

May 17, 2012

Center for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-0040-P
P.O. Box 8013
Baltimore, MD 21244-8013

Re: CMS-0040-P; Administrative Simplification: Adoption of a Standard for a Unique Health Plan Identifier; Addition to the National Provider Identifier Requirements; and a Change to the Compliance Date for ICD-10-CM and ICD-10-PCS Medical Data Code Sets

Dear Sir or Madam:

Thank you for the opportunity to submit our comments on CMS' Proposed Rule regarding the implementation of Section 1104 of the Patient Protection and Affordable Care Act. As CMS considers finalizing the proposed new requirements for administrative transactions, the National Community Pharmacists Association (NCPA®) appreciates the opportunity to share our perspectives.

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 the primary providers of drugs and pharmaceutical supplies to millions of Americans. Focusing on the use of NPI numbers in the Medicare Part C and D programs, NCPA members are a primary access point for prescription medications for millions of Part C and D beneficiaries and NCPA members comprise a critical piece of the Part C and D prescription drug distribution system.

Disclosure of Prescriber National Provider Identifier (NPI)

NCPA applauds CMS' efforts to address the recurring issues that have resulted from the "2004 NPI final rule" (69 FR 3434). As CMS stated in this proposed rule, as a result of the "2004 NPI final rule," "[p]harmacies are encountering situations where the NPI of a prescribing health care provider needs to be included in the pharmacy claim, but the prescribing health care provider does not have an NPI or has not disclosed it." NCPA strongly supports the effort to address this issue by requiring organization covered health care providers that have as a member, employ, or contract with, an individual health care provider to require the prescriber to obtain a Type 1 NPI.

At the same time, NCPA opposes the proposed requirement that such a provider must only disclose their NPI “upon request to any entity that needs it to identify the prescriber in a standard transaction.”

The requirement that providers must disclose their NPI to entities, such as pharmacies, only “upon request” does not fully address the problems stemming from the “2004 NPI final rule.” While such providers may no longer refuse to disclose a NPI number or alternatively will now be required to obtain a NPI number, the requirement that disclosure need only occur “upon request” heavily burdens community pharmacists. Under this proposed rule, the burden would fall upon community pharmacies to attempt to collect a provider’s NPI. In a hospital setting, this is particularly difficult because it requires pharmacies to track down a resident or intern who ordered a particular prescription. This may be difficult or near impossible to do, given the constant rotation of interns and residents in a hospital. In the end, the patient and the pharmacy suffer, through the inability to validly fill the prescription and/or the pharmacy suffering recoupment for a claim without a valid NPI number.

Requiring pharmacies to track down interns and residents to make them provide a NPI number also has the negative impact of leaving pharmacists with less time to counsel patients. Counselling patients has been proven to be a valuable preventive service and reduces overall health care costs. Yet, this proposed rule makes it more difficult for pharmacists to perform that valuable role.

In light of these concerns, NCPA strongly encourages CMS to alter the disclosure requirement to require that all providers disclose their Type 1 NPI on each prescription transmitted to a pharmacy, without requiring pharmacies to make an affirmative request.

Date of Implementation of the Prescriber NPI Requirement

NCPA also opposes the date of implementation of the proposed rule’s NPI requirement. Through the April 2012 Final Part D Rule, “Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs for Contract Year 2013 and Other Changes”, CMS requires Part D sponsors to include an active and valid NPI on PDEs that they submit to CMS beginning in January, 2013. However, under the present proposed rule, organization covered health care providers would be required to implement the requirement within 180 days after the effective date of the final rule. CMS expects the final rule to be effective on October 1, 2012. Accordingly, covered organization health care providers would not have to meet the NPI requirement until April 7, 2013. The result is a three month gap between the time when CMS requires valid individual prescriber NPI numbers on all prescription claims and the time when covered organization health care providers must begin requiring non-covered individual providers, such as residents and interns, to obtain such NPI numbers.

Once again, the problems generated by this gap in start dates burdens pharmacies and patients.

Unless covered organization health care providers are required to require individual providers to obtain NPI numbers on January 1, 2013, pharmacies will still receive, until April, 2013, some prescriptions without valid NPI numbers. These pharmacies have no recourse in such a situation.

They must either fill the prescription and face recoupment, or refuse to fill the prescription, thereby hindering patient access to a needed drug. It makes no sense to have such a varying start date in NPI requirements and this could not have been the intent of Congress. Accordingly, NCPA strongly urges CMS to require covered organization health care providers to require individual providers to obtain and disclose their individual NPI numbers on prescriptions, starting January 1, 2013, the same start date applied to pharmacies.

Conclusion

As you finalize plans for release of the Final Rule for the implementation of Section 1104 of the Patient Protection and Affordable Care Act, NCPA respectfully urges you to consider these issues. We appreciate the opportunity to share our concerns and recommendations with you.

Sincerely,

A handwritten signature in cursive script that reads "John M. Coster".

John M. Coster, Ph.D., R.Ph.
Senior Vice President, Government Affairs