

July 21, 2020

President Donald J. Trump
The White House
1600 Pennsylvania Ave., NW
Washington, D.C. 20500

Dear President Trump:

On behalf of the National Community Pharmacists Association (NCPA), I appreciate your continued focus on lowering the cost of prescription drugs and interest in finding solutions to reduce drug prices to ensure Americans have access to much needed medications. Every day, our members see the firsthand effects of increasing drug prices on our patients.

NCPA represents America's community pharmacists, including over 21,000 independent community pharmacies. Together, our members represent a \$76 billion healthcare marketplace, employ 250,000 individuals, and provide pharmacy services to millions of patients every day. Our members are small business owners who are among America's most accessible healthcare providers.

Based upon media reports, as drug pricing may be addressed with imminent executive orders from your administration, I wish to reiterate our stance on the removal of the current system of Safe Harbor Protections for Rebates Involving Prescription Pharmaceuticals and the creation of a Safe Harbor Protection for Certain Point of Sale Reductions in Price on Prescription Pharmaceuticals. We originally provided our stance on this proposal in a comment letter to Secretary Azar and Inspector General Levinson dated April 8, 2019.

To support such a systemic change and keep small business pharmacies viable and providing access for vulnerable patients, NCPA must secure the following minimum requirements if rebates are to be effectively eliminated:

Fix Pharmacy Direct and Indirect Remuneration (DIR) Fees: The system contemplated by the rebate rule cannot go into effect without, at minimum, the finalization of CMS proposed rule on pharmacy price concessions (83 Fed. Reg. 62,152 (Nov. 30, 2018)), which would eliminate retroactive pharmacy DIR fees by amending the definition of "negotiated price" to include all pharmacy price concessions which would require plan sponsors to reflect the lowest possible reimbursement that a network pharmacy could receive from a Part D sponsor for a covered Part D drug and develop a standard set of quality and performance metrics to provide pharmacies with more predictability. CMS has estimated the average growth of pharmacy price concessions will be approximately 10% per year going forward¹. CMS estimates their proposal would save Medicare beneficiaries \$7.1 to \$9.2 billion in reduced cost sharing over 10 years, which translates into approximately \$200 per senior per year on average.

Timeliness of Payments: Independent community pharmacies shall, at a minimum, be paid in full for the total and final reimbursement, including any chargeback amounts, for a drug product consistent with protections provided under the Medicare Part D prompt pay rules, 42 C.F.R. § 423.520.

¹ <https://www.govinfo.gov/content/pkg/FR-2018-11-30/pdf/2018-25945.pdf>

Increased Transparency: Independent community pharmacies shall:

- have at the point of sale full visibility, in the approved claim, to the total and final reimbursement due the pharmacy;
- have at the point of sale full visibility to the existence and total and final amount of any chargeback amounts due;
- receive claim-level detail in electronic remittance advices that substantiate the total and final reimbursement of payor amounts and chargeback amounts.

Financial Viability: Independent community pharmacies shall assume no monetary liability or cost for implementation of a system contemplated by the proposed rebate rule. Independent community pharmacies' total and final reimbursement shall not be affected by the negotiated rate between the plan/PBM and manufacturer under a system contemplated by the proposed rebate rule. Instead, pharmacies shall be made whole under such system based on a pharmacy's drug acquisition cost, the pharmacy's contracted rate between the pharmacy and plan/PBM, and a patient's out-of-pocket payment.

Agency Oversight: A system contemplated by the proposed rebate rule shall not go into effect without relevant regulatory action from relevant agencies to ensure appropriate oversight and alignment of such system in applicable government programs.

Small Business Protections: A system contemplated by the proposed rebate rule shall not go into effect without implementation of small business community pharmacy protections, including but not limited to: right to appeal, inquire about missing payments, utilize audit processes, and engage in dispute resolution. Additionally, independent community pharmacies shall be held harmless from activity of other parties in violation of the Anti-Kickback Statute.

Opportunity to Choose Business Partners: Independent community pharmacies shall have the opportunity to do business with any trading partner in the supply, billing, or reconciliation chain in a new system contemplated by this proposed rebate rule.

We appreciate the opportunity to share with you our comments and suggestions, as we share the same goal of reducing drug costs for patients. Should you or your office have any questions or need further information, please contact us.

Sincerely,



B. Douglas Hoey, Pharmacist, MBA
Chief Executive Officer

Cc: The Honorable Alex Azar
The Honorable Mark Meadows