

Centers for Medicare & Medicaid Services

Special Open Door Forum:

Medicare Provider & Supplier Enrollment

Wednesday, October 13, 2010

3:30PM – 5:00PM ET

Conference Call Only

The Centers for Medicare & Medicaid Services (CMS) will hold a Special Open Door Forum (ODF) to discuss Medicare supplier enrollment issues. During this call, CMS staff will discuss:

- Review how CMS plans to implement Section 3109 of the Affordable Care Act for pharmacies;
- Review the recent instructions given to our contractor;
- Answer questions related to those pharmacies who voluntarily disenrolled last year; and
- Next steps required by the pharmacy.

Afterwards, there will be an opportunity for the public to ask questions.

We look forward to your participation.

Open Door Forum Instructions:

*Capacity is limited so dial in early. You may begin dialing into this Forum as early as 3:15 PM ET.*

Dial: 1-800-837-1935

Reference Conference ID 98955726

Note: TTY Communications Relay Services are available for the Hearing Impaired. For TTY services dial 7-1-1 or 1-800-855-2880. A Relay Communications Assistant will help.

An audio recording and transcript of this Special Forum will be posted to the Special ODF website at [http://www.cms.gov/OpenDoorForums/05\\_ODF\\_SpecialODF.asp](http://www.cms.gov/OpenDoorForums/05_ODF_SpecialODF.asp) and will be accessible for downloading on or around Friday, October 22, 2010 and available for 30 days.

For automatic emails of Open Door Forum schedule updates (E-Mailing list subscriptions) and to view Frequently Asked Questions please visit our website at:

<http://www.cms.gov/OpenDoorForums/> .

Thank you.

Audio file for this transcript:

<http://media.cms.hhs.gov/audio/MediProvSupEnrollPharmaAccred101310.mp3> .

**Centers for Medicare & Medicaid Services  
Special Open Door Forum:  
Medicare Provider & Supplier Enrollment:  
Pharmacy Accreditation  
Moderator: Natalie Highsmith  
October 13, 2010  
3:30 p.m. ET**

Operator: Good afternoon. My name is Caroline and I will be your conference facilitator today. At this time, I would like to welcome everyone to the Centers for Medicare and Medicaid Services, Medicare Provider and Supplier Enrollment Pharmacy Accreditation Special Open-Door Forum.

All lines have been placed on mute to prevent any background noise. After the speakers' remarks there will be a question and answer session. If you would like to ask a question during this time, simply press star and the number one on your telephone keypad. If you would like to withdraw your question, press the pound key.

Thank you. Natalie Highsmith, you may begin your conference.

Natalie Highsmith: Thank you Caroline and thank you everyone, and welcome to today's Special Open-Door Forum focusing on Pharmacy Accreditation.

Today, we at CMS will be reviewing how CMS plans to implement Sections 3109 of the Affordable Care Act for pharmacies, review recent instructions given to the contractors, answer any questions that are related to pharmacies who voluntarily disenroll, and any next steps required by pharmacies.

I will now turn the call over to Miss Sandra Bastinelli who is the Senior Technical Advisor in our Center for Program Integrity.

Sandra Bastinelli: OK. Thank you Natalie. Good afternoon everyone. This is Sandra Bastinelli. I have here with me Barry Bromberg who is our project officer and the lead contact for enrollment issues as they relate to DME, and our contractor as a national supplier clearing house.

So today, how this will work, I'll just be going over some things on the Section 3109 as Natalie stated, and then some areas of concern that folks have had since the Affordable Care Act has come out, so we're going to address those. And then also, Barry, I'll turn the call over to Barry. He'll go over some questions that we actually received prior to the call so we can address those today. And then after that of course, we'll leave it over for general questions.

As you know, Section 3109 of what we now are calling the Affordable Care Act, amended 154B of the Medicare Improvement for Patient and Providers Act of 2008, and that of course was MIPPA, by not requiring a pharmacy to submit to Secretary evidence of accreditation prior to January 2011.

With respect to those items that are supposed to be accredited for, Section 3109 provides that any accreditation requirements will not apply to pharmacies if, and only if, the pharmacy meets the following. And this means the pharmacy would have to meet all three of these criteria.

Number one, the total billings by the pharmacy for such items and services that are required for accreditation have to be at less than five percent of the total pharmacy sales for the previous three calendar years.

Number two, the pharmacy has been enrolled as a supplier of durable medical equipment and prosthetics orthotics supplies, and thus has been issued that provider number for at least five years. So being enrolled means obviously you have a provider number for at least the last five years.

And lastly, you have had no Federal adverse actions that have been imposed on your pharmacy in the last five years. And what that means is, you have not been – you have been revoked and not reinstated from any of the Federal programs.

How we will implement this amendment to the Social Security Act, CMS will randomly choose after we decide – and I'll be telling you that in a second – we'll randomly choose 10 percent of the pharmacies that is going to audit in 2011 to make certain that we have determined are exempt from this

accreditation requirement actually to meet the attested facts that they have sent to us this year.

The NSC will make a list of enrolled pharmacies, which are not accredited, who will be enrolled for five calendar years prior to January first of the next calendar year. In other words, anyone, a list of the only ones because those pharmacies that are not accredited and have already have effective January 1, 2011 have already been enrolled five years.

They have already actually prepared this list or are in the process of preparing that list and it is based on each individually enrolled practice and also if the location is part of a larger company as in a chain, the location must still individually meet the exemption criteria.

For example, if one location may be exempt because they meet the less than five percent of total pharmacy sales, other locations may not, and we'll – I'll be talking about this again, but keep in mind that new locations of chain pharmacies, because the new location is new, they would not have had an enrollment number, provider number for five years. So that means that that pharmacy location would not meet that one criteria.

The letter that the NCS will be sending out to those enrolled practice location of pharmacies that have not been accredited and have been enrolled for five calendar years prior to January 1, 2011, they will send out a letter to attest that they are exempt from the requirement to be accredited because your total billings were subject to accreditation were less than five percent of your total sales, and you've been enrolled for at least five years.

The attestation that you will be receiving, again these are for pharmacies that are not accredited, the attestation will be asking you to have the signature of the authorized delegated official of the entity, the authorizing delegated officials are defined in Section 15 of the enrollment application form, and that is the 855S.

So if you are not sure because it's been a while since you've been enrolled, you might want to look at the 885S online, and you can see where, what those delegated officials, the definitions are.

The NSC will mail the letters – these are the letters with the attestations – to those pharmacies that are not accredited with an enclosed stamped self-address envelope by the end of this month.

The NSC will then make attempts to assist and follow up with those pharmacy suppliers that have not properly completed their attestations. Keep in mind, if you are accredited – we'll talk about that in a few moments – but if you are not accredited, you will be, and the NSC believes that you meet the criteria, they will be sending you a letter.

If you do not fill out the letter, meaning that you, the NSC does not receive a response from you, they will make an attempt. However, they're going to make an attempt and they will assist you if you have a problem completing your attestation.

For those pharmacies that are enrolled, but are not accredited and do not meet the criteria for exemption, the NSC will send out a notice of revocation in January. Keep in mind, a notice of revocation for those of you that may not be aware of the revocation rules, you have 30 days to respond that you in fact meet the criteria.

