



November 18, 2011

The Honorable Donald Berwick, MD  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Hubert H. Humphrey Building  
200 Independence Avenue, SW  
Washington, DC 20201

**Re: Charging Retail Pharmacies Twice for Medicare Enrollment Application Fees**

Dear Administrator Berwick:

The National Community Pharmacists Association (NCPA), the National Association of Chain Drug Stores (NACDS), the Food Marketing Institute (FMI), and the American Pharmacists Association (APhA) are writing to raise concerns to CMS with regard to a Final Rule which requires Medicare provider/supplier enrollees to pay an enrollment/revalidation application fee twice, if the provider/supplier enrolls or revalidates through both an 855S and 855B enrollment/revalidation form. This is an unfair burden to impose on retail pharmacies and we urge CMS to revise its position to charge one application fee for dual 855S/855B enrollees, just as CMS has done for dual Medicaid/Medicare provider/supplier enrollees.

Our boilerplates are all available online (and below), but suffice it to say, members of NCPA, NACDS, FMI and APhA represent the totality of retail community pharmacies and the pharmacists they employ.

In the preamble to the Final Rule on Medicare/Medicaid enrollment/revalidation application fees, as released on February 2, 2011, CMS stated at pages 5913-14:

“Individual institutional providers that enroll in Medicare and Medicaid will be required to pay only one application fee per enrollment. Entities or individuals that enroll only in Medicare or only in Medicaid as more than one kind of institutional provider, for example, a DMEPOS supplier and a home health agency, will be required to submit the fee for each enrollment.”

Our collective organizations believe that imposing a dual application fee for a single provider/supplier enrolling or revalidating as two different types of institutional providers is unduly burdensome and inconsistent with CMS' policy with regard to dual Medicaid/Medicare providers/suppliers.

Under CMS' dual application fee policy, a retail pharmacy will be subject to a \$1046 fee in 2012 merely because that pharmacy, as a single location, provides Part B supplies, such as diabetic testing supplies, along with providing vaccinations/immunizations. Such a single location pharmacy would enroll through an 855S form to provide Part B DME supplies and an 855B form for billing immunizations, requiring payment of two fees. However, if the pharmacy is both a Medicare Part B DME supplier and a Medicaid DME supplier, then the pharmacy will only pay one fee. NCPA, NACDS, FMI and APhA contend that this policy is inconsistent. Based on statements in the preamble to the Final Rule, the application fee serves the purpose of paying for the cost of fraud, waste and abuse screening. Yet, there are no additional fraud, waste and abuse costs to monitor or screen the same single location, which happens to be enrolled as a dual institutional provider. The pharmacy is subject to the same screening regardless of whether it enrolls or revalidates through an 885S or also does so through an 855B, as well.

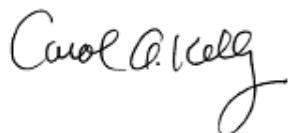
Not only is the policy inconsistent, but it is unduly burdensome on businesses, such as retail pharmacies. Retail pharmacies operate on thin profit margins and dual application enrollment/fees only reduce those margins further. In fact, even though the dual enrollment/revalidation fee was \$1010 for this year, it has already been announced the fee will increase in 2012 to \$1046 and annually thereafter based on the Consumer Price Index. Community pharmacies already incur a host of other costs associated with fraud, waste and abuse prevention in Medicare Part B, including accreditation fee costs and surety bond costs. If these costs become too burdensome, then many community pharmacies will cease to provide Part B DME, such as diabetes testing supplies, or immunizations, or both. In turn, this will create an access problem for patients, particularly those patients in rural and urban areas, where the options for access are limited.

