

## **Response to Public Comments for the Final Rule: “Secure Electronic Prior Authorization for Medicare Part D” (85 FR 86824)**

CMS Medicare Part D E-Prescribing Tools

CMS-10755 (OMB 0938-1396 (New))

### **Overview**

On December 31, 2020, we finalized a new transaction standard for the Medicare Prescription Drug Benefit program’s (Part D) e-prescribing program as required by the “Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act” or the “SUPPORT for Patients and Communities Act.” The rule amended the Part D e-prescribing regulations to require Part D plan sponsors’ support of version 2017071 of the National Council for Prescription Drug Programs (NCPDP) SCRIPT standard for use in electronic Prior Authorization (ePA) transactions with prescribers regarding Part D covered drugs to Part D-eligible individuals.

CMS received four PRA-related comments in response to this proposed rule. The first of the comments below are from provider groups. The second comment is from a large health plan.

### **Overview of Public Comments and CMS Responses**

Comment 1: : A commenter requested that CMS include the burden to physicians. Another commenter expressed concern about the potential costs to practices to switch to the new standard, and requested that we bar EHR vendors from passing on additional transaction costs to providers or patients. Another commenter stated that they believe our assumption incorrectly assumed that a provider’s electronic prescribing software already has support for all NCPDP SCRIPT transactions.

CMS Response: We thank commenters for the information about other factors that we should consider when estimating the implementation costs for providers to implement a new standard. However, we clarify that this rule imposes requirements only on Part D plans—if physicians elect to utilize ePA in the Part D program context, they will be required to do so using the adopted standard, but they are free to conduct PA through other means. We believe our proposed rule incorrectly included prescriber costs in our estimates. We have removed these estimates from the calculations on this final rule. While we understand the potential costs for providers and EHR vendors to pass on transaction costs to providers or plans, we do not have the statutory authority to regulate EHRs. As previously mentioned, this final rule implements section 1860D–4(e)(2)(E) of the Act requiring that the program provide for the secure electronic transmission of prior authorization requests and responses. However, this section of the Act does not expand CMS’s authority to allow the agency to regulate EHR vendors or specify who may bear the cost of implementing the transaction. As a result, we are not able to adopt this commenter’s suggestion that we bar EHR vendors from passing on transactions costs to providers or patients.

Action Taken: We modified the cost estimate in the proposed rule.

Comment 2: A commenter requested that CMS revise its estimates to account for ongoing maintenance costs associated with ePA.

CMS Response: We acknowledged in the proposed rule that there would be a cost associated with maintenance of systems to support electronic prior authorizations. These costs are included in our ongoing methodology which, based on our research, we estimated to range from \$1.20 to \$2.85 per transaction for a total of \$2.27 million. Since commenters did not provide specific feedback on the veracity of this estimate, we will finalize the estimates as initially presented.

Action Taken: While CMS has considered this comment, CMS is not taking any action based on the comment.