



June 6, 2019

Representative Richard Neal  
Chair  
House Ways & Means Committee  
2309 Rayburn House Office Building  
Washington, D.C. 20515

Representative Frank Pallone, Jr.  
Chair  
House Energy & Commerce Committee  
2107 Rayburn House Office Building  
Washington, D.C. 20515

Representative Kevin Brady  
Ranking Member  
House Ways & Means Committee  
2309 Rayburn House Office Building  
Washington, D.C. 20515

Representative Greg Walden  
Ranking Member  
House Energy & Commerce Committee  
2107 Rayburn House Office Building  
Washington, D.C. 20515

**Re: Comments on Proposed Medicare Part D Legislation**

Dear Chairmen Neal and Pallone, and Ranking Members Brady and Walden:

The AIDS Institute, a national nonprofit organization dedicated to supporting and protecting health care access for people living with HIV, hepatitis, and other chronic and serious health conditions, commends your initiative to seek solutions to lower prescription drug costs for Medicare Part D beneficiaries. This draft legislation builds on proposals we support that have been recommended by the Medicare Payment Advisory Commission (MedPAC) and included in the President’s 2020 budget. We appreciate the House Ways & Means and Energy & Commerce Committees making this issue a priority and generating bipartisan support to ensure the most vulnerable patients can maintain access to life-saving drugs.

While the Medicare program is working well for the vast majority of beneficiaries, The AIDS Institute supports proposals, including those in this draft legislation, that will strengthen the program’s success, including for the over 120,000 people living with HIV who rely on Part D to access their medications.

Medicare Part D is critically important to people living with HIV and hepatitis C (HCV). Ensuring access to innovative new therapies through the program has saved millions of lives and allowed millions more to live longer, healthier lives. People with HIV require year-long consistent access to high priced drugs and easily reach the catastrophic limit within a matter of months. High cost-sharing can lead to inconsistent access and treatment non-adherence and can have

detrimental effects on people living with HIV, including developing drug resistance and irreversible disease progression. It can also jeopardize the public health, as patients with drug-resistant virus can transmit that virus to others. The CDC has issued important guidance based on extensive research that people living with HIV who have an undetectable viral load cannot transmit HIV to others through sexual contact. Ensuring access to antiretrovirals at a price beneficiaries can afford is a crucial step in encouraging treatment adherence, reducing transmission, and ultimately ending the HIV epidemic.

Part D also plays an important role in the fight against HCV as baby boomers, individuals born between 1945-1965 and now aging into Medicare, have the highest rates of HCV. Due to the short duration for the treatment of HCV (which can be as little as 8 weeks) the sudden cost burden is particularly high for people seeking a cure for HCV. Hepatitis C drugs serve as a prime example of high out-of-pocket expenses for Part D patients since they can reach the catastrophic limit during the first fill of their drug.

Capping the dollar amount would help Medicare Part D beneficiaries gain access to their medications and improve their health. Additionally, patients who remain adherent to treatment regimens, stay healthy, and in the case of HCV, be cured of their disease, are less likely to utilize emergency or high-cost services, which will reduce healthcare costs across the system.

### **Out-of-Pocket Maximum for Prescription Drugs**

One of the largest – and quickly growing – barriers to treatment adherence facing patients is the out-of-pocket cost of medications. A review of Medicare claims data by IQVIA finds that when patient cost exceeds \$250 for a prescription, the rate of prescription abandonment reaches an astonishing 70 percent.<sup>1</sup> While 5 percent co-insurance in the catastrophic phase may seem nominal, it can translate to thousands of dollars out-of-pocket for patients who rely on high-priced and specialty drugs. An analysis by the Kaiser Family Foundation found that 10 percent of beneficiaries in the Medicare Part D program in 2015 who did not receive any low income subsidy incurred costs of at least \$5,200, with some exceeding \$9,400.<sup>2</sup> In a single example of the financial burden a Part D patient experienced seeking curative treatment for hepatitis C, the beneficiary paid \$7,153 out-of-pocket for the breakthrough drug Harvoni, 61

---

<sup>1</sup> IQVIA. New-to-brand Abandonment by Patient Out-of-Pocket Cost in 2018.

<https://www.iqvia.com/institute/reports/medicine-use-and-spending-in-the-us-a-review-of-2018-and-outlook-to-2023>

<sup>2</sup> Kaiser Family Foundation. No Limit: Medicare Part D Enrollees Exposed to High Out-of-Pocket Drug Costs Without a Hard Cap on Spending. 2017 Issuer Brief. <https://www.kff.org/report-section/no-limit-medicare-part-d-enrollees-exposed-to-high-out-of-pocket-drug-costs-without-a-hard-cap-on-spending-issuer-brief/>

percent of which was incurred during the catastrophic phase.<sup>3</sup> These amounts are especially troubling because Medicare is unique among all payers of healthcare in not protecting beneficiaries from unlimited out-of-pocket costs. Data from IQVIA shows that this lack of an out-of-pocket limit has real consequences for Medicare beneficiaries. More than twice as many Medicare beneficiaries have out-of-pocket costs over \$500 per year compared to people who have commercial insurance (20 percent vs 9 percent).<sup>4</sup>

As recommended by MedPAC, and supported by the National Academy of Medicine, an out-of-pocket cap in the catastrophic phase of Medicare Part D would protect patients who utilize high-cost specialty drugs, and would raise premiums by less than \$1 for all beneficiaries.<sup>5</sup> With a growing number of patients relying on specialty and high-priced drugs, an out-of-pocket cap is a necessary and important step to ensure Medicare beneficiaries are able to afford their medication as well as other daily needs.