NCPA, NACDS, FMI and APhA fully support anti-fraud, waste and abuse efforts. Moreover, we are not disputing the Affordable Care Act requirement for an application fee. However, nothing in the statute contemplates charging multiple application fees for a single pharmacy in a single location. Such a policy imposes excessive costs on community pharmacies and is inconsistent with CMS' application fee policy regarding dual Medicaid/Medicare providers/suppliers. Accordingly, our organizations request that CMS immediately reverse its policy of charging dual application fees, and instead charge a single application fee per provider/supplier in a single location, even if the supplier is a Medicaid supplier, Part B DME supplier and a Part B vaccination supplier. Time is of the essence as the revalidation process has begun. Please feel free to reach out to John Coster, Senior Vice President, Government Affairs, NCPA, at 703-600-1184 or [john.coster@ncpanet.org](mailto:john.coster@ncpanet.org), Carol Kelly, Senior Vice President, Government Affairs and Public Policy, NACDS, at 703-837-4255 or [ckelly@nacds.org](mailto:ckelly@nacds.org), Cathy Polley, Vice President, Health and Wellness, FMI, at 202-220-0631 or [cpolley@fmi.org](mailto:cpolley@fmi.org), or Brian Gallagher, Senior Vice President, Government Affairs, APhA, at 202-429-7533 or [bgallagher@aphanet.org](mailto:bgallagher@aphanet.org).

Sincerely,



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Senior Vice President, Government Affairs  
National Community Pharmacists Association



Carol Kelly  
Senior Vice President, Government Affairs and Public Policy  
National Association of Chain Drug Stores



Brian Gallagher, R.Ph., JD  
Senior Vice President, Government Affairs  
American Pharmacists Association



Cathy Polley, R.Ph.  
Vice President, Health & Wellness  
Executive Director, FMI Foundation  
Food Marketing Institute

cc: Marilyn Tavenner, Principal Deputy Administrator and Chief Operating Officer  
Peter Budetti, Deputy Administrator and Director, Center for Program Integrity  
Jonathan Blum, Deputy Administrator and Director, Center for Medicare

### About Our Organizations

NCPA represents the interests of America's community pharmacists, including the owners of more than 23,000 independent community pharmacies, pharmacy franchises, and chains. Together they represent a \$93 billion health-care marketplace, have more than 315,000 employees including 62,400 pharmacists, and dispense over 41% of all retail prescriptions. NCPA members are a primary provider of Part B supplies and vaccinations to millions of Americans and as such are a primary access point for Part B DME supplies and vaccines for millions of Part B beneficiaries.

NACDS represents traditional drug stores, supermarkets, and mass merchants with pharmacies – from regional chains with four stores to national companies. Chains operate more than 40,000 pharmacies and employ more than 3.5 million employees, including 130,000 pharmacists. They fill over 2.6 billion prescriptions annually, which is more than 72 percent of annual prescriptions in the United States. The total economic impact of all retail stores with pharmacies transcends their \$900 billion in annual sales. Every \$1 spent in these stores creates a ripple effect of \$1.81 in other industries, for a total economic impact of \$1.76 trillion, equal to 12 percent of GDP. NACDS members are pleased to provide durable medical equipment and supplies and vaccinations to Medicare beneficiaries.

Food Marketing Institute (FMI) conducts programs in public affairs, food safety, research, education and industry relations on behalf of its 1,500 member companies — food retailers and wholesalers — in the United States and around the world. FMI's U.S. members operate approximately 26,000 retail food stores and 16,000 pharmacies. Their combined annual sales volume of \$680 billion represents three-quarters of all retail food store sales in the United States. FMI's retail membership is composed of large multi-store chains, regional firms and independent supermarkets. Its international membership includes 200 companies from more than 50 countries. FMI's associate members include the supplier partners of its retail and wholesale members.

APhA, founded in 1852 as the American Pharmaceutical Association, represents more than 62,000 pharmacists, pharmaceutical scientists, student pharmacists, pharmacy technicians, and others interested in improving medication use and advancing patient care. APhA members provide care in all practice settings, including community pharmacies, hospitals, long-term care facilities, community health centers, managed care organizations, hospice settings, and the uniformed services.