NATIONAL ASSOCIATION OF MEDICAID FRAUD CONTROL UNITS

PILLPACK, LLC TO PAY $5.79 MILLION TO RESOLVE ALLEGATIONS RELATED TO FRAUDULENT OVER-DISPENSING OF INSULIN PENS

The National Association of Medicaid Fraud Control Units (NAMFCU) announced on May 2, 2022 that 18 states and the District of Columbia have joined the United States in settling allegations against PillPack, LLC ("PillPack"), a wholly-owned subsidiary of Amazon.com, Inc., the online retailer headquartered in Seattle, Washington. PillPack, headquartered in Manchester, New Hampshire, operates an online pharmacy. The agreement resolves allegations that PillPack knowingly engaged in fraudulent over-dispensing of insulin pens to Medicare and Medicaid beneficiaries. The settlement requires PillPack to pay $5,616,136.85 to the United States and $175,522.55 to state governments, for a total of $5,791,659.40.

Insulin pens are most frequently marketed in carton sizes containing five pens. Each Insulin pen contains 3 mL of insulin solution that has 100 units per mL, or 300 units, inside a hard plastic case. A box of five pens contains 1,500 units in 15 mL of insulin solution.

When PillPack submitted Medicaid claims for insulin pens, it was required to report, among other information, the quantity being dispensed and the days-of-supply (how long the amount being dispensed is expected to last based on the prescription's directions of use). Typically, to calculate days-of-supply, a pharmacist divides the total quantity of medication being dispensed by the amount of medication that the prescriber directs the patient to use each day.

Medicaid programs impose dispensing limits for insulin pens and will deny a claim if the reported days-of-supply exceeds those limits. If the pharmacy wants to supply more pens than is called for by the prescription, it must seek an override from the Medicaid program. Medicaid programs rely on the information provided by the pharmacy in order to determine the date of the next refill. The date is based on when a patient last filled a prescription and the days-of-supply reported by the pharmacy for that prior fill. Medicaid programs establish automated processes to deny claims for refills that are submitted in

advance of the refill due dates. The reliability of these processes depends on the accuracy of the days-of-supply information reported by pharmacies.

The settlement resolves allegations that from April 2014 through November 2019 PillPack's general practice was to dispense insulin pens to patients using full cartons. PillPack would dispense and bill for the full carton, and falsely under report the days-of-supply to make it appear that the dispensing did not violate the program's days-of-supply limit.

Under the settlement, PillPack admitted to certain facts including that it was aware Medicaid programs had established dispensing limits for prescription drug products in terms of quantity and days-of-supply. In addition, PillPack was aware that Medicaid programs would deny a claim if the reported days-of-supply exceeded those days-of-supply limits, unless PillPack obtained an override from the Medicaid program authorizing PillPack to dispense the quantity of medication exceeding the days-of-supply limits.

This settlement arises from a whistleblower action originally filed in 2019 in the United States District Court for the Southern District of New York under the federal False Claims Act and the named plaintiff states' respective false claims statutes. In collaboration with the United States Attorney's Office in the Southern District of New York, a NAMFCU Team conducted the investigation and participated in the settlement negotiations with PillPack. The NAMFCU Team included representatives from the Offices of the Attorneys General for the states of California, Florida, Indiana, New York, Texas, Wisconsin and Washington, and thanks the United States Attorney's Office for the Southern District of New York for its assistance in this case.