

March 07, 2022

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Ave, SW
Room 120F
Washington, DC 20201

Re: Contract Year 2023 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs (CMS-4192-P)

Dear Secretary Becerra:

On behalf of patients, pharmacies, health care organizations, and health care practitioners, 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 that would meaningfully promote beneficiary access to needed medications by reducing cost-sharing for seniors and people with disabilities through the reform of direct and indirect remuneration (DIR) fees in Medicare.

In the proposed rule, CMS notes that the use of DIR fees has soared an astonishing 107,400 percent between 2010 and 2020. Such an increase has led to a significant negative impact on beneficiaries where increased cost-sharing can affect medication affordability, leading to reduced medication adherence, and poorer health outcomes.

When pharmacy DIR fees are applied post point-of-sale, they are not reflected in the negotiated price at the pharmacy counter, which causes many patients to pay more out-of-pocket for their drugs than they should. The reforms proposed by CMS, which would require pharmacy price concessions be assessed at the point-of-sale, are estimated to reduce seniors and people with disabilities' out-of-pocket expenses by \$21.3 billion over 10 years.

As it stands now, the inconsistent and opaque nature in which these retroactive fees are applied makes it difficult for pharmacies to continue operating, and many pharmacies have closed, which negatively impacts patient access to care.

To help ensure that patients obtain maximum savings, CMS must treat all fees charged to pharmacies as price concessions and must also ensure patients experience the intended savings throughout all phases of the Part D program, including the coverage gap. Addressing this, while also overseeing and establishing standardized pharmacy performance metrics that fairly and reasonably evaluate pharmacies based on the drugs they dispense and services they provide, will help to provide much needed reform to these price concessions. CMS must ensure a final rule eliminates retroactive claw backs on pharmacies, so they do not continue to compromise beneficiary access to their pharmacy. It is important CMS ensure that these reforms ultimately achieve two things: reduce beneficiary drug costs and also protect pharmacy access.

We applaud CMS' efforts to address necessary DIR fee reforms and urge that the proposed rule be finalized in a comprehensive way as described above.

Signed,

A&W Pharmacy LLC
Accessia Health
Alabama Grocers Association
Alabama Pharmacy Association
Alaska Pharmacists Association
Albertsons Companies
AlignRx, LLC
Alliance for Pharmacy Compounding
Alliant Rx
Amber Specialty Pharmacy
American Associated Pharmacies
American Economic Liberties Project
American Pharmacies
American Pharmacists Association
American Pharmacy Cooperative, Inc.
American Pharmacy Services Corporation
American Society of Consultant Pharmacists
American Society of Health-System Pharmacists
Arizona Food Marketing Alliance
Arizona Pharmacy Association
Arkansas Pharmacists Association
Aspen Ridge Pharmacy
Associated Food Stores, Inc.
Avera Specialty Pharmacy
Balls Food Stores, Price Chopper, Hen House Markets
Big Y Foods Inc
BioMatrix Specialty Pharmacy
BioPlus Specialty Pharmacy Services, Inc.
Brookshire Brothers Pharmacies
Brookshire Grocery Company
California Grocers Association
California Pharmacists Association
Campbell Pharmacy
Cardinal Health
Care New England Pharmacy LLC
CARE Pharmacies Cooperative, Inc.
Clark's Pharmacy Aspen
Clark's Pharmacy Crested Butte
Clark's Pharmacy Parachute
Coalition for PBM Reform
Coalition of State Rheumatology Organizations
Colorado Pharmacists Society
Compliant Pharmacy Alliance Cooperative
Connecticut Pharmacists Association
Costco Wholesale
Dakota Drug Co.
Delaware Pharmacists Society
Discount Drug Mart
Drug World Pharmacies
Elevate Provider Network
Ephraim Market Fresh Pharmacy
EPIC RX

Federation of Pharmacy Networks
Florida Independent Pharmacy Network
Florida Pharmacy Association
FMI - The Food Industry Association
Food City Pharmacy
Food Lion
Fresh Encounter, Inc.
Fruth Pharmacies
Garden State Pharmacy Owners
Gentry Health Services, Inc. / Discount Drug Mart
Georgia Food Industry Association
Georgia Pharmacy Association
GeriMed
GETWELL Pharmacy
Giant Eagle
Giant Food
Gibson Sales, L.P.
Good Neighbor Pharmacy
GRX Holdings, LLC
H-E-B
Hannaford Bros., Co.
Harmon City, Inc.
Harps Food Stores
Hartig Drug
Hawaii Pharmacists Association
Healthcare Distribution Alliance
Hi-School Pharmacy
HIV+Hepatitis Policy Institute
Hometown Pharmacies of Wisconsin
HomeTown Pharmacy, Inc.
Hy-Vee, Inc.
Idaho Retailers Association
Idaho State Pharmacy Association
Illinois Pharmacists Association
Independent Pharmacy Alliance
Independent Pharmacy Buying Group
Independent Pharmacy Cooperative
Indiana Pharmacists Association
Ingles Markets Inc.
Institute for Local Self Reliance
Iowa Pharmacy Association
Iowa Retail Federation
Jac Stores Inc., d/b/a Sav More Pharmacy
Justice in Aging
Kamas Pharmacy
Kansas Pharmacists Association
Kent Hospital
Kentucky Pharmacists Association
Kentucky Retail Federation
Keystone Pharmacy Purchasing Alliance
King Kullen Grocery Co.
Kinney Drugs