So that will go out in January. The NSC will also send a notice of revocation to all enrolled pharmacies that were sent an attestation letter but you still didn't, you either didn't send it back or it's not completed of the facts, so you know that you're still not cleared. The pharmacy – excuse me, the NSC has to have that attestation back.

Pharmacies that have had a change of ownership in the prior five years, which resulted in a change in their legal business entity, including a change in their tax ID number, shall not qualify for an attestation letter and therefore, are not included in the attestation that you are exempt.

Keeping in mind a change of ownership, changing your legal business entity including a change of tax ID number that is a new entity so you will not have the five years' experience.

Some points that I just want to reiterate, or several times here, first, for those of you that are accredited and believe that you meet the exemption criteria however, we will have the exemption form available sometime in the next month, and that you can find that at the NSC website [www.palmettogba.com](http://www.palmettogba.com). Palmettogba is all one word. And, you can also find it on our website at [www.cms.hhs.gov/](http://www.cms.hhs.gov/) – and this is all one word Medicareprovidersup – like supplier – supenroll.

Now again, don't – at the end of this call, don't try to access those websites for the attestation letter. It is not available yet. To be real honest with you, I'm not certain that it's even cleared through CMS yet, so we're not hiding anything. It's just not ready yet.

If the pharmacies have not received a letter requesting an attestation by the beginning of November, and the pharmacy believes that their location is exempt from accreditation, the pharmacy should contact the NSC.

The pharmacy does not need – keep in mind again, we have stated this over the last year – that you do not need to be accredited if you are not billing and furnishing DME supplies. If you're only furnishing Part B drugs, and your 855 states that you're billing for only Part B drugs, make sure that your enrollment form only states that you're billing for Part B drugs.

Then the accreditation rules don't even apply. So it's not that you're exempt. It's that the accreditation rules do not apply.

The pharmacy may still remain enrolled in Medicare and not be accredited if you meet the exemption criteria that I just spoke about, or the pharmacy is only furnishing and billing for Part B drugs.

If your pharmacy voluntarily stepped down last fall, and is no longer furnishing and billing for DME, but otherwise you're still enrolled, the pharmacy may still meet the exemption criteria.

If the pharmacy voluntarily terminated due to the accreditation requirement last fall, but you're currently enrolled and believe that you meet the exemption

criteria and wish to bill for DME after January 1, that's just enrollment period. That would be that part of time when you just enrolled or stepped down.

That would not be counted against your being enrolled for five years. In other words, that point in time where you actually were, you voluntarily disenrolled and now you're enrolled again. That's a break that we are not going to consider.

However, any other reason for a disenrollment period, as I've said, a revocation, will not be considered for an exemption of the accreditation requirement.

Lastly, we've been getting this question a lot. We would highly recommend that you do not withdraw your accreditation before you receive documentation from the NSC that you are indeed exempt. We understand that there are a lot of pharmacies that are accredited and their accreditation is coming due or is expiring between now and January, and they do not want to keep accreditation if they don't have to.

Just keep in mind, if you choose to let your accreditation expire, and in January, after January it is determined that you do not meet one of the criteria or there is an audit and your attestation has been found not to be accurate, you will be dis-enrolled and you will not be able to bill for those DME effective January 1, 2011.

Now, we are going to go over some of the questions that we received prior to the call that the inquirer wanted us to go over and for everyone's benefit.

Barry.

Barry Bromberg: There's just a few questions that we received in advance. For accreditation terminating, and this is one of Sandra's, and to some degree this has recently collaborated on, this particular company has many pharmacies whose accreditation ends October 30, 2010. Will they receive the attestation letter if they meet the exemption criteria and when?

Well, based on our system limitations, letters are only going out to those pharmacies that are not currently accredited as of the end of September.

If these pharmacies, if they choose to terminate their accreditation prior to receiving acceptance of eligibility for exemption from the NSC could be revoked if they're not accredited as of January 1, 2011. An alternative for them could be to step down to only offer only biological until the – at that point.

Each pharmacy will be able to send in an attestation once the notice is online, so potentially each separate pharmacy would have to send in an attestation.

Change of ownership: Will accreditation be allowed to be transferred from one owner to a new owner? No. You never could transfer an accreditation.

If not, it is my understanding that currently the Medicare part of the application is held until the new owner is accredited and then the date that it is issued is requested back to the date of purchase so that the new owner will be reimbursed for all claims submissions during the time in which he was preparing to be accredited.

We disagree with that. During any period where a supplier is not accredited, payment should not be made. That basically has been our in (inaudible) if you had to be accredited.

Now, during the short period during this year where you have that short period where a pharmacy did not have to require accreditation, they may be able to get away with it, but you won't be able to do that in the future and that hasn't been our policy in the past.

So prior to step down from billing just to meet those. These suppliers meet the exemption criteria for being five plus years, depending that they have had a Medicare number for that long.

Yes. The fact is that if you step down, you are still enrolled. We still consider you to be enrolled.

What if they completely step down from Part B, only doing immunization?

If they're not enrolled and they meet those suppliers of January 1, 2010, then they won't be eligible for the attestation.

Suppliers that were suspended from billing Part B to meet those could they neither step down nor were accredited. Well, they have to accredit in order to bill.

Is it possible that they would meet the exemption criteria? Those suppliers that revoked will not be eligible for an attestation unless they were reinstated.

Those that meet the five year requirement later in the calendar year- The store will meet the five year requirement for being a supplier later in the calendar year, will they be able to exempt at that time? If not, when is this reviewed? Will they need an active accreditation to cover the whole year or just the months between the one January 1, 2011 date and the date they meet the five year requirement?

Basically they'll need to be accredited just for the months during January 1, 2011, and the date that they meet the five year requirement.

But those are all the questions that we had gotten in so far.

Sandra Bastinelli: (Inaudible) this portion of the call. We can accept some questions.

Natalie Highsmith: OK. Caroline, if you could just remind folks on how they can get into the queue to ask their questions and everyone please remember to restate your name, what state you're calling from, your provider or organization you're representing today.

Operator: At this time, I would like to remind everyone that in order to ask a question, press star one on your telephone key pad. We'll pause just a moment to compile the roster.

Your first question comes from the line of Mary Stoner from Missouri. Your line is now open.

Mary Stoner: Hey, Barry, this is Mary Stoner with Electronic Billing Services in Flagstone Missouri. I wanted to ask a question. If a store has – OK, a pharmacy has

done a disenrollment, but they currently have an application in with the NSC to re-activate, if that application is not completed by the NSC before the January 1 deadline, can they still be considered as exempt?

Barry Bromberg: No.

Mary Stoner: So if it's a matter of NSC just having the opportunity to finish processing the reactivation? Because I understood further – earlier in the conversation from Sandra that if a store did voluntarily terminate their number and they re-upped their number ...

Barry Bromberg: And they're back in.

Mary Stoner: OK.

Barry Bromberg: There are a number of stores who voluntarily terminated as of the end of September of 2009. They felt that because Congress was making some rule changes at that time, the best thing for them to do rather than being terminated for cause, meaning getting revoked, they should do a voluntary termination.

