



2021

INDEPENDENT COMMUNITY PHARMACY LEGISLATIVE PRIORITIES

H.R. 3554/S. 1909

Pharmacy DIR Reform to Reduce Senior Drug Costs Act

Eliminating retroactive pharmacy DIR fees and creating meaningful pharmacy performance measures

Background:

Part D plan sponsors and pharmacy benefit managers (PBMs) extract direct and indirect remuneration fees from pharmacies long after prescriptions are dispensed and picked up. Nearly all pharmacy DIR fees are taken from the pharmacy months after the transaction rather than deducted at the point of sale. This uncertainty makes it extremely difficult for community pharmacists to operate their small businesses and it causes patients to pay more out of pocket for their drugs. **CMS has determined there was a 91,500 percent increase in DIR fees between 2010 and 2019!** This unchecked growth of DIR fees creates access issues for seniors in Part D and increases the possibility of pharmacy deserts.

Solution: End retroactive DIR fees and create a pharmacy performance system focused on true quality

The *Pharmacy DIR Reform to Reduce Senior Drug Costs Act* was introduced as H.R. 3554 by Reps. Peter Welch (D-Vt.), Morgan Griffith (R-Va.), Vicente Gonzalez (D-Texas), Buddy Carter (R-Ga.), Raja Krishnamoorthi (D-Ill.), John Rose (R-Tenn.), Abigail Spanberger (D-Va.), and Diana Harshbarger (R-Tenn.) and as S. 1909 by Sens. Jon Tester (D-Mont.), Shelley Moore Capito (R-W.Va.), Sherrod Brown (D-Ohio), and James Lankford (R-Okla.). It would create requirements for Part D plans to address DIR fees by:

- **Requiring pharmacy negotiated price concessions, payment, and fees to be included at the point of sale for Medicare Part D prescriptions.** Currently, too often, pharmacies do not know the actual cost of a Medicare Part D drug when dispensed to patients at the point of sale. This legislation would require any concessions to be calculated when the drug is sold - so that the patient's cost share of the drug reflects all possible discounts - reducing costs for seniors and eliminating the post point of sale claw-back of fees by PBMs.
- **Requiring disclosure to the pharmacy of price concessions and incentive payments.** The legislation would require plans who cover Medicare Part D drugs to report any pharmacy price concessions or incentives to pharmacies at the claim level - at least on an annual basis - increasing transparency in the fee structure PBMs use.
- **Establishing standardized pharmacy performance metrics.** Currently, PBMs and Part D plans use their own secret criteria to judge pharmacy performance and therefore calculate DIR fees. The bill requires CMS establish or adopt standardized, evidence-based measures that will be used to assess the performance of a pharmacy. Additionally, CMS will develop new ways to encourage adoption of the new measures by the plans to apply in the plan star ratings system.

Passing H.R. 3554/S. 1909 will:

- **Boost transparency and cost predictability.** Pharmacists will know what their reimbursements will be up front, and patients will pay lower out-of-pocket costs at the pharmacy counter.
- **Preserve access to independent community pharmacies.** Locally owned pharmacies provide enhanced patient care and are often located in underserved rural and inner-city areas.
- **Not lead to unaffordable Medicare Part D premiums.** The current DIR system, while slightly lowering beneficiary premiums, drives up patient costs at the pharmacy counter. The only winners are PBMs.