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June 6, 2019

The Honorable Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce
States House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce United
States House of Representatives
2322 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Richard Neal
Chairman
Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
United States House of Representatives
1130 Longworth House Office Building
Washington, D.C. 20515

Dear Chairmen Pallone and Neal, and Ranking Members Walden and Brady:

AARP, on behalf of its nearly 38 million members and all older Americans nationwide, appreciates the opportunity to comment on your legislation to cap out-of-pocket costs for Medicare Part D enrollees. We share the Committees' goal of reducing out-of-pocket prescription drug costs for seniors, many of whom are struggling to afford the medications they need.

Medicare Part D enrollees need relief from skyrocketing prescription drug prices. However, we strongly believe that efforts to create an out-of-pocket cap should not simply shift costs in a manner that negatively affects enrollees or the Medicare program. Further, given that the need for an out-of-pocket cap is directly linked to drug manufacturers' pricing behavior, we also believe it is critical that any solution include meaningful and proportional liability for drug manufacturers. Finally, AARP believes that any efforts to cap out-of-pocket costs should also address the root of the problem – high and growing prescription drug prices.

AARP Strongly Supports Creating an Out-of-Pocket Cap for Medicare Part D Enrollees

Many Medicare Beneficiaries Cannot Afford Their Prescription Drugs

Medicare Part D enrollees take an average of 4.5 prescriptions per month, often for chronic conditions that will require treatment for the rest of their lives. At the same time, Medicare beneficiaries have a median annual income of just over \$26,000. One-quarter have less than \$15,000 in savings. This population simply does not have the resources to absorb the effects of rapidly escalating prescription drug prices and many are facing the very real possibility of having to choose between their medication and other basic needs such as food or housing.

Current Medicare Part D Benefit Structure Does Not Adequately Protect Enrollees from High Prescription Drug Costs

The current Medicare Part D drug benefit includes an out-of-pocket limit. However, unlike many other forms of coverage, it is not a hard limit. Medicare Part D enrollees who reach the catastrophic coverage level - having already spent thousands of dollars out of pocket - are still required to pay 5 percent of their prescription drug costs for the rest of that year. As a result, enrollees on expensive prescription drugs can be forced to pay several thousand dollars more in out-of-pocket costs every year, even *after* they reach the out-of-pocket limit.¹ Unfortunately, more and more enrollees are facing such burdens, sometimes on the basis of a single drug. MedPAC recently reported that the number of enrollees who reach catastrophic coverage on the basis of a single fill of a prescription increased more than ten-fold between 2010 and 2016.²

Drug Manufacturers' Pricing Behavior Drives the Need to Revisit the Medicare Part D Benefit Structure

AARP's Public Policy Institute has been tracking the prices of widely used prescription drugs since 2004. One of its recent Rx Price Watch reports found that retail price increases for widely used brand name drugs have exceeded the corresponding rate of inflation every year since at least 2006. This is a problem that goes beyond a few bad actors: virtually all of the manufacturers we track have consistently raised their prices over the past 12 years.

The report also examined how drug companies' relentless price increases add up over time and found that the average annual cost for widely used brand-name drugs – now around \$6,800 – would have been just under \$2,200 if retail price changes had been limited to general inflation between 2006 and 2017.³

¹ J. Cubanski, W. Koma, and T. Neuman, "The Out-of-Pocket Cost Burden for Specialty Drugs in Medicare Part D in 2019," Kaiser Family Foundation, February 2019.

² J.E. Mathews, "Payment policy for prescription drugs under Medicare Part B and Part D," MedPAC testimony before the Subcommittee on Health, Committee on Energy and Commerce, US House of Representatives, April 30, 2019.

³ <http://www.aarp.org/rxpricewatch>

Meanwhile, current prescription drug price trends are likely the tip of the proverbial iceberg, as the research pipeline is full of products that will undoubtedly command even higher prices in what seems to be a never-ending race to the top.

