Drug and Device Manufacturer Communications With Payors, Formulary Committees, and Similar Entities – Questions and Answers

Captain Sheila Ryan

Policy Team Leader

Office of Prescription Drug Promotion | CDER | FDA

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Guidance for Industry and Review Staff

DRAFT GUIDANCE

This guidance document is being distributed for comment purposes only.

Comments and suggestions regarding this draft document should be submitted within 60 days of publication in the *Federal Register* of the notice announcing the availability of the draft guidance. Submit electronic comments to http://www.regulations.gov. Submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number listed in the notice of availability that publishes in the *Federal Register*.

For questions regarding this draft document, contact (CDER) Elaine Hu Cunningham at 301-796-1200; (CBER) Office of Communication, Outreach and Development at 800-835-4709 or 240-402-8010; (CDRH) Paul Gadiock at 301-796-5736; or (OC) Kristin Davis at 301-796-0418.

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Purpose of Guidance

To provide answers to common questions regarding firms' communications with payors, formulary committees, and similar entities regarding the following:

- **Health care economic information** (HCEI) regarding approved prescription drugs
- Certain information regarding **investigational drugs and devices** (not yet approved/cleared for <u>any</u> use)

Guidance Development

- Developed by a cross-Agency working group
  - Representation from CDER, CBER, CDRH, OCC, Office of Policy
- Considered wide range of information, including:
  - Stakeholder feedback
  - Published literature

Communication of HCEI to Payors Regarding Approved Drugs

Brief Background

Sec. 502(a) of the FD&C Act: False or misleading labeling

1997

FDAMA sec. 114

Amended sec. 502(a) to include a provision regarding the communication of HCEI to payors about approved drugs

2016

21st Century Cures Act

Further amended HCEI provision in sec. 502(a)

What does this guidance do?

Health Care Economic Information:

- Provides FDA's recommendations for how firms can communicate HCEI about approved drugs to payors in accordance with section 502(a) of the FD&C Act.

Section 502(a) FAQs

"What is considered to be a formulary committee or similar entity?"

"How is HCEI defined?"

"What does it mean to relate to an approved indication?"

"What is 'competent and reliable scientific evidence?'"

Sec 502(a) Key Concepts

Section 502(a):

"Health care economic information provided to a **payor, formulary committee, or other similar entity** with knowledge and expertise in the area of health care economic analysis, carrying out its responsibilities for the selection of drugs for coverage or reimbursement, shall not be considered to be false or misleading under this paragraph

if the health care economic information **relates to an [approved] indication**…for such drug, is based on **competent and reliable scientific evidence**, and includes, where applicable, **a conspicuous and prominent statement describing any material differences** between the health care economic information and the [approved] labeling. . .”

Sec 502(a) Key Concepts

Scope of audience for HCEI:

- **Payors, formulary committees, or other similar entities**
  - With "knowledge and expertise in the area of health care economic analysis[1]" in "carrying out its responsibilities for the selection of drugs for coverage or reimbursement[1]" on a population basis
  - Expertise is necessary to understand the methods and limitations of HCEI
- This guidance does **not** apply to communications to other audiences, such as health care professionals or consumers

[1] Section 502(a) of the Federal Food, Drug, and Cosmetic Act

Sec 502(a) Key Concepts

HCEI must relate to an approved indication:

- Should relate to the disease/condition, manifestation of the disease/condition, or symptoms associated with the disease/condition in the indicated patient population
- Examples of HCEI that relate to the approved indication:

Duration of treatment	**Length of Hospital Stay**
Practice Setting	**Validated Surrogate Endpoints**
Burden of Illness	**Clinical Outcome Assessments**
Dosing	**Persistence**
Patient Subgroups	**Comparisons**

Sec 502(a) Key Concepts

Examples of HCEI that are not considered to relate to the approved indication:

- A drug is indicated for the acute relief of angina
  - HCEI discusses effect of the drug on delaying the worsening of coronary artery disease
  - **Disease course modification → not related to approved indication**

Sec 502(a) Key Concepts

Evidentiary Standard:

