

January 11, 2018

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

To the Centers for Medicare & Medicaid Services:

I am writing to express my serious concern with proposals suggested by the agency in a request for information (RFI) accompanying the proposed Medicare rule: "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," as well as parts of the proposed rule itself.

As a pharmacist employed by Prime Therapeutics, Prime Therapeutics LLC (Prime), a leading pharmacy benefit manager (PBM) serving more than 20 million members nationally, I take immense pride in helping to deliver affordable, life-saving, and life sustaining drugs or drug benefits to the patients we serve. Prime helps people get the medicine they need to feel better and live well. Prime manages pharmacy benefits for health plans, employers, and government programs including Medicare and Medicaid. The company processes claims and offers clinical services for people with complex medical conditions. Prime is collectively owned by 18 Blue Cross and Blue Shield Plans, subsidiaries or affiliates of those plans.

I fear the proposed policies would undermine patient care. The CMS RFI suggests requiring some or all of the negotiated drug rebates and all pharmacy direct and indirect remuneration (DIR) to be passed to consumers at the point of sale (POS). In addition, in the proposed rule, the agency proposes virtually ending competition among pharmacies, and compromising patient care, as part of an expanded interpretation of any willing pharmacy (AWP).

Problems with POS Rebates

Implementing rebates at POS would increase costs for enrollees and the government and provide a windfall to drug manufacturers. According to the agency's own estimates cited in the RFI itself, requiring 100% of rebates to be passed through at POS would, over the next 10 years increase government costs up to \$82.1 billion, increase beneficiary premiums up to \$28.3 billion, and provide a windfall to drug manufacturers of up to \$29.4 billion.

Manufacturer POS rebates, which are currently allowed, have not been viable in Medicare Part D. They lead to significant adverse selection and would increase premiums for all Medicare

beneficiaries while reducing costs for only a few. CMS should assess the reasons why plans have not availed themselves of the current ability to offer manufacturer rebates at POS.

Problems with Pharmacy Contracting Proposals

The RFI also would require pharmacy DIR payments to be made at POS and in doing so would greatly curtail a plan's ability to offer lower cost-sharing or coinsurance in preferred pharmacy networks. Taken together with additional proposals requiring uniform and unwaivable contract terms across all pharmacies in Part D networks, the mandatory POS rebate approach would render popular preferred pharmacy networks — an option that 73% of Part D enrollees selected in 2017 — difficult or impossible to maintain.

Further, AWP proposals would limit the ability of plans to distinguish typical retail pharmacies from specialty pharmacies in their networks. Retail pharmacies are not generally equipped to deliver the highly specialized clinical management and other services that specialty drug products require. If plans cannot select the most qualified, accredited specialty pharmacies, patient care may be put at significant risk.

The Medicare program is moving from paying providers based on volume to paying based on quality and value of care. In pharmacy, as with physicians and hospitals, that means directing more care to high-quality, efficient providers. Any proposal hindering the formation of safe and efficient pharmacy networks in Part D would turn back the clock and stand in the way of such efforts to transform the Medicare program.

Conclusion

In short, pharmacy network changes suggested in the proposed rule and POS rebate concepts discussed in the RFI would jeopardize patient care, increase costs for Part D enrollees and the Medicare program, and provide a multibillion dollar windfall for the pharmaceutical industry. I therefore urge CMS to withdraw and rethink these proposed policies.

Sincerely,

A handwritten signature in black ink, appearing to read "R. A. Zabinski". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Richard A. Zabinski, PharmD, FAMCP
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