



## **S. 2052, Protect Patient Access to Pharmacies Act: Clarifying and Enforcing “Any Willing Pharmacy” Law and Regulations**

**The Issue:** Congress established Medicare Part D “Any Willing Pharmacy” protections almost 20 years ago with overwhelming bipartisan support (Medicare Modernization Act, 2003) to ensure Medicare patients have the freedom to receive medications and care from the pharmacy of their choice. Unfortunately, some Part D plans and their PBMs have undermined and manipulated this law and the patients and pharmacies the law is meant to protect by imposing contract terms on pharmacies that are not reasonable or relevant, in direct contradiction of the “Any Willing Pharmacy” law.

This manipulation and lack of enforcement of the law has created a Part D environment of higher healthcare costs, inadequate pharmacy networks, unreasonable pharmacy reimbursement rates from PBMs, and abusive and unpredictable direct and indirect remuneration (DIR) fees on pharmacies. CMS’ CY23 Part D Final Rule ensures pharmacy DIR fees will no longer increase a beneficiary’s drug costs; but did not eliminate retroactive DIR fees from being imposed on pharmacies. This environment ultimately restricts patient access to pharmacies, because as a result, pharmacies are being acquired, are forced to close their doors, pare back hours, postpone innovation, and/or reconsider participation in certain Part D pharmacy networks.

**The Solution:** *S. 2052, Protect Patient Access to Pharmacies Act*, clarifies and provides enforcement tools for the “Any Willing Pharmacy” law to support patient pharmacy access, patient choice of pharmacy and pharmacy network adequacy. Specifically, the legislation:

- Ensures that, at a minimum, a pharmacy’s costs to acquire and to dispense a covered Part D drug to beneficiaries are covered;
- Standardizes and oversees the metrics PBMs and plans use to measure pharmacy performance and quality and ensures they are fairly applied, rewarding PBMs/plans for compliance; and
- Strengthens transparency in PBM payments to pharmacies.