SHARING OUR THOUGHTS

Reimbursement Issues on the Horizon

by Bruce E. Rodman, M.B.A.

Editor's Note: Welcome to INFUSION's newest column–*Sharing Our Thoughts!* In each issue, this column will feature the thoughts of one of NHIA's senior staff members. By rotating authorship among our team, we hope to share information, expertise, insights, and views on various topics pertaining to the alternate-site business marketplace, clinical practices, leadership and strategic planning, collaborations and partnerships, NHIA activities, and more!

Since this issue of INFUSION is addressing many economic changes, challenges, and opportunities within our field, we wanted to explore the ways providers are reacting to this shifting landscape in the near-term–and how they are positioning themselves for success in the long-term too. So, to inaugurate *Sharing Our Thoughts!*, we asked NHIA's Vice President of Health Information Policy, **Bruce E. Rodman**, M.B.A., to share updates on some reimbursement developments that will–or may in the future–impact alternate-site infusion providers. NHIA staff members are monitoring these, and other, reimbursement issues closely. If you wish to communicate your experiences or concerns in these areas, please contact Bruce Rodman at Bruce.Rodman@sbcglobal.net or 847-362-2017.

Enjoy the column!

Bruce E. Rodman, M.B.A.

It should be no surprise that most of the issues mentioned here will present challenges to the economic–and patient care–aspect of your practice. However, armed with the knowledge of what is coming, you can include these developments within your short-term business projections and/or consider them in your future strategic planning. Regardless, it is much better to be well aware of the follow matters than to be caught off guard by them:

- **Medicare Payment for Enteral Nutrition.** Most home medical equipment industry participants viewed the delay of Medicare's competitive bidding program positively. Leaders in that field are to be congratulated for getting Congress' attention and action. The various existing problems with this program do need to be better addressed, or it needs to be eliminated. As for home infusion providers, the Medicare Improvement for Patients and Providers Act of 2008 (MIPPA) brought with it a 9.5 percent reduction in Medicare reimbursement for enteral therapy (and other products/services selected for competitive bidding) to fund the delay. The cut becomes effective January 1, 2009 for all suppliers, with reimbursement for suppliers outside of competitive bidding areas (CBAs) remaining at the 9.5 percent reduction level through 2013–and those within CBAs being subject to bid rates when bids are won, after the program resumes.
- **Average Manufacturer Price (AMP).** With the Deficit Reduction Act of 2005, Congress specified a new pricing system to be used for multiple source drugs (generics) for Medicaid reimbursement. AMP would replace Average Wholesale Price (AWP)-based reimbursement and it seems clear that published AMP fee schedules would be much lower, threatening the existence of pharmacies. A 2006 Government Accountability Office study said that AMP-based fees (based on the Centers for Medicare & Medicaid Services' [CMS] proposed AMP rule) would pay pharmacies, on average, 36 percent less than their acquisition cost.

The retail pharmacy community–independent and chain–is alarmed that CMS' final AMP regulations threaten closure of retail pharmacies and thus would essentially deny access for Medicaid patients to prescription drugs. AMP-based Medicaid reimbursement was to have started on January 30, 2008. Other payers might look at adopting these fee schedules if they become available.

Of course, AMP would present a major challenge for infusion providers–and might some conclude they could no longer afford to serve AMP-reimbursed patients? While AWP has its problems, AMP appears to be very flawed. Some good news is that MIPAA (mentioned earlier) stops CMS from publicly releasing AMP-based fee schedules until October 1, 2009. This gives the retail pharmacy community more time to petition Congress or the courts to improve it, or stop it.

- **Average Wholesale Price (AWP).** Will published AWP amounts be lowered across the board? Will AWP itself disappear? For part of the answer, we are watching developments on a lawsuit against First DataBank (FDB). FDB and McKesson had a class-action lawsuit filed against them in June of 2005 backed by a coalition of national, state, and local advocacy groups representing seniors and labor. The suit alleged that both entities conspired to arbitrarily raise AWP by five percent. While subsequently FDB divested Medi-Span (MS), MS is involved in the suit and part of the proposed settlements now on the table. FDB and MS (but not McKesson) had agreed to a proposed settlement that would have had them lower AWP amounts for over 8,000 drugs; then, two years after that they would cease publishing AWPs. Interestingly, the proposal would have given FDB and MS the right to publish a similar drug price list in place of their AWP prices if a competitor distributed AWPs using a substantially similar benchmark. As with AMP, the retail pharmacy associations fought this settlement because it essentially would result in most of the damages being paid for by pharmacies rather than the defendants.

