS Secretary to expand pilot with Congressional action
- **MAY BE THE MOST SIGNIFICANT CHANGE FOR THE ACUTE/POST-ACUTE MARKET**

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## Medicare Bundled Payment

- ✦ **Episode of care:** starts **3 days prior** to hospital admission and spans hospital stay and **30 days following** patient discharge.
- ✦ **Services in bundle:** acute care inpatient hospital services; physician services delivered inside and outside of the acute care hospital setting; outpatient hospital services, including emergency department visits; services associated with acute care hospital readmissions; post acute care services including home health, skilled nursing, inpatient rehabilitation, long term care hospital; and other services that the Secretary determines appropriate.

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## Medicaid Bundled Payment

- Demonstration project to evaluate integrated care around a hospitalization.**  
Establishes a demonstration project, in up to eight States, to study the use of bundled payments for hospital and physicians services under Medicaid.
- ✦ Demonstration project to run from January 1, 2012 through December 31, 2014.
  - ✦ Services included would encompass acute care hospital, concurrent physician, and post acute care services.

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## Independence at Home

- Demo to test home-based care
- Driven by interdisciplinary care teams
- Financial incentives
- Implications: future structure of home care market

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### CLASS Program

- **Community Living Assistance and Supports (CLASS)**
  - Voluntary, self-funded PUBLIC insurance for LTC
  - Enrollees pay in over time with 5-year vesting period
  - Benefits paid out at \$50+/day for LTC services
  - Enrollee discretion on how to spend benefit

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### NH Transparency

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- **TRANSPARENCY AND PROGRAM INTEGRITY**
  - Nursing Home Focus
  - Detection and Enforcement
  - Provider Enrollment
  - Self-referral
  - "Patient-Centered Outcome Research Institute"

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### Questions and Answers

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