



DEPARTMENT OF HEALTH AND HUMAN SERVICES  
**OFFICE OF INSPECTOR GENERAL**

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**SUBJECT:** OIG Memorandum Report: *Drug Compendia Publishers Maintain Transparent Processes for Evaluating Anticancer Drug Therapies and Identifying Potential Conflicts*, OEI-07-13-00220

This memorandum report provides information regarding drug compendia publishers' (publishers) compliance with Federal law that mandates transparency in their criteria for evaluating anticancer drug therapies and identifying potential conflicts of interest on the part of their staff. Medicare Parts B and D cover anticancer drugs for indications not approved by the Food and Drug Administration (FDA) only if the drugs are supported by one or more of the four authorized compendia. Conflicts of interest on the part of compendia staff might result in anticancer drugs being included in the compendia that otherwise might not have been included.

To assess publishers' compliance as of October 2013 with Federal law related to transparency, we (1) reviewed publishers' policies and procedures—as posted on their Web sites—for evaluating anticancer drug therapies and for identifying potential conflicts of interest, (2) interviewed each of the publishers' staff, and (3) interviewed Centers for Medicare & Medicaid (CMS) staff.

## **SUMMARY**

We found that the four publishers of each of the authorized compendia complied with Federal laws for maintaining a transparent process for evaluating anticancer drug therapies and identifying potential conflicts of interest. Specifically, publishers made the following available on their Web sites: the criteria they used to evaluate requests for inclusion of a therapy, the evidentiary materials they reviewed, a listing of all individuals who participated in reviews, and the minutes from meetings in which they discussed requests. Additionally, all four publishers included on their Web sites their definitions of potential conflicts of interest and their policies for identifying potential conflicts related to anticancer drug therapies.

## BACKGROUND

For drugs to qualify for Medicare coverage, their use must meet several criteria. These criteria are outlined in the Social Security Act (the Act) and applicable CMS Manuals. In most circumstances, the drugs must be approved by FDA.<sup>1,2</sup> Medicare generally covers drugs for indications not approved by FDA (i.e., for “off-label” indications) if the drugs are supported by one or more authorized compendia.

Under Medicare Parts B and D, there are four compendia recognized as authorized sources for the determination of medically accepted indications for anticancer drugs.<sup>3</sup> These compendia are American Hospital Formulary Service-Drug Information (AHFS-DI), Micromedex DrugDEX (DrugDEX), National Comprehensive Cancer Network (NCCN) Drugs and Biologics Compendium, and Clinical Pharmacology.

A compendium summarizes evidence of the effectiveness of drugs for given indications.<sup>4</sup> The publisher of each compendium evaluates scientific evidence from research literature for various uses of drugs and—on the basis of this literature—publishes its own recommendations for use.<sup>5</sup> Potential conflicts of interest might affect publishers’ recommendations. For example, a compendium staff member who has a relationship with a pharmaceutical manufacturer may benefit financially if the recommendation regarding the use of a drug is favorable toward that manufacturer.

### **Federal Law Related to Evaluating Anticancer Drug Therapies and Identifying Potential Conflicts of Interest**

Section 1861 of the Act mandates that the publishers that evaluate anticancer drug therapies maintain publicly transparent processes for (1) evaluating these therapies and (2) identifying potential conflicts of interest related to inclusion of these therapies in the compendia.<sup>6</sup>

*Evaluating Anticancer Drug Therapies.* A compendium’s process for evaluating anticancer drug therapies is considered to be transparent if the publisher makes the following information

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<sup>1</sup> See generally the Act §§ 1861(t), 1860D-2(e)(1)(A), and 1927(k)(2); CMS, *Medicare Benefit Policy Manual* (Internet-only manual), Pub. No. 100-02, ch. 1, § 30 and ch. 15, § 50; CMS, *Medicare Prescription Drug Manual* (Internet-only manual), Pub. No. 100-18, ch. 6, § 10.

