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## **Pharmacy Fraud Is Said to Soar in Recession; Health Plans and PBMs Are Boosting Efforts to Tackle the Problem**

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By Neal Learner, Managing Editor, ([nlearner@aispub.com](mailto:nlearner@aispub.com))

Incidents of fraud involving pharmacies have soared in recent months, especially in communities with deteriorating economies and rampant unemployment, according to a well-placed pharmacy auditor. In response, some health plans and PBMs are ratcheting up their efforts to combat the illicit activity. At least one Blues plan expects to see a 2% to 3% increase in its fraud investigative caseload this year compared with 2008, and PBM Prescription Solutions says Rx fraud has become a "huge light" on payers' radar screens.

One auditor says the problem is getting worse. "We've seen a huge increase since September of last year," Susan Hayes, principal and founder of consulting firm Pharmacy Outcome Specialists, says of incidents of fraud. She estimates that Rx fraud now accounts for roughly 5% of total pharmacy spending, up from 1% to 2% of spending before the financial meltdown. With a \$70 billion U.S. pharmaceutical market, 5% accounts for \$3.5 billion lost annually to fraud, she points out.

"If you're over 25,000 lives, you can really save some money here — more than it costs to do this," Hayes tells *DBN* of having a robust Rx fraud detection system in place.

Cases appear to be concentrated in cities especially hard hit by the economic downturn, she says, asserting that "no one has a job, so they sit around and figure out ways to make money." Areas with particularly high rates of fraud include Miami, Los Angeles, Chicago,

Brooklyn, N.Y., and many large and small cities in Michigan, including Detroit and Flint, Hayes says. "You can almost pinpoint it by unemployment," she adds.

In many of these communities, the pharmacy was the old general store where old men used to sit around, she explains. "Now you've got young guys sitting around the pharmacy. This seems to be the watering hole," Hayes says, recounting one on-site audit that she did of a pharmacy that was no bigger than a standard office. "You have 40 cars in the parking lot with trunks open; you know before you even walk in the pharmacy that there is something amiss."

Hayes recalls investigating another fraud ring in which patients were in on the scheme.

"What they [i.e., the pharmacists] would do is adjudicate the prescription through Medicaid, and then the patient would sell back the medication to the pharmacy at 80 cents on the dollar," she explains. "And they'd re-adjudicate it again. The patient would literally walk out to his car with the medication, come back — and we watched this — he would come back in, and would get paid cash. And then they would put it back on the shelf. And the next person who came in wanting that, they'd do it all over again."

### **Prescription Solutions Looks for Red Flags**

Ken Schell, Pharm.D., chief compliance officer at Prescription Solutions, a PBM unit of UnitedHealth Group, says pharmacy fraud ranges from very simple to "very, very complex."

Simple fraud includes schemes such as dispensing the generic drug but billing for the brand drug, he tells DBN. Other common schemes include billing for a prescription that the patient never receives, or using a physician's information to fill prescriptions, but the physician never writes the prescription. "We'll start seeing a pattern of use of drugs that seem to show up in an unusual frequency of patients in one particular area," he says. These types of fraud can usually be confirmed with a letter to the patient or physician, Schell says.

On the other hand, cases in which the patient or physician is party to the fraud are more challenging to identify, he adds. Patients who received some payment from the person committing fraud, for example, will confirm that they received the prescription. And if the physician is involved in the fraudulent scheme, "it becomes much more challenging to identify, because we have to now go and produce

secondary methods to identify that these prescriptions were never dispensed," Schell says.

Certain activities also raise red flags. Schell points to an example of a new pharmacy that enters the network and initially everything looks good on paper.

"They'll have a low amount of claims, and all of a sudden it will jump from about \$1,000 to \$2,000 a week to \$100,000 a week," Schell says. "That's a tipoff. What we'll do then is we'll look at the type of claims in the pattern, and if there is something suspicious, we'll send a note out to the pharmacy saying 'we'd like to see some more evidence,'" he says, recounting an actual incident. "When we sent the letter, they just closed down, they disappeared. They had shut down this storefront."

Schell says pharmacy fraud represents a significant amount of money, "but not a huge number," noting that estimates range from a couple of percentage points up to 20% of pharmacy claims. "I don't know if you can ascribe any particular number," he says, asserting that it is less than 20% but more than a couple of percentage points. "The numbers are sufficient enough to make everybody concerned."

Jack Price, senior manager of enterprise investigative services at Blue Cross Blue Shield of Tennessee (BCBSTN), agrees it's difficult to pinpoint numbers on this issue. But he asserts that fraud is "a big problem, and it continues to grow." He also says the latest spike in activity is due in part to the recession. "Any time that the economy gets weak, the incidences of criminal activity — particularly in the fraud arena — picks up," Price tells *DBN*.

Compounding the problem is the fact that criminals typically catch on very quickly and know what screening BCBSTN uses, he says. "It's a constant game of cat and mouse," Price says. "As soon as we put an obstacle in their way, they're finding a way around it." Tennessee, meanwhile, is an attractive target as it has one of the largest per-capita uses of pharmaceuticals in the U.S. "It's amazing to see the volume of the money that attracts so many unsavory characters," Price says. "Organized crime is getting into it; drug diversion is a huge business and is getting bigger every year."

As such, BCBSTN will likely see a 2% to 3% increase in its pharmacy fraud caseload this year compared with last, he explains. And Price estimates pharmacy fraud will cost the plan between \$500,000 and \$1 million this year.

"Pharmacy is a big issue for us this coming year, and we are developing new ways to look at the business to see what we're missing," he says. The plan already has caught the low-hanging fruit, Price says. "But digging into the massive amounts of data that are required in this industry...and finding those instances in there where somebody is gaming the system is a real challenge and takes a lot of technology and developing staff with the diverse expertise that is required."

BCBSTN's anti-fraud efforts include educating plan members, Price says. "Every time we do an education program, we see an increase in the number of referrals coming in," he explains. "They'll see something unusual in their explanation-of-benefits form, or when they get their printout of prescriptions, they'll see there are prescriptions on there that they did not order. That can be indicative of an employee at the pharmacy or the pharmacists themselves writing out phony prescriptions and selling those drugs on the black market."

### **Fraud Busting: Job for PBMs?**

Hayes says that PBMs have been reluctant to aggressively combat alleged pharmacy fraud on their own.

"They see their role as having a network of pharmacies...and why should we go police them?" she says of a typical PBM response to the issue. What if, for instance, the PBM finds a problem at a certain Walgreens on a Main Street in some hypothetical town? "Are you going to call up Walgreens in Deerfield [Ill., where it's headquartered] and get in a fight with them about wanting to kick one pharmacy out of a chain of 10,000 pharmacies across the U.S.? No, they're not going to do that."

PBMs understand there is a conflict between building the network and policing it, Hayes says. "They may have some minimal group...dedicated to this that may go out and find the most egregious problems ever, but for the most part they don't even care," she contends.

But this attitude appears to be changing since the 2006 launch of the Medicare Part D program, which places a strong emphasis on combating fraud, waste and abuse. Focusing on fraud can even be used as a marketing differentiator. For example, Hayes has an HMO client that has been focused on this issue for the past 12 years, and it decided to start offering the service to its self-insured clients as well. "You'd be unique in the marketplace because nobody touts this," Hayes says. "They've been very successful in doing that."

