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June 6, 2019

Chairman Richard Neal
U.S. House of Representatives
2309 Rayburn House Office Building
Washington, DC 20515

Chairman Frank Pallone, Jr.
U.S. House of Representatives
2107 Rayburn House Office Building
Washington, DC 20515

Ranking Member Kevin Brady
U.S. House of Representatives
1011 Longworth House Office Building
Washington, DC 20515

Ranking Member Greg Walden
U.S. House of Representatives
2185 Rayburn House Office Building
Washington, DC 20515

Re: Feedback on Discussion Draft Legislation to Reform and Improve Medicare Part D

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

Better Medicare Alliance (BMA) appreciates the opportunity to provide feedback to the Committees' draft legislation to reform and improve the Medicare Part D program. BMA is a community of 130 ally organizations, as well as almost 400,000 beneficiaries, who value the option of Medicare Advantage. Together, our alliance of health plans, provider groups, aging service organizations, and beneficiaries share a commitment to ensuring Medicare Advantage is a high-quality, cost-effective option for current and future beneficiaries.

As an integrated system of care, Medicare Advantage offers affordable coverage to nearly 22 million enrollees, most of whom depend on prescription drugs to treat disease and manage one or more chronic conditions. We hear every day from Medicare Advantage beneficiaries who express concern and distress over the rising cost of prescription drugs. We recognize that rising prescription drug costs is a serious concern that deserves effective solutions to protect American seniors and individuals with disabilities from untenable costs for vital medications. We appreciate the Committees' commitment to address this problem.

BMA believes that making fundamental improvements to the Part D program is a better path forward to meaningfully reducing out-of-pocket costs for Medicare beneficiaries than the Administration's pending proposal to eliminate manufacturer rebates. BMA has advocated on manufacturer rebates and eliminating drug rebates would disproportionately impact beneficiaries enrolled in Medicare Advantage, through steep premium increases and reductions in supplemental benefits. BMA believes Congress is well-positioned to support efforts to protect *all* beneficiaries from catastrophic drug costs while maintaining the stability of the Part D market.

As our feedback below outlines, we support simplifying the Part D benefit structure that would introduce a maximum out-of-pocket spending limit for beneficiaries, requiring manufacturers to share in the liability for spending above a newly established maximum out-of-pocket (OOP) limit, and providing additional management tools for Part D plans to further encourage more efficient drug utilization. All together, these policies would achieve the goals of the Committees to provide meaningful protection to beneficiaries without increasing costs to taxpayers.

Our feedback on the discussion draft legislation to reform and improve the Medicare Part D program is as follows:

1. **BMA supports simplification of the Part D benefit and a maximum out-of-pocket (OOP) limit for all beneficiaries in Part D.**

Most Medicare beneficiaries have modest or fixed incomes and are not able to readily absorb increased OOP costs associated with rising prescription drug prices. According to recent BMA analysis, more than half of Medicare Advantage beneficiaries have annual incomes of less than $30,000[1] and are particularly vulnerable to increased cost obligations. In 2016-2017, nearly a quarter of seniors (23%) who were prescribed medication did not take their medication or requested a lower-cost medication.[2]

Unlike the current Part D program and traditional fee-for-service (FFS) Medicare, Medicare Advantage has a maximum OOP limit that protects beneficiaries from catastrophically high OOP costs. Particularly vulnerable are those beneficiaries who have modest and low incomes but are still above the threshold to qualify for low-income subsidies (LIS). For this population, Medicare Advantage is providing critical cost protections. This is illustrated by the fact that only 35% of low-income, near-dual Medicare Advantage beneficiaries are cost-burdened (defined as having spent 20% or more of income on out-of-pocket costs), compared to more than 53% of FFS Medicare beneficiaries who are cost-burdened and have no OOP protections.[3]

The current draft legislation would set the maximum OOP limit at the current catastrophic threshold. The maximum OOP limit should be set in a way that does not destabilize beneficiary premiums or increase the cost of the program to taxpayers. As such, Congress should also discontinue the current policy of allowing manufacturer discounts in the coverage gap phase to count toward beneficiary spending. Both policies would simplify and streamline the Part D benefit.