And in those cases, since the law changed, we have decided to be liberal. If they had the voluntary termination, and then they came back in right away once the law changed requiring them, then deciding that they didn't have to an accreditation, that we would try not to hold that against them.

But at this point, if you have a voluntary termination and you still are not back in by January first, we're not going to go for that.

Mary Stoner: Even though the application has already been submitted to the NSC?

Barry Bromberg: That's right. You really should be in by January first.

Mary Stoner: OK. Because there is a, seems like a very large backlog right now with the NSC.

Barry Bromberg: Well I understand that, but basically we're being extremely generous by giving you, by giving people a grace period in terms of technically the law doesn't address the fact that you had to be in there for the past five years.

Well, technically those people were out, but because of the action of Congress and a lot of people seemed confused even though really the confusion was on their part, not on the part of the law or our implementation, we have decided to be generous to not counting that period against them.

But there has to be a limit in terms of how far we can go. If they've been out until, you know, for that many months, that's just you know, we can't go that far.

Mary Stoner: Right. And don't get me wrong, Barry, we absolutely appreciate that generosity. You know I guess my concern is, is there a possibility that CMS will have NSC place a high importance on reactivation applications between now and the end of the year? Is there a way to ask for that consideration?

Barry Bromberg: Honestly, no. I don't think that we can put these at the top of the stack. We do have to practice 21's as well as you know, ones coming back in. If we get to it, well that's fine, and we don't have the huge backlog at this point. So I don't think it's unreasonable.

I'm sure that these people should have come in many, many, many months ago, and they would have already been reactivated.

Mary Stoner: We do, well we do still have applications back from March that are still in the hands of Medicare that were sent in in March, and that was where my concern lied, but we do appreciate your consideration, and I thank you for hosting this call. I have no further questions.

Barry Bromberg: You're welcome.

Operator: Your next question comes from the line Randy Ellison from Georgia. Your line is now open.

Randy Ellison: Yes, Randy Ellison in Value Rite Pharmacy in Dalton, Georgia. The way I understand it, Form 59 which qualifies for the exemption would be sent an attestation letter or application this month and I heard her say that would have to be back to the NSC by 10/31 this month. Have those already been mailed out, because today's the 13<sup>th</sup>, and I have not received one?

Barry Bromberg: No, we haven't mailed out any of them yet. I think there's a little misinterpretation of what Sandra might have said. We plan on sending these letters out by the end of October.

Now that will give everybody essentially two months to send them in and still meet the January 1 deadline. We're making the process extremely easy because we're sending you the attestation letter. We're also giving you a stamped envelope to send it back in. So basically all you have to do on the letter that we're sending you, look at the attestation statement, identify who you are, properly sign it by the authorized or delegated official who should be properly on file at the NSC, send it back, and then you really shouldn't have any problem, assuming that you meet the five year criteria.

And you should basically, if we send you the letter, you're going to meet the five year criteria. Basically, what you are looking for is to see that you meet the five percent criteria. That's a determination that you personally are the only ones that can make. We don't have your accounting records in front of you. So it's a very simple practice.

Randy Ellison: They are. I understand that. It's just that I understood, I misunderstood. I thought she said they had to be at 10/31. Maybe she was saying that they would be mailed out by 10/31.

Barry Bromberg: No, if you submit it by the end of December, then you should be fine.

Randy Ellison: All right. Thank you.

Barry Bromberg: Basically I just want to reiterate that the process that you have is extremely simple.

Randy Ellison: Oh yes, I understand the process. I don't have a problem with that. I just heard her say have it in by the end of October, but I guess I misunderstood that.

Barry Bromberg: Yes. But you do have to get it in by the end of December.

Randy Ellison: I don't think I'll have a problem with that as long as I get it mailed to me by the end of October.

Sandra Bastinelli: Caroline, this is Sandra Bastinelli. I'm also taking, if I may interrupt, there was a question on my Blackberry related to this subject matter so I'd like to address it here.

Someone asked a question, when you say five percent of the total sales for exemption, less than five percent, does the total include sales of liquor, cards and etc.?

No, I actually did say that the total billing by the pharmacy are less than five percent of the total pharmacy sales. So that does not include groceries, cards, liquor and the like. It only includes pharmaceuticals. OK, and that would be over the counter pharmaceuticals as well.

So thank you for the question.

Barry Bromberg: I do want to give a little clarification of that though. We do not you know, deal with people's accounting systems. Each supplier carries their own accounting system and whatever methodology they use.

So obviously, let's say if you were a large chain store with a chain of supermarkets, and you clearly have a pharmacy department. Your accounting system allows your pharmacy department, and then there's you know, the liquor sales and the sales of everything else.

Well then, clearly it's five percent of your pharmacy sales, because you have a pharmacy, a special pharmacy account. Now there can be certain instances for certain very small pharmacies that their accounting system is not as sophisticated, but where basically their records are record on basis of everything that goes out the door as a pharmacy sale, that some of their items are such low volume.

In those cases, if that's how you keep your accounting system, we're going to – we are not going to challenge you on that. Now if you do get challenged –

now there are going to be audits. I think that you know, the law states that you're going to do a certain number of audits.

Now if you get audited, well then your accountant has to state that its five percent of your pharmacy sales and he obviously should base it on how your accounting system is, or you have to submit some sort of tax returns that show, that gives some sort of basic proof that again, that your DME sales to us are less than five percent. So to a great degree, it depends on how your accounting system is set up.

Sandra Bastinelli: Thank you Caroline.

Operator: Your next question comes from Jamie Statz Paynter from Wisconsin. Your line is now open.

Jamie Statz Paynter: Hi. I just had a question for you. I work at a small chain and we are in the process of moving one of our pharmacies from one part of the city to another part of the city over the next year. We're making a new building. If the State requires us to get a new State license which then requires a new DEA license, will we have to start our whole five year process over for accreditation if have said the originating pharmacy has been in business for close to 20 years now.

Barry Bromberg: Well, that's a question that I really had not thought of, but you're saying you have to get a brand new license, but is your incorporation still the same?

Jamie Statz Paynter: Correct. So there's no change in ownership. There's no change in the staff actually working at the site.

Barry Bromberg: There's no change in your legal business name or tax ID number?

Jamie Statz Paynter: No.

Barry Bromberg: Then you'll be fine.

Jamie Statz Paynter: OK.

Operator: Your next question comes from the line of Varencka Bailey from California. Your line is now open.

Varencka Bailey: Hi, my name is Varencka Bailey calling from Amerisource Bergin Inc. in California. If a pharmacy gets a new Medicaid number, are they required to get a new NPI number, assuming that the old owners transferred the NCPDP and the NPI numbers to the new owner?

Barry Bromberg: I'm not really sure. That's not my area of expertise.

Varencka Bailey: This is, this is for a pharmacy that, a few pharmacies that just went through change of ownership. Some States came back and said that they're required to get a new NPI number because the current Medicaid number is linked to the NPI number, and if that happens, they're required to get a new NCDPPD number and it's just a big fiasco.

