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January 2010

PHARMACY BENEFITS MANAGEMENT UPDATE

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Key Topics/Issues in the Federal Health Care Bill

While the insurance reform bill remains hotly contested on Capitol Hill, a number of familiar issues have been topics for possible inclusion. One is reimportation (or importation) of drugs from Canada and other foreign countries as a cost saving strategy related to health reform. Another is PBM disclosure requirements related to rebates and discounts received from drug manufacturers. Finally, changes to Part D continue to be proposed in the areas of coverage (i.e., reducing or even eliminating the coverage gap), rebates (i.e., requiring certain rebates to be equal to Medicaid rebates), and increased compliance activities by CMS.

HITECH Compliance Around the Corner

February 17, 2010 is the date by which Business Associates must come into compliance with the obligations of the HITECH Act relating to Administrative, Technical and Physical Safeguards under the HIPAA Security Rule, as well as the Policy and Procedure requirements of the HIPAA Privacy Rule. The Breach Notification rule was effective September 23, 2009, so compliance efforts should already be in place for your organization. The next milestone is for proposed rules relating to minimum necessary requirements which are slated to come out later this year-August 2010.

FTC Investigating the CVS Caremark Merger

In November of 2009, CVS Caremark confirmed that there is an ongoing nonpublic FTC antitrust investigation (initiated in August of 2009) into certain of the company's business practices. Numerous industry groups have been asking the FTC to reconsider its approval of the CVS Caremark merger for some time, and these industry concerns center primarily on higher prices for consumers, restriction on choice of providers, and privacy concerns. The FTC has confirmed the existence of the investigation, but is not providing any additional information at this time.

To Whom Does Your Compliance Officer Report?

In its fourth Settlement and its third Corporate Integrity Agreement (CIA) with the Department of Justice over illegal marketing activities, Pfizer's chief compliance officer is now compelled to report directly to the company's CEO rather than the general counsel, as has been the case in the past. The CIA which resolved the civil and criminal cases with the Office of Inspector General of the Department of Health and Human Services (DHHS) changes the reporting relationship of the chief compliance officer in an effort to eliminate conflicts of interest and to prevent in-house counsel involvement in the generation of reports as required by the CIA.

Cami Agena, Esq.



For the second year in a row, the Phoenix Business Journal has named The Phoenix Law Group Of Feldman Brown Wala Hall & Agena to the list of largest specialty firms in Phoenix for its Pharmacy Benefits and Operations practice.

ABOUT US

The Phoenix Law Group of Feldman Brown Wala Hall and Agena, PLC is one of the few law firms in the country with an entire practice group devoted exclusively to pharmacy benefits and operations. What sets our practice group apart? For starters, it is made up entirely of attorneys that have in-house counsel experience, giving us significant expertise in an extremely complex industry.

Primarily representing pharmacy benefit managers (PBMs) and health plans, we work with our clients daily as an extension of their in-house legal departments. Because we get to know our clients thoroughly, we understand how to achieve their business goals, and are able to provide each with pragmatic advice and workable solutions. From contract development and negotiation, to structuring operations to meet regulatory requirements, our experience allows us to handle a client's needs seamlessly without wasted time getting up to speed.

For additional information that impacts the pharmaceutical benefit industry, visit PLGTRACK.COM or contact Samantha Brown (sbrown@phoenixlawgroup.com), Laurel Wala (lwala@phoenixlawgroup.com), or Cami Agena (cagena@phoenixlawgroup.com) at The Phoenix Law Group (www.phoenixlawgroup.com).

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