

Congress of the United States
Washington, DC 20515

October 3, 2017

Don Wright, M.D., M.P.H.
Acting Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Ensuring Rebates and Discounts in Medicare Part D Help Reduce Patient OOP Costs

Dear Acting Secretary Wright and Administrator Verma:

We are writing to urge the Department of Health and Human Services (HHS) and the Centers for Medicare & Medicaid Services (CMS) to work within existing authority to ensure that Medicare Part D plan sponsors dedicate a meaningful share of negotiated rebates, discounts, and other fees to reduce Part D patients' out-of-pocket costs for covered medicines at the point-of-sale.

Under the Social Security Act, the Secretary has "authority to negotiate the terms and conditions of the proposed bid submitted and other terms and conditions of a proposed [Part D] plan."¹ The Act also requires plan sponsors to "provide enrollees with access to negotiated prices" that "take into account ... discounts, direct or indirect subsidies, rebates, and direct or indirect remunerations, for covered part D drugs, and include dispensing fees for such drugs."² Agency action under this authority need not violate the statute's non-interference clause, a vital protection for beneficiaries and instrumental to sustaining a competitive market.³

Earlier this year a CMS Fact Sheet indicated the discounts and rebates that reduce ingredient and dispensing costs for Part D plan sponsors (known as direct and indirect remuneration or DIR) have nearly tripled since 2010.⁴ The Medicare Trustees and outside analysts like IMS Health have had similar findings.⁵ At the same time, however, we understand that common practices by pharmacy benefit managers (PBMs) and plan sponsors do not use DIR to reduce beneficiaries'

¹ 1860D-11(d)(2).

² 1860D-2(d)(1)(A), (B).

³ 1860D-11(i).

⁴ <https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2017-Fact-Sheet-items/2017-01-19-2.html>

⁵ Medicare Trustees Report, Table IV.B8, July 2017, <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2017.pdf>; QuintilesIMS Institute, Estimates of Medicare Part D Costs After Accounting for Manufacturer Rebates, October 2016, https://www.imshealth.com/files/web/IMSH%20Institute/Reports/IIHI_Estimate_of_Medicare_Part_D_Costs.pdf

medicine costs at the pharmacy counter and actually leads to negative reimbursement for the pharmacy. Such practices also may increase government costs in some cases. We also urge CMS to ensure patient access to specialty pharmacies is not limited by the use of inapplicable Star Rating measures.

Thank you for considering this important issue. Medicare Part D has achieved impressive results since enactment under Republican leadership in 2003. That success derives from private sector competition, negotiation, and consumer choice, as opposed to heavy-handed regulation or a government-sponsored plan. We are now in the program's second decade, and together we face the challenge of defending Part D's effective, unique, market-based structure while addressing developments that may jeopardize future success. We look forward to working with the administration on behalf of Part D patients and pharmacists.

Sincerely,



Earl L. "Buddy" Carter
Member of Congress



Cathy McMorris Rodgers
Member of Congress



David P. Roe, M.D.
Member of Congress



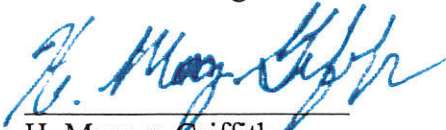
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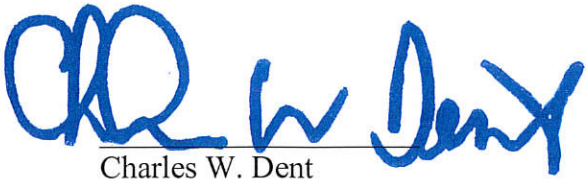
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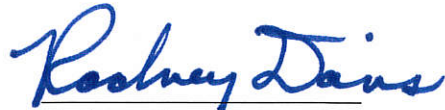
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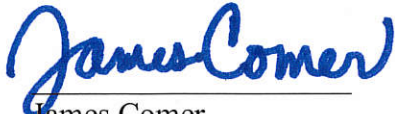
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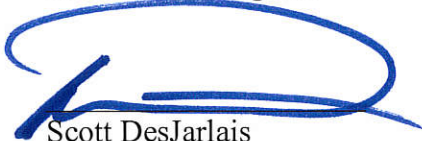
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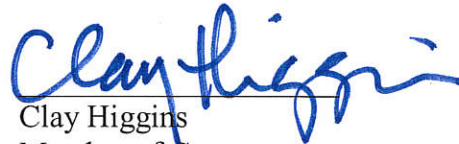
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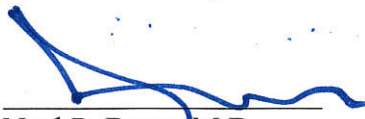
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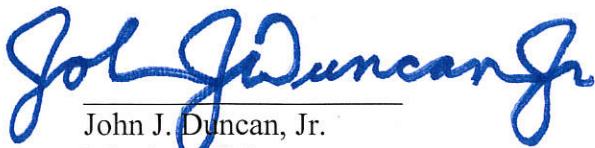
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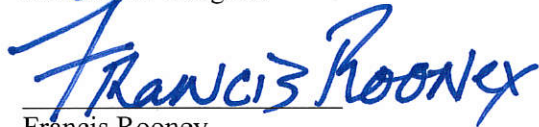
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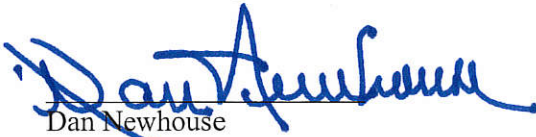
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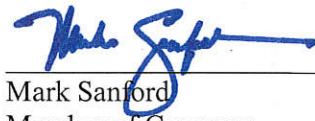
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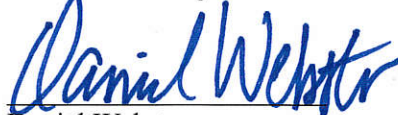
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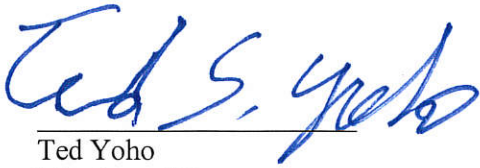
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