

Congress of the United States
Washington, DC 20510

March 16, 2022

The Honorable Xavier Becerra, Secretary
U.S. Department of Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

Dear Secretary Becerra:

We write to urge the Department of Health and Human Services (HHS) to move forward with a proposal in the *Centers for Medicare & Medicaid Services (CMS) proposed rule for Contract Year 2023 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs*¹ that would achieve meaningful progress in addressing skyrocketing drug prices for Medicare Part D beneficiaries through certain pharmacy direct and indirect remuneration (DIR) fee reform in Medicare.

For the past several years, HHS has studied pharmacy DIR fees and put forth proposals to address the growing impact of these fees. Indeed, in the proposed rule CMS states that pharmacy DIR fees grew more than 107,400 percent between 2010 and 2020. It is well documented that the growing nature of these fees, coupled with their opaque and arbitrary application in the Part D program, is concerning for patients and pharmacies for several reasons.

First, pharmacy DIR fees applied after the point-of-sale, artificially increase patients' out-of-pocket costs for Part D drugs, which is why CMS' proposed reform helps to achieve meaningful drug savings for seniors. In fact, the reforms proposed by CMS in the proposed rule alone are estimated to reduce seniors' out-of-pocket costs by \$21.3 billion over 10 years.

Second, pharmacies are an integral pillar of healthcare throughout the United States, and often the sole provider of needed health care services in our rural and medically underserved communities. Addressing pharmacy DIR fees is essential to help ensure that beneficiaries maintain access to pharmacies that provide critical prescription drugs and other essential services like chronic and complex disease management, wellness and prevention services, vaccines, certain testing, and disease education. Over the past two years, we witnessed how important that access is as the nation continues to rely on pharmacies to care for underserved and at-risk communities by ensuring access to COVID-19 testing, vaccination, and therapeutics. Pharmacy DIR fees should not continue to threaten this important access.

¹ 87 Fed. Reg. 1842.

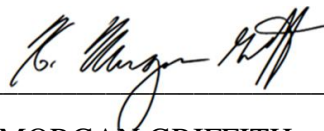
Third, it is important to note that additional work is necessary to deliver comprehensive pharmacy DIR fee reform. In December, CMS Administrator Brooks-LaSure agreed with Congress “that the significant growth in DIR amounts is troubling” and pledged to address this through the agency’s rulemaking authority. We want to ensure this rule meets that promise and truly reforms all post-sale concessions charged to pharmacies, including those assessed in the Medicare coverage gap. Further, to help ensure CMS’ proposed reforms do not inadvertently create additional patient-access challenges from pharmacies being forced out of networks due to low reimbursement, it is necessary that pharmacies’ actual reimbursement, inclusive of all DIR fees, is reasonable as required under existing statute.² It will also be necessary to establish standardized pharmacy performance metrics to reform opaque and arbitrary price concessions charged against our Nation’s pharmacies.

We ask for your continued commitment to these comprehensive reforms of importance to patients and to the pharmacies that serve them.

Sincerely,



PETER WELCH
Member of Congress



H. MORGAN GRIFFITH
Member of Congress



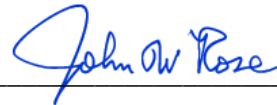
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² 42 CFR § 423.505(b)(18); 42 U.S.C. § 1395w-104(b)(1)(A).

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