OIG Report on Part D Rebates Demonstrates the Need for Increased Part D PBM Transparency

Part D Rebates are Significant and Beneficiaries do not Reap the Benefits

In 2008, Part D sponsors received $6.5 billion in rebates. Sponsors varied greatly in how they allocate rebates across plans with one sponsor reporting rebates of $6 per beneficiary per month for one plan and $172 per beneficiary per month in another plan. Some sponsors may be inappropriately allocating rebates across their plans in order to optimize reconciliation payments. Notably, most sponsors did not pass the full amount of rebates onto beneficiaries, and only 4 out of 258 sponsors provided rebates to beneficiaries at the point of sale.

Part D Sponsors are Underestimating Rebates Reported to CMS

In 2008, sponsors underestimated rebates in 69% of their bids and 78% of Part D beneficiaries were enrolled in plans that underestimated rebates. These underestimations lead to overpayments by CMS and higher premiums for Part D beneficiaries. Beneficiaries never recoup these overpayments. The high percentage of underestimates may indicate that some sponsors deliberately underestimate their rebates in order to increase their profits.

Manufacturer Rebates Cause Part D Sponsors to Promote Certain Brand-Name Drugs

- Types of manufacturer rebates to sponsors for promoting the use of certain brand-name drugs:
  - Rebates based on the number of units of the rebated drug dispensed to beneficiaries within the plan;
  - Formulary rebates, which reward sponsors for placing the rebated drugs on the brand-name preferred tier of the formulary, while charging higher co-pays for competitor drugs or implementing formulary exclusion for those drugs; and
  - Market-share rebates, which reward sponsors based on the total number of rebated drugs that beneficiaries use compared to non-rebated drugs used.
- These rebates result in limited patient access to lower cost, equally effective generic equivalents to the high cost brand-name drugs being promoted.

Part D Lacks Transparency in how Rebates and Fees are Used

OIG findings:

- Complex and varied relationships exist between Part D sponsors and PBMs, along with a corresponding lack of transparency.
  - A lack of transparency results in sponsors not having enough information to provide oversight over the PBMs.
- PBMs allow sponsors to learn only limited information about rebate contracts and rebate amounts negotiated by the PBMs.
  - Most sponsors are unaware of all of the contract terms that determine the rebates.
  - Some sponsors have only aggregate information of all rebates received per plan, instead of the amount of rebates per drug.
  - PBMs are even unwilling to discuss their business practices in front of sponsors.
- Sponsors rely on audits to verify that they receive the appropriate rebate amounts and that the rebate data that they report to CMS is accurate.
  - In some cases, the scope of what the sponsor can audit is restricted by the PBM.

- Most sponsors report that their PBMs receive fees from drug manufacturers for negotiating rebates in addition to sponsors' fees.
    - Sponsors are not always able to verify whether these fees should be considered rebates to be passed through to the sponsor, or bona fide service fees to be retained by the PBM.
    - Sponsors may be unable to accurately report to CMS the manufacturer payments to PBMs.