

H.R. 4062 – *Protecting Seniors Access to Proper Care Act*
By U.S. Congressman Kenny Marchant (TX-24)

Background and Intent

Section 6405 of the Affordable Care Act requires physicians and other eligible healthcare professionals to be enrolled in the Medicare program to order or refer items or services for Medicare beneficiaries. Recent guidance by the Centers for Medicare & Medicaid Services (CMS) has further clarified that all healthcare providers who prescribe to a Part D beneficiary must be enrolled in the Medicare program in order for the pharmacist to be reimbursed for the prescription. These two enrollment requirements apply to all physicians and prescribers—even those professionals whose services are not typically included in the Medicare program. Enforcement of this provision has been delayed until June 1, 2016.

Non-Medicare participating physicians currently have 3 options under this provision:

- Enroll in Medicare: CMS has created a special enrollment form stating that – although the provider will still receive no benefit from the program -- he or she must abide by the rules, regulations, and guidelines of Medicare.
- Opt out of Medicare: By opting out of the program, the physician will no longer be able to be a provider in Medicare Advantage plans where certain coverage is offered by the private insurer.
- Do nothing: There is little incentive to take action regarding participating in Medicare, as the physician will not be directly affected. The pharmacist and the patient, however, will have a decision to make when a prescription is set to be filled.

Without a change to the statute, some non-Medicare physicians will find themselves subject to duplicative and unnecessary compliance costs and burdens.

Dentists, for example, generally write three prescriptions– a mouthwash, an antibiotic, and a painkiller. Currently, the prescribing practices of dentists are overseen by the Drug Enforcement Agency (DEA) and state licensing boards. Requiring an additional layer of CMS oversight will lead to unnecessary burdens on dentists and their Medicare eligible patients without addressing the underlying rationale of the provision, which is to stop fraud and abuse in the Medicare program.

Solution

H.R. 4062, the *Protecting Seniors Access to Proper Care Act*, removes this impractical requirement for providers while protecting seniors' access to prescribed medications. Advancing H.R. 4062 will signal Congress' commitment to improving patient outcomes, reducing fraud and abuse within the Medicare program, and lowering unnecessary requirements for providers.