

March 7, 2014

Marilyn Tavenner, Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-4159-P  
P.O. Box 8013  
Baltimore, MD 21244-8013

**Re: Comment Letter on CMS-4159-P Medicare Program; Contract Year 2015 Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs; Proposed Rule**

Dear Ms. Tavenner:

As groups representing the interests of millions of American consumers and Medicare beneficiaries, we are writing in response to the release by Centers for Medicare and Medicaid Services (CMS) of the proposed changes to the Medicare Part D program for 2015. We commend CMS for addressing issues in the Proposed Rule that have been affecting consumers for years. Specifically, we applaud CMS for recognizing the problematic consequences under the currently unregulated preferred pharmacy network system. The preferred pharmacy networks have caused problems for Medicare patients in limiting their choice, access to services, and ability to consult community and specialty pharmacists for valuable medical advice. Along with these anticompetitive restrictions, as CMS and other entities have noted in numerous studies, preferred pharmacy networks are actually more costly than their non-preferred counterparts. Given the severity of the issues surrounding these limiting networks, we strongly support CMS's proposals which will increase access and competition. We respectfully ask you consider the following in constructing the Final Rule:

**Choice and Access to Pharmaceuticals:**

Consumer choice and preference is determined by a number of factors, including price, services offered, and the quality of the product. Currently, consumers are unable to apply free market principles in their determination of picking a pharmacy. Instead, entrenched, conflicted parties make preferential economic decisions for consumers which lowered access and raised costs. CMS' Proposed Rule seek to change this environment. As CMS notes in the Proposed Rule, certain entities have profited from restricting access and funneling patients into their mail order or retail pharmacies. Consumers have not benefitted from these actions.

It is essential that Medicare promote competition. Allowing consumer access and choice of pharmacy is crucial. For millions of Medicare beneficiaries, that choice is a community pharmacy. Consumers pick these pharmacies for a variety of reasons. Often consumers have "primary care" relationships with specific community pharmacists. For poorer Americans, community pharmacists who are located within their neighborhoods,

provide ease of access. As currently offered, preferred pharmacy networks, while admirable in their supposed goal of reducing costs, ultimately fail consumers. By limiting choice and access to preselected pharmacies, any pro-competitive claim is offset by consumer harm. We assert that the right of consumer choice should not be undervalued. Consumers should have the ultimate decision in their pharmacy of choice.

## **Conclusion**

We welcome the proposed rule's increased regulation of preferred networks. We commend CMS for recognizing that these preferred networks, as constructed, do not save costs for the Medicare program or for patients. We believe that, as drafted, these changes to the Medicare prescription drug program will have a positive impact on competition, cost savings, access, and the quality of care in the Medicare prescription drug program.

Sincerely,

AIDS United

American Federation of State, County and Municipal Employees (AFSCME)

Alliance for Housing and Healing

Alpha-1 Association

Being Alive

California Alliance for Retired Americans

Consumer Action

Digestive Disease National Coalition

District Council 37

Gray Panthers

Hemophilia Federation of America

National Consumers League

National Legislative Association on Prescription Drug Prices

Service Employees International Union (SEIU)

Sergeants Benevolent Association

US Hereditary Angioedema Association

U.S. PIRG

Valley Community Clinic