PENNSYLVANIA PHARMACISTS ASSOCIATION

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January 3, 2018

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-4182-P
Post Office 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

To Whom It May Concern,

The Pennsylvania Pharmacists Association (PPA) writes on behalf of pharmacists throughout the Commonwealth of Pennsylvania – particularly those independent pharmacists – expressing our support for the CMS proposed rule for the 2019 Medicare plan year. Community pharmacists continually demonstrate that they positively influence health outcomes in their patients and it is for this reason that we urge the proposed rule be finalized.

Pharmacy benefit managers (PBMs) retroactively charge pharmacies direct and indirect remuneration (DIR) fees for medications dispensed, which threatens the existence of many independently owned community pharmacies. This makes it impossible for pharmacies to predict their earnings or manage their cash flow. With uncertainty from retroactive DIR fees, it becomes difficult for a business to plan for its future. The solution to this is prohibiting these retroactive DIR fees. For pharmacy owners this would provide some predictability as to minimum reimbursement amounts and better facilitate planning business operations. Moreover, pharmacy benefit managers (PBMs) and Part D plan sponsors (PDPs) would still be able to offer performance incentives to pharmacies that achieve contractual goals.

Further, CMS has determined that accounting for pharmacy DIR at point of sale would create significant net savings for Medicare beneficiaries and make vital prescription medication more affordable overall, even after considering any potential increase in monthly premiums.

We also commend the proposed rule for creating a definition of mail-order pharmacy. Pharmacies that mail a prescription to a patient who may be temporarily out of the vicinity risk being classified as a mail order pharmacy by some PBMs; this is true even if the patient is paying the retail, and not the mail order, cost-sharing amounts. This can lead to pharmacies being removed from networks. The proposal would bring greater clarity as to what constitutes a mail order pharmacy.

The proposed rule also reinforces existing "any willing pharmacy" regulations as they pertain to base pharmacy networks. PPA strongly supports this reinforcement. Many independent pharmacies offer services such as compounding or care for patients on specialty medications in addition to retail offerings, but, because of these additional services, PBMs sometimes preclude pharmacies from participating in base networks. Moreover, the proposed rule establishes a date when the terms and conditions of the base network must be readily available and would require they be promptly provided at the request of a pharmacy. Thus, the rule provides necessary clarifications to the "any willing pharmacy" provisions. While the proposed rule did not expand "any willing pharmacy" provisions to preferred pharmacy networks, we are hopeful future rulemaking will address this.

CMS in its proposed rule also expressed disapproval of current PDP sponsor or PBM-specific credentialing criteria in order to participate in a network or dispense certain medications. PBM-specific credentialing is both costly and duplicative of other recognized credentials, and we strongly support efforts to ban this extra credentialing.

Finally, we voice our support for CMS's conservative and uniform approach to implement the Comprehensive Addiction and Recovery Act of 2016 provisions in Medicare Part D. We support the exemption of Hospice, cancer, and LTC patients from drug management programs and also that any notices sent from plan sponsors or PBMs be approved by the Secretary. We ask that in addition to these exempted individuals, CMS also exempt residents of any facility for which frequently abused drugs are dispensed for residents through a contract with a single pharmacy. We want to ensure that any notice sent to patients makes very clear that any lock-in program applies only to frequently abused drugs. We also strongly support prescriber agreement to implement a pharmacy lock-in.

Bringing greater transparency to DIR fees, creating a sound definition of mail order pharmacy, bringing greater clarity to "any willing pharmacy" provisions, and establishing a uniform approach when establishing drug management programs for beneficiaries will improve the Medicare Part D program. For these reasons, PPA urges that the rule be quickly finalized with these provisions intact.

Thank you for your consideration.

Sincerely,

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