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January 16, 2018

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-5522-FC
P.O. Box 8016
Baltimore, MD 21244-8016

Via: Electronic Submission

RE: CMS-4182-P Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs, and the PACE Program Proposed Rule

Dear Administrator Verma:

The National Medical Association is pleased to respond to the Centers for Medicare and Medicaid Services' (CMS) request for comments regarding the Contract Year 2019 Policy and Technical Changes to the Medicare Advantage (MA), Medicare Cost Plan, Medicare Fee-for-Service, the Medicare Prescription Drug Benefit Programs (Part D), and the PACE Program Proposed Rule, as well as the Request for Information (RFI) on Manufacturer Rebates and Pharmacy Price Concessions at the Point of Sale.

The National Medical Association (NMA) is the collective voice of African American physicians and the leading force for parity and justice in medicine and the elimination of disparities in health. The NMA is the largest and oldest national organization representing African American physicians and their patients in the United States. The NMA is a 501(c) (3) national professional and scientific organization representing the interests of more than 30,000 African American physicians and the patients they serve. NMA is committed to improving the quality of health among minorities and disadvantaged people through its membership, professional development, community health education, advocacy, research and partnerships with federal and private agencies. Throughout its history the National Medical Association has focused primarily on health issues related to African Americans and medically underserved populations; however, its principles, goals, initiatives and philosophy encompass all ethnic groups.

The CMS Proposed Rule presents an opportunity to build upon the success of the Part D program – a program providing high-quality, affordable prescription drug benefits to more than 42 million Medicare beneficiaries.ⁱ The Part D program has been distinctly successful in providing beneficiaries with stable premiums and diverse plan options through its market-based competitive model. Specifically, more than 85% of beneficiaries report overall satisfaction with the Part D programⁱⁱ, and premium growth averaged just 2% annually from 2013-2017 and decreased by 3.5% for 2018. Additionally, in the first ten years of the Part D program, total expenditures were \$556 billion less than originally projected due to the use of private sector innovations and the performance of Pharmacy Benefit Managers (PBMs) and Part D plan sponsors.ⁱⁱⁱ However, the National Medical Association is concerned about the adverse impact of two proposals included in the CMS Proposed Rule and RFI on the Part D program: Any Willing Pharmacy, and Manufacturer Rebates at the Point of Sale.

Any Willing Pharmacy

The National Medical Association is strongly opposed to the new regulatory constraints that CMS is proposing related to Any Willing Pharmacy. The regulatory constraints starkly conflict with the competitive principles that define the Part D program and that have kept the program affordable for seniors over the last decade.

As a result of this proposal, Part D plan sponsors and their contracted PBM's would be hindered in establishing preferred pharmacy networks. Overall, preferred pharmacy networks allow for more streamlined management of networks; reduce fraud, waste, and abuse; lower the cost of the benefit for all Medicare beneficiaries; and promote the delivery of higher quality pharmacy services. Most beneficiaries today *choose* to enroll in Part D plans with preferred pharmacies, and this proposal would disrupt their coverage without producing any benefit.

CMS's proposal on Any Willing Pharmacy would result in higher premiums for beneficiaries and increased costs to the Federal Government.

The National Medical Association appreciates the opportunity to submit these comments. We believe that allowing manufacturer Point of Sale rebates and the proposed rule on Any Willing Pharmacy would undermine the notable success of the Part D program and will negatively impact the 42 million beneficiaries that are enrolled in Part D plans.

Manufacturer Rebates at the Point of Sale

The National Medical Association believes that allowing manufacturer rebates at the Point of Sale would not address the high-price of prescription drugs, and would fail to bring much-needed transparency into the drug pricing practices of prescription drug manufacturers.

Implementing manufacturer Point of Sale rebates will raise premiums for all Part D beneficiaries and prevent Part D plans from delivering the lowest total cost to

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beneficiaries. Further, in the Proposed Rule, CMS estimates that applying a rebate at the Point of Sale could raise premiums by \$28 billion and government costs by \$82 billion over the next ten years, while saving pharmaceutical manufacturers billions of dollars that they otherwise would have provided to the government.

Implementing Point of Sale rebates would undermine innovation, flexibility, and competition within the Part D program, and fails to improve quality and affordability for beneficiaries.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin Hamlette". The signature is fluid and cursive, with a large initial "M" and "H".

Martin Hamlette, JD, MHA
Executive Director

ⁱ <https://www.kff.org/medicare/fact-sheet/the-medicare-prescription-drug-benefit-fact-sheet/>

ⁱⁱ <http://medicaretoday.org/resources/senior-satisfaction-survey/>

ⁱⁱⁱ <https://www.americanactionforum.org/research/medicare-part-d-advancing-patient-health-private-sector-innovation/>