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March 11, 2023

The Honorable Meena Seshamani, MD, PhD  
Director, Center for Medicare  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

**Re: Medicare Part D Prescription Drug Inflation Rebate Comments**

Dear Dr. Seshamani:

The Medicare Rights Center (Medicare Rights) appreciates this opportunity to comment on initial guidance from the Center for Medicare & Medicare Services (CMS) for the Medicare Prescription Drug Inflation Rebate Program (Rebate Program). Medicare Rights is a national, nonprofit organization that works to ensure access to affordable and equitable health care for older adults and people with disabilities through counseling and advocacy, educational programs, and public policy initiatives. Each year, Medicare Rights provides services and resources to nearly three million people with Medicare, family caregivers, and professionals.

Based on this experience, we know that people with Medicare are uniquely impacted by high and rising drug prices. This is partly due to utilization and health status. Over two-thirds of Medicare beneficiaries have multiple chronic conditions<sup>1</sup> and Part D enrollees take an average of 4 to 5 prescriptions per month.<sup>2</sup> At the same time, many live on fixed or limited incomes that cannot keep pace with rapidly escalating drug prices. Half of all beneficiaries—nearly 30 million people—live on \$29,650 or less per year, and one quarter have less than \$8,500 in savings.<sup>3</sup> Health care costs comprise a large and disproportionate share of beneficiaries' limited budgets: nearly 30% of Medicare households spend 20%

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<sup>1</sup> Centers for Medicare & Medicaid Services, "Multiple Chronic Conditions" [https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Chronic-Conditions/MCC\\_Main](https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Chronic-Conditions/MCC_Main).

<sup>2</sup> Leigh Purvis, *et al.*, "Rx Price Watch Report: Trends in Retail Prices of Specialty Prescription Drugs Widely Used by Older Americans, 2006 to 2020" AARP Public Policy Institute (September 28, 2021) <http://www.aarp.org/rxpricewatch>.

<sup>3</sup> Wyatt Koma, *et al.*, "Medicare Beneficiaries' Financial Security Before the Coronavirus Pandemic" Kaiser Family Foundation (April 24, 2020) <https://www.kff.org/medicare/issue-brief/medicare-beneficiaries-financial-security-before-the-coronavirus-pandemic/>.

or more of their income on health care, compared to only 6% of non-Medicare households.<sup>4</sup> Out-of-pocket costs for prescription drugs represent a significant share of this amount, accounting for nearly one out of every five beneficiary health care dollars.<sup>5</sup> As a result, most people with Medicare cannot afford to pay more for care. Yet, costs continue to climb—price hikes on brand name drugs have exceeded the rate of inflation every year since at least 2006.<sup>6</sup>

The Inflation Reduction Act's (IRA) Rebate Program will provide much-needed relief. It will require drug companies to pay a rebate if they raise certain Part B and Part D drug prices faster than inflation, reining in the industry practice of sky-high annual price adjustments.<sup>7</sup> This deterrent will strengthen beneficiary and program finances. Drug price increases usually translate into higher out-of-pocket costs, especially for consumers who pay coinsurance, as most Medicare enrollees do. They are also passed along to Medicare and to the taxpayers who help fund the program, and to all beneficiaries in the form of higher deductibles and premiums.<sup>8</sup> Better controlling the drug prices on which these shifted costs are based will lower spending and improve access to care.

We therefore commend CMS for its attention to prompt implementation of the Rebate Program, including this timely initial guidance. As CMS explains, although full implementation will appropriately span multiple years, the program is expected to have an impact much earlier. For example, while CMS does not plan to invoice drug companies for Part D inflation-based rebates until 2025, the first yearly period for which drug companies will be required to pay those rebates began on October 1, 2022. Companies may have begun to alter behaviors and lower prices in preparation.

Such an industry response could improve prescription drug affordability as soon as this year. As noted above, most Part D enrollees pay coinsurance, leaving them exposed to high and rising drug prices. Individual risk can vary; in 2023, coinsurance rates range from 15 to 50 percent.<sup>9</sup> To the extent the Rebate Program is already discouraging drug companies from making large price increases, enrollees could see lower costs than they would have otherwise, saving them money and undue stress.

The nonpartisan Congressional Budget Office (CBO) expects these gains to continue. They estimate the Rebate Program will save billions of dollars for beneficiaries, taxpayers, and Medicare in the coming years. Critically, it will do so while bolstering health outcomes and program solvency. CBO notes the IRA's lower drug costs will increase medication adherence, improving beneficiary health and reducing the need for—and Medicare spending on—more costly care.<sup>10</sup>

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<sup>4</sup> Juliette Cubanski, *et al.*, "The Financial Burden on Health Care Spending: Larger for Medicare Households than for Non-Medicare Households" Kaiser Family Foundation (March 1, 2018) <https://www.kff.org/medicare/issue-brief/the-financial-burden-of-health-care-spending-larger-for-medicare-households-than-for-non-medicare-households/>.

<sup>5</sup> Kaiser Family Foundation, "10 Essential Facts about Medicare and Prescription Drug Spending" (January 29, 2019) <https://www.kff.org/infographic/10-essential-facts-about-medicare-and-prescription-drug-spending/>.

<sup>6</sup> Leigh Purvis, *et al.*, "Rx Price Watch Report: Trends in Retail Prices of Specialty Prescription Drugs Widely Used by Older Americans, 2006 to 2020" AARP Public Policy Institute (September 28, 2021) <http://www.aarp.org/rxpricewatch>.

<sup>7</sup> *Id.*

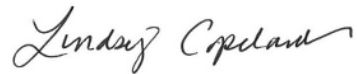
<sup>8</sup> American Academy of Actuaries, "Prescription Drug Spending in the U.S. Health Care System" (March 2018) <https://www.actuary.org/content/prescription-drug-spending-us-health-care-system>.

<sup>9</sup> Juliette Cubanski and Anthony Damico, "Medicare Part D: A First Look at Drug Plans in 2023" Kaiser Family Foundation (November 10, 2022) <https://www.kff.org/medicare/issue-brief/medicare-part-d-a-first-look-at-medicare-drug-plans-in-2023/>.

<sup>10</sup> Congressional Budget Office, "How CBO Estimated the Budgetary Impact of Key Prescription Drug Provisions in the 2022 Reconciliation Act" (February 2023) <https://www.cbo.gov/system/files/2023-02/58850-IRA-Drug-Provs.pdf>.

Thank you again for the opportunity to comment. Medicare Rights strongly supports the IRA's Rebate Program. These long overdue reforms will strengthen Medicare as well as beneficiary health and financial security. For additional information, please contact me at [LCopeland@medicarerights.org](mailto:LCopeland@medicarerights.org) or 202-637-0961 and Julie Carter, Counsel for Federal Policy [JCarter@medicarerights.org](mailto:JCarter@medicarerights.org) or 202-637-0962.

Sincerely,

A handwritten signature in cursive script that reads "Lindsey Copeland".

Lindsey Copeland  
Federal Policy Director  
Medicare Rights Center