

January 4, 2016

Ms. Amanda Johnson
Director, Division of Payment Reconciliation
Centers for Medicare & Medicaid Services
7500 Security Boulevard C1-13-07
Baltimore, MD 21244

RE: Proposed Guidance on Direct and Indirect Remuneration (DIR) and Pharmacy Price Concessions

Dear Ms. Johnson:

On September 29, 2014, the Centers for Medicare & Medicaid Services (CMS) published *Proposed Guidance on Direct and Indirect Remuneration (DIR) and Pharmacy Price Concessions* (the Proposed Guidance), which would implement the revised definition of “negotiated price” and require that each Medicare Part D plan sponsor’s “negotiated price” with a pharmacy for dispensing a pharmaceutical to a Medicare Part D plan enrollee be net of all price concessions except those that cannot be reasonably determined or approximated at the point of sale. The Proposed Guidance would ensure that all Medicare Part D plan sponsors are accounting for pharmacy price concessions in the same manner and eliminate possible sponsor manipulation of pharmacy network pricing whereby certain pharmacy fees or concessions are currently being included on the annual, year-end Direct and Indirect Remuneration (DIR) report in lieu of including such amounts in a pharmacy’s “negotiated price” in Prescription Drug Event records. Over a year has passed since CMS first published the Proposed Guidance, the revised definition of “negotiated price” will be effective January 1, 2016 and yet CMS has not finalized the Proposed Guidance or any other guidance implementing the revised definition of “negotiated price.” I write on behalf of the National Community Pharmacists Associations (NCPA) to urge CMS to finalize the Proposed Guidance as soon as possible.

So-called “DIR Fees” have become increasingly more prevalent and are confusing and misleading to NCPA member pharmacies and beneficiaries alike. The reporting structure outlined in the Proposed Guidance would ensure uniform reporting, a level playing field by and among Medicare Part D plan sponsors and transparency as to the true cost of a drug dispensed at a given network pharmacy to plan enrollees and the Medicare Part D program as a whole.

In addition to the suggestions that NCPA presented to you in our previous comments to the Proposed Guidance and in the interest of furthering transparency as to the cost of a drug dispensed from a given network pharmacy to the Medicare Part D program, we suggest that CMS require Medicare Part D plan sponsors to note on the CMS Plan Finder when the price of drug dispensed to a Medicare Part D plan enrollee from a given network pharmacy is subject to change due to payment/receipt of so-called “DIR Fees” or payment reconciliation after the time of dispensing. By mandating that such a disclaimer be included on the Medicare plan finder look-up tool CMS will ensure that a Medicare Part D plan’s enrollees and potential enrollees understand the true cost of a drug to the Medicare Part D program as a whole, which is a valid consideration given that it is the total cost of a dispensing event not merely the beneficiary cost-sharing that impacts monthly premiums.

We at NCPA commend CMS for its commitment to pharmacy pricing transparency and uniform reporting of price concessions aimed at ensuring such transparency. With the 2016 plan year upon us, we urge CMS to finalize the Proposed Guidance as soon as possible so all Medicare Part D plans will consistently interpret and implement the revised definition of “negotiated price.”

Sincerely,

Susan Pilch, J.D.

Vice President, Policy and Regulatory Affairs
National Community Pharmacists Association