- HCEI shall not be considered false or misleading if, among other things, it is "based on **competent and reliable scientific evidence**."
  - Amount and type of evidence is dependent on HCEI being presented
  - FDA will consider:
    - Generally-accepted scientific standards that yield accurate and reliable results
    - Current good research practices
  - Applies to all components of HCEI, including economic consequences and clinical outcomes

Sec 502(a) Key Concepts

Conspicuous and prominent statement:

- If HCEI includes material differences from the FDA-approved labeling → **a conspicuous and prominent statement describing any material differences** between the health care economic information and the approved labeling must be presented
- Firms should not misleadingly represent that the clinical assumptions that vary from the FDA-approved labeling have been found by FDA to be safe and effective

Guidance Recommendations

Include Material Information:

- Study design and methodology
- Generalizability
- Limitations
- Sensitivity analysis
- Information for balanced and complete presentation
  - FDA-approved indication/labeling
  - Disclosure of omitted studies or data sources
  - Risk information
  - Financial/affiliation biases

Key Concepts

Section 502(a):

". . .For purposes of this paragraph, the term '**health care economic information**' means any analysis (including the **clinical data, inputs, clinical or other assumptions**, methods, results, and other components underlying or comprising the analysis) that identifies, measures, or describes the economic consequences, which may be based on the **separate or aggregated clinical consequences of the represented health outcomes**, of the use of a drug.

Such analysis **may be comparative to the use of another drug, to another health care intervention, or to no intervention**….Such term does not include any analysis that relates only to an indication that is not approved under section 505 or under section 351 of the Public Health Service Act for such drug.”

HCEI Provisions of Sec 502(a)

- Do not address audiences other than payors
- Do not address HCEI for devices or animal drugs
- Do not address HCEI for unapproved drugs
- Do not address HCEI that is not related to an approved indication for a drug

Submissions to FDA

- HCEI disseminated in accordance with sec 502(a) is **promotion** and subject to FDA's requirements for submission of promotional materials.
  - Post-marketing requirement:
    - 21 CFR 314.81(b)(3)(i)
    - Form FDA 2253: code as "Formulary Economic"
  - Pre-dissemination submission of promotional materials for accelerated approval drugs or drugs approved based on animal studies:
    - 21 CFR 314.550, 314.640, 601.45, and 601.94
  - Advisory requests

Communication to Payors Regarding Investigational Drugs and Devices

What does this guidance do?

Investigational Drugs and Devices:

- Provides FDA's current thinking on the communication to payors about investigational products*

*** "Investigational products" in this guidance refers to drugs and devices that must be approved/cleared to be legally marketed, but are not yet approved/cleared by FDA for any use**

Key Concepts

Types of Information:

- Product information
- Information about the indication sought
- Factual presentations of results from clinical or preclinical studies
- Anticipated timeline for possible FDA approval/clearance
- Product pricing information
- Targeting/marketing strategies
- Product-related programs/services

Key Concepts

Additional Recommendations:

- Should be unbiased, factual, accurate, and non-misleading
- Provide a clear statement that the product is under investigation and that the safety or effectiveness of the product has not been established
- Provide information related to the stage of product development
- Provide follow-up information if previously communicated information becomes outdated due to significant changes or new information

Key Concepts

Representation that an investigational product is FDA-approved/cleared or otherwise *safe* or *effective* for the purpose(s) for which it is under investigation would not be appropriate.

Docket Comments

- Comment period closed April 19, 2017
- FDA received 23 comment submissions
  - 10 from drug firms or associations
  - 4 from payors or payor organizations
  - 4 from policy organizations
  - 2 from pharmacy organizations
  - 2 from multi-organizations
  - 1 from the general public

Docket Comments

- All submissions expressed some level of support for the guidance
- Common themes identified
  - HCEI definition
  - Scope of audience
  - Disclaimer/disclosures
  - Preapproval communications
- FDA is currently evaluating comments and potential guidance revisions

THANK YOU!

Contact Information:

CAPT Sheila Ryan
Phone: 301-796-1200
Email: SHEILA.RYAN@FDA.HHS.GOV