



425 I Street, NW • Suite 701  
Washington, DC 20001  
202-220-3700 • Fax: 202-220-3759  
www.medpac.gov

Francis J. Crosson, M.D., Chairman  
Jon B. Christianson, Ph.D., Vice Chairman  
James E. Mathews, Ph.D., Executive Director

September 4, 2018

The Honorable Greg Walden  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
2185 Rayburn House Office Building  
Washington, DC 20515

The Honorable Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce  
U.S. House of Representatives  
237 Cannon House Office Building  
Washington, DC 20515

The Honorable Michael Burgess, M.D.  
Chairman, Subcommittee on Health  
Committee on Energy and Commerce  
U.S. House of Representatives  
2336 Rayburn House Office Building  
Washington, DC 20515

The Honorable Gene Green  
Ranking Member, Subcommittee on Health  
Committee on Energy and Commerce  
U.S. House of Representatives  
2470 Rayburn House Office Building  
Washington, DC 20515

**RE: Drug pricing and rebate data**

Dear Chairmen and Ranking Members:

The Medicare Payment Advisory Commission (MedPAC) is an independent, legislative branch agency established by the Balanced Budget Act of 1997 (P.L. 105-33) to provide expert policy and technical advice to the Congress on issues affecting the Medicare program. Medicare spending has grown substantially over the last decade, particularly for prescription drugs, placing an increasing financial burden on the taxpayers and beneficiaries who finance it. Congress plays a vital role in overseeing Medicare and solving these fiscal challenges so that the program remains secure for current and future beneficiaries. MedPAC serves as an important source of information and advice to the Congress as it exercises that oversight. To enable MedPAC to best advise the Congress on how to address the problems stemming from the high and rising costs of prescription drugs, I am writing to request a narrow change in law that would grant MedPAC staff access to important drug pricing and rebate data that other congressional agencies are already able to use. The change in statute is necessary because MedPAC is unable to access the data under existing statutory authority.

MedPAC uses a wide variety of data in order to support the Congress' oversight of Medicare, and the Commission has a strong track record of protecting different types of proprietary and confidential information. For example, MedPAC uses and keeps secure the bids that private insurance plans submit under Medicare Parts C and D, data that Medicare Advantage plans

submit on encounters between beneficiaries and their health care providers, and data on beneficiaries' use of prescription drugs.

To ensure that the Congress has comprehensive and up-to-date information, MedPAC strives to use all available data pertinent to our analyses. The Commission uses these data to provide information to the Congress on spending by Medicare and its beneficiaries and to help the Congress develop policies to improve the value of taxpayer dollars used to finance the program. MedPAC delivers this information in mandated reports, congressional testimony, and frequent briefings to congressional staff.

The large growth in drug spending has been a key contributor to the financial strain on Medicare and its beneficiaries. Today, Medicare spends more than \$100 billion annually on prescription drugs under Parts B and D, and beneficiaries are exposed to more than \$20 billion in cost sharing liability. For the last several years, cost sharing liability for drugs has grown at nearly 7 percent annually. Of particular concern is the growing number of beneficiaries who are exposed to very large cost sharing amounts when they take extremely high-priced drugs.

Despite broad data access under its authorizing statute, MedPAC is unable to access important drug pricing and rebate information under Medicare Parts B and D, and under Medicaid, because of how specific places of the Social Security Act are constructed (for example, MedPAC is not specifically named in Section 1927(b)(3)(D) of the Social Security Act as one of the entities with access to certain data detailing how much the Medicare program and its beneficiaries pay for prescription drugs). Because we lack these important data, we have been limited in the analysis and information we can provide to the Congress as it grapples with how to bring down the prices of drugs for beneficiaries and taxpayers. A statutory change giving us access to these data would enhance our capabilities for assisting the Congress on issues related to prescription drug costs.

With these data, MedPAC staff could:

- Assist Congress in understanding the true costs (net of rebates) of prescription drugs to beneficiaries and taxpayers under the Medicare program.
- Evaluate different policy options that aim to bring down the prices of drugs and the cost sharing that beneficiaries face for their medicines at the point of sale.
- Provide insight into how Part D plans manage the growth in drug prices.
- Analyze the effects of market entry and competition on drug prices.

MedPAC looks forward to continuing to support the Congress in developing approaches to payment that ensure beneficiary access to important therapies, while reducing costs for the Medicare program and its beneficiaries. I very much appreciate your consideration of this request for this statutory change, and I also appreciate the support that the Congress has long given to the

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Commission. Should you have any questions about this request, please contact James E. Mathews, MedPAC's Executive Director, at (202) 220-3700.

Sincerely,



Francis J. Crosson, M.D.  
Chairman

cc:

The Honorable Kevin Brady  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
1011 Longworth House Office Building  
Washington, DC 20515

The Honorable Richard Neal  
Ranking Member  
Committee on Ways and Means  
U.S. House of Representatives  
341 Cannon House Office Building  
Washington, DC 20515

The Honorable Peter Roskam  
Chairman, Subcommittee on Health  
Committee on Ways and Means  
U.S. House of Representatives  
2246 Rayburn House Office Building  
Washington, DC 20515

The Honorable Sander Levin  
Ranking Member, Subcommittee on Health  
Committee on Ways and Means  
U.S. House of Representatives  
1236 Longworth House Office Building  
Washington, DC 20515