Democrats Getting Their Medicare Ducks in a Row for Next Year

The Quacking Is Getting Louder

Stephen Barlas

Democrats are lining their ducks up for the next Congress, and some of the loudest “quacking” is about the Medicare Part D outpatient drug program. The House Oversight and Investigations Committee, chaired by Representative Henry Waxman (D-Calif.), issued two reports in the previous congressional session on inflated prices paid by senior citizens and the federal government to insurance and drug companies. He suggested that the only way to repair Part D was for Congress to amend it, and he believes that changes could save taxpayers almost $90 million per year. He had planned to introduce a bill in 2008, even though he doesn’t expect that it will move this year.

Those with good memories will recall that the Democrats tried mightily in early 2007 to pass legislation that would allow the federal government to negotiate with Medicare Part D plans in hopes that lower drug prices to Medicare beneficiaries, as well as the government, would follow. That expectation, however, was not met.

Next year, in 2009, should be a different story. President Bush won’t be around to threaten a veto of a bill that the drug and insurance companies don’t like. And Republicans, who generally blocked Medicare drug reforms, will probably be fewer in number. Either Senator Barack Obama (D-Ill.) or Senator John McCain (R-Ariz.) will be sitting behind the desk at 1600 Pennsylvania Avenue, and either of them would be receptive to legislation aimed at socking it to “special interests” whom they each campaigned against.

To understand the political debate over Medicare drug costs, we must first recognize that the Medicare drug program is costing the federal government (and our Medicare enrollees) less than originally projected—much less in fact, perhaps in good part because of the widespread use of generic medications. But it is also true that the brand-name pharmaceutical companies are charging Medicare more for some key drugs than they are charging Medicaid or Veterans Affairs for the same drugs. This is especially true for six Medicare categories in which a Medicare prescription drug plan (PDP) must offer “all or substantially all” of the drugs in those categories. These include antiretroviral AIDS drugs, antipsychotic agents, antidepressants, immunosuppressive agents, chemotherapy drugs, and anticonvulsants. In effect, therefore, Representative Waxman and the Democrats see the Part D benefit as being a glass half-empty: Republicans, insurance companies, PBMs and drug manufacturers see the glass as more than half full.

Waxman fanned the fire in late July when his Oversight Committee released its second report on Part D. It asserted that Medicare was paying 30% more for drugs taken by one Medicare recipient (a “dual eligible”) who two years ago was getting that same drug from Medicaid for 30% less. Keep in mind that Medicaid drug prices are controlled; a drug company cannot charge more than it charges its best commercial customer. Congress created no such imperative for the Part D program; for Part D, the concept was that competition among PDPs would keep drug prices low.

The first Waxman report, by the way, looked at administrative costs billed to the federal government by PDPs for the Part D plans. The indictment was that the private insurers were charging $4.6 billion in these costs annually. In terms of percentages, those costs ran about 10% of that amount, six times more than it cost to run traditional Medicare, according to the Waxman report.

Mark Merritt, President and Chief Executive Officer of the Pharmaceutical Care Management Association, acknowledged that pharmacy benefit managers (PBMs), which function both as PDPs and also manage formularies for insurance company-run PDPs, typically account for $0.03 of each prescription dollar. Citing a PriceWaterhouseCoopers survey performed for the Pharmaceutical Care Management Association in 2007, he noted that, in return, PBMs reduce overall costs by 29%, compared with an unmanaged benefit.

“While administrative costs may be higher in Part D due to its unique features, the overall cost reductions are comparable,” he adds.

The ability for any PBM to manage costs, whether for a PDP or a private plan, depends in good part on the extent to which it can implement an effective formulary and a management strategy to encourage compliance with that formulary. Congressional dictates on formulary management impede that ability.

Congress has already started to tie the hands of PDP formularies. The Medicare bill passed by Congress in July (see the August 2008 issue of P&T) contained a provision that set in stone the controversial “all or substantially all” policy Medicare had been administering on its own authority. The bill not only puts the policy in statute; it provides a process whereby other “illness” categories beyond the current six can be added. Brand-name pharmaceutical manufacturers were thrilled with that opening but PBMs were not so pleased.

Next year, Henry Waxman and others will push for other changes. For example, if Democrats want to expand Medicare’s administrative dictate that formularies must offer at least two brand-name drugs in each therapeutic category (maybe two will become three), it becomes more difficult for formularies to manage costs. Other anti-formulary measures may be in the offing.

One thing is for sure. Once the Medicare ducks start flapping their wings in the congressional pool, someone is going to get soaked.