



Seema Verma, Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Submitted electronically via CMMI\_NewDirection@cms.hhs.gov

November 19, 2017

**RE: Innovation Center New Direction – Request for Information**

Administrator Verma:

The Alliance for Transparent and Affordable Prescriptions (ATAP) consists of seventeen patient and provider groups who are concerned about the role that pharmacy benefit managers (PBMs) play in the rising cost of drugs for patients. ATAP is funded entirely by membership dues and does not take funding from outside sources.

We thank the agency for taking the first step in setting the Center for Medicare and Medicaid Innovation (CMMI) on a new path and, particularly, for expressing an interest in more prescription drug pricing models. In its Request for Information (RFI), CMS states that it wants “to test new models for prescription drug payment, in both Medicare Part B and Part D and State Medicaid programs that incentivize better health outcomes for beneficiaries at lower costs and align payments with value. Models that better align incentives and engage beneficiaries as consumers of their care can continue to improve patient outcomes while controlling drug costs. Models that contemplate novel arrangements between plans, manufacturers, and stakeholders across the supply chain, including, but not limited to innovative value based purchasing arrangements, and models that would increase drug pricing competition while protecting beneficiaries’ access to drugs are of particular interest.” (Emphasis added.)

ATAP was formed on a shared concern that our drug supply chain is serving patients poorly. In particular, we believe that PBMs play an increasingly harmful role in our delivery system. PBMs are third-party entities that manage and administer prescription drug plans for payers, including



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Medicare Parts C and D plans, TRICARE, the Federal Employees Health Benefits Program, employers, and health insurers. Among other functions, PBMs negotiate discounts of drug prices with pharmaceutical manufacturers in the form of rebates and manage drug utilization by beneficiaries. Unfortunately, there is very little transparency surrounding PBMs and their role within the delivery system, nor are there any requirements to pass negotiated savings onto payers or patients.

Additionally, the industry is overly consolidated, with the two largest PBMs combined covering more than 170 million lives<sup>1</sup> -- more than three times the size of the entire Medicare program.<sup>2</sup> This consolidation is not good for patients. As the National Community Pharmacists Association pointed out, “since 1987, when Advance PCS/Caremark (now CVSHealth) became the last of the original ‘big 3’ PBMs to incorporate, the others being Medco and Express Scripts which merged in 2012, total prescription drug expenditures have skyrocketed 1010% and per capita expenditures have increased 756%.”<sup>3</sup>

PBMs allege that they are saving costs, but it is unclear for whom. As prescribers and patients, we have seen firsthand patients’ out-of-pocket costs rise year after year, even as their ability to access the medicines they need is compromised through restrictive formularies, tiering, and other aggressive utilization management techniques. PBMs negotiate rebates and discounts, but patients have seen little to no benefit from those “savings.” In fact, the current system seems to encourage manufacturers to increase their list prices—which are just the starting point for negotiations—and yet, patient cost-sharing is often based on those inflated list prices.

The current system is so complex and convoluted that it is unclear how targeted solutions might affect the greater whole. With its authority to test models on small scales, CMMI can play a unique role in returning us to a rational system that puts patients at the center while controlling

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<sup>1</sup> Express Scripts covers 83 million. (Express Scripts Corporate Overview, downloadable at <http://lab.express-scripts.com/about>.) CVS Caremark covers approximately 90 million. (CVS Health At A Glance, <https://www.cvshealth.com/about/facts-and-company-information>.)

<sup>2</sup> “An Overview of Medicare” by the Kaiser Family Foundation (April 1, 2016), available: <http://kff.org/medicare/issue-brief/an-overview-of-medicare/>.

<sup>3</sup> National Community Pharmacists Association, <http://www.ncpanet.org/advocacy/pbm-resources>.



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drug prices. CMMI has the ability to be nimble in testing ideas, so that we can be sure solutions work for patients before any program changes are implemented on a wider scale. While we acknowledge that CMMI’s authority to test changes in Part D might be limited, we urge the agency to consider demonstrations that incorporate one or more of the following elements:

- Return the PBM to its original, purely administrative function;
- Require the PBM to adhere to Food and Drug Administration (FDA) regulations of what constitutes a “generic” versus a “brand” product to avoid purposeful misclassification leading to generics being charged as brands;<sup>4</sup>
- Prohibit the use of gag orders on pharmacists so that a consumer can be told when (s)he would be best served by paying cash for the prescription;
- Require pass-through of rebates and any other prices concessions at the point-of-sale.

As we hope this letter has made clear, the current system is not working and, in fact, may be doing harm to patients. We would welcome the opportunity to further discuss these proposals with the appropriate CMMI staff. Please do not hesitate to reach out, should you have questions or require additional information: [jgorsuch@hhs.com](mailto:jgorsuch@hhs.com). For general information, please visit: <https://atapadvocates.com>.

Sincerely,

American Association of Clinical Urologists  
American Bone Health  
American College of Rheumatology  
Association of Women in Rheumatology  
California Rheumatology Alliance  
Coalition of State Rheumatology Organizations  
Florida Society of Rheumatology

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<sup>4</sup> <https://www.managedcaremag.com/archives/2010/9/when-brand-generic-contract-pbm>.



Global Healthy Living Foundation  
Lupus and Allied Diseases Association, Inc.  
New York State Rheumatology Society  
North Carolina Rheumatology Association  
Rheumatology Alliance of Louisiana  
Rheumatology Nurses Society  
U.S. Pain Foundation