<sup>2</sup> The Act §§ 1861(t), 1860D-2(e)(1)(A), and 1927(k)(2); CMS, *Medicare Benefit Policy Manual* (Internet-only manual), Pub. No. 100-02, ch. 1, § 30 and ch. 15, § 50; CMS, *Medicare Prescription Drug Manual* (Internet-only manual), Pub. No. 100-18, ch. 6, § 10.

<sup>3</sup> The Act, §§ 1861(t)(2)(B)(ii)(I) and 1860D-2(e)(4)(A)(i) (regarding anticancer drugs under Medicare Parts B and D, respectively). The Medicare Improvements for Patients and Providers Act amended the Part D statute to add a new definition for “medically accepted indication” for Part D anticancer drugs. Specifically, it extended the applicability of the four compendia under Part B to the anticancer drugs covered under Part D. See P. L. No. 110-275 § 182 (July 15, 2008).

<sup>4</sup> Ross McKinney, et al. *White Paper: Potential Conflict of Interest in the Production of Drug Compendia*. (Prepared by the Duke Evidence Based Practice Center under Contract HHS 290 2007 10066 1). Agency for Healthcare Research and Quality. April 2009.

<sup>5</sup> *Ibid.* The term “publisher” refers broadly to the organization that publishes each compendium. Publishers are not employed by the Federal Government, nor are they entitled to Federal funds for purposes related to publishing the compendia.

<sup>6</sup> The Act, § 1861(t)(2)(B), as amended by P.L. No. 110-275 § 182(b), July 15, 2008.

publicly available: (1) the criteria that it used to evaluate the request for inclusion of a therapy; (2) all the evidentiary materials that it reviewed or considered pursuant to the request; (3) a listing of all individuals who substantively participated in the review and disposition of the request; and (4) the minutes and voting records of meetings for the review and disposition of the request.<sup>7</sup> Federal law does not explicitly stipulate how a publisher must implement its transparent process for evaluating anticancer drug therapies. As a result, each publisher has flexibility in implementing its transparent process for evaluating anticancer drug therapies.

*Identifying Potential Conflicts Related to Inclusion of Anticancer Drug Therapies in the Compendia.* A compendium’s process for evaluating anticancer drug therapies is considered to be transparent if the publisher makes available (in response to a public request) information related to “direct or indirect financial relationships” and “ownership or investment interests ... between individuals or the spouse or minor child of individuals who have substantively participated in the development or disposition of compendia recommendations and the manufacturer or seller of the drug or biological being reviewed by the compendium.”<sup>8</sup> Federal law does not explicitly stipulate what constitutes a potential conflict of interest. As a result, each publisher has discretion to determine what constitutes a potential conflict of interest.

## METHODOLOGY

This study included: (1) a review of each publisher’s policies and procedures—as posted on its Web site—for evaluating anticancer drug therapies and for identifying potential conflicts of interest; (2) interviews with publishers’ staff who were knowledgeable as to how potential conflicts were managed; and (3) an interview with CMS staff. Our review took place in September and October of 2013. See Table 1 below for a listing of the four publishers and their corresponding compendia.

**Table 1: Publishers and Their Corresponding Compendia**

Publisher	Corresponding Compendium
American Society of Health-System Pharmacists (ASHP)	AHFS-DI
Truven Health Analytics	DrugDEX
National Comprehensive Cancer Network (NCCN)	NCCN Drugs and Biologics Compendium
Elsevier/Gold Standard	Clinical Pharmacology

Source: Office of Inspector General (OIG) legal analysis, 2014.

When interviewed, all four publishers reported that there were no public requests for information related to potential conflicts of interest in 2013. Thus, our assessment of publishers’ compliance with Federal law for transparency as it relates to potential conflicts was limited to reviewing publishers’ policies and procedures and reviewing their respective Web sites.

We interviewed CMS staff about how they ensure that publishers comply with Federal law related to transparency.

<sup>7</sup> 42 CFR § 414.930.

<sup>8</sup> Ibid.

