Improving Transparency and Accuracy in Medicare Part D Drug Spending Act – H.R. 803

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

Background

Part D plan sponsors and Pharmacy Benefit Managers extract Direct and Indirect Remuneration fees from pharmacies. Nearly all pharmacy DIR fees are retroactively taken back from the pharmacy 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. Moreover, in January 2017 the Centers for Medicare & Medicaid Services 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. 803 introduced by Reps. Peter Welch (D-Vt.) and Morgan Griffith (R-Va.) would prohibit Medicare Part D plan sponsors/PBMs from retroactively reducing payment on clean claims submitted by pharmacies, which would, in turn:

- **Boost transparency in drug pricing.** Prohibiting these retroactive 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.
- **Preserve access to independent community pharmacies**. Locally owned pharmacies provide enhanced patient care and are often located in underserved rural and inner city areas. The number of U.S. independent community pharmacies has declined the past five years and a recent study estimated 3 million rural residents are at risk of losing the only pharmacy in their community with the next nearest pharmacy over 10 miles away,[2] a trend exacerbated by 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 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."

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- **Will not lead to unaffordable Medicare Part D premiums.** The current DIR system, while slightly lowering beneficiary premiums, drives up patient costs at the pharmacy. The only winners are PBMs and the rare Part D beneficiary who pays premiums but never fills a prescription.
- **Will not ban "pay-for-performance" programs.** H.R. 803 will allow health plans and PBMs to reward pharmacies for achieving quality-based metrics.

[1] CMS, "Medicare Part D –Direct and Indirect Remuneration," *available at* https://www.cms.gov/newsroom/mediareleasedatabase/fact-sheets/2017-fact-sheet-items/201701-19-2.html.

[2] RUPRI Center for Rural Health Policy Analysis, "Issues Confronting Rural Pharmacies after a Decade of Medicare Part D," April, 2017.

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

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