Klingensmith's Drug Stores Inc.
Kohler's Grocery/Cecil's Pharmacy
KPH Healthcare Services
KVAT Food Stores Inc.
Lewis Drug
Louisiana Alliance of Retail Pharmacies
Louisiana Independent Pharmacies Association
Louisiana Pharmacists Association
Louisiana Retailers Association
Louisiana Wholesale Drug Co., Inc
Maine Pharmacy Association
Maryland Pharmacists Association
Massachusetts Food Association
Massachusetts Independent Pharmacists Association
Massachusetts Pharmacists Association
Matts Local Pharmacy
McKesson HealthMart
Medicap Pharmacy
Medicine Shoppe
Medly Pharmacy
Meijer, Inc.
Michigan Pharmacists Association
Michigan Retailers Association
Minnesota Grocers Association
Minnesota Pharmacists Association
Mississippi Independent Pharmacies Association
Mississippi Pharmacists Association
Missouri Pharmacy Association
Montana Pharmacy Association
Morris & Dickson Co. L.L.C.
Mutual Drug
National Alliance of State Pharmacy Associations
National Association of Chain Drug Stores
National Association of Specialty Pharmacy
National Community Pharmacists Association
National Consumer Voice for Quality Long-Term Care
National Council on Independent Living
National Grange
National Grocers Association
National Patient Advocate Foundation
ND Pharmacists Association
ND Pharmacy Service Corporation
Nebraska Grocery Industry Association
Nebraska Medicine
Nebraska Pharmacists Association
Nevada Pharmacy Alliance
New Hampshire Pharmacists Association
New Jersey Pharmacists Association
New Mexico Pharmacists Association
New Mexico Pharmacy Business Council
Noble Health Services, Inc.
North Carolina Association of Pharmacists

Northeast Pharmacy Service Corporation
NPS Pharmacy
Nucara Management Group, Inc.
Ohio Council of Retail Merchants
Ohio Pharmacists Association
Oklahoma Grocers Association
Oklahoma Pharmacists Association
Omega Pharmacy Group
Oregon State Pharmacy Association
Osborn Drugs, Inc.
Pace Alliance
PARC, an Association of Community Pharmacies
Payson Market Pharmacy
PBA Health
PCCA
Pennsylvania Food Merchants Association
Pennsylvania Pharmacists Association
Pharmacist Moms
Pharmacists Society of the State of New York
Pharmacy First
Pharmacy Franchisees and Owners Association
Pharmacy Providers of Oklahoma
Pharmacy Society of Wisconsin
PPSC
Quality Care Pharmacies
Quality Pharmacy
Ralph's Thriftway Pharmacy
ReCept Pharmacy, LP
Regional Cancer Care Associates
Restore Rx Specialty Pharmacy
Rhode Island Pharmacy Association
Rx Stores LLC d/b/a Family Drug
Sav-Mor Drug Stores, Inc.
Senderra Rx Partners, LLC
Small Business Rising
Soleo Health
South Carolina Pharmacy Association
South Dakota Pharmacists Association
Stewarts Basin Family Pharmacy
Stokes Pharmacy
Stop & Shop
Tennessee Pharmacists Association
Texas Pharmacy Association
Texas Pharmacy Business Council
The AIDS Institute
The Drug Store (Hailey, ID)
The Giant Company
The Kroger Co.
The Market Pharmacy at Park City
Thompson Pharmacy
Thrifty White Pharmacy
UNFI-Cub

Utah Food Industry Association
Utah Pharmacy Association
Utah Retail Merchants Association
Value Drug Company
Value Specialty Pharmacy
Vermont Pharmacists Association
Virginia Pharmacists Association
Wakefern Food Corp.
Walgreen Co.
Walmart
Washington D.C. Pharmacy Association
Washington Food Industry Association
Washington State Pharmacy Association
Weber's Pharmacy
Wegmans Food Markets, Inc.
Weis Markets
West Virginia Independent Pharmacy Association
West Virginia Pharmacists Association
Western States Pharmacy Coalition
White Cross Pharmacy
Wray's Incorporated, dba Wray's Marketfresh IGA
Wyoming Pharmacy Association
Yokes Foods, Inc.
Zitomer/Thriftway Drug Corp.