

March 3, 2021

Dear Arkansas Congressional Delegation:

The Center for Medicare and Medicaid Innovation (CMMI) launched a voluntary 5 year Part D Payment Modernization Model in January 2019. This allowed plans to modify some program requirements with the intent of lowering costs to both Part D and seniors. CMMI announced additional “formulary flexibilities” on January 19, 2021, focusing on Part D’s six protected classes and the requirement to cover two drugs per class. These changes will eliminate protections for some of the America’s sickest patients – making it harder for them to access the medications they need to manage their health while at the same time, doing nothing to lower their out-of-pocket costs.

The six protected classes were originally created to protect millions of patients who are disabled and/or plagued by chronic condition. These protections provide them with access to their specialized treatment regimen affordably. The patients covered by this include those with epilepsy, depression and other psychiatric illnesses, cancer, bipolar disorder, HIV/AIDS and patients who have undergone organ transplantation.

Currently, Part D plans must cover all drugs included in the six protected classes. With these changes, any plan that participates in the CMMI model will be allowed to offer only one drug in each of the classes beginning in 2022 (the exception is HIV/AIDS which will be included in 2023). Patients who rely on drugs within the six protected classes typically try multiple drugs before finding the best treatment for their specific condition, making the availability of multiple drug options critical.

Secondly, there is a delay in the implementation of the Rebate Rule proposal that HHS finalized on November 20, 2020. Once implemented, this rule will lower costs for patients. This proposal excludes certain rebates paid by drug manufacturers from the discount safe harbor to the federal anti-kickback statute. This regulation benefits patients directly by addressing a perverse incentive that excludes rebates on prescription drugs paid by manufacturers to pharmacy benefit managers (PBMs) and Part D plans. If this rule is implemented as intended, the discounts will go directly to Part D beneficiaries to lower their out-of-pocket costs rather than to PBMs and middlemen. Delaying implementation of this rule denies much needed assistance to access affordable prescription medication.

On behalf of the many patients that will encounter additional hardship due to the changes in the Part D Payment Modernization Model, we ask you to stand with patients and encourage the Biden administration to rescind this model immediately. Additionally, we urge you to ask the Biden administration to help lower patients’ out-of-pocket costs by not delaying the implementation of the Rebate Rule any longer. Both of these are critical to the health of patients and in improving access to care. Thank you for your attention to this matter.

Sincerely,

