
COMMONWEALTH OF VIRGINIA



OFFICE OF THE GOVERNOR

Executive Order 9 (2006)

ENSURING ACCESS TO PRESCRIPTION DRUGS FOR MEDICARE BENEFICIARIES

Importance of the Issue

On January 1, 2006, the new Medicare Part D Prescription Drug Program, enacted by Congress and administered by the federal government, became effective. On this date, low-income seniors and people with disabilities eligible for both Medicaid and Medicare (dual eligibles) who previously received their prescription drug coverage through the Virginia Medicaid program began receiving their prescription drug coverage through the new federally administered Medicare Part D program.

The implementation of the Part D program by the federal Centers for Medicare and Medicaid Services (CMS) and some of the prescription drug plans (PDPs) has resulted in serious problems including: (i) inadequate capacity of the program to handle the volume of on-line data processing and telephone inquiries; (ii) eligibility verification problems; (iii) inaccurate beneficiary information; and (iv) incorrect co-payment amounts being charged to low-income seniors and other Part D beneficiaries. These problems have resulted in beneficiaries not being afforded the full benefits to which they are entitled. The most serious repercussion of the CMS and PDP problems has been reports of some seniors and people with disabilities, including dual eligibles, leaving the pharmacy without their medications. This is a particularly acute problem for dual eligibles since many of these individuals have complex mental and health care needs, , and do not have the financial resources to pay higher co-payments.

Specific Directives

This situation is unacceptable and I therefore direct appropriate state agencies to take the necessary action to address the federal government's failures in this area. By the

authority vested in me by Article V of the Constitution of Virginia and Title 2.2 of the Code of Virginia, I hereby direct the Secretaries of Finance and Health and Human Resources to take the necessary actions, consistent with state and federal law, to address this situation. Specifically, I hereby order the following:

- A. Effective January 31, 2006, the Department of Medical Assistance Services shall institute the necessary programmatic and operational changes necessary to permit pharmacists to bill and receive reimbursement from the Virginia Medicaid Program for prescription drugs dispensed to dual eligibles in instances when the pharmacist is unable to have the prescription processed and paid through the Medicare Part D program.
- B. The Department of Medical Assistance Services shall submit the appropriate waiver application to CMS to seek full reimbursement of the pharmacy claims and administrative costs incurred by the Commonwealth as a result of this action.
- C. The Department of Medical Assistance Services shall cease payment of Medicare Part D prescription drugs through the Virginia Medicaid Program on the date that CMS terminates federal reimbursement of such costs.

Effective Date of the Order

This Executive Order shall be effective January 30, 2006, and shall remain in full force and effect until the date CMS terminates federal reimbursement of such costs, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 31st day of January, 2006.

Timothy M. Kaine, Governor

Attest: _____
Secretary of the Commonwealth