

# Congress of the United States

Washington, DC 20515

July 17, 2017

## VIA ELECTRONIC TRANSMISSION

Honorable Tom Price, MD  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Honorable Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Secretary Price and Administrator Verma:

We write today requesting you address concern over the use of direct and indirect remuneration (DIR) and similar fees by Medicare Part D plan sponsors (PDP). We support transparency in the Part D program and applaud the Centers for Medicare and Medicaid Services (CMS) for the recent Proposed Medicare Part D DIR reporting requirements.<sup>1</sup>

CMS makes payments to insurers called Part D Plan Sponsors (PDP) for delivering prescription drug benefits to Medicare beneficiaries. PDP and Pharmacy Benefit Managers (PBM) receive additional payments after the point-of-sale which are called Direct and Indirect Remuneration (DIR).

CMS has been monitoring the use of DIR and, earlier this year, released a Fact Sheet detailing the impact their use is having on the Medicare program. Of note, CMS commented “while DIR may hold down total program expenses (and beneficiary premiums), it does not reduce the cost of drugs for beneficiaries at the point-of-sale.”<sup>2</sup>

Another concern is the effect DIR has on the taxpayer. The CMS Fact Sheet also reports “PDP, who control drug spending for Medicare, are, in fact, responsible for only a share of Part D drug spending, and, as a result of the increasing preference for price-high DIR arrangements, that proportion is shrinking each year.”<sup>2</sup> The incentive may move more drugs into the catastrophic range for Part D, leaving the taxpayer on the hook.

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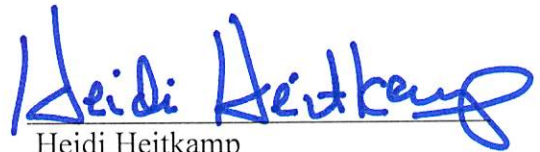
We write to ask you to issue guidance on the use of DIR and similar fees by PDP. This guidance could include improved transparency between PDP and pharmacies, consistent terminology applied to pharmacy reimbursement in the Medicare program for PDP, consistency in disclosures to pharmacies on how fees are defined, how they will be calculated, the timing for fee collection, the parameters for “earning” back charged fees, and how fees will be reported to pharmacies at the claim level, thus allowing reconciliation of reimbursement.

Better transparency in the use of DIR fees will benefit the Medicare program and beneficiaries alike. Thank you for your attention to this important issue. Please reach out to our staff with any additional concerns. [Karen\\_Summar@grassley.senate.gov](mailto:Karen_Summar@grassley.senate.gov) or [Megan\\_DesCamps@heitkamp.senate.gov](mailto:Megan_DesCamps@heitkamp.senate.gov)

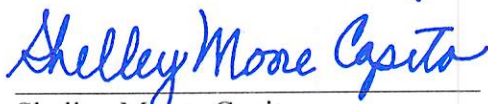
Sincerely,



Charles E. Grassley  
U.S. Senator



Heidi Heitkamp  
U.S. Senator



Shelley Moore Capito  
U.S. Senator



Thad Cochran  
U.S. Senator



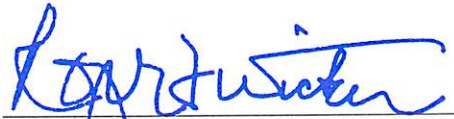
John Boozman  
U.S. Senator



James Lankford  
U.S. Senator




Sherrod Brown  
U.S. Senator



Roger Wicker  
U.S. Senator


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Jon Tester  
U.S. Senator



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Angus King  
U.S. Senator



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John Thune  
U.S. Senator

<sup>1</sup> <https://www.healthlawpolicymatters.com/wp-content/uploads/sites/8/2017/05/Proposed-2016-DIR-Reporting-Reqs-Memo-05-17-2017.pdf>

<sup>2</sup> <https://www.cms.gov/newsroom/mediareleasedatabase/fact-sheets/2017-fact-sheet-items/2017-01-19-2.html>