

## GOVERNMENT & MEDICINE

Congress considers mandate for Medicare e-prescribing

### **Bipartisan bill would boost E&M payments for doctors who prescribe electronically but cut these reimbursements for physicians who don't.**

By [Dave Hansen](#), AMNews staff. Jan. 7, 2008.

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**Washington** -- Congressional patience with the pace at which physicians are adopting electronic prescribing seems to be wearing thin. House and Senate lawmakers have introduced legislation that would mandate e-prescribing for Medicare beginning in 2011.

At a Dec. 4, 2007, Senate Judiciary Committee hearing, lawmakers also expressed frustration with the lack of movement toward allowing e-prescribing of controlled substances.

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Sponsors of the two electronic prescribing bills tried to fold the legislation into a measure to prevent next year's 10.1% Medicare physician payment cut. But the language was not included in a last-minute Medicare package.

Rep. Allyson Y. Schwartz (D, Pa.), one of the bill's sponsors, said that if the measure didn't pass in 2007, she would press for hearings and continue to vet the legislation in 2008, according to her spokeswoman, Rachel Manguson.

The bills would fine physicians who continued writing paper Medicare prescriptions after Jan. 1, 2011. They would allow the Health and Human Services secretary to give one- or two-year exemptions to physicians facing hardships buying and implementing the technology. The measures would give HHS discretion to determine what constitutes a hardship, according to the office of Sen. John Kerry (D, Mass.), a sponsor of the Senate bill.

The legislation, the Medicare Electronic Medication and Safety Protection Act, also would provide one-time Medicare grants to offset the costs of e-prescribing technology. The grants would be \$2,000 in the first two years of implementation, \$1,500 in the next two years, and \$1,000 permanently thereafter.

## **Almost 7 million Americans abuse prescription drugs.**

The amounts go down because costs usually drop after a technology's introduction. Typical startup costs to comply would be around \$2,800, according to Schwartz's staff.

The bills would not set an e-prescribing standard. The Centers for Medicare and Medicaid Services would handle that task. Any technology that met the standards would qualify physicians for the payment, said a Schwartz staff person.

Doctors also would receive a 1% bonus on Medicare evaluation and management services provided in conjunction with an e-prescription, as long as they electronically prescribed at least a certain portion of their scripts. HHS would determine the threshold. The extra payments would be permanent, the staffer said. But pay for E&M services provided during a visit in which a prescription was written on paper would be cut 10% if the prescription could have been handled electronically.

The American Medical Association has not taken a formal position on the bills. The AMA supports the voluntary adoption of health information technology and federal government efforts to promote it. The Association strongly opposes mandates.

The Schwartz staff person acknowledged the AMA's opposition to mandates and said the lawmaker was willing to accommodate its concerns. The goal is to encourage e-prescribing and improve patient safety while not being punitive, the source explained.

## **Senators criticize e-prescribing ban**

Meanwhile, the Senate Judiciary Committee held a hearing Dec. 4, 2007, on allowing electronic prescribing of controlled substances. The Drug Enforcement Administration has been considering new regulations to permit this practice since 2006 but has not committed to a timeline, said Sen. Sheldon Whitehouse (D, R.I.).

Current law requires paper prescriptions for controlled substances. As a result, many physicians write all scripts by hand, rather than maintain two separate systems, he said.

"Billion-dollar transactions are done electronically, highly classified national security information travels electronically, military attack aircraft are targeted

electronically. Don't tell me we can't figure out a way for a doctor to prescribe Vicodin electronically," Whitehouse said.

Sen. Arlen Specter (R, Pa.) said he supports allowing physicians to e-prescribe controlled substances. It is understandable that the DEA wants to establish a paper trail for controlled substances, he said. But, he noted, electronic transmissions such as e-mails are traceable.

Sen. Edward Kennedy (D, Mass.) expressed disappointment that the DEA turned down a waiver from Massachusetts to allow e-prescribing of controlled substances and said he hoped the agency would work with CMS on new regulations.

The AMA supports e-prescribing of controlled substances as long as security measures are in place to ensure patient confidentiality and the information's integrity.

DEA Deputy Assistant Administrator Joseph T. Rannazzisi told senators that the agency supports e-prescribing of controlled substances but that adequate safeguards must be established to prevent criminals from diverting drugs for illicit use. Rannazzisi noted that almost 7 million Americans abuse prescription drugs, up from 3.8 million in 2006.

While there is no timeline to establish new regulations, Rannazzisi told senators that he believes the rulemaking process will be completed in three years. He promised to provide a formal timeline within 60 days.

The DEA rejected the Massachusetts waiver because one of the state's goals was to create a nationwide system that could be used for e-prescribing controlled substances, Rannazzisi said. Such a system would have to be created by federal agencies, he explained. The DEA is working with Massachusetts on resubmitting its proposal so it can be approved, he added.

At the hearing, Rite Aid Corp. Vice President Mike Podgurski said the company supports e-prescribing for controlled substances. It would speed the spread of e-prescribing technology, he said. It also would reduce theft by replacing paper prescription pads, which are easier to steal and forge, Podgurski said.

Whitehouse followed up the hearing with a Dec. 17, 2007, letter to the DEA formally requesting that it promptly issue standards for prescribing controlled substances. The letter was signed by a bipartisan group of 18 senators, including Sens. Kennedy and Specter.