

May 27, 2014

The Honorable Fred Upton
Energy and Commerce Committee
Washington, DC 20515

The Honorable Henry Waxman
Energy and Commerce Committee
Washington, DC 20515

The Honorable Dave Camp
Ways and Means Committee
Washington, DC 20515

The Honorable Sander Levin
House Ways and Means Committee
Washington, DC 20515

Over the last four years, many of our small business pharmacy member owners have not even been allowed to even try and participate in Part D Preferred Pharmacy Networks. The problem has become more prevalent as these networks have continued to expand. Most stakeholders would agree that Part D has been a success but with any law comes unintended consequences and we know that Congress did not intend to create access problems for Medicare patients who depend on the face-to-face counseling services that independent pharmacies have offered to them for so many years.

In January, CMS released a proposed Part D Rule that included findings on Preferred Networks that were very positive for independent pharmacy. CMS said that “Any Willing Pharmacy” should be able to participate in the networks if they can meet the terms and conditions that other networks agree to. They also found that these preferred networks were in some cases not even saving the federal government money and that retail pharmacies in some cases saved the government money in non-preferred networks.

Unfortunately for us this rule was quite expansive and included many other provisions not related to pharmacy that drew broad opposition from a large group of industry stakeholders and many in Congress. On March 10th CMS announced that it would hold off on finalizing findings on some of the contentious provisions, including their findings on preferred networks. We were obviously disappointed with this decision but their findings are nonetheless on the “federal record” and we believe it is time for Congress to closely examine the problems that exist.

Additionally in its final rule that was released last week, CMS noted their concerns with the networks. *“We agree with many of the commenters who wrote that beneficiaries should be able to choose where they obtain their pharmacy services, and we are very concerned to hear that the current incentives (and potentially current marketing of pharmacies offering preferred cost sharing) lead many beneficiaries to believe that only those pharmacies offering preferred cost sharing can be used. We are also very concerned by the many comments reporting that beneficiaries are now driving 30 – 60 miles to the nearest pharmacy offering preferred cost sharing, or are feeling forced into using mail-order services, despite a preference to stay with a local pharmacy.”*

On May 6th Reps. Morgan Griffith (R-VA) and Peter Welch (D-VT) introduced legislation (H.R. 4577) that would allow our members to at least try and compete in these networks if:

- One or more of their stores are located in a health professional shortage area;
- One or more of their stores are located in a medically underserved population; and
- If they can meet terms and conditions that are comparable to those of in-network pharmacies.

We respectfully request that you schedule an oversight hearing to examine ways to ensure that small business owner pharmacies have the ability to try and compete with larger stores. We also request that you hold a legislative hearing on, and ultimately consider the Griffith/Welch bill. Thank you for your leadership on the House Energy and Commerce and Ways and Means Committees. We very much appreciate your consideration of our request and would be happy to answer any questions you might have.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Doug Hoey". The signature is fluid and cursive, with a prominent initial "B" and a long, sweeping underline.

B. Doug Hoey, R.Ph., M.B.A
Chief Executive Officer