



COLORADO

Department of Health Care
Policy & Financing

1570 Grant Street
Denver, CO 80203

EMAIL: mstaples@nacds.org

July 17, 2019

Mary Staples
National Association of Chain Drug Stores
1560 East Southlake Blvd, Suite 230
Southlake TX 76092

RE: Response to the July 8, 2019 Letter from the National Association of Chain Drug Stores

Dear Ms. Staples:

The Colorado Department of Health Care Policy and Financing (Department) received the letter, dated July 8, 2019, outlining your concerns with the proposed rule changes for 10 CCR 2505-10, Sections 8.040, 8.050 and 8.076. On July 12, 2019, the rule was presented to the Medical Service Board (Board) for final adoption. During this meeting, I responded to the concerns you raised in your letter. The following is the response I provided.

The first bullet point of the letter raised concerns about the changes to the language in Section 8.076.3(B)(3) regarding the discretion the Department would have in determining what constitutes “sufficient records” when using sampling or extrapolation for determining overpayments. This language was changed to mirror the language that is already in statute. See 25.5-4-301(3)(VI), C.R.S.

The first bullet also stated that there was concern with removing language regarding the right to submit an informal reconsideration or appeal to overpayment determinations. This section was taken out because the right to an informal reconsideration or appeal of overpayments determinations is outlined in Section 8.050. The language was removed so that there would be less duplication in the rules, and did not change the right providers have to these processes.

The second and third bullet points identified concerns regarding the Request for Written Response process contained in Section 8.076.6. You stated that you were concerned that there were no appeal rights contained in the request process. The Request for Written Response is not considered an adverse action warranting appeal rights. Any additional action



that may be contained in that request or in the determination made after reviewing the response that would be considered an adverse action, such as withholding payments or termination, would require the Department to provide appeal rights pursuant to Section 8.050. In addition, you raised concerns regarding the 30-day timeframe to provide a response to a Request for Written Response. The 30-day timeframe is established by statute, and the Department aligned the rule with this statute. See 25.5-4-301(15)(a).

Thank you for your comments and if you have any additional comments or concerns please send them to me, and they will be considered in future rule revisions.

Sincerely,



Bart Armstrong
Manager, Program Integrity Contact Oversight Section
Audits and Compliance Division

cc: Chris Sykes, MSB Coordinator