The court denied the first proposed settlement last January, and in May the court received another proposed settlement that would lower AWP amounts for far fewer drugs (1,356) and omitted the commitment to stop publishing AWPs. To this, the court granted its preliminary approval. Somewhat amazingly, on June 2 FDB announced it would lower AWP amounts for all of the original 8,000+ drugs and stop publishing AWPs two years later "independent of the settlement" but "on the same schedule" as reducing AWP amounts if the settlement is accepted by the court.

So this means that if the court doesn't agree, then FDB might not move forward with its "independent" actions. The retail pharmacy groups are pointing out the fallacies of this proposed settlement once again to the court and a fairness hearing is scheduled for December 17, 2008. Meanwhile, MS announced on July 23 it is evaluating "additional AWP Pricing Policy Changes." Interestingly on August 26 the court dismissed the case against McKesson.

Even if FDB would proceed with its independent actions and Medi-Span does similar, that would still presumably leave Thomson Micromedex publishing AWPs in its RED BOOK®. Average Sales Prices (ASP) used in Medicare physician-office reimbursement (but not for home infusion drugs covered under the Durable Medical Equipment benefit) is also out there. And then there is AMP. So, can you predict if and when AWP would disappear, and what pricing mechanism(s) would replace it? Well, I certainly cannot. But one thing I know is that prudent alternate-site infusion providers should make every effort to include terms in their contracts with health plans and Prescription Benefit Managers (PBMs) that would reopen contracts for renegotiation if there are fundamental changes in the drug reimbursement basis of these contracts.

- **Rising Costs.** Alternate-site infusion providers have other significant economic challenges from rising cost structures. For example, let's consider pharmacists. While the 2008 Pharmacy Compensation Survey from Mercer is for retail, mail-order, and hospital pharmacists, its results may provide a clue to infusion employers' expenses. In it, Mercer reports that the average salary and bonus for a retail staff pharmacist is now $108,700 and has increased 5.8 percent from 2007. Additionally, shortages of nurses have been widely reported and in May of 2007 the mean salary for a home health care services nurse was almost $60,000 (U.S. Bureau of Labor Statistics), also providing a clue to salary expenses for highly skilled infusion nurses. And then there is the dramatically increased cost of gasoline for nursing visits and infusion product deliveries that home infusion providers must somehow manage through. Clearly, these economic factors must also be pru-

dently considered when engaging in business and strategic planning.

Our nation struggles to contain out-of-control health care costs for what is, by many measures, a broken health care system. Payers–government and private–are searching for every opportunity to reduce providers' reimbursement even if, unfortunately, it risks the quality of care provided to patients. Health care has finally become a most visible national elections issue.

But we don't know who the winners of the November 2008 national elections will be, and it is tough to predict just what these victors may develop in terms of comprehensive health care reform in the next few years. Alternate-site infusion providers who are keeping informed about what the future may bring and thinking ahead to develop new strategies to address national health care system changes will be best positioned to maintain their missions of quality and effective care for their patients in the long-term. Being proactive and strategic now around the above reimbursement issues looming on the horizon will go a long way towards generating more productive outcomes for your organization–and our field.

At NHIA, we strive to keep you informed–and association members may check out our various "news and information" materials starting from the NHIA website homepage: www.nhia.org. As was indicated earlier by INFUSION's editor, in this space I'll be joined by others on the NHIA team in *Sharing Our Thoughts!* Please feel free to contact all of us at NHIA via 703-549-3740 or info@nhia.org.

Bruce E. Rodman is NHIA's Vice President of Health Information Policy. He can be reached at 847-362-2017 or Bruce.Rodman@sbcglobal.net.

What Next?

Do you have an issue you'd like to see covered here? As always, we want to hear from you. Send your recommendations and requests for Sharing Our Thoughts! to INFUSION via jeannie.counce@nhia.org.

Don't Let This Good Thing Come To An End!

If it's happening in the alternate-site infusion field—NHIA's award-winning magazine, INFUSION, covers it!

- In-depth stories on innovative practices, products and techniques…
- Timely news articles that impact your business…
- Engaging Member profiles from around the country…
- Cutting-edge news on the latest advancements in the field…
- Robust features on NHIA's advocacy and legislative activities…

….and so much more!

Your **FREE** subscription may soon be expiring—to remain on our active subscriber list, **we must hear from you.**

If you have not recently renewed your copies of this essential professional magazine, go to **www.nhia.org/subscribe** today for eligibility criteria and to re-subscribe online—don't miss out on a single issue of INFUSION!