

# Study: Medicare Part D Won't Help Seniors Save

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Medicare's new prescription drug benefit offers meager savings on drug prices, according to a Families USA survey.

For 19 out of the top 20 drugs prescribed to seniors in 2004 in several regions of the country, Families USA found that Medicare's prices were much higher than those negotiated by the Department of Veterans Affairs (VA).

"The median price difference for the top 20 drugs was 48.2%. This means that, for half of the top 20 drugs prescribed to seniors, the lowest price offered by any Medicare prescription drug plan was at least 48.2% higher than the lowest price available through the VA," the survey indicated.

"The huge prices paid by seniors and taxpayers could have been avoided if Congress and the president had not caved in to the pressure of the drug lobby," said Ron Pollack, executive director of Families USA. "They prohibited Medicare from bargaining for cheaper prices and, to ensure that this would never change, they delegated the administration of the benefit to private

plans, which have far less bargaining clout."

According to Peter Ashkenaz, deputy director of the Office of Public Affairs for the Centers for Medicare and Medicaid Services, Families USA just rehashed the old argument that there should be government price controls and a one-size-fits-all benefit.

The VA has a restricted formulary and limits where patients can get their drugs, he said. "You have to get your drugs from a VA doctor, at a VA facility. For example, in Georgia there are 9 VA pharmacies, compared [with] 1,833 local pharmacies in that state," Mr. Ashkenaz said in an interview.

In addition, the Government Accountability Office looked at using the VA model for the Medicare Part D drug benefit, "and found that doing so would raise prices in the commercial market and thus in Medicare," he said.

The survey also compared the annual difference between the lowest VA prices and lowest Medicare drug plan prices among the top seven drugs prescribed for seniors. Huge differences were noted in a few of these drugs.

VA prices are lower for both generic and brand-name drugs, Families USA noted. Eighteen of the 20 most-prescribed med-

icines for seniors are brand-name drugs. For the two generic drugs, the median difference between the lowest Medicare drug plan and the lowest VA price was 95%.

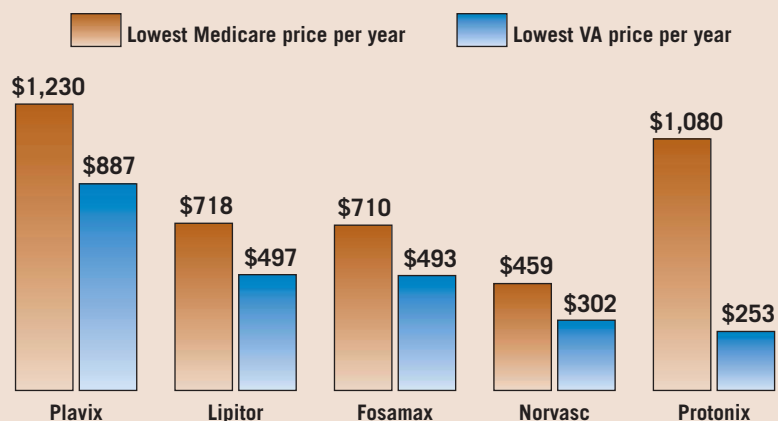
Jeff Trewhitt, a spokesman for the Pharmaceutical Research and Manufacturers of America, agreed with CMS that it was unfair to compare Medicare's new drug plan, which is a private marketplace system, to a government-mandated price control system such as the VA.

"The VA is not a competitive marketplace. It has a mandatory 24% rebate, one

of those special occasions where we have price controls in this country," he said in an interview. Even so, VA hospitals often try to negotiate something even higher than that percentage, he noted.

One thing to keep in mind is that VA hospitals and clinics make up only 1%-2% of the marketplace, Mr. Trewhitt said. "If we extended that type of mandatory rebate across the market, it would hurt the ability of the world's leading pharmaceutical and biotechnology companies to create new medicines. ■

## VA Patients Pay Less for Drugs Than Medicare Part D Patients



Note: Prices for the top 5 drugs used by seniors were calculated the week of Nov. 14, 2005.  
Source: Families USA

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## Compliance Programs Show Good Faith in Investigations

BY MARY ELLEN SCHNEIDER  
Senior Writer

LAS VEGAS — Proper documentation is key to an effective corporate compliance program and can serve as evidence of a good-faith program to investigators, one compliance expert said at a meeting on reimbursement sponsored by the American College of Emergency Physicians.

Documentation should include the group's compliance policies and procedures, training, and any compliance issues and the resolution, said Edward R. Gaines III, senior vice president for compliance and general counsel for Healthcare Business Resources Inc. of Durham, N.C.

The Health and Human Services Department's Office of Inspector General outlines seven elements of an effective corporate compliance program:

- ▶ Compliance standards and policies.
- ▶ Oversight.
- ▶ Education and training.
- ▶ Effective lines of communication.
- ▶ Monitoring and auditing.
- ▶ Enforcement and discipline.
- ▶ Response and prevention.

Another important element of a compliance program is the ability to prevent and detect fraud and abuse, Mr. Gaines said. Implementing a corporate compliance program will mitigate the risk of potential liability.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) ex-

panded the federal False Claims Act to all payers, including commercial claims. And the government does not need proof of intent to take action. Physicians are liable for knowingly allowing or encouraging false claim submission, being deliberately ignorant, or having a reckless disregard for the truth, according to the HIPAA law.

In addition, even if the physician is not responsible for performing the billing and coding, they are liable if the claim is submitted in their name.

Mr. Gaines advised physicians to start at the top by getting a commitment to the compliance program from senior-level executives in the organization. "One of the [places] where compliance programs frequently fail is that they don't have clear leadership from the top," he said.

Create an environment where physicians and staff members are free to question without fear of retribution or retaliation, he added.

Medicare contractors and other auditors will use data analysis to detect aberrant billing practices. The auditors tend to rely on billing reports that compare providers of the same specialty in an area. The auditor might also look at increases in critical care utilization versus historical trends for the group, for example.

But physicians groups can be prepared, Mr. Gaines said, by considering why their E/M coding and billing data might be different from CMS national or Medicare carrier data. ■