

Congress of the United States
Washington, DC 20515

January 31, 2019

The Honorable Alex Azar
Secretary
Department of Health and Human Services
200 Independence Ave., S.W.
Washington, D.C.

Dear Secretary Azar:

Thank you for the Administration's focus on lowering lower prescription drug prices. As members of the Arkansas delegation, we write in strong support of provisions in the Center for Medicare and Medicaid Service's (CMS) recently released proposed rule, *Modernizing Part D and Medicare Advantage to Lower Drug Prices and Reduce Out-of-Pocket Expenses, CMS-4180-P¹* that would reform the use of pharmacy direct and indirect remuneration (DIR) fees, or pharmacy price concessions, in the Medicare Part D program.

With 564 chain drug stores and 384 independent community pharmacies in our state, employing 39,540 and 3,610 Arkansans, respectively, we understand the difficulty and uncertainty that retroactive pharmacy DIR fees pose for the operation of pharmacies and the ability to care for patients. The policy detailed in the agency's proposed rule would provide vital relief to both community pharmacies and seniors with soaring out-of-pocket drug costs by redefining "negotiated price" to include all pharmacy price concessions at the point of sale, which would effectively eliminate the retroactive nature of pharmacy DIR fees. These ambiguous costs levied by unchecked middlemen force retail pharmacies to run their businesses in an uncertain environment and prevents the federal government from knowing exactly how much it is paying for prescription drugs.

It is shocking to see, as CMS points out, that DIR fees imposed on pharmacies participating in Medicare Part D networks by plan sponsors and their pharmacy benefit managers (PBMs) have grown by more than 45,000 percent over the past seven years.

We applaud CMS's proposal to eliminate the retroactive collection of pharmacy DIR fees which will ensure the 310,565 prescription drug plan beneficiaries are shielded from higher out-of-pocket costs for drugs and are no longer accelerated into the coverage gap or "donut hole" phase of their benefit. CMS estimates their proposal would save Medicare beneficiaries \$7.1 to \$9.2 billion in reduced cost-sharing over 10 years starting as early as 2020, which is great news for our seniors. As CMS alluded to in the proposed rule for the 2019 plan year, patient savings can potentially improve adherence to their medication by making their prescriptions more affordable.

¹ 83 Fed. Reg. 62152 (Nov. 30, 2018).

Finally, the proposal states that CMS would like to develop a standard set of performance metrics for pharmacies. We encourage the agency to implement this policy as it could motivate pharmacies towards greater patient outcomes and quality by recognizing pharmacies' role and value with true after-the-fact incentive payments.

We commend the Administration on their proposal to eliminate retroactive DIR fees and provide cost savings to seniors, and we urge you to finalize this important reform and work to standardize quality measures for pharmacies as quickly as possible for plan year 2020.

Sincerely,



Rick Crawford
MEMBER OF CONGRESS



French Hill
MEMBER OF CONGRESS



Bruce Westerman
MEMBER OF CONGRESS



Steve Womack
MEMBER OF CONGRESS

CC: Seema Verma, Administrator, Centers for Medicare & Medicaid Services
Russell Vought, Acting Director, Office of Management and Budget