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June 6, 2019

The Honorable Frank Pallone, Jr.
Chairman
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Greg Walden
Ranking Member
House Energy and Commerce Committee
2322 Rayburn House Office Building
Washington, DC 20515

The Honorable Richard Neal
Chairman
House Ways and Means Committee
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Kevin Brady
Ranking Member
House Ways and Means Committee
1139 Longworth House Office Building
Washington, DC 20515

Dear Chairman Pallone, Ranking Member Walden, Chairman Neal, and Ranking Member Brady:

On behalf of the American Cancer Society Cancer Action Network (ACS CAN) we commend you for your bipartisan efforts to improve the Medicare Part D program by imposing a cap on beneficiary out-of-pocket costs and thank you for the opportunity to provide additional comments. ACS CAN is making cancer a top priority for public officials and candidates at the federal, state and local levels. ACS CAN empowers advocates across the country to make their voices heard and influence evidence-based public policy change as well as legislative and regulatory solutions that will reduce the cancer burden. As the American Cancer Society's nonprofit, nonpartisan advocacy affiliate, ACS CAN is critical to the fight for a world without cancer.

Medicare beneficiaries with cancer increasingly rely on drug therapies to treat their disease and prevent recurrence. Having access to affordable prescription drug coverage is critical in the fight against cancer and is one of the reasons ACS CAN strongly supports the Medicare Part D program. Part D provides many cancer patients and survivors with coverage for their outpatient prescription drugs.

While the program enjoys widespread support, improvements are needed to ensure that more beneficiaries can afford to access the prescription drugs that are medically necessary for their care. One key improvement is the imposition of a cap on beneficiary out-of-pocket spending in Part D.

Currently beneficiaries who do not qualify for the Part D low-income subsidy (LIS) program face unlimited cost-sharing for their prescription drugs. In the standard benefit design, beneficiaries pay a deductible, and then 25 percent of the cost of their branded drugs until their total drug costs exceed the catastrophic cap, at which point beneficiaries pay a five percent coinsurance.[1] More than one million

[1] In the standard Part D benefit design, beneficiaries pay a deductible and then 25 percent of the cost of their drugs in the initial coverage limit. Once beneficiary total drug spending exceeds the initial coverage limit,

non-LIS beneficiaries' prescription drug costs exceeded the catastrophic cap in 2016.[2] The number of beneficiaries whose drug spending exceeds the catastrophic cap is increasing each year – more than doubling between 2007 and 2015.[3] These are beneficiaries with high drug costs who would benefit from a cap that would make their out-of-pocket costs more predictable and affordable.

While a five percent cost-sharing on drugs above the catastrophic cap may seem reasonable it can actually result in significant out-of-pocket costs for beneficiaries, particularly those taking specialty drugs. According to a recent report looking at a limited number of specialty drugs, 61 percent of expected annual out-of-pocket costs would occur after the catastrophic cap, translating to over $5,000 in the catastrophic phase alone.[4]

As the Committees consider legislation to cap Part D costs for beneficiaries, we also note that beneficiaries can also experience access challenges when Part D plans adopt more restrictive formularies, including the use of additional and unnecessary utilization management practices. We urge Congress to ensure that the Centers for Medicare and Medicaid Services (CMS) is sufficiently resourced to ensure proper oversight and enforcement of beneficiary safeguards.

In addition to creating an out-of-pocket cap on Part D, we urge the Committees to consider additional improvements to the Part D benefit, and offer the following suggestions:

Additional help needed below the cap: A Part D cap would significantly benefit the more than 1 million beneficiaries whose costs exceed the catastrophic cap, but there are a number of beneficiaries whose drug costs do not meet the catastrophic cap but who nevertheless face challenges affording their cost-sharing in the Part D program. We strongly urge the Committees to consider additional policies to ensure that these beneficiaries have access to medically appropriate therapies.

Removal of the LIS Asset Test: In order to qualify for a low-income subsidy, beneficiaries' income and assets must be below a certain threshold. There has been concern that this two-part test poses an unnecessary and administrative burden that has hampered beneficiaries with low-incomes from being able to take advantage of the extra help afforded to them in the LIS program. We urge Congress to consider eliminating the asset test as part of the LIS benefit.

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beneficiaries enter the coverage gap in which they pay 25 percent of the cost of their branded drugs and 37 percent of the cost of their generic drugs until their total drug costs exceed the catastrophic cap.

[2] Medicare Payment Advisory Commission. Report to Congress: Medicare Payment Policy. March 2019. Ch. 14, table 14-9, available at http://medpac.gov/docs/default-source/reports/mar19_medpac_ch14_sec.pdf?sfvrsn=0.

[3] Cubanski J, Neuman T, Orgera K, Damico A. No limit: Medicare Part D enrollees exposed to high out-of-pocket drug costs without a hard cap on spending. Kaiser Family Foundation. Nov. 2017. Available at http://files.kff.org/attachment/Issue-Brief-No-Limit-Medicare-Part-D-Enrollees-Exposed-to-High-Out-of-Pocket-Drug-Costs-Without-a-Hard-Cap-on-Spending.

[4] Cubanski J, Koma W, Neuman T. The out-of-pocket cost burden for specialty drugs in Medicare Part D in 2019. Kaiser Family Foundation. Feb. 2019. Available at http://files.kff.org/attachment/Issue-Brief-the-Out-of-Pocket-Cost-Burden-for-Specialty-Drugs-in-Medicare-Part-D-in-2019.

Catastrophic Threshold for 2020: When Congress closed the coverage gap in 2010, it also temporarily slowed the growth rate for the catastrophic coverage threshold, which resulted in more beneficiaries hitting the coverage gap. This policy expires in 2020 and, as a result, the catastrophic threshold will significantly increase in 2020. We urge Congress to act before the end of this year to protect beneficiaries.

Consideration of additional caps in beneficiary out-of-pocket costs: The cap on Part D costs is a welcome benefit, but cancer patients also have significant costs for Medicare Part A (hospitalization) and Part B (physician) services. For those entering the Medicare program the lack of a cap is an unwelcome surprise since many policies for the under 65 market include some kind of spending cap. Not only does the lack of a cap in Medicare leave beneficiaries with significant out-of-pocket costs, it also leaves beneficiaries without any means of predicting their out-of-pocket liability and creates incentives to purchase supplemental coverage. We encourage the Committees to explore further action in the future related to imposing a cap on Part A and B services.

Conclusion

ACS CAN appreciates the opportunity to provide feedback on the legislation to cap out-of-pocket costs for Part D beneficiaries. We look forward to working with members of the committees and Members of Congress on a bipartisan basis to enact legislation that provides beneficiaries with this important protection. We would be happy to discuss any of these suggestions in greater detail. For more information or to discuss further, please direct your staff to contact Phylicia L. Woods, Director of Federal Relations, at phylicia.woods@cancer.org.

Sincerely,

Keysha Brooks-Coley

Keysha Brooks-Coley
Vice President, Federal Advocacy & Strategic Alliances
American Cancer Society Cancer Action Network