

Advocacy Urges CMS to Improve its Analysis of Impacts on the Small Independent Pharmacies in the Medicaid Average Manufacturers' Price Rule

- On February 16, 2007, the Office of Advocacy (Advocacy) filed a comment letter with the Centers for Medicare and Medicaid Services (CMS) concerning a proposed Medicaid rule that will require, among other things, drug manufacturers to calculate and report to CMS the average manufacturers' price (AMP) for certain outpatient drugs that would be used to determine the rate at which drug manufacturers, pharmacies and hospitals would be reimbursed for providing the drug to Medicare beneficiaries. A complete copy of Advocacy's comment letter may be accessed at <http://www.sba.gov/advo/laws/comments>.
- On December 22, 2006, the Centers for Medicare and Medicaid Services (CMS) published a proposed rule in the *Federal Register* titled, "Medicaid Program; Prescription Drugs." The rule serves to codify requirements for drug manufacturers' calculation and reporting of average manufacturers price (AMP), and would revise existing regulations that set upper payment limits for certain covered outpatient drugs. This calculation, known as the Federal Upper Limit (FUL), would be used to determine the reimbursement rate for providers.
- CMS noted in the rule that the regulation would result in lower FULs for most drugs and would therefore reduce Medicaid payments for drugs to pharmacies. CMS acknowledged in the initial regulatory flexibility analysis (IRFA) that the regulation would have a significant economic impact on some small pharmacies, but would only amount to a small fraction of overall pharmacy revenue for others. CMS stated that it could not quantify effects on small pharmacies, particularly in rural areas.
- Representatives from small independent pharmacies approached Advocacy concerned that CMS had failed to adequately analyze how the regulation would economically impact their businesses. In its comment letter, Advocacy provided CMS with data and alternatives to the rule that was provided by small independent pharmacy representatives. Advocacy also asked CMS to do a better job analyzing the rule's impact on the industry. Advocacy hopes these steps will serve to reduce the rule's burden on the small independent pharmacy industry.

For more information, visit Advocacy's web page at www.sba.gov/advo or contact Linwood Rayford at (202) 205-6533.
