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October 16, 2019

The Honorable Frank Pallone
Chairman
U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515

The Honorable Greg Walden
Ranking Member
U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515

The Honorable Richard Neal
Chairman
U.S. House of Representatives
Committee on Ways and Means
Washington, DC 20515

The Honorable Kevin Brady
Ranking Member
U.S. House of Representatives
Committee on Ways and Means
Washington, DC 20515

Dear Chairman Pallone, Ranking Member Walden, Chairman Neal, and Ranking Member Brady:

On behalf of the Medicare Rights Center (Medicare Rights), thank you for your ongoing work to address the problem of high and rising prescription drug prices. We are pleased to support H.R. 3, the *Lower Drug Costs Now Act of 2019*. This important bill would take significant steps to improve prescription drug access and affordability for people with Medicare.

The Medicare Rights Center is a national, nonprofit organization that works to ensure access to affordable health care for older adults and people with disabilities through counseling and advocacy, educational programs, and public policy initiatives. Our organization provides services and resources to nearly three million people with Medicare, family caregivers, and health care professionals each year.

Based on this experience, we know that prescription drug affordability is an ongoing challenge. Every day on our National Consumer Helpline, we hear from older adults and people with disabilities who are struggling to cover their drug costs. Given that many people with Medicare live on fixed or limited incomes that cannot keep pace with rapidly escalating drug prices, the perennial nature of these calls is alarming, but not surprising.

Currently, half of all Medicare beneficiaries—nearly 30 million older adults and people with disabilities—live on $26,200 or less per year, while one quarter have incomes below $15,250 and less than $14,550 in savings.[1] Simply put, most people with Medicare cannot afford to pay more for health care. Yet, drug prices

[1] Jacobson, Gretchen; et al., Kaiser Family Foundation, "Income and Assets of Medicare Beneficiaries, 2016-2035," (April 21, 2017), available at: https://www.kff.org/medicare/issue-brief/income-and-assets-of-medicare-beneficiaries-2016-2035/.

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continue to climb. Price hikes on brand name drugs have exceeded the rate of inflation every year since at least 2006. In 2017 alone, retail prices for prescription drugs commonly used by people with Medicare increased at a rate of 4.2%, double the rate of inflation. These shifts can add up quickly, for beneficiaries and for the Medicare program—Part D enrollees take an average of four to five prescriptions per month.[2] And new drugs are launching at ever-higher price points, further embedding unaffordability into the system. Since 2006, the median monthly price for new brand-name and new generic drugs grew by 381% and 712%, respectively.[3]

As a result, health care costs are taking up a larger and more disproportionate share of beneficiaries' limited budgets. In 2016, nearly 30% of Medicare households spent 20% or more of their income on health care, while only 6% of non-Medicare households did so.[4] 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.[5]

With health-related expenses projected to consume a greater share of beneficiaries' income over time, if left unaddressed these affordability challenges will only worsen.[6] Already, it is not just lower-income beneficiaries who are affected by increases in prescription drug prices: over 40% of Medicare Rights' recent Helpline callers who were screened for Part D assistance programs such as Extra Help did not qualify due to having income or assets in excess of the program's stringent eligibility thresholds.[7] As the population ages and prices continue to rise, we are concerned that an ever-growing number of beneficiaries will find the cost of prescriptions, help paying these costs—or both—to be out of reach.

Immediate action is needed to reform the nation's drug pricing system in ways that will lower costs, strengthen Medicare, and promote the health and economic security of those who rely on its coverage. We applaud your pursuit of these goals, including as outlined in HR 3. Among the bill's landmark provisions are those allowing Medicare to negotiate drug prices; the imposition of inflationary rebates on certain drugs in Parts B and D; its potential reinvestments into the Medicare program; and a restructuring of the Part D benefit that would cap out-of-pocket costs, reduce the federal government's liability, and better align pricing incentives.

We urge you to further improve beneficiary access and affordability by including the following policy changes and investments in the bill:

Streamline the Medicare Part D Appeals Process

Simplify Part D Appeals. The Part D appeals process is an essential safety valve that allows older adults and people with disabilities to obtain needed prescriptions. However, the current process is overly onerous and deeply flawed. Its inefficiencies can lead to delays in access to medications, abandonment of therapies,

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[2] Purvis, Leigh; et al., AARP Public Policy Institute, "Trends in Retail Prices of Prescription Drugs Widely Used by Older Americans: 2017 Year-End Update," (September 2019), available at: https://www.aarp.org/content/dam/aarp/ppi/2019/09/trends-in-retail-prices-of-prescription-drugs-widely-used-by-older-americans.doi.10.26419-2Fppi.00073.003.pdf.

[3] 46brooklyn, "Drug Price Increases Have Slowed, but New Analysis Shows Launch Prices Pushing Costs into Orbit" (October 15, 2019), available at: https://www.46brooklyn.com/research/2019/10/11/three-two-one-launch-rfmyr.

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

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

[6] Cubanski, Juliette; et al., Kaiser Family Foundation, "Medicare Beneficiaries