



1700 PENNSYLVANIA AVENUE, NW, SUITE 200, WASHINGTON, DC 20006

June 25, 2019

The Honorable Seema Verma, M.P.H.  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attn: CMS-2018-0154  
7500 Security Boulevard  
Baltimore, MD 21244

**Re: CMS/Medicare Spread Pricing**

Dear Administrator Verma:

On behalf of the nation's independent long term care (LTC) pharmacies, we are writing to thank you for issuing your agency's recent guidance related to "spread-pricing" in Medicaid, and pharmacy benefit managers' (PBMs) role in up-charging health plans and costs for state taxpayers.

As you specifically noted upon release of the guidance, "[t]he market for prescription drugs is convoluted and opaque... States are increasingly reporting instances of spread pricing in Medicaid, and I am concerned that spread pricing is inflating prescription drug costs that are borne by beneficiaries and by taxpayers. Today's guidance will ensure that health plans monitor spread pricing in Medicaid appropriately. PBMs cannot use spread pricing to upcharge health plans and increase costs for states – spread pricing must be monitored and accounted for, and not used to inflate profits."

Now that CMS, under your leadership, has taken decisive action on Medicaid, we believe it is time to direct scrutiny at the Medicare side of the spread pricing ledger. There is little question the same PBM spread pricing practices you have documented in Medicaid are pervasive throughout the commercial and Medicare markets. There also is little question that the spread pricing is equally pernicious in the Part D market, to the detriment of older Americans. In addition, independent LTC pharmacies increasingly must compete on an uneven field increasingly dominated by oligopolistic health care conglomerates. These vertically integrated oligopolies commonly own health insurance companies and pharmacies that collectively dominate those markets (retail, specialty, mail-order and LTC), a dominance leveraged in significant part by questionable business practices of the PBMs that are the core of those companies.

Bringing a comparable level of scrutiny, public accountability and data release pertaining to Medicare is the logical next step. Under current law, PDPs and PBMs must report Medicare spread pricing data to CMS. However, we recognize the law prevents CMS from sharing specific details with the public.

Therefore, we respectfully request that CMS release this information publicly in “summary form.” We also request that CMS support amending the law to allow public disclosure of detailed Part D spread pricing data. Such disclosure would advance the Administration’s objectives of greater transparency, expanded consumer access and lower drug costs while supporting a more competitive marketplace for independent LTC pharmacies as well. Failure to spotlight the truth surrounding PBMs’ Medicare abuses has the potential to create access and cost problems for consumers, undermine free and fair competition, and jeopardize small and local business owners’ ongoing economic viability.

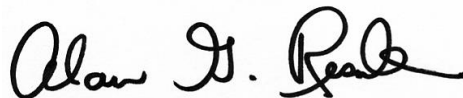
It is noteworthy that recent state investigations concerning Medicaid spread pricing –reveal that oligopolistic health care conglomerates pay affiliated (commonly owned) pharmacies differently from unaffiliated (independent) pharmacies. PDPs/PBMs do not necessarily pay affiliated pharmacies more than competitors; rather payment differentials vary based on the corporate objectives of the PDP/PBMs, and exploit undue concentration across related markets like insurance, benefits management, and retail, mail-order, specialty and LTC pharmacies.

We believe addressing the anti-consumer, anti-competitive impact of PDP/PBM spread pricing across the entire Medicare, Medicaid and commercial market landscape is good public policy, and the rationale that warrants doing so in Medicaid also warrants doing so in Medicare.

In the final analysis, a comprehensive ‘spread pricing’ solution requires disclosure and evaluation across all markets to end abusive spread pricing and undue use of disproportionate market power to benefit just pharmacies that share common ownership with PBMs -- to the detriment of independent competitors and the principles embodied in our free-market system.

Again, we thank you for your action on Medicaid spread pricing, and we look forward to working with you to sustain your pro-consumer, pro-taxpayer regulatory initiatives -- and appropriate disclosure -- across all federal health care payment programs.

Sincerely,

A handwritten signature in black ink that reads "Alan D. Rosenbloom". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Alan Rosenbloom  
President and CEO  
Senior Care Pharmacy Coalition