2. **BMA believes that prescription drug manufacturers should share in the liability for spending above the maximum OOP limit.**

Under the current structure of the Part D program, drug manufacturer liability is capped in the coverage gap phase, and it goes to zero once the beneficiary enters the catastrophic phase. This results in a lack of pressure on manufacturers to lower list prices, as they are completely off the hook for spending above the catastrophic threshold, and it adds costs to the program. Conversely, the liability to Part D plans and to the government is not capped. Requiring drug manufacturers to share in the liability for spending above the maximum OOP limit is an absolutely necessary component to any effective reform, and it would apply strong incentives to lower prescription drug list prices, resulting in lower OOP costs for all beneficiaries. Not including manufacturers in meaningful cost liability in the catastrophic phase fails to reduce list prices and shifts the cost again to taxpayers and to beneficiaries who can least afford it.

Furthermore, requiring drug manufacturers to share the liability for spending above a maximum OOP limit would help to mitigate the potential impact of these changes to Medicare Advantage beneficiaries. Increasing Part D plans' liability would mean increased costs to plans, increased premiums, and higher bids. BMA is concerned about the potential impact to the 16.4 million beneficiaries enrolled in integrated Medicare Advantage-Prescription Drug (MA-PD) plans. MA-PD plans pool resources across Part C and Part D to both lower premiums for beneficiaries and to fund the provision of supplemental benefits, such as dental coverage and wellness programs, as well as the new supplemental benefits tailored to those individuals with chronic conditions. Higher costs could translate into increased premiums and/or a reduction in these supplemental benefits. Congress should mitigate those cost increases to the greatest extent possible by requiring manufacturers to share in the liability for spending above the maximum OOP limit.

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[1] Analysis of 2016 Medicare Current Beneficiary Survey (MCBS) Data provided to BMA by Anne Tumlinson Innovations (ATI), May 2019.

[2] Cohen, R.A. and Boersma, P., *Strategies Used by Adults Aged 65 and Over to Reduce Their Prescription Drug Costs, 2016-2017.* National Center for Health Statistics (NCHS) Data Brief, No. 335, May 2019.

[3] ATI Analysis of 2016 MCBS Data provided to BMA, May 2019. "Near-dual" is defined as earning less than 200% of the federal poverty level ($24,000/year for an individual) but not yet qualifying for Medicaid.

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3. **BMA recommends that Congress give Part D plans additional formulary tools to help keep program costs low.**

The Committees' discussion draft legislation is similar to recommendations made by the Medicare Payment Advisory Commission (MedPAC) to Congress in 2016.[4] However, MedPAC also recommended that Congress provide Part D plan sponsors with more tools to better manage beneficiaries taking high-cost drugs and to negotiate lower prices with drug manufacturers. MedPAC recognized that these tools, packaged with other reforms in Part D, are necessary to control growth in program costs and costs to taxpayers. BMA agrees with MedPAC and we believe Congress should consider providing these additional tools to Part D plans as part of this legislative package.

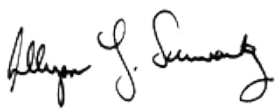
BMA supported the Administration's recent expansion of drug utilization management tools, including the use of step therapy for Part B drugs and indication-based formulary design, but we were disappointed earlier this year when they decided not to finalize greater flexibility within the protected classes. Additional flexibilities in the protected classes can be provided while still maintaining appropriate access to important medications. We recommend Congress provide additional protected class flexibilities to Part D plans, including the ability to include one drug per class in formularies and to allow prior authorization for off-label use of certain protected class drugs. Additional tools recommended by MedPAC include: (1) the establishment of preferred and non-preferred specialty tiers, with more utilization management tools used for drugs on the non-preferred tier; and (2) using "split-fills," or initial supplies of prescription drugs that cover fewer than 30 days.

Congress should also allow Part D plans to offer stronger rewards and incentives to encourage beneficiaries to use lower-cost options – such as generics and biosimilars – when available and appropriate. Under a system with a maximum OOP limit, there is little incentive for the beneficiary to consider cost once they hit the limit, as they are shielded completely from those costs. To encourage the most efficient, high-value utilization of prescription drugs, Part D plans should be able to use enhanced rewards and incentives to better manage costs for all beneficiaries.

Conclusion

BMA thanks the Committees for the opportunity to provide feedback and recommendations to this draft legislation. Should you have any questions or need additional information, please do not hesitate to contact our Director of Government Affairs, Lisa Hunter, at lhunter@bettermedicarealliance.org or (202) 735-3157. We look forward to continuing to work with you and your staff in this ongoing effort to improve the Part D program and lower costs for beneficiaries.

Sincerely,



Allyson Y. Schwartz
President & CEO
Better Medicare Alliance

[4] Medicare Payment Advisory Commission (MedPAC), *Report to the Congress: Medicare and the Health Care Delivery System,* June 15, 2016.