January 25, 2019

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
200 Independence Ave, SW
Room 600E
Washington, DC 20201

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Re: *Modernizing Part D and Medicare Advantage to Lower Drug Prices and Reduce Out-of Pocket Expenses*, CMS 4180-P

Dear Secretary Azar and Administrator Verma,

Our organizations write to voice our strong support and appreciation for the administration's recent proposal regarding pharmacy direct and indirect remuneration (DIR) fees, also known as "pharmacy price concessions," in CMS' *Modernizing Part D and Medicare Advantage to Lower Drug Prices and Reduce Out-of-Pocket Expenses*, CMS 4180-P (the "Proposed Rule").[1] Our three organizations represent community and specialty pharmacies. Together, we share the administration's goal to lower beneficiary out-of-pocket costs in the Medicare program, stabilize the operating environment for pharmacies, standardize the way in which plan sponsors and PBMs treat pharmacy price concessions, and standardize the way in which pharmacy quality is measured.

To meaningfully accomplish these goals, we write this letter to urge the administration to finalize through formal regulations the proposals regarding the application of pharmacy price concessions in the following ways.

First, for plan year 2020 we urge the administration to finalize the proposed changes to the "negotiated price" definition in 42 C.F.R § 423.100 that seeks to include all pharmacy price concessions at the point of sale, while excluding additional positive contingent amounts. This change would effectively eliminate retroactive pharmacy price concessions, which have a demonstrably negative impact on patients and pharmacies.

[1] 83 Fed. Reg. 62152 (Nov. 30, 2018).

As you noted in the Proposed Rule, pharmacy price concessions, net of all pharmacy incentive payments, grew an extraordinary 45,000 percent between 2010 and 2017.

Requiring all pharmacy price concessions to be included at the point of sale would accomplish our shared goal to lower beneficiary out-of-pocket costs in the Medicare program. CMS estimates that beneficiaries would save $7.1 to $9.2 billion over ten years from the reduced cost-sharing, including the offset of slightly higher premiums.[2] The savings could be considerably higher for those beneficiaries who are prescribed some of the most expensive drugs.

In addition to positively impacting beneficiaries, the proposed change would improve the ability of pharmacies to participate in the Medicare program. Our members have for years experienced the increasing consequences of the unpredictable, retroactive nature of these fees. Requiring all pharmacy price concessions to be applied at the point of sale would provide much-needed predictability and stabilization to our members' pharmacy operations.

Second, in finalizing changes to the definition of negotiated price, we urge the administration to exclude those contingent amounts that are positive incentive payments made to pharmacies. Pharmacies should be incentivized to achieve certain performance metrics via payments by Part D plan sponsors and their PBMs. We urge the administration to simultaneously formalize its proposal to approve a standard set of metrics with achievable goals tailored to pharmacy type, drug dispensed, and disease state being managed, on which plans and pharmacies would base their contractual agreements as a first step toward the implementation of a pharmacy quality incentive program with standard and achievable goals. CMS should signal the creation of such a quality program in this final Part D rule and commence development as soon as possible.

Third, in addition to addressing our comments to the Proposed Rule, we also urge the administration to ensure reasonable reimbursement to pharmacies participating in Medicare Part D, even when all pharmacy price concessions are applied at point of sale. Today's pharmacies often find that the reimbursement they receive is less than the pharmacy's costs (drug acquisition plus cost to dispense).[3] Under-reimbursement can force pharmacies out of networks or even out of business, limiting beneficiary access to the pharmacy of their choice. We urge the administration to require that contracts between Part D sponsors and CMS contain this protection to ensure patient access and choice.

In conclusion, we urge the administration to act swiftly in finalizing the proposed language to amend the definition of negotiated price to ensure that all pharmacy price concessions are accounted for at the point of sale beginning in 2020, and to simultaneously approve a standard set of metrics from which plans and pharmacies base contractual arrangements as a first step toward the implementation of a pharmacy quality incentive program.

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[2] *Id.* at 62154. In the Proposed Rule, CMS states that this proposal would raise premiums by $10.16 a month but reduce patient cost-sharing by $26.69 a month.

[3] NCPA, *Report for Survey of DIR Fees Imposed on Pharmacies*, Dec. 2017, *available at http://phrma-docs.phrma.org/files/dmfile/Report---Part-D-Beneficiary-Cost-Relief---FINAL.pdf.*

A move of this stature would demonstrate the administration's dedication to providing immediate savings for seniors at the pharmacy counter and needed support to pharmacies and the patients we serve.

Thank you,

National Association of Chain Drug Stores
National Association of Specialty Pharmacy
National Community Pharmacists Association