

# United States Senate

WASHINGTON, DC 20510

April 15, 2022

The Honorable Shalanda Young  
Director  
Office of Management and Budget  
725 17<sup>th</sup> Street NW  
Washington, DC 20503

Dear Director Young:

We write in support of the Centers for Medicare and Medicaid Services (CMS) proposal to help lower the cost of prescription drugs for Part D beneficiaries through certain pharmacy direct and indirect remuneration (DIR) fee reform in Medicare, included in its *proposed rule for Contract Year 2023 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Program* (CY23 proposed rule), which is now at the Office of Management and Budget (OMB) for review. Comprehensive DIR fee reform will help to lower costs for the more than 48 million beneficiaries enrolled in Medicare Part D, which is why we urge you to prioritize and efficiently review CMS' CY23 proposed rule, particularly the provisions related to DIR fee reform, so that CMS can finalize and implement DIR reform for the FY23 contract year, helping to both lower costs for Medicare beneficiaries and provide certainty for pharmacies and the communities they serve.

According to the CMS, pharmacy DIR fees grew more than 107,400 percent between 2010 and 2020. As these fees have increased in size and scope, they have contributed to the rising cost of prescription drugs costs for patients and the closure of hundreds of pharmacies in communities across the country. Pharmacy DIR fees applied after the point-of-sale artificially increase patients' out-of-pocket costs for Part D drugs, which is why CMS' proposed reforms to bring these fees to the point-of-sale are expected to reduce seniors' out-of-pocket prescription drug costs by \$21.3 billion over 10 years. CMS' proposed policy will also ensure additional transparency and help provide pharmacies with the certainty they need to provide high quality care for underserved and at-risk communities. Finally, the CMS proposal would help prevent retroactive pharmacy DIR fee claw-backs and provide certainty for pharmacies and patients at the point of sale. Allowing CMS' proposed pharmacy DIR fee reform proposal to move forward will not only lower costs for seniors and individuals with disabilities across the country; it will help sustain beneficiary access to pharmacies and the essential services they provide. We urge you to review the CY23 proposed rule as quickly as possible so that CMS has time to finalize and implement pharmacy DIR fee reform in the Medicare program in advance of contract year 2023 and help put an end to post-sale concessions charged to pharmacies, including those assessed in the Medicare coverage gap.

Finalizing the CMS rule to rein in DIR fees and lower costs for consumers is an important first step; however, more can and should be done to deliver comprehensive pharmacy DIR fee reform. Additional efforts to standardize pharmacy performance metrics, ensure reasonable reimbursement, and protect the rights of pharmacies who wish to participate in Medicare Part D are necessary to maintain robust pharmacy networks and protect patient choice.

We support CMS' continued efforts to address these remaining challenges, and we encourage you to work closely with CMS to ensure the final rule includes the comprehensive reform and transparency requirements necessary for CMS to address any remaining anticompetitive tactics employed by supply chain middlemen that could threaten beneficiary access to care in the future.

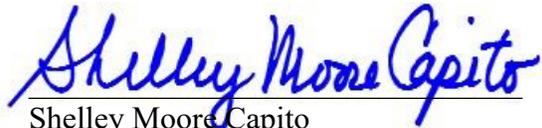
Finalizing CMS' DIR fee reform proposal will help save Medicare Part D beneficiaries more than \$20 billion in prescription drug costs, while also providing increased transparency and predictability for pharmacies and the communities they serve. We urge you to move forward with review of this rule so that these important reforms can be implemented as quickly as possible.

Thank you for your attention to this important matter.

Sincerely,



Sherrod Brown  
United States Senator



Shelley Moore Capito  
United States Senator



Jon Tester  
United States Senator



James Lankford  
United States Senator

CC: Chiquita Brooks-LaSure, Administrator, Centers for Medicare and Medicaid Services  
The Honorable Xavier Becerra, Secretary, U.S. Department of Health & Human Services.