

United States Senate

WASHINGTON, DC 20510

March 7, 2022

Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

We write to urge the Centers for Medicare and Medicaid Services (CMS) to finalize the proposal included in the *proposed rule for Contract Year 2023 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Program* (CY23 proposed rule) to help lower the cost of prescription drugs for Part D beneficiaries through certain pharmacy direct and indirect remuneration (DIR) fee reform in Medicare.

In its proposed rule, CMS states that pharmacy DIR fees grew more than 107,400 percent between 2010 and 2020. The meteoric rise of these fees, coupled with the lack of transparency in their application in the Part D program, is contributing to increasing prescription drug costs for patients and the closure of hundreds of pharmacies in communities across the country. Pharmacy DIR fees applied after the point-of-sale artificially increase patients' out-of-pocket costs for Part D drugs, which is why CMS' proposed reform to bring these fees to the point-of-sale will help achieve meaningful drug savings for seniors. In fact, the reforms offered by CMS in the proposed rule alone are estimated to reduce seniors' out-of-pocket prescription drug costs by \$21.3 billion over 10 years.

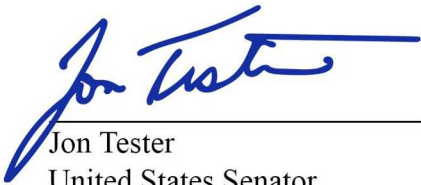
Additionally, pharmacies are an integral pillar of health care throughout the United States, and often the sole provider of needed health care services in our rural and medically underserved communities. Addressing pharmacy DIR fees is essential to ensure beneficiary access to pharmacies that provide lifesaving prescription drugs and other essential services like chronic and complex disease management, wellness and prevention, vaccines, testing, and medication therapy management. Over the past two years, we witnessed how important access is as the nation continues to rely on pharmacies to care for underserved and at-risk communities by ensuring access to COVID-19 testing, vaccination, and therapeutics. Enacting Medicare pharmacy DIR fee reform will help sustain beneficiary access to these essential services.

We thank you for your work on the draft rule and your effort to address DIR fees in the proposed rule. However, in addition to finalizing this proposal, more can and should be done to deliver comprehensive pharmacy DIR fee reform. In December, you agreed with Congress in your response letter stating, "That the significant growth in DIR amounts is troubling" and pledged to address this through the agency's rulemaking authority. We want to ensure this rule meets that promise and truly stops all post-sale concessions charged to pharmacies, including those assessed in the Medicare coverage gap. It is important that CMS work with stakeholders to ensure this provision is as comprehensive as possible prior to finalizing the rule.

Further, CMS should take additional steps to protect beneficiary access to pharmacies by ensuring pharmacies' actual reimbursement, inclusive of all DIR fees, is reasonable as required under existing statute. Finally, we urge CMS to work with industry stakeholders – including community pharmacies and specialty pharmacies – to establish meaningful, standardized pharmacy performance metrics to increase quality and consistency across the Medicare Part D program. We recognized the importance of these transparent performance measures by including them in the Pharmacy DIR Reform to Reduce Senior Drug Costs Act (S. 1909). Without standardized performance metrics, pharmacies will continue to be forced out of networks due to low reimbursement, limiting patient access to prescription drugs.

Thank you for your commitment to these comprehensive reforms and for including this important proposal to reform Medicare pharmacy DIR as part of CMS' CY23 proposed rule. We urge you to strengthen these provisions and finalize them in the final rule, and we look forward to continuing to work with you to support Medicare beneficiaries and the pharmacies that serve them.


Sincerely,




Jon Tester
United States Senator




Shelley Moore Capito
United States Senator



Sherrod Brown
United States Senator



James Lankford
United States Senator



Marsha Blackburn
United States Senator



John Boozman
United States Senator



Thomas R. Carper
United States Senator



Bill Cassidy, M.D.
United States Senator



Susan M. Collins
United States Senator



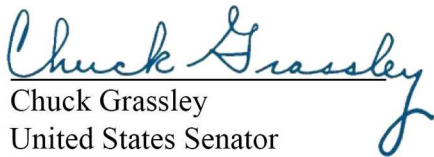
Tom Cotton
United States Senator



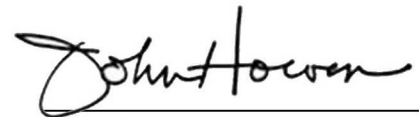
Steve Daines
United States Senator



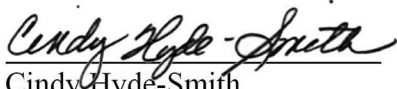
Joni Ernst
United States Senator



Chuck Grassley
United States Senator



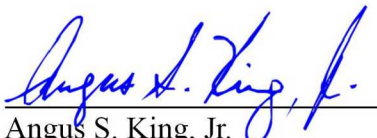
John Hoeven
United States Senator



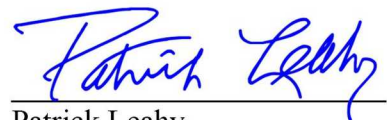
Cindy Hyde-Smith
United States Senator




James M. Inhofe
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United States Senator





Patrick Leahy
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Cynthia Lummis
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Robert Menendez
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Rand Paul, M.D.
United States Senator

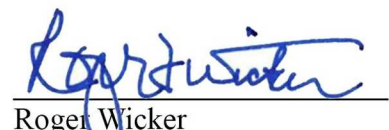

Debbie Stabenow
United States Senator


Dan Sullivan
United States Senator


Thom Tillis
United States Senator


John Thune
United States Senator


Chris Van Hollen
United States Senator


Roger Wicker
United States Senator

CC: The Honorable Xavier Becerra, Secretary, U.S. Department of Health and Human Services