Reform Medicare Part D "DIR"

Direct and indirect remuneration ("DIR") fees are a category of fees that were originally developed to capture and report rebate amounts paid by manufacturers at the end of the plan year during the reconciliation process in Part D. Over the past few years, DIR has become a catch-all category used by Part D plans to include various pharmacy price concessions, such as fees related to performance-based programs or fees for participation in a preferred network.

In 2017, the Centers for Medicare & Medicaid Services (CMS) released a fact sheet on the use and impact of DIR fees by plan sponsors in the Medicare Part D program.

- The CMS fact sheet reported that the use of DIR by Part D sponsors has been "growing significantly in recent years" and has led to an increase in beneficiary cost-sharing, an increase in subsidy payments made by Medicare, and an overall decrease in plan liability for total drug costs, despite growth of Part D drug costs in recent years.

- The increasing use of fees in the Part D program has also been a growing burden for retail pharmacies. Retail pharmacies must conduct business in an environment where they are unsure if a reimbursement they received is the final reimbursement or if a claw-back will be applied to them at some future point.

- The unpredictable variability in the use of fees provides little visibility to retail pharmacy, particularly for performance-based fees and the goals necessary to achieve specified targets to "earn back" fee amounts.

More recently, CMS released a wide-ranging proposed rule for the Part D program. As a part of the proposed rule, CMS included a request for information (RFI) on potential proposals to require all pharmacy price concessions be included in the negotiated price – the price used to determine a beneficiary's out-of-pocket costs at the point-of sale.

- Restructuring pharmacy price concessions as detailed in the RFI could lower out-of-pockets costs for beneficiaries, lead to greater transparency in the use of fees and make medicine more accessible, leading to greater adherence and better health outcomes.

- To promote a more quality-driven healthcare system, CMS should develop a meaningful and consistent pharmacy-specific performance-based incentive program. Such a program should be calculated separate and apart from the negotiated price to ensure such incentives do not increase costs for beneficiaries.

- A pharmacy-specific program can be accomplished by requiring plans to determine performance-based payments on standardized, achievable and proven criteria that actually measure pharmacy performance. Examples of potential measures include the medication related measures used in the STAR Ratings program, as opposed to criteria that focus on measuring plan performance and for which pharmacies may have little to no opportunity to influence.

- CMS should cap performance-based fees on a per script basis, limiting the amount of performance fees that can be collected related to a specific drug. This would facilitate greater transparency and predictability for pharmacies. Patients would benefit because cost variability would be minimized from drug to drug, as only a limited amount of fees could be subject to performance and outside of the negotiated price.

Please support a letter to the Secretary of Health and Human Services about the need for DIR reform in the Part D Program.

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