Barry Bromberg: I'm not, I am not absolutely sure, but you may well send in that inquiry to Patricia Payton. Actually, she's not here right now but ...

Varencka Bailey: What's her e-mail address?

Sandra Bastinelli: [Patricia.Peyton@cms.hhh.gov](mailto:Patricia.Peyton@cms.hhh.gov) .

Varencka Bailey: Great. Thanks so much.

Operator: Your next question comes from the line of Rebecca Lichucki from Illinois. Your line is now open.

Rebecca Lichucki: Hi, this is Rebecca Lichucki from Topco Associates in Illinois. Does the exemption apply to all of the items for accreditation including the nebulizers, or is it just for test strips and canes and crutches?

Sandra Bastinelli: All items that are included as DMEPOS items that are included in accreditation. So anything that is considered, and nebulizers are, just not the drugs, they are considered DME supplies that need to be accredited and that would yes, that would be five percent.

If you're asking would that be included, would you include nebulizers as your five percent, yes you would.

Rebecca Lichucki: Well, what I want to make sure is that, I don't think that we'll have any members that have an issue with the five percent. I want to make sure that they'd have access to do everything because we do have some that do nebulizers. We have some that do diabetic shoes. We have some that do ostomy supplies. And so I want to make sure that it's all categories.

Sandra Bastinelli: Yes, it's all categories that are included in the definition.

Rebecca Lichucki: Thank you.

Sandra Bastinelli: You're welcome.

Operator: Your next question comes from the line of William Cary from Nebraska. Your line is now open.

William Cary: Hi. This is Bill Cary with Health Connect Home in Nebraska. We fall under the chow example that you gave, and we have submitted our CMS 855S, and we are seeking now accreditation under CAHP, but there's no way for me to know right now if we're going to complete that accreditation by January 1. So is that a hard deadline? That's question number one.

Question number two is, based on your answer to the last question, the only DME that we would be billing for would be occasionally infusion pumps, so one, are those considered DMEPOS or if they are, if the total sales of the infusion pumps are less than five percent of the total sales, would that be an exemption?

Sandra Bastinelli: OK. Yes, just for everyone's reference, just to review, I don't have the laundry list on top of my head as to all the DME supplies, but you can find that on our website. You can also, there's many places you can find DME and CSM, but that's one easy website.

And if anyone has access to the Social Security Act, in the Statute Section 1834(a), and under that there's several sections that they talk about what a DME supply is, and who the supplier is. So that's the answer to that question.

Yes, infusion pumps and DME supplies are included within the Secretary's requirements for everyone to be exempt.

I'm not sure I understand the last part of the question sir, so would you mind repeating?

William Cary: Well, since those are considered DME, then that – I guess it was the question in terms of the five percent of total sale. Would it just be the sales of the infusion pumps that we would be categorizing in our calculations for the total sales?

Sandra Bastinelli: OK, I understand. No, it's, you're a pharmacy. So all your pharmacy sales... OK, you have, let's say you have X amount of pharmacy, all your drugs, all your biological, all your nonprescription items, they're pharmacy. They're pharmaceuticals, and they, all of those sales.

Then you have this infusion pump, and the billing of your infusion pump equals less than your entire billing of your pharmacy, your pharmaceuticals; that being all your drugs and your biological. Does that answer your question? ...

William Cary: Yes, that answers it. Thanks.

Sandra Bastinelli: Oh, you're welcome.

Barry Bromberg: I would like to add something about what you first said, because I don't want you to be misled. You said you had a change of ownership.

William Cary: Correct.

Barry Bromberg: Now if you had that change of ownership, you are not going to be available for that exemption.

William Cary: That's correct.

Barry Bromberg: Five percent is really not going to affect you at all.

William Cary: Yes.

Barry Bromberg: And I do want to say something about the calculation of this. I want to say that this is a simple, it's a simple division here. The pumps which are

DMEPOS and the pharmacy sales, that includes the denominator, can obviously include DMEPOS sales. Those are pharmacy sales as well.

So you could take your DMEPOS sales and your prescription drugs and whatever else you put in as pharmacy sales OK, that's the denominator. Numerator basically is the DMEPOS sales that went to – remember you had to be with us for five years. Those are, we're going to look against the DMEPOS sales that you billed to us.

If we have – we obviously have records of what everybody billed to us as DMEPOS sales. So “we have the numerator on hand”. Now we're not going to ask – we're probably not going to check that numerator because it's not necessary.

We're going to take you – when you sign that attestation, we are taking you at your word. But of course, the law requires us to do that audit. Then when we do the audit, your accountant is going to have to sign for it or you're going to have to show tax documents that confirm that. But in the end, if we have to go any further, that's how we're going to do the calculation.

Operator: Your next question comes from Victoria Kendra from North Carolina. Your line is now open.

Victoria Kendra: Hi Sandra, hi Barry, it's Victoria from Biologic Pharmacy. We're a specialty pharmacy and we only do Part B Chemo drugs, and I just wanted some clarification that we're exempt and we don't need to be accredited for this. Is that correct?

Sandra Bastinelli: That's correct.

Victoria Kendra: Ok. Thank you.

Sandra Bastinelli: You're welcome.

Operator: Your next question comes from the line of Bruce Bettencourt from California. Your line is now open.

Bruce Bettencourt: Good morning. My name is Bruce Bettencourt from Santa Cruz, California and we were dropped from the program. We had submitted you know, the documents that said we were voluntarily withdrawing because we only do strips, and that sort of thing for our patients.

And then we were dropped from the program because we had not provided a bond, which I thought if we were you know, dropping from the program, we didn't have to put the bond up. So that's where we are now, is that we have been dropped, and I'm just wondering are we going to get another chance to come back?

Barry Bromberg: Now, when you say you've been dropped, you have a revocation.

Bruce Bettencourt: OK.

Barry Bromberg: A notice of revocation and official revocation. If you had that revocation, and it has not been rescinded for whatever reason, and you will not be – you're probably not even eligible to come back into the program, but besides that, you're certainly not going to be eligible to get an attestation exemption.

Bruce Bettencourt: OK. Even though we had submitted our – we were stepping down from the program prior to getting the revocation.

Barry Bromberg: Well, if you said you were stepping down, well then that would, that may well handle the accreditation, but you still need a surety bond.

Bruce Bettencourt: Right, but ...

Barry Bromberg: And you did not submit that surety bond.

Bruce Bettencourt: That's true, but we're sitting there saying we can't do anything. Why should we submit a surety bond? I mean, it doesn't make a lot of sense that you're not submitting any claims, why do you need a surety bond?

Barry Bromberg: Well, I don't – I don't set the law. I just enforce it.

Bruce Bettencourt: I understand, I understand. It just – because, and when I tried to get that question answered, nobody would get me an answer at that time.

Barry Bromberg: The law requires that if you are in the program, you must have that surety bond. You obviously didn't. I'm sure we sent you a notice of revocation, in which case you had a chance to say hey, I'm getting the surety bond, in which case – but you obviously didn't. You chose not to.

Bruce Bettencourt: That's true.

Barry Bromberg: Well I mean, I feel sorry for you, but there's absolutely nothing I can do about it.

