October 6, 2020

The Honorable Alex M. Azar, II
Secretary
U.S. Dept. of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue SW
Washington, D.C. 20201

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Dept. of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Secretary Azar and Administrator Verma:

On behalf of Americans across the country who are concerned about prescription drug prices, we write to urge you to take vital action to alleviate the costs of prescription drugs being paid by consumers at this time of extreme economic strain.

Amidst the ongoing coronavirus pandemic, the cost and efficacy of the American medical system is rightfully taking center stage. Getting life-saving and life-improving medicines to consumers at the lowest possible cost has always been an important goal for lawmakers to pursue, and after our present crisis, it will only become more critical.

We know that the administration has been committed to this goal, and one straightforward way to achieve it would be to reduce hurdles to generic and biosimilar drug alternatives. As 23 taxpayer and healthcare-focused groups wrote recently, "Generics and biosimilars offer immense value to patients and the health care system (…) However, recent changes in treatment of generic medicines on formularies often reduce the full value of generics and put those savings in jeopardy."[1]

Unfortunately, a 2016 CMS regulatory change resulted in prices for many prescription drugs being higher than they ought to be. That change allowed generic drugs to be placed on the same pricing tier as brand-name drugs at out-of-pocket rates.

Today, Medicare Part D formularies exclude first generics almost 40 percent of the time.[2] As a result, seniors have already paid nearly $22 billion more in out-of-pocket costs because their lower-cost generic was placed on a higher-cost brand tier than it could have been. And there is great risk that these same barriers will prevent adoption of much-needed lower-cost biosimilars in Medicare.

In a time of economic uncertainty, when Americans are struggling to pay for basic expenses, it is even more important that we do everything we can to keep drug costs as low as possible.

As Sen. James Lankford has noted, three changes should be made to rectify this situation: "First, we should ensure patients have access to lower-cost drugs when they come on the market. Second, these drugs should be placed on the lowest cost-sharing formulary tier. Third, we should create a specialty tier for lower-cost alternatives with reduced patient cost sharing."[3]

A bipartisan group of representatives previously wrote a letter to Trump administration officials expressing a desire to fix this issue,[4] and Reps. David McKinley of West Virginia and Ann Kuster

[1] Asthma and Allergy Foundation of America, et al. Letter to Congress. Nov. 18, 2019.
[2] Avalere Health. "Effect of Potential Policy Change to Part D Generic Tiering on Patient Cost Sharing and Part D Plan Costs," Feb. 28, 2019.
[3] Sen. James Lankford. *Federal Fumbles, Volume 5: Ways the Government Dropped the Ball*, Dec. 2, 2019.
[4] Letter from Members of Congress, March 18, 2019.

of New Hampshire have proposed legislation to combat the abuse.[5] But while Congress should address this issue, CMS can act immediately by simply changing the rule and ensuring that generic and biosimilar drugs are placed on the tiers where they were originally meant to be.

We commend you for the recent CMS proposal to allow plans to establish a preferred specialty tier, but this falls short of what is needed. CMS should ensure that generics and biosimilars are encouraged by Medicare plans, including through a dedicated specialty tier for generic and biosimilar medicines, so that patients and taxpayers can benefit from competition and lower prices.

Prescription drug pricing should not be a partisan issue. Patients should know what their treatment costs and that drug costs will be affordable. We strongly urge CMS to address this important issue before costs spiral even more at a time when Americans need help the most.

Sincerely,

Jonathan Bydlak
Interim Director, Governance Program
Director, Budget & Fiscal Budget Policy Project
R Street Institute

Krisztina Pusok, Ph.D.
Director of Policy and Research
American Consumer Institute

James Taylor
President
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Andrew Langer
President
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Chris Ingstad
President
Iowans for Tax Relief

Matthew Gagnon
CEO
Maine Policy Institute

Paul Gessing
President
Rio Grande Foundation

[5] Congress.gov. "H.R.4913 - To amend title XVIII of the Social Security Act to require PDP sponsors of a prescription drug plan under part D of the Medicare program that use a formulary to include certain generic drugs and biosimilar biological products on such formulary, and for other purposes." Accessed May 12, 2020.