



Via electronic submission at: PartDImprovements@mail.house.gov

June 6, 2019

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

The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Richard E. 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
1102 Longworth House Office Building
Washington D.C. 20515

Re: Bipartisan Draft on Part D Improvements: Request for Comments

Dear Chairman Pallone, Chairman Neal, Ranking Member Walden, and Ranking Member Brady:

The National Association of Chain Drug Stores (NACDS) thanks Chairman Pallone, Chairman Neal, Ranking Member Walden, Ranking Member Brady, the Members of the Committee on Energy and Commerce, and Members of the Committee on Ways and Means for your continued commitment to finding solutions that lower prescription drug costs for the 46 million Americans who benefit from Medicare Part D. We appreciate the opportunity to provide feedback on the legislative discussion draft released May 23, 2019 and to provide suggestions on additional changes that could be made to better align the Part D program’s incentives and improve the structure and benefits for Medicare beneficiaries and taxpayers.

NACDS and the chain pharmacy industry are committed to partnering with Congress, HHS, patients, and other healthcare providers to find solutions to lower the cost of prescription drugs and improve access to quality, affordable healthcare services. NACDS represents traditional drug stores, supermarkets and mass merchants with pharmacies. Chains operate over 40,000 pharmacies, and NACDS’ over 80 chain member companies include regional chains, with a minimum of four stores, and national companies. Chains employ nearly 3 million individuals, including 157,000 pharmacists. They fill over 3 billion prescriptions yearly, and help patients use medicines correctly and safely, while offering innovative services that improve patient health and healthcare affordability. NACDS members also include more than 900 supplier partners and over 70 international members representing 21 countries. Please visit nacds.org.

Retail community pharmacies and pharmacists have for generations been trusted, highly accessible healthcare providers deeply committed to providing high quality pharmacy care and helping patients take medications as prescribed. Community pharmacists provide a critical role in the continuum of care for patients. Importantly, not only do pharmacist interventions improve patient health and outcomes, but also pharmacy care has been shown to save downstream health care dollars.

NACDS agrees with the two Committees and the several witnesses who testified at your hearings that the Medicare Part D program can and should be improved to lower costs both for the patients and for the federal government.

The Committees are seeking feedback on how the Part D program is addressing the problem of high cost drugs and how the program could better address the costs of these drugs. NACDS believes the problem of high drug costs in the Medicare program can be addressed by making reforms in the use of pharmacy direct and indirect remuneration (DIR) fees, also known as pharmacy price concessions. Pharmacy DIR fees are exploited by Part D plans and their pharmacy benefit managers (PBMs) to claw back reimbursement from pharmacies for the prescription medications already filled for Medicare beneficiaries. These fees are often applied several months after the claim has been paid. In a proposed rule last fall, the Centers for Medicare and Medicaid Services (CMS) detailed how the use of DIR fees has grown 45,000 percent since 2010. The use of DIR fees has tripled since just last year in some cases.

The use of DIR fees also contributes to higher out of pocket costs for America's seniors participating in the Medicare program, making it harder for them to afford their medication, which in turn puts them at risk for decreased medication adherence and worsening overall health.

In the same proposed rule, CMS considered finally reforming the use of pharmacy DIR fees and projected the changes would save Medicare beneficiaries \$11.8 to \$14.8 billion in reduced cost sharing. CMS also found that the government's low-income cost sharing subsidies were predicted to go down by \$7.7 to \$9.2 billion. We are disappointed that CMS did not include these critical reforms in the recently released final Medicare Part D drug pricing rule, missing an opportunity to lower the cost of prescription drugs for Medicare beneficiaries and improve patient health.

The increasing use of pharmacy DIR fees cannot continue. Pharmacies are being forced out of business every day because of the documented increased use of these fees. Immediate relief is needed for both beneficiaries and struggling pharmacies alike.

Reports have shown that pharmacy DIR reform will improve medication adherence, which, in turn, will reduce costs. In a report by the consulting firm Milliman, the CMS DIR proposals were found to likely have a positive effect on medication adherence, resulting in lower healthcare costs through overall improved health. A recent 2019 study found that medication nonadherence for diabetes, heart failure, hyperlipidemia, and hypertension resulted in billions of dollars in Medicare fee-for-service expenditures, millions of hospital days, and thousands of emergency department visits that could have been avoided. The study further estimates that if the 25% of beneficiaries with hypertension

who were nonadherent became adherent, Medicare could save \$13.7 billion annually, with over 100,000 emergency department visits and 7 million inpatient hospital days that could be averted.

NACDS supports policies that that lower overall healthcare costs for beneficiaries and the federal government. In addition to lowering beneficiary cost-sharing, as detailed above, pharmacy DIR reforms would align with and augment the effects of policies that reduce stakeholder liability during the coverage gap and catastrophic coverage phases of the benefit. As CMS has noted on several occasions, the use of pharmacy DIR fees result in a quicker progression for beneficiaries into and through the coverage gap of their Part D benefit. This leads to more people entering the catastrophic coverage phase of the benefit, under which the Federal government is responsible for 80% of benefit costs.

Reforming the use of pharmacy DIR fees will lower the negotiated price, therefore lowering beneficiary cost-sharing and slowing the progression of patients into and out of the coverage gap and into the catastrophic coverage phase of the benefit. In the proposed rule, CMS estimated that such changes would reduce federal costs in the catastrophic coverage phase by \$7.6 billion over ten years. The Committees should consider changes to pharmacy DIR fees to bolster any legislation that shifts the costs and reduce federal and beneficiary liabilities within the Part D program.

The *Phair Pricing Act* (H.R. 1034) will make the much needed reforms in the use of pharmacy DIR fees in the Medicare Part D program by requiring Part D plans and their PBMs to pass on savings to beneficiaries by including all pharmacy DIR fees in the negotiated price and the point of sale. Making reforms to pharmacy DIR as included in the *Phair Pricing Act* (H.R. 1034) will help achieve the stated goals of the Committees to protect patient health and access to prescription drugs in the Part D program by better aligning the Part D program's incentives and improve the structure and benefits for Medicare beneficiaries and taxpayers. We appreciate the leadership and commitment of both Committees to finding policy solutions that improve the Medicare Part D program and urge your support for the *Phair Pricing Act* (H.R. 1034).

We thank you for the opportunity to comment on policy changes to improve the Medicare Part D benefit while also lowering both beneficiary and taxpayer costs. Please do not hesitate to contact me if we can provide further assistance. I may be reached at [wtighe@nacds.org](mailto:w Tighe@nacds.org) or 703-837-4214.

Sincerely,

A handwritten signature in black ink, appearing to read 'WT', written in a cursive style.

William Tighe
Vice President, Federal Government Affairs