Bruce Bettencourt: Got you. OK. Well thank you very much.

Operator: Your next question comes from the line of Tracey Jackson from Florida. Your line is now open.

Tracey Jackson: I am accredited for wheelchairs, canes, crutches, whatever, but when I did the accreditation I didn't do – I thought I would be covered with wheelchairs, but I am not. So why – I don't understand why.

Sandra Bastinelli: OK. Hi, this is Sandra Bastinelli. You're going to have to – since you're accredited, you're going to have to take the question up with your accreditation company, because I would have no idea why.

Tracey Jackson: OK.

Sandra Bastinelli: Surveyors did not include or if he or she did, you did not get accredited for wheelchairs.

Tracey Jackson: OK.

Sandra Bastinelli: I have no idea unfortunately. I was not on site so I could not tell you....

Tracey Jackson: OK. Well let me ask you this. I'm not – from what I read, it sounds to me like that you can do the strips and those kind of things without being accredited. Is that right?

Sandra Bastinelli: That is not right.

Tracey Jackson: That is not right. OK. So I am accredited, so I'm OK, right?

Sandra Bastinelli: Yes, but you cannot bill for any supplies that you're not accredited for that are DME.

Tracey Jackson: Well, yes.

Sandra Bastinelli: That was effective October last year. OK.

Tracey Jackson: Ok, but let me ask you this though. There's a company wanting to do – coming in here and do oxygen. Is that another accreditation?

Sandra Bastinelli: Yes it is.

Tracey Jackson: OK. All right. Thank you very much.

Sandra Bastinelli: All you have to do is call the accreditor and they'll take care of it.

Tracey Jackson: OK, thanks.

Sandra Bastinelli: You're welcome.

Operator: Your next question comes from line of Cindy Juhl from Missouri. Your line is now open.

Cindy Juhl: Hi. My question is, we are accredited. We got accredited last year so before the deadline. But my question is, is there anything further we have to do? I mean of course we just sent out our payment for the year to stay, because you've got to pay every year. Is that as far as follow, is that all we have to do to stay accredited?

Sandra Bastinelli: Well, if your accreditor, this is Sandra Bastinelli. The accreditor will be able to answer that. Just respond to anything that they have asked of you as it relates to any continuous reports that they may need or whatever.

Every accreditor, we have ten of them, and they all have different processes for both billing and requirements every year not to be any less than three years, but some do have every year. So I would have no idea ...

Cindy Juhl: OK.

Sandra Bastinelli: What it would be, but I would make sure if you really are unclear about what those requirements are other than sending in a check, I would really call them.

Cindy Juhl: OK. OK. Thank you.

Sandra Bastinelli: You're welcome.

Operator: Your next question comes from comes from the line of Lisa Mascardo from Iowa. Your line is now open.

Lisa Mascardo: Thank you. Hi everyone. I just, one quick thing before I ask my question. We also voluntarily stepped down in the spring. We voluntarily stepped down. We reenrolled in the spring and we have yet to get a response from NSC, so whoever said earlier concern, I echo that.

My question is, because we are located in a hospital, I'm from the University of Iowa Hospital and Clinic, and only one Medicare provider number can be issued to a single address. We are actually covered under the hospital's Medicare provider number.

Where will the attestation letter be sent to? Do you have any idea? I'm a little nervous that it's going to take us a month to actually track down the letter.

Barry Bromberg: Well, I think there are a couple of issues. First of all, if we send you a letter, a letter will be what you have on, what you have shown in your 855 application submission as to where to send the letter.

Lisa Mascardo: So to the delegated authority?

Barry Bromberg: Well no, I wouldn't say to the delegated authority. You have an address.

Lisa Mascardo: Right, but it's a big place.

Barry Bromberg: And I understand that this has caused many problems in the past, particularly, I hate to say this, for many quality institutions who are part of university

hospitals or lodge hospitals. But unfortunately, I hate to say this, but you are responsible for getting your mail to the correct place.

We're responsible for sending it to where you told us to send it, but you are responsible for routing your mail internally within a reasonable amount of time. We won't, you know, we can't ...

Lisa Mascardo: Is there any indication that it's actually a pharmacy issue in the letter, do you know? Have you seen a draft?

Barry Bromberg: I wrote the letter. Basically no, it is not. It is a dear supplier letter.

Lisa Mascardo: OK.

Barry Bromberg: So I, you know, and we send it to where you told us to send it, but that's where we sent it. Where ever is on file as to where we send it, that's where we send it. That's where we will send it.

Sandra Bastinelli: But it is true though. It's pretty obvious in the letter that if it goes to administration, they would know where to route that I would think. I've read the letter. I think it's pretty obvious.

Lisa Mascardo: OK. Thank you.

Barry Bromberg: I think you brought up another question there, something about voluntary termination. I'm not sure what you did, but ...

Lisa Mascardo: We voluntarily disenrolled because we didn't think we were going to meet the deadline for accreditation and we only do test strips.

Barry Bromberg: Yes, well if you voluntarily disenrolled, you will not get a letter. You were not available. You were not eligible for the exemption.

Lisa Mascardo: No, I thought we were because we do meet the exemption criteria.

Barry Bromberg: No you don't, because you're not enrolled.

Lisa Mascardo: But my point is, we re-enrolled back in the spring.

Barry Bromberg: Oh, I'm sorry. Excuse me, you're back in our system. You have been enrolled.

Lisa Mascardo: Well, we reenrolled but NSC hasn't contacted us, and they've had the application for six months now.

Barry Bromberg: Had the application for six months?

Lisa Mascardo: And we have not heard anything.

Barry Bromberg: Well ...

Lisa Mascardo: That's my point that the earlier caller brought up, that we're in the same situation and I'm very nervous that we aren't going to hear anything by January.

Barry Bromberg: Well I think, we'll go and see what we can deal – how we can deal with some of the older applications that we may have on file for in this case. We'll have to look into it. I definitely will look into that.

Lisa Mascardo: OK. Thank you.

Operator: Your next question comes from the line of Gail Jones from Massachusetts. Your line is now open. (Gail Jones) from Massachusetts, your line is now open.

Gail Jones: Hi. This is Gail, Apothecare of Plymouth in Plymouth Massachusetts.

Natalie Highsmith: OK Gail, what's your question?

Gail Jones: We are a pharmacy that opened in October of '06 and just wanted to again, check with the dates as far as when we would be eligible, and I believe you said it was month to month, so when would that make us eligible?

Barry Bromberg: Well, according to my math it would be October 2011.

Gail Jones: Well that's what we thought too, but we thought maybe it would be at the beginning of the year, but that's what we thought. So that is how we would go and we would be receiving a letter when we're approaching that date?

Barry Bromberg: No you will not.

Gail Jones: OK. We would not.

Barry Bromberg: At that point, see for those who are – we're trying to be highly accommodating, and so for those who are on file and appear to will have made the five years by January 1, 2011, and those who are enrolled as of September 30<sup>th</sup>, 2010, we are going the extra three miles by picking you out, and sending you a letter and giving you an envelope with a stamp on it just to astronomically facilitate the matter.

