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Factsheet

CMS Criticism of Drug Card Report Is Innacurate

On April 29, 2004, Rep. Henry A. Waxman released a staff report on the new Medicare drug cards.[1] This report found that the prices offered to seniors via the drug cards were (1) far higher than prices available in Canada and the prices negotiated by the federal government on the Federal Supply Schedule and (2) no lower than the prices currently available to seniors from other sources, such as Drugstore.com.

On May 5, 2004, the Center for Medicare and Medicaid Services (CMS) released a response to the minority staff report. This CMS response presents misleading data and makes misleading and erroneous claims about the staff report.

The CMS analysis overestimates retail prices currently paid by seniors.

The CMS analysis attempts to show that drug cards will save seniors money by comparing the posted prices on the Maryland Prescription Drug Price Finder, a website posted by the Maryland Attorney General, to the prices available to seniors with drug cards. However, the prices on the Maryland website do not represent the true retail prices currently paid by seniors. The Drug Price Finder website specifically notes that the listed price "does not include discounts that a pharmacy may offer to seniors."[2]

The CMS analysis of mail-order prices relies upon prices that are not available to seniors.

The CMS analysis compares prices for mail-order drugs available through the drug cards with prices available online at outlets such as Drugstore.com. The CMS analysis, however, is based upon mail-order prices for the drug cards that are not available to seniors. The CMS analysis claims to compare the prices of a one-month supply of mail-order drugs with the prices of a one-month supply of drugs at Drugstore.com. But the drug cards do not offer a one-month supply of drugs through mail order. Instead, only a three-month supply is available. In the CMS analysis,

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[1] Committee on Government Reform, Minority Staff, *New Medicare Drug Cards Offer Few Discounts* (Apr. 29, 2004).

[2] Office of the Attorney General of Maryland, *Maryland Prescription Drug Price Finder* (2004) (online at www.oag.state.md.us/Drugprices/index.htm).

the prices for a three-month supply of mail-order drugs are "adjusted" (divided by three) to determine a one-month price. This is not a fair adjustment because prices for a three-month supply are consistently less than prices for a one-month supply.

A fair analysis would compare the prices of a three-month supply of drugs available with the drug cards through mail order with the prices of a three-month supply of drugs from Drugstore.com. This apples-to-apples comparison was included in the staff report released by Rep. Waxman. It shows that the drug cards do not offer a meaningful cost savings compared to Drugstore.com. In fact, the three-month Drugstore.com prices are often less expensive than the three-month prices available with the drug cards through mail order. Of the three major drug cards analyzed in the staff report, two of the cards (the cards offered by AdvancePCS and ExpressScripts) had higher three-month prices than Drugstore.com.

Comparing drug card prices to Canadian and FSS prices is appropriate.

The CMS analysis concedes that drug prices are significantly lower in Canada and on the Federal Supply Schedule than they are in the drug card program. But CMS argues that this comparison is "fundamentally misleading — it compares apples to kumquats."

The major claim made by proponents of the drug cards is that they allow seniors to take advantage of the low prices that can be negotiated by sophisticated private sector companies, such as insurance companies and pharmaceutical benefits managers (PBMs), acting as group buyers. To assess whether the drug cards succeed in providing seniors with meaningful group buying power, it is essential to compare the drug card prices with the prices that other buyers can achieve through negotiation or regulation. This comparison shows that the drug cards do not offer discounts that are comparable to those available when the federal government negotiates prices or Canada regulates prices.

The staff report did state from which geographical area these prices are derived.

The CMS analysis falsely claims that the staff report "does not state from which geographical area these prices are available" and that "there is considerable variation in price among geographic areas." In fact, the minority staff report states: "Prices were obtained for zip codes in five locations: Ohio, Pennsylvania, Washington, New Mexico, and Washington, D.C."[3] Moreover, the staff analysis found little geographic variation in prices. Although there may be geographic variations as to which drug cards are available in certain locations, there is little variation in prices between locations. Where variation was found, the minority staff analysis used the lowest price available, meaning that the analysis may have overstated the discounts available with the drug cards.

[3] *Id.*

The staff report examined prices of three large national cards.

The CMS analysis criticizes the staff report because it examined only three drug cards. In fact, the three drug cards examined in the staff report are representative of the types of Medicare drug cards available. Two of the three cards are offered by the nation's largest PBMs (AdvancePCS and ExpressScripts), and the third card is offered by a large drugstore chain (Walgreens). The prices offered by the three cards are consistent with those offered by other drug discount cards.

The CMS analysis makes misleading assertions.

CMS asserts that "[s]even million beneficiaries … would also qualify for very low-cost drugs from many large manufacturers such as Merck, Lilly, Novartis, and Johnson & Johnson." But the fact is that today, even without the Medicare-approved discount drug cards, low-income seniors can already receive discounts from drug manufacturers through programs such as the Pfizer Orange Card, the TogetherRx card, and the Pfizer Share Card.[4] Seniors can obtain these discounts without waiting for the Medicare-approved cards, and without paying the fees associated with them. The implication that seniors must have these drug cards to obtain the discounts is false.

CMS also asserts that "[r]etail pharmacies may run special pricing or sales on certain drugs independent of card sponsors. . . . This is a prime example of how market forces will drive drug prices down for Medicare beneficiaries." But the cards will not be necessary for seniors to obtain these discounts. As noted by CMS, if pharmacies offer these discounts, they will be offered "independent of card sponsors." Again, the implication that the cards are somehow responsible for these savings is false.

[4] *See, e.g.*, Volunteers in Health Care, *Comparative Chart of Pharmaceutical Manufacturers' Drug Discount Card* (2004) (online at www.rxassist.org).