Medicare Part D Pharmacy 'DIR' Fees

Ban on Retroactive Fees Would Lower Costs, Help Seniors and Preserve Pharmacy Access

Background

Part D plan sponsors and Pharmacy Benefit Managers (PBMs) extract DIR (Direct and Indirect Remuneration) fees from community pharmacies. Nearly all pharmacy DIR fees are clawed back retroactively months later rather than deducted from claims on a real-time basis. This reimbursement uncertainty makes it extremely difficult for community pharmacists to operate their small businesses. This is the top concern for independent community pharmacists. Moreover, in January 2017 the Centers for Medicare & Medicaid Services (CMS) warned[1] the rise in pharmacy DIR fees has increased Medicare costs to the government and forced more beneficiaries into the coverage gap (or "donut hole").

Solution: Prohibit retroactive DIR fees on pharmacies

The "Improving Transparency and Accuracy in Medicare Part D Drug Spending Act," H.R. 1038 will prohibit Medicare Part D plan sponsors/PBMs from retroactively reducing payment on clean claims submitted by pharmacies under Medicare Part D. Congress should enact H.R. 1038 to:

- **Lower Medicare costs for taxpayers.** Virtually all catastrophic costs in Part D are borne by the government, and they have increased dramatically in recent years - from $10 billion in 2010 to $33 billion in 2015[2] - fueled by pharmacy DIR fees.
- **Boost transparency in drug pricing.** Prohibiting these pharmacy fees will make Medicare Plan Finder more accurate and allow better CMS oversight.
- **Give seniors reduced cost-sharing and greater budget predictability.** Beneficiaries who use their drug plan to fill prescriptions are punished the most by pharmacy DIR fees. This is because retroactive fees lead to inflated drug costs that are the basis for beneficiary cost-sharing amounts (which have risen sharply).
- **Preserve access to independent community pharmacies.** Locally owned pharmacies provide enhanced patient care and counseling. They are often located in underserved rural and inner-city areas. The total number of U.S. independent community pharmacies has declined the past five years – a trend accelerated by the surge in pharmacy DIR fees.
- **Address the concerns of CMS and MedPAC.** CMS has noted[3] "variations in the treatment of costs and price concessions affect beneficiary cost sharing, CMS payments to plans, federal reinsurance and low income cost-sharing (LICS) subsidies, manufacturer coverage gap discount payments, and plan bids." According to MedPAC's 2015 Report to Congress, "MedPAC sees insurers gaming the system to hold premiums down and maximize enrollment."

H.R. 1038 WILL NOT…

- **H.R. 1038 will not lead to unaffordable Medicare Part D premiums.** CMS has said that pharmacy DIR fees appear to help restrain premiums. However, there is no evidence to suggest this is a significant factor in premium-setting by plan sponsors. Moreover, it is far easier for seniors to budget around monthly premiums than unpredictable cost sharing, much less any added exposure to the donut hole triggered by these fees.

  H.R. 1038 will not ban "pay-for-performance" programs. H.R. 1038 will allow health plans and PBMs to implement appropriate pharmacy pay-for-performance programs that are aligned with current Medicare value-based programs.

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[1] CMS, "Medicare Part D – Direct and Indirect Remuneration," https://www.cms.gov/newsroom/mediareleasedatabase/fact-sheets/2017-fact-sheet-items/2017-01-19-2.html

[2] HHS Office of Inspector General, "High-Price Drugs Are Increasing Federal Payments for Medicare Part D Catastrophic Coverage," https://oig.hhs.gov/oei/reports/oei-02-16-00270.asp

[3] CMS, "Direct and Indirect Remuneration (DIR) and Pharmacy Price Concessions" http://www.ncpa.co/pdf/cy16-dir-price-concessions.pdf