While The AIDS Institute acknowledges that a cap on out-of-pocket costs for beneficiaries will not reduce the price of prescription drugs – a goal we also share with the Committees and the Administration – we believe that it is imperative to limit the financial burden that high-cost prescription drugs place on Medicare beneficiaries. This policy change will also better align the structure of Medicare with other insurance programs.

### **Reduce the Government’s Reinsurance Rate from 80% to 20% Over Four Years**

The Medicare Payment Advisory Commission (MedPAC) has reported that the number of high-cost beneficiaries (those who reach the catastrophic phase of coverage) continues to grow. In 2016, 360,000 beneficiaries filled a prescription for which the single claim would have met the out-of-pocket threshold.<sup>6</sup> While these beneficiaries only represent 2 percent of all enrollees in Part D, they account for 20 percent of all out-of-pocket drug spending. CMS reports that spending in the catastrophic phase quadrupled between 2008 and 2016, from \$9.4 billion to \$37.4 billion.<sup>7</sup>

---

<sup>3</sup> The National Academies of Science, Engineering, and Medicine. Making Medicines Affordable: A National Imperative. 2018. <https://www.nap.edu/read/24946/chapter/5#105>

<sup>4</sup> IQVIA. Medicine Use and Spending in the US. May 2019. <https://www.iqvia.com/-/media/iqvia/pdfs/institute-reports/medicine-use-and-spending-in-the-us---a-review-of-2018-outlook-to-2023.pdf>

<sup>5</sup> Medicare Payment Advisory Commission. Chapter 6, Improving Medicare Part D. <http://www.medpac.gov/docs/default-source/reports/chapter-6-improving-medicare-part-d-june-2016-report.pdf>

<sup>6</sup> Medicare Payment Advisory Commission. Chapter 14, The Medicare prescription drug program(Part D): Status Report. [http://www.medpac.gov/docs/default-source/reports/mar19\\_medpac\\_ch14\\_sec.pdf?sfvrsn=0](http://www.medpac.gov/docs/default-source/reports/mar19_medpac_ch14_sec.pdf?sfvrsn=0)

<sup>7</sup> Centers for Medicare and Medicaid Services. CMS Announces New Model to Lower Drug Prices in Medicare Part D and Transformative Updates to Existing Model for Medicare Advantage. <https://www.cms.gov/newsroom/press->

In 2016, The AIDS Institute commissioned Milliman, Inc. to conduct a [study](#) on the financial incentive for Part D plans to cover drugs with higher list prices and higher rebates compared to drugs with lower prices and lower rebates.<sup>8</sup> The study analyzed the point-of-sale costs and benefits for payers in the Part D system based on differing drug costs and rebate levels. We found that the system of rebates for high-priced drugs, combined with the catastrophic phase reinsurance structure rewards plan sponsors with significant additional income, such that they actually make money when patients take high-cost prescription drugs with high rebates, leading to a perverse incentive to structure formularies in such a way that helps more beneficiaries reach the catastrophic phase of the benefit.

The growing number of beneficiaries reaching the catastrophic phase, combined with the increase in spending per beneficiary in the catastrophic phase have caused an increase in the government's costs to subsidize the program. Gradually shifting the share of the government reinsurance program in the catastrophic phase from 80 percent in 2019 to 20 percent in 2023 would place greater financial responsibility with insurance plans.

The AIDS Institute is supportive of policies that would require plans to cover more of the costs of Medicare Part D. However, we are concerned that in so doing, they are not unintentionally incentivized to reduce the quality of care that Medicare beneficiaries receive. *If Congress changes the balance of financial risk for Medicare Part D's catastrophic benefit to insurers, it must also ensure that Medicare beneficiaries are not subject to overly burdensome utilization management strategies, formulary restrictions, or other benefit reductions designed to prevent people who need a given drug from easily gaining access to it.*

The Administration has recently proposed to eliminate the rebate system in favor of direct discounts for beneficiaries – a proposal we [supported](#). The elimination of rebates, combined with the measures in this draft legislation, better aligns the incentives to create a more sustainable program. However, it should be coupled with additional changes to Medicare Part D that will make it easier for beneficiaries to afford their health care, simplify the cost-sharing structure, and ensure that the program can continue to successfully meet the needs of beneficiaries in the future.

---

[releases/cms-announces-new-model-lower-drug-prices-medicare-part-d-and-transformative-updates-existing-model](#)

<sup>8</sup> The AIDS Institute. Prepared by Milliman, Inc. Financial Incentives in Medicare Part D. <http://theaidsinstitute.org/sites/default/files/attachments/Milliman%20Report%20-%20Final.pdf>

We thank you again for your initiative and commitment to ensuring the most vulnerable Medicare Part D patients can maintain access to their medications through these innovative proposals. Should you have any questions or comments, please do not hesitate to contact Carl Schmid, Deputy Executive Director at (202) 462-3042 or [cschmid@theaidsinstitute.org](mailto:cschmid@theaidsinstitute.org).

Sincerely,

A handwritten signature in blue ink, appearing to read "Carl E. Schmid II". The signature is fluid and cursive, with a large initial "C" and "S".

Carl E. Schmid II  
Deputy Executive Director