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January 22, 2021

To: The Honorable Paul G. Pinsky
Chair, Education, Health and Environmental Affairs Committee

From: Patricia F. O'Connor, Health Education and Advocacy Unit

Re: Senate Bill 84 (Pharmacists - Administration of Self-Administered Medications and Maintenance Injectable Medications): Information

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) submits information relevant to Senate Bill 84 which would (1) allow pharmacists to administer certain injectable medications and (2) require Medicaid, the Children's Health Program and Maryland regulated health plans to provide coverage. The HEAU has not received complaints relating to these issues.

Health plans not regulated by the State cannot be required to provide coverage for such services provided by pharmacists. If pharmacists are allowed to provide and charge for the services, consumers enrolled in these plans could be protected from liability for denied claims by requiring pharmacists to comply with a State version of the Advance Beneficiary Notice of Noncoverage (ABN) used in Medicare plans to protect enrollees.

CMS explained the consumer protection in its February 2020 document entitled "Medicare Advance Written Notices of Noncoverage":

An advance written notice of noncoverage helps a Medicare Fee-For-Service (FFS) beneficiary choose items and services Medicare usually covers but may not pay because they are medically unnecessary or custodial in nature. The Centers for Medicare & Medicaid Services (CMS) approves these notices for this purpose:

- All health care providers and suppliers must deliver an Advance Beneficiary Notice of Noncoverage (ABN), Form CMS-R-131 when they expect a Medicare payment denial that transfers financial liability to the beneficiary. This includes:

- Independent laboratories, skilled nursing facilities (SNFs), and home health agencies (HHAs) furnishing Medicare Part B (outpatient) items and services

- Hospice providers, HHAs, and religious non-medical health care institutions furnishing Part A items and services

The ABN helps the beneficiary decide whether to get the item or service Medicare may not cover and accept financial responsibility for it. **If the beneficiary does not get written notice when required, the provider or supplier may be financially liable if Medicare denies payment.**

https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/ABN_Booklet_ICN006266.pdf (page 3 of 12).

We thank the Committee for considering this information.

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