

May 17, 2016

The Honorable Joseph Pitts, Chairman
The Honorable Gene Green, Ranking Member
Subcommittee on Health
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Pitts and Ranking Member Green:

Consumers Union, the public policy and advocacy division of Consumer Reports,¹ appreciates the attention the Subcommittee is bringing to the issue of how prescription drugs are priced and paid for under the Medicare Part B benefit. We support the Center for Medicare Services (CMS) proposed rule regarding the Medicare Part B Drug Payment Model Program.

We are deeply concerned about the affordability of drugs for consumers and the growth of health system costs, both due, in part, to rising drug costs. In 2015 Medicare spending on Part B drugs reached \$22 billion, representing an average annual increase of 8.6% in Part B spending since 2007.² It is imperative that we get these costs under control; they threaten our healthcare system, as well as household, federal and state budgets.

Medicare beneficiaries bear these high costs through direct cost-sharing and the premiums they pay for supplemental insurance. Under Medicare Part B, beneficiary cost-sharing represents 20% of Part B drug costs with no annual cap on these out-of-pocket expenses. The median income for Medicare beneficiaries is \$25,000 and one in four beneficiaries has less than \$12,000 in savings.³ Many Medicare beneficiaries are financially unprepared to afford extremely expensive and potentially life-saving medicines when they are very sick.

We share the concern of many experts and other consumer advocates that the current Part B payment methodology incentivizes the use of more expensive drugs. The add-on of 6% of the drug's Average Sales Price (ASP) for drugs that are administered in a physician's office or

¹Consumers Union is the policy and advocacy division of Consumer Reports. Consumer Reports is an expert, independent, nonprofit organization whose mission is to work for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications. In addition to our policy work, Consumer Reports is the world's largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually.

² Federal Register, Vol. 81, No. 48, March 11, 2016, 42 CFR Part 511,

<https://www.federalregister.gov/articles/2016/03/11/2016-05459/medicare-program-part-b-drug-payment-model>

³G. Jacobson, C. Swoope, and T. Neuman, "Income and Assets of Medicare Beneficiaries," 2014-2030, *Kaiser Family Foundation*, September 2015.

hospital outpatient department means that providers make more money when they use more expensive treatments. While we believe that providers have their patients' best interests in mind, studies show that financial incentives influence providers' treatment decisions; providers are more likely to choose a more expensive treatment option over an equally effective lower-cost option.^{4,5} The non-partisan MedPAC issued a report showing that, in general, Part B overpays for drugs and that the current payment methodology may incentivize the use of higher cost drugs.⁶

We believe that to truly make progress on the pressing issue of rising health care costs and to ensure that high drug prices do not threaten Medicare beneficiary access to potentially life-saving treatments, we must pilot a new way to pay for Part B drugs focused on affordability and value. We also strongly support the thoughtful manner in which CMS designed the project, the use of randomized assignments and a control group, and the solicitation of feedback from diverse stakeholders. We believe that the evidence gathered from this project will greatly inform our move towards a system that rewards value and quality. For these reasons, Consumers Union strongly supports this demonstration project.

We would be happy to provide a complete copy of our comments to CMS⁷ addressing the specifics of the proposed rule and providing additional suggestions for tracking and safeguarding the experience of beneficiaries involved in the pilot.

We respectfully request that this letter be included in the official record of the hearing.

Sincerely,

Lynn Quincy
Associate Director, Health Policy
Consumers Union

Victoria Burack,
Policy Analyst,
Consumers Union

⁴ Whoriskey, P., Keating, D. and L.H. Sun, "Cost of drugs used by Medicare doctors can vary greatly by region, analysis finds, (April 19, 2014) *Washington Post*, https://www.washingtonpost.com/business/economy/cost-of-drugs-used-by-medicare-doctors-can-vary-greatly-by-region-analysis-finds/2014/04/09/69ac93f0-c024-11e3-b574-f8748871856a_story.html.

⁵ Jacobson, M. et al, "Does Reimbursement Influence Chemotherapy Treatment for Cancer Patients?" *Health Affairs*, Vol. 25. No. 2, <http://content.healthaffairs.org/content/25/2/437.full>.

⁶ Kim Neuman, MedPAC, March 2016, <http://www.medpac.gov/documents/march-2016-meeting-presentation-part-b-drug-payment-policy-issues.pdf?sfvrsn=0>.

⁷ Consumers Union Comments regarding 1670-P Proposed Rulemaking for CMS Part B Drug Program, <http://consumersunion.org/research/comments-regarding-1670-p-proposed-rulemaking-for-cms-part-b-drug-program/>