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## **Survey of Seniors Reveals that Proposed New Medicare Drug Benefit Conflicts With Seniors' Priorities**

*As Public Comment to CMS Closes Today,  
Seniors Call for Broad Access to Medications, Informed Appeal Process*

**WASHINGTON, DC**— Seniors want doctors and pharmacists to decide what medications are to be covered under the new Medicare prescription drug benefit, not Medicare government officials and insurance company representatives, according to a survey released today by the Lupus Foundation of America in association with multiple patient and consumer organizations. Though the Centers for Medicare and Medicaid Services' (CMS) has called for wide public comment on the Proposed Rule to the Medicare Modernization Act (MMA) of 2003, insurance company representatives will play a prominent role in determining what drugs are eligible for coverage based on Model Guidelines developed by the U.S. Pharmacopeia (USP).

“Seniors want doctors and health care professionals to be the primary decision-makers regarding what drugs are covered and available to them, but the current draft of the CMS regulations and USP guidelines may dramatically limit doctors' prescription choices,” said Suzanne Mintz, Executive Director, National Association of Caregivers.

The survey of 500 seniors conducted by Roper Public Affairs (attached and available at [www.lupus.org/news/medicare.html](http://www.lupus.org/news/medicare.html)) found that 70 percent of respondents trust doctors and pharmacists to make these decisions; while only 19 percent trust Medicare government officials and only 14 percent trust insurance company representatives to determine which medications are covered under the new Medicare plan.

The CMS Proposed Rule was published in the Federal Register on August 3rd, 2004, and all public comments are due by the end of the day today, October 4. The new prescription drug benefit is scheduled to be implemented in January 2006.

“CMS's Proposed Rule only requires a minimum of two medicines be covered in each drug class, so the list of covered classes becomes a critical benchmark for the range of drugs that enrollees and their doctors will have access to,” said Sandra C. Raymond, President and CEO, Lupus Foundation of America. “The USP Model Guidelines will determine those classes and be the foundation for all Medicare drug formularies. However, left unchanged, the current draft will lead to significant gaps in the types of drugs available to Medicare beneficiaries.”

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Eighty-five percent of those surveyed by Roper said that, if they are denied coverage for a medicine their doctor prescribes, they want written information on their right to appeal provided at the time coverage is denied. Almost six in 10 think a doctor's recommendation is the most important factor to be considered when an appeal is filed.

Under the CMS-defined appeal procedures, drug plans would not be required to provide seniors with written instructions about how to appeal denials of coverage at the time of denial and the doctor's recommendation would play an undetermined role in the appeals process.

The CMS Proposed Rule would allow a drug plan to drop a drug from its formulary as soon as one month after beneficiaries enroll in a plan. The drug plan would then only have to provide the medication for an additional 30 days past the decision date. The Medicare beneficiary would not be able to switch to another plan until the next open enrollment period.

"The CMS rule allow plans to use 'bait-and-switch tactics' to attract beneficiaries," said Sandy Finucane, Vice President of Legal and Government Affairs, Epilepsy Foundation. "Beneficiaries should have access to medicines on their original formulary until they have an opportunity to review other plans and move to one that better meets their medical needs."

According to the survey, many seniors also are concerned about having to pay higher co-payments in order to get the drug their doctor prescribes. Only 35 percent of respondents who agree that they and their doctors should be able to choose from a variety of medicines are willing to pay more for some drugs. Forty-seven percent are not.

"The success of the new Medicare drug benefit will be determined in large part by the rules and guidelines CMS and USP are developing right now," said Andrew Sperling, Director of Government Affairs, National Alliance for the Mentally Ill (NAMI). "If they get it wrong, if the medicines seniors and people with disabilities need are not covered or if they have to jump through hoops or pay significantly higher co-payments to access them, seniors will be skeptical and may not participate."

At a September 14, 2004, hearing before the Senate Finance Committee, NAMI presented testimony on behalf of 16 patient and consumer organizations. In his testimony, NAMI president Michael Fitzpatrick outlined seven principles that should be used in developing the Medicare drug benefit rules:

- **Openness** so that Medicare drug plans make coverage decisions with input from patients and non-plan physicians and explain the reason and rationale for their coverage decisions.
- **Transparency** so that when a senior appeals a denial of payment for a prescribed medicine the process is fair and reasonable and driven by what is in the best medical interests of the patient.
- **Notice** so that seniors are given adequate notice and the opportunity to change plans if the plan they are under drops coverage of a medicine they need.

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- **Non-discrimination** so that Medicare prescription drug plans do not provide different levels of coverage for different illnesses.
- **Special Protections** for low-income “dual eligible” beneficiaries when they transition into the new Part D program in January 2006.
- **Choice** so that the number of medicines covered is not overly restrictive; the most widely prescribed medicines are covered; and in cases where the Food and Drug Administration has not approved medicines for specific types of diseases and conditions like certain cancers and lupus, medicines that treat symptoms associated with these conditions are covered.
- **Innovation** so that newly approved medicines for life-threatening diseases will be covered without delay.

“These principles capture the views of America’s seniors as reflected in the survey results,” said Sandra C. Raymond. “They want a Medicare drug benefit that puts their health first, that is affordable and easy to navigate, that recognizes that their doctor knows best, and that is open to all the wondrous possibilities that new medicines hold for diseases like cancer, lupus, epilepsy, Alzheimer’s, and heart disease.”

The survey was conducted by Roper Public Affairs’ Omnitel, a division of NOP World - the ninth largest survey research firm in the United States and the tenth largest in the world. Telephone interviews were conducted with a total of 500 adults age 65 and older. Interviewing was conducted on September 10 through 12, 2004. The margin of sampling error is plus/minus 4 percentage points.

With 50 chapters and 220 support groups in 32 states, the Lupus Foundation of America (LFA) is the nation's leading non-profit voluntary health organization dedicated to finding the cause and cure for lupus. Our mission is to improve the diagnosis and treatment of lupus, support individuals and families affected by the disease, increase awareness of lupus among health professionals and the public, and find the cause and cure. Research, education, and patient services are at the heart of LFA's programs. According to polls conducted by the LFA, approximately 20 percent of lupus patients in the United States receive health care through Medicare as a result of disability.

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