Beyond their obvious impact on patients, high and growing drug prices also have a direct impact on taxpayer-funded programs like Medicare. For example, Medicare Part D is currently responsible for 80 percent of enrollees' prescription drug costs after they enter catastrophic coverage. Medicare Part D spending in this part of the benefit has grown faster than any other part of the program, with an annual growth rate of 20 percent between 2007 and 2015.⁴ According to MedPAC, these spending trends have been driven by both higher prices for existing drugs and higher launch prices for new drugs.⁵

In other words, drug manufacturers' pricing behaviors are a primary driver of the increased enrollee and program spending that has sparked an interest in revisiting the Medicare Part D benefit structure. Thus, simply capping out-of-pocket costs is not enough – in order to be truly effective and avoid simply shifting costs to other parts of the health care system, any proposed solution should also address prescription drug prices.

AARP Goals for a Medicare Part D Out-of-Pocket Cap

AARP has three key goals in creating a cap on out-of-pocket spending under Medicare Part D. First, Part D beneficiaries must be better off than they are today. Enrollees' premiums should not increase, and they should experience meaningful reductions in their out-of-pocket costs. Second, Medicare must be protected from significant increases in program spending. Finally, given their outsized role in recent enrollee and program spending trends, drug manufacturers should have meaningful and proportional liability as part of any efforts to create a Medicare Part D out-of-pocket cap.

While AARP does not oppose all proposals to shift some liability for catastrophic coverage onto Part D plan sponsors, we are mindful that shifting substantial costs to plans would likely have a dramatic impact on enrollee premiums and Medicare spending on premium subsidies. We also recognize that simply imposing an out-of-pocket cap and shifting catastrophic coverage-related costs to only plans and Medicare would further encourage drug manufacturers to continue their price-gouging behavior.

Consequently, AARP strongly believes that brand-name drug manufacturers should assume some level of meaningful and proportional liability for enrollees who are in catastrophic coverage, particularly given that high drug prices play a large role in pushing enrollees into catastrophic coverage in the first place. If manufacturers are required to assume at least some of the costs for enrollees who are in catastrophic coverage, it may also help to discourage their current pricing behavior.

⁴ http://www.medpac.gov/docs/default-source/reports/mar17_medpac_ch14.pdf

⁵ James E. Mathews, "Payment policy for prescription drugs under Medicare Part B and Part D," MedPAC testimony before the Subcommittee on Health, Committee on Energy and Commerce, US House of Representatives, April 30, 2019.

Other Policies to Lower Drug Prices

AARP strongly believes that capping Medicare Part D enrollees' out-of-pocket costs is important. However, AARP strongly encourages the Committees to work on additional policies that will apply significant downward pressure on drug manufacturers' pricing behavior.

AARP strongly supports allowing the Secretary of Health and Human Services (HHS) to negotiate for the price of prescription drugs covered by Medicare Part D. Drug prices in the US are substantially higher than drug prices in other developed countries.⁶ There is no reason why Americans should be paying among the highest drug prices in the world. Allowing the Secretary of HHS to negotiate prices on just the top 20 drugs covered by Medicare could achieve significant savings. In 2017, the total spending on the top 20 drugs was nearly \$40 billion, equal to 26 percent of all Part D spending from that year.⁷

We also strongly support efforts to enhance and improve generic and biosimilar utilization and competition, and appreciate the important work your Committees have done to advance legislation with those goals. AARP's recent Rx Price Watch Report focused on widely used generic drugs found that the vast majority had price decreases in 2017. In fact, generic prescription drug prices fell by an average of 9.3 percent that year. We also found that the average annual price of a brand-name drug was more than 18 times higher than the average annual price for a generic drug. This massive price difference has been growing over time, and is exactly why AARP is so focused on eliminating unnecessary barriers to generic competition.

Conclusion

We look forward to working with your Committees on this legislation as well as other measures that will help lower prescription drug prices and reduce costs for older Americans. If you have any additional questions, feel free to contact me or have your staff contact Amy Kelbick on our Government Affairs staff at akelbick@aarp.org or 202-434-2648.

Sincerely,



David Certner
Legislative Counsel and Legislative Policy Director
Government Affairs

⁶ <https://www.commonwealthfund.org/publications/issue-briefs/2017/oct/paying-prescription-drugs-around-world-why-us-outlier>

⁷ AARP Public Policy Institute analysis of CMS Medicare Part D Drug Spending Dashboard. <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Information-on-Prescription-Drugs/MedicarePartD.html>