But for other people, whenever they come up, if they want to get this exemption, they will have to file it themselves. We're not going to give them a reminder notice or anything. It is a voluntary attestation. You actually have to file it yourself.

Now the attestation will be on our website. It will be on the NSC's website and it will be on the CMS website. So you can file that. You can actually go and get it.

Now of course as we've stated – or I'm not sure if it was stated, but if you decide to drop your – I'm assuming you're accredited?

Gail Jones: Yes.

Barry Bromberg: All right. If you decide to drop your accreditation, you are taking that risk because unless you have the exemption and you wind up being not accredited, well in that instance, you could be revoked. So you have to file it yourself. Either stay accredited or make sure you file for your exemption.

Gail Jones: OK. And how much prior to that date could we file?

Barry Bromberg: Well ...

Gail Jones: If we were – if would be October of '11.

Barry Bromberg: Well, we haven't figured that out but I don't think it's unreasonable for you to file you know, a couple months in advance, give us time to process the paperwork. I do think that if you have filed before the five year period, all right, and we have it on record and we haven't just gotten it to you yet, even if we sent you a notice of revocation, if you had your attestation on file, and it was a proper attestation, you met the criteria, then we would not revoke you.

Gail Jones: OK. OK. Thank you very much.

Barry Bromberg: You're welcome.

Operator: Your next question comes from the line of Kristen McKibban from Iowa. Your line is now open.

Kristen McKibban: Yes, my name's Kristen. I work for a Medicap in Iowa. My question is, we are currently accredited but we're also looking at producing another store who is right now credited, but they've only exemption until we purchase them.

I wanted to see how that would affect us in our accreditation if we were to purchase them say in November or January and how that affects our accreditation for the new store.

Sandra Bastinelli: For the – whenever you have a change, ownership, any change actually, you need to call your accreditor. I would, since you have this pending, I would call him now and let them be aware of it and they will let you know what the next steps are insofar as doing a (unannounced site) visit to that location and/or whatever paperwork they need

So because every instance, we don't give a blanket you know, yes you're covered. In the case of change of ownership, there are different types of changes of ownership as well. So we really, we don't have let's say, a blanket policy to address every single issue.

So I would feel most comfortable if you would call the accreditor. If the accrediting organization has any questions, they usually will have a

conference call with you on the line and myself, and then we could answer that if there's any issues.

Kristen McKibban: OK.

Barry Bromberg: It's also important to note that since you have – you're going to have that change of ownership, you're not going to – that store is not going to be available for an exemption.

Kristen McKibban: Right, which we were planning on until this – it's a new situation. So that's why I was fearful, because as of November 1<sup>st</sup>, if we don't own them, they're going to be un-accredited because they're going to be under the exemption. So if we buy them say in December or January, now all of a sudden we just purchased an unaccredited pharmacy, but we want to sell test strips. How does that work for us?

Sandra Bastinelli: Yes, I would call the accreditor as soon as possible.

Kristen McKibban: OK.

Operator: Your next question comes from the line of Mary Ellen Conway from Maryland. Your line is now open.

Mary Ellen Conway: Hi Sandra this is Mary Ellen Conway from Capital Health Care Group in Bethesda, Maryland.

Sandra Bastinelli: Hi.

Mary Ellen Conway: How are you?

Sandra Bastinelli: Very well, how are you?

Mary Ellen Conway: Great, thanks. I had two things. One was a question for clarification of what you had said and the other was just a question. The first was, I missed something as I was taking notes in the early part of your presentation.

You said that the NSC will make, will be sending out the letters at the end of October for the exemption, and then you talked about locations, and I missed

what you said about the number of locations or the locations meeting the requirements. Could you repeat that information please?

Sandra Bastinelli: Sure. I believe, and let me know if what time you were referring to. Each location has an enrollment number.

Mary Ellen Conway: And then there was a number of locations or something.

Sandra Bastinelli: No, I just said if the location is part of a larger company as a chain, the location must still individually meet the exemption criteria.

Mary Ellen Conway: So within a chain or a large group, over 25 I guess is the criteria.

Sandra Bastinelli: Yes.

Mary Ellen Conway: If you have exempted stores within that operation, you can exempt particular stores?

Sandra Bastinelli: Yes. Again, if they're not – of course the likelihood of – the NSC would not be sending a chain a letter, I'll be honest with you.

Mary Ellen Conway: Right.

Sandra Bastinelli: Because all the chains are accredited at today's date. But let's say multiple locations since it doesn't matter. Each location has a, you know, enrollment number.

Mary Ellen Conway: Right.

Sandra Bastinelli: Let's say not in the case of a chain, but multiple locations, and you for whatever reason are not accredited, and the NSC sends you a letter. So just keep that in mind. Then it is by location. Each location would be getting a letter. However, I'm not sure that instance would even actually occur.

OK, so if those locations are accredited and you believe that some but not all meet the exemption, you, once the attestation letter is up on the web, you can certainly apply for – not apply, but you can send in that add a station and get that stamp of approval so to speak from the NSC.

Mary Ellen Conway: Right. That was my confusion. I would guess that you know, anyone that gets the add a station letter is you know, obviously qualifies and verifies on their financial end that they do. But it was the accredited groups that are already there that have multiple location. They're already accredited. They're going to have to do this on their own by going to pull down the information once it's posted and determine whether they qualify I guess by sending it in.

Sandra Bastinelli: Yes, that's exactly how it will happen. Hopefully everyone heard that. I believe also (Barry's) talked about that. It is purely voluntary.

Mary Ellen Conway: Right.

Sandra Bastinelli: From now on, this is a one-time sending out a letter to people that are not accredited, but for those that are accredited and those that are – believe they meet the definitions of exemption, they have to send that in first.

And we also encourage, strongly encourage no one to let their accreditation expire prior to receiving the stamp of approval so to speak. I'm saying stamp of approval because I do not know. I don't believe Barry, we know how the NSC, other than in writing, that they will let the supplier know that they are exempt.

Barry Bromberg: Well, the plan is that if you send in an attestation, we will send you a confirmation by mail, and that confirmation will either say you know, we accepted it, won't say very much, or if some reason we do not agree with what you've sent in, we'll give you an explanation why we disagree.

Now for those that we are sending out and invariably I think it's going to be extremely few that we're ever going to challenge because we've already pre-screened to see that you meet the five years and that you don't have the adverse action.

So essentially, you are telling what you're attesting to the rest, is the five percent of the (Nepos) versus pharmacy sales, which basically, well, we will not be able to confirm unless we do an audit. So (inaudible) because we're going to have to accept it.

Mary Ellen Conway: And that's going to be my second question, but let me just clarify one last time.

Barry Bromberg: But if you're sending one in where we haven't sent you the letter ...

Mary Ellen Conway: Right.

Barry Bromberg: but say it came in later, well then we might go back in our files and say, hey you know, you really don't need the five years.

Mary Ellen Conway: Right.

Barry Bromberg: We might write you back that you don't need that five years. You can't get that exemption.

Mary Ellen Conway: Well how would that work for an organization that has you know, not a large chain organization, but a group of pharmacies that are small regional players that might have you know, 20 or so office that they've had, 15 of which for the last five years and they are accredited right now, but they'll be looking at renewal in the next few months trying to decide if they should renew.

