California State Board of Pharmacy
1625 N Market Street, Suite N-219, Sacramento, CA 95834
Phone (916) 574-7900
Fax (916) 574-8618
www.pharmacy.ca.gov

STATE AND CONSUMERS AFFAIRS AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
ARNOLD SCHWARZENEGGER, GOVERNOR

Meeting Summary

Subcommittee on Medicare Drug Benefit Plans
January 17, 2006
1-3:30 p.m.

Holiday Inn Capitol Mall
300 J Street
Sacramento, California

Present: Stanley Goldenberg, Board President
Bill Powers, Board Vice President
Andrea Zinder, Board Member
John Jones, Board Member

Patricia Harris, Executive Officer
Virginia Herold, Assistant Executive Officer
Jan Perez, Legislative Coordinator
Judi Nurse, Supervising Inspector

President Goldenberg called the meeting to order at 1:05 p.m.

He explained that the purpose of the meeting was to discuss the implementation of the Medication Prescription Drug Act, and specifically the Part D Benefit. These changes, began 1, 2006, and represent an enormous change in the Medicare benefit program.

The meeting started with patient Tracy Patterson's description of her unsuccessful efforts to obtain necessary medication. Her story had been highlighted on January 13 on the front page of *The Sacramento Bee.* Ms. Patterson indicated that she has been without the Medicare benefit since January 1. She has spent three to four hours on the phone and cannot resolve the problems. She believes that the problems seem to rest between the entities Humana and ARGUS, each of which says one thing regarding her eligibility and coverage, but neither entity will call the other. She also has been asked to pay very high copayments ($300 for one medication), which her benefit says should be $3 at most.

President Goldenberg stated that over the prior few days, numerous stories have been printed indicating Ms. Patterson's problems are not unique. He is aware that patient

advocates and pharmacies have been deluged with patients having serious problems obtaining their medication, medication that should be covered by the program.

Jeff Flick, Regional Administrator of the Centers for Medicare & Medicaid Services, explained that the focus of the media attention has been on what has gone wrong, not on what has gone right. Also attending the meeting from CMS was Lucy Saldana, Pharmacist Consultant.

Pharmacies and patients complained that they cannot obtain eligibility determinations. In other cases, copayments for dual eligibles (who qualify for both Medicare and Medicaid), who are on multiple medications, have greatly exceeded what they should have been, for example, a copayment on one medication may be $300 for a 30-day supply. Pharmacies attempting to verify eligibility or resolve problems for an individual patient report being on hold for long periods of time (one hour or more), and still being unable to resolve the problem for the patient. Patient advocates indicate that they also have been unsuccessful in resolving eligibility determinations for patients, and are swamped with calls seeking assistance. Some pharmacies have provided interim supplies of medication while attempts are made to rectify the problem, but other pharmacies have not, resulting in patients going without their medications.

In recent days before the January 17th meeting, and to assure that dual eligible patients are getting their medications, states have stepped in to provide interim funding where the patients' eligibility is not showing in the computer systems, and the pharmacies cannot identify coverage. California stepped in on January 12 to provide payment for a 15-day supply of medication when eligibility cannot be determined. The state intends to seek repayment from the federal government, but Mr. Flick indicated that the plans should be responsible for this repayment instead.

Mr. Flick stated that the transition plan was to cover one refill by the assigned health plan to ensure patients had their medication in January. However, 300,000 patients changed plans late in December and this caused one part of the problem with eligibility determinations. He stated that the data is being corrected, and the problems will cease soon. There have been other issues caused by different data problems. Again, these problems are being rectified.

Representatives of long-term care pharmacies stated that these pharmacies are having to absorb a copayment for these patients, yet there should be no copayment at all. There are also eligibility problems for these patients. A major problem is that the health plans do not aggressively work to resolve patient problems. The pharmacists requested a strong letter from CMS to the plans, requiring immediate correction of the problems.

Representatives of infusion pharmacies stated that their patients are having to stay in hospitals where care is substantially more expensive because patients cannot obtain verification of coverage. Verification of coverage is taking 72 hours to five days and this is too long. These are typically very sick patients, and some are going without their medications. Some patients have been automatically enrolled in programs that do not

cover their prescribed medication. This will result in health impacts and rehospitalization. The copayments have created huge problems – an example cited was one patient's cost increased from $4,000 per year to $15,000 per year under the new system.

Patient advocates stated that they are attempting to aid large numbers of confused patients in selecting plans and resolving medication copay problems or eligibility problems, but cannot obtain resolution fast enough for patients.

A number of those providing comments at the meeting indicated that the plans do not seem to be doing their part in resolving problems timely.

Board members Goldenberg and Powers expressed their concern for patients that are being denied medication, and resolutions are not coming fast enough. Plans are not being held accountable to respond to patients timely.

Teri Miller, PharmD, Senior Pharmaceutical Consultant, MediCal Policy Division of the California Department of Health Services stated that earlier in the day, the Legislature and Governor agreed to provide $150 million in emergency funding to pharmacies so that dually eligible patients with problems can receive their medications until their coverage can be ascertained. The legislation to provide this funding is expected to be passed later in the week. Dr. Miller stated that the state is the payer of last resort, and will cover dual eligible patients who are otherwise unable to obtain their medications. Pharmacies must have made efforts to obtain coverage determinations and been unable to do so in order to qualify for the reimbursement. Specifically the pharmacy must certify that it was unable to obtain necessary information from Medicare to submit a claim, its claim was incorrectly denied, or the beneficiary would have been charged a copayment higher than the $1 to $5 payment specified by Medicare.

President Goldenberg thanked those who attended the meeting. He invited Mr. Flick and Dr. Saldana to the February Board Meeting so they could provide up to the minute information about the implementation of this program, and the government's efforts to resolve the problems.

The meeting was adjourned at 3:30 p.m.