This study was conducted in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

## **RESULTS**

### **Publishers complied with Federal law related to transparency**

As of October 2013, all four publishers maintained a transparent process for evaluating anticancer drug therapies. All four publishers maintained the following information on their publicly available Web sites: (1) the criteria that the compendium used to evaluate the request for inclusion of a therapy; (2) all the evidentiary materials that the compendium reviewed or considered pursuant to the request; (3) a listing of all individuals who substantively participated in the review and disposition of the request; and (4) the minutes and voting records of meetings for the review and disposition of the request.

All four publishers maintained a transparent process for identifying potential conflicts. All included on their Web sites their policies for identifying potential conflicts related to anticancer drug therapies. These publicly available policies required that staff assigned to work on off-label uses for anticancer drug therapies complete initial self-disclosure forms identifying any direct or indirect financial interests and that they periodically update the forms. All four publishers required staff to file disclosure forms at least annually.

CMS staff provided oversight of publishers' publicly transparent processes. CMS staff reported corresponding with publishers to ensure compliance with Federal law related to transparency policies for evaluating anticancer drug therapies and identifying conflicts related to those therapies. CMS staff also reported reviewing the publishers' Web sites and making internal notes as to how these Web sites complied with Federal law.

### **The number and nature of staff disclosures varied across publishers**

All four publishers defined potential conflicts of interest as financial interests that exceeded a specific dollar threshold, and all four maintained policies that prohibit staff from participating in reviews if their financial interests exceed the threshold. The specific dollar amounts for these thresholds varied among the publishers. These varying dollar thresholds may have led to the differences among the publishers in the numbers of potential conflicts of interest that they disclosed. See Table 2 for information regarding the publishers' respective dollar thresholds and the number and percentage of staff who disclosed a potential conflict of interest.

The nature of staff disclosures also varied among publishers. NCCN staff disclosed potential conflicts related to (1) conducting clinical research for a pharmaceutical company or drug manufacturer for which the staff member has a direct or indirect financial interest; (2) serving as a board member, speaker, expert witness, or consultant for a pharmaceutical company or drug manufacturer; and (3) receiving equity or royalty interests. ASHP disclosed potential conflicts related to receiving equity or royalty interests. Truven Health Analytics disclosed that one staff member disclosed a potential conflict that was categorized as "other payment," a term that was not further defined.

**Table 2: Publishers' Dollar Thresholds for Conflicts of Interest and the Number and Percentage of Disclosed Potential Conflicts of Interest Identified by Publishers in 2013**

Publisher	Potential Conflict of Interest	Dollar Threshold	Number of Staff Evaluating Anticancer Drug Therapies	Number of Staff Who Disclosed Potential Conflicts of Interest in 2013	Percentage of Staff Who Disclosed Potential Conflicts of Interest in 2013
NCCN	A financial relationship with a drug sponsor	Equal to or greater than \$20,000 or if aggregate annual financial relationships are equal to or greater than \$50,000	507	264	52%
ASHP	Relevant direct or indirect financial interests in drug manufacturers	Combined value exceeding \$50,000	17	2	17%
Truven Health Analytics	Stock or equity ownership in any single pharmaceutical company	\$100,000 or greater	12	1	8%
Elsevier/Gold Standard	Stock or equity ownership in any single pharmaceutical company	\$100,000 or greater	24	0	0%

Source: OIG analysis of publishers' policies and disclosed potential conflicts identified by publishers, 2014.

## CONCLUSION

We found that all four publishers complied with Federal law to maintain a transparent process for evaluating anticancer drug therapies and identifying potential conflicts of interest among staff. Insufficient evaluation criteria and conflicts of interest among compendia staff could lead to anticancer drugs being inappropriately recommended for inclusion in a compendium. Because Medicare Parts B and D cover anticancer drugs supported by one or more of the four authorized compendia, transparency of publishers' policies helps safeguard against inappropriate Federal payments for these drugs and protects Medicare beneficiaries from being prescribed drugs for medically inappropriate uses.

This report is being issued directly in final form because it contains no recommendations. If you have comments or questions about this report, please provide them within 60 days. Please refer to report number OEI-07-13-00220 in all correspondence.