What if they buy a new store at some point? Obviously all new stores have to be accredited. Do they have to maintain that accreditation for that entire group or can they drop individual locations?

Sandra Bastinelli: Yes, we – because the law has changed since the accreditation requirements became imposed, and since this Statute of the Affordable Care Act does state very clearly by enrollment number, and since enrollment number is by location, we are going to have to allow pharmacies to ask for an exemption for those stores that they believe meet all of the criteria.

Mary Ellen Conway: Wow, so all with common ownership.

Sandra Bastinelli: Yes.

Mary Ellen Conway: That's big. OK, but that helps because that was – I didn't understand that at all with what you had said before.

And then my question was, what Barry touched on, with the randomly choosing 10 percent to audit in 2011, I would expect that you are going to be doing that both with the people that pulled down the application to apply for that exemption as well as the ones you send the letters to.

Barry Bromberg: That's correct, although the basic game plan is 10 percent. I don't believe that the law actually says 10 percent. That was something that we thought was appropriate. So depending on resources, it could be more or less. The law just really requires that we do an audit.

Mary Ellen Conway: And is that a desktop review at this point or is it a physical onsite audit that you expect?

Barry Bromberg: A desktop review. So what we will do is, we will send you a letter. Let's say if you are picked, one of the unlucky ones that gets audited, kind of like an IRS type of thing, we will send you a letter saying, OK, you are being audited. The law allows you to confirm your attestation by one of two methods.

You can either have your accountant sign that it's five percent or you know, that for the five percent or less of the you know, your DME sales of five percent or less of your pharmacy, of your pharmacy sales, or you can send in tax returns to confirm that. I think it's two years of tax returns. I'm not sure. I don't have the law in front of me, but a certain tax returns that you would actually have to send in to confirm that.

Mary Ellen Conway: OK. I appreciate it. And I just wanted to say thank you for having this on its own open door forum call, because it's very hard for us when it's the open door forum call for Home Health and Hospice and the others to really get direct information about this, so this was very helpful today. Thanks very much.

Barry Bromberg: You're welcome.

Sandra Bastinelli: You're welcome.

Operator: Your next question comes from comes from the line of Diane Darvey from Virginia. Your line is now open.

Diane Darvey: Hi Sandra and Barry, this is Diane Darvey at NACDS, and actually through all this discussion most of my questions have been answered, but I would like to ask is, I – because I'm not sure I heard it correct. On the last call, or the last questioner, where you were responding with regard to pharmacies with common ownership, and I think I might have misunderstood in regards to if they had to accredited or not. I don't know if you can just restate that or briefly go over it again.

Sandra Bastinelli: Sure. I believe the caller wanted to – had several things that she wanted to clarify. One was a pharmacy that has a common owner. It has multiple locations. The example that was given was 20. We consider a chain more than 25, but as it relates to any, that was the magic number insofar as accreditation decisions were concerned, meaning one accreditation decision.

So having known that, the caller asked then, OK, now with the exemption, the Affordable Care Act exemption, would – what if some of those 25, not all, but some of those 25 need the exemption, but not all of them do need.

But in of themselves, each location, if they did the five percent, less than five percent of the total pharmacy sales at that location, what if they met the exemption. Could they be exempt, that location be exempt from accreditation?

And my answer was yes, it can be. And yet, this is a change in policy because prior to the time one store was accredited, they all had to be included in their accreditation decision or not. However, because if you read Section 3109, the evidence of exemption, is based on enrollment number for five years, so we could not seek – we believe that Congress intended that to mean every enrollment number.

So every – since we give enrollment numbers to each location, we had to split out the locations. That's why the confusion. And I know that – I don't know if I confused the matter even more, but just keep in its mind based on location.

It doesn't matter if you have one or 20 or 25 or 26 or 50. You can have some locations that are commonly owned not accredited.

We also would make certain that – want to make certain that the public knows that those locations are no longer accredited, meaning that you cannot market those locations as having a credential of accreditation when in fact they are not accredited by Medicare any longer.

Diane Darvey: OK. So I guess if I'm understanding correctly, if you have, if you have a number of locations under a common owner and some meet the criteria for exemption and some don't, the ones that don't meet it would be accredited – would have to be accredited or they would be exempt?

Sandra Bastinelli: They would have to be accredited.

Diane Darvey: OK. So it would be just the basic determination would again be whether you meet those criteria or not. So you'd have some locations accredited and some not, even though there's a common owner.

Sandra Bastinelli: Yes, that could happen.

Diane Darvey: OK.

Sandra Bastinelli: Although I will tell you that those national chains, there are several national chains that have already thought about this for obvious reasons, and because of the changing of business locations, constant changing of ownership or adding or deleting locations, they have chosen to keep their accreditation which is a smart move for, as a business decision because the – what we are told, the burden isn't going to be any less than if they would just, if they would exempt certain locations.

So as we've always said, Barry has said on numerous occasions, and our group has said on numerous occasions, that's a business decision. It's voluntary. If you're exempt and we can tell you that you must be exempt. It's just voluntary.

If you're already – if your entire corporation is accredited, you could choose to keep all of those locations accredited. But just think about that and talk.

For those of you that may be on the call that are a chain of more than 25 locations, I would have a call with your accrediting organization if you have not already and talk about the perceived burden of both financial and organizationally and see if this is one fact that you believe that some of your locations may be exempt.

See what that would look like for you before you go off on your own. That's number one. Number two as we stated, we would not recommend anyone having their accreditation expire before they had that exception letter in hand.

Diane Darvey: Thank you, Sandra.

Sandra Bastinelli: OK.

Operator: Your next question comes from the line of Karen Falk from Louisiana. Your line is now open.

Karen Falks: Hi, this is Karen, Central Drugs in Hammond, Louisiana. We did disenroll last year and then we did fill out the 855S to reactive our ability to do the test strips. My question is, do I need to wait for the letter to come in because we know we will be less than the five percent, or can I – or if I do have a sale, can I go ahead and bill Medicare for those test strips now, or do I need to wait until January?

Barry Bromberg: The question is are you currently enrolled.

Karen Falk: Yes, I did receive my letter saying we had been reactivated.

Barry Bromberg: All right. Once you've been reactivated and you had a voluntary termination before?

Karen Falk: Yes sir.

Barry Bromberg: OK. As of the date of your reactivation, when you get the letter, it tells you when you've been reactivated. You can bill for your test strips as of the date of your reactivation.

Karen Falk: OK.

Barry Bromberg: Now in terms of your attestation, that's kind of, kind of my thing here, is that if the test strips are for a non-exempt product from attestation, from accreditation, and therefore, hopefully – I don't know if you've met the five years or not.

Karen Falk: We have. And we did not get accredited, but we did so the surety bond, so we have all the paperwork other than accreditation.

Barry Bromberg: How long were you out of the program.

Karen Falk: Just probably for maybe about four months that we disenrolled, because we disenrolled before the deadline last year, and then we got the pharmacist or the owner said, you know the accreditation is being postponed for another year, let's go ahead and reactive. I went ahead and I jumped on it and filled out my paperwork and sent it in.

