



January 16, 2018

Seema Verma, Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-4182-P
P.O. Box 8013
Baltimore, MD 21244-8013

Re: CMS-4182-P Medicare Program: 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 (CMS-4182-P)

Dear Administrator Verma,

Thank you for the opportunity to comment on the Contract Year 2019 Policy and Technical Changes to the Medicare Advantage and Medicare Part D Proposed Rule and Request for Information (RFI) that was published in November 2017. The Coalition for Affordable Prescription Drugs (CAPD) represents a diverse group of employers, unions, state employee and retiree plans, and pharmacy benefit managers (PBMs) from across the country. In the face of rising drug prices, our members strive to find ways to offer affordable access to health and prescription drug benefits. Our members have found that by partnering with PBMs, they are able to better manage costs, even as drug companies have raised prescription drug prices at or near double-digit rates every year for the past five years.

As you know, these partnerships are important and effective not only in the private sector, but also to the 42 million American seniors who rely on Medicare Part D for their prescription drug coverage. In a recent study, Oliver Wyman and Associates found that PBM negotiations, clinical programs and tools saved the Centers for Medicare and Medicaid Services (CMS) and beneficiaries \$24 billion in 2015, and projected that they will save \$896 billion over ten years.

Those savings not only help seniors access necessary medications, they have helped hold premium increases to just two percent a year for the past four years. It's little wonder that 85 percent of beneficiaries reported overall satisfaction with the program in 2016. In fact, PBMs should be leveraged more widely in government programs, such as Medicare Part B to negotiate for physician-administered drugs to further lower drug costs on behalf of patients.

It is for these reasons that CAPD writes to express our concerns about two key provisions of this proposed rule and RFI. While we applaud your announced intentions to take action to lessen the pain of rising drug prices on American patients, the RFI on Manufacturer Rebates at Point of Sale and the provisions of the rule concerning Any Willing Pharmacy do not achieve the goal of addressing rising drug prices and making drug benefits more affordable.

RFI on Manufacturer Rebates at Point of Sale

As CMS' own projections in the preamble make clear, mandating that drug manufacturer rebates be offered at the point of sale in Part D plans would cost the government and tax payers \$82.1 billion over the next ten years. Moreover, it would undermine the system that has held premiums steady for seniors, leading to \$28.3 billion in increased premium costs over ten years. Not only would this proposed change fail to get to the problem at the heart of high drug prices – the unsustainable rate at which drug companies are raising list prices – but it would risk the important negotiations that occur between PBMs and drug manufacturers that ensure that patients get the best price by potentially disclosing rebate levels to the public. According to the Federal Trade Commission (FTC), requiring PBMs to disclose negotiated discounts at point of sale is likely to cause price *increases* by fostering tacit collusion among drug manufacturers, lead to more expensive drug benefits, and ultimately result in fewer people enrolled in drug coverage.

A point of sale rebates policy would result in an across-the-board increase to Part D premiums for all beneficiaries (as rebate savings could no longer be used by plan sponsors to lower premiums across the board) and reduce out of pocket costs for only a small subset of beneficiaries who rely on brand-name medicines that are rebated. Beneficiaries who take very expensive drugs that are not rebated, such as single source drugs, or who take generics – which are approximately 90% of all Medicare prescriptions and which are also not rebated – will not see benefits from this proposal. In fact, they will only see their premiums increase.

Additionally, the implementation of these rebates would become a cost-savings tool for drug manufacturers. In effect, we would be asking seniors and taxpayers to pay more while providing a financial windfall to drug manufacturers; CMS itself estimates the policy would create savings of more than \$29.4 billion over ten years for the pharmaceutical industry.

Any Willing Pharmacy

The regulatory changes CMS has proposed pertaining to the Any Willing Pharmacy provision would constrain Part D plan sponsors and their PBM partners severely in tailoring preferred pharmacy networks to take into account different types of pharmacies and their situations, such as those located in urban and rural areas. It is well documented that preferred pharmacy networks promote quality and help lower prices for beneficiaries, and reduce inefficiency, fraud and abuse. If Part D plan sponsors and PBMs are prevented from credentialing pharmacies, they cannot put in place minimum quality standards.

The changes proposed in the rule run counter to the competitive principles that have driven the success of Medicare Part D, and threaten to undermine the choice and affordability of preferred pharmacy plans, which are some of the most popular and widely chosen options among beneficiaries.

As CMS evaluates comments on the Contract Year 2019 Policy and Technical Changes to the MA and Part D Program Proposed Rule and RFI, CAPD stands ready to work with you in making revisions to the policies contained in this notice to ensure that the 42 million American seniors enrolled in Part D plans continue to have access to the prescription drugs they need at a price they can afford, and continue to enjoy the stable premiums the program has delivered since its inception. Should you have any questions or need additional information, please contact me any time at Meghan@affordableprescriptiondrugs.org. Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Meghan H. Scott', with a long horizontal line extending to the right.

Meghan H. Scott
Executive Director
Coalition for Affordable Prescription Drugs
(202) 341-2060