We did get reactivated so it wasn't long at all. Maybe six months at the most.

Barry Bromberg: All right. In that case, it is very likely that you will receive an attestation exemption statement. Obviously, if you don't want to be accredited, well then fill it out promptly.

Karen Falk: OK. So, but I didn't want to get in trouble where if I did bill Medicare for a test strip here and there, because we don't really do that many, but I do occasionally have a prescription for that. If I go ahead and bill Medicare to get that payment, I just didn't want to get in trouble if I should be waiting.

Barry Bromberg: Once you get the letter in the mail that says that you are back enrolled, it has a date on it, you can bill as of that date.

Karen Falk: OK. That's what I thought. I just wanted to double check. I didn't want to be doing something I wasn't supposed to be doing.

Operator: Your next question comes from the line of Deanna Locker from South Dakota. Your line is now open.

Deanna Locker: Hi, this is Deanna Locker calling from the Yankton Medical Clinic Pharmacy and I kind of am just calling for clarification on something you said earlier. We are currently accredited and we had a change of ownership January 1, 2006, so our five year requirement would be met as of January 1, 2011 exactly.

I'm assuming we're not going to get an attestation letter mailed to us, but if I print one off, is it OK to send it in before the January first time, or do we need to wait until after that date to send it in?

Barry Bromberg: Well, I think there are two things here. I am not sure that you will not get the letter. You just happen to have one that's right on the line there. We might have sent you – we may be sending you the letter. I'm not sure how we want to calculate the five years. I didn't think about it till today, so to speak.

But if you were in as of January first, right?

Deanna Locker: Right.

Barry Bromberg: 2006, it would seem to me that by December 31<sup>st</sup> of 2010, that would be five years, wouldn't it?

Deanna Locker: Right.

Barry Bromberg: So in theory, I think you should get the letter.

Deanna Locker: And if I don't, I can just print one off, and is it OK to send it in say in November or December or do I wait until January to send it in?

Barry Bromberg: Don't wait until January.

Deanna Locker: OK.

Barry Bromberg: The letter will not be up on the website until you know, for a while. Basically part of the reasoning to be honest with that, is that we wanted to get out the letters to those first who we know qualify for the exemption, so we can get ahead on processing them, and then not have a lot of – I hate to call them

crossovers where you would have people who got the letter, who would also be sending in an attestation on their own.

It would be twice the processing and kind of mess up – it would be very inefficient.

Deanna Locker: Sure.

Barry Bromberg: But the fact is that by the end of November, we'll have it on the website, and so if you don't – if you don't get the letter, well then obviously you could, you could put it you know, you could mail in your confirmation. You could pull it off the website and mail it in.

Deanna Locker: OK. And I had one other short question. Once we are exempted, is the surety bond still required, or is that only for accreditation status?

Barry Bromberg: You are totally independent.

Deana Locker: OK. I think that's all. Thank you.

Operator: Your next question comes from the line of Morgan Porter from Texas. Your line is now open.

Morgan Porter: Hello, my name is Morgan Porter. I'm with Medicine Chest Pharmacies. In September of 2009, we voluntarily terminated our Medicare supplier number at 19 pharmacies and whenever the rules were published about the five year requirement, we identified 12 pharmacies that we wanted to get our number back on.

And we've gotten surety bonds, but we haven't completed our 855 yet. From my understanding, we're not going to get letters. Is that correct?

Barry Bromberg: Correct. You're not in the system. You're not getting letters.

Morgan Porter: So basically what I've got to do is try to get those in and get my number by the end of the year and then whenever I get my revocation letters, then do the ...

Barry Bromberg: You've been out of the system for over ten months. I don't think we're going to allow that long a grace period.

Morgan Porter: Where was it published about the grace period?

Barry Bromberg: It hasn't been published. I'm just saying that out of ...

Morgan Porter: I mean, we kind of made our decision because you know, we didn't want to get back into the business unless the accreditation exemption was going to be long term because we had no intention of being accredited.

So we've just gotten this information. I've gotten surety bonds for those 12 stores, but I've been waiting to get information like this phone call today, and a little bit more clarification before we actually submitted the 855S's.

Barry Bromberg: Well you see, you certainly wouldn't have been with us for five years.

Morgan Porter: Well those would be by the end of December 2010.

Barry Bromberg: You would have been with us for five years as of December 2010?

Morgan Porter: Yes. October 19<sup>th</sup>.

Barry Bromberg: October the 19<sup>th</sup>. Does that allow for the fact – for the period that you were out of the program?

Morgan Porter: No, but we voluntarily terminated.

Barry Bromberg: I know what you did. I understand what you did. I don't think that we're going to allow that kind of a grace period. That is, you know, we're talking almost a year.

Morgan Porter: I just, it's not – you try to get information, and you can't get a lot of information and it's just a little frustrating on our end. So is there any use in me submitting 855S's?

Barry Bromberg: Well, I'm saying – I'm not going to tell you you can't, but I'm just saying that we're not going to get – if you want you know, if you want to get accredited that's certainly fine. If you want to just to biological, that's fine.

You know, things that don't require accreditation, that's fine. But basically, I don't think we're going to grant a year, I would say a year less. What I am saying we have decided to do, is that for those that were out a short period, if it's because they submitted a voluntary termination, they're waiting for Congress to make that decision, and then they came right back in, we don't want to be punitive.

But not for people who have been out for a year. I don't think we can really allow that.

Morgan Porter: Are you understanding I've been out for a year because we've been waiting on clarification.

Barry Bromberg: Well that may be, but Congress has passed that a long time ago.

Morgan Porter: Passed a law, and then you guys have to actually force the law and create all the regulations for it, is that correct?

Barry Bromberg: Well this doesn't require regulations. Once the change was made that you didn't have to be accredited, you could have come right back in if that's what you wanted to do. People did.

Morgan Porter: Well you've answered my question. Thank you.

Barry Bromberg: I'm sorry I could give a more favorable answer.

Natalie Highsmith: OK. Caroline, we are about two minutes shy of 5:00 o'clock here on the east coast and I'll turn the call back over to Sandra Bastinelli for a closing remark.

Sandra Bastinelli: Thank you everyone. We received many questions and hopefully the clarifications that both Barry and I stated from the question and answer period have answered all of your questions to date, but if they have not; please feel free to e-mail me and Barry.

Our e-mail address – my e-mail address is Sandra – let me spell my last name. And there's always a dot and the last name is spelled Bastinelli, and it's at cms.hhs.gov.

If you missed the e-mail address, certainly if you have any further questions, you can e-mail Natalie Highsmith as well. We hope that we did answer all your questions. If more questions come in after this point, and we feel that it's necessary, we will just place them on the next Open Door Forum. There will not be a Special Open Door Forum.

And please just note that someone mentioned we were sure about the law being a permanent. We here as CMS, as you know, we don't enact the laws. We just operationalize those laws and we have to assume all laws are permanent until they're changed. So we don't have a magic ball on anything, but we hopefully, this call was helpful for you and thank you very much Caroline.

Natalie Highsmith: Thank you everyone.

Operator: This concludes today's conference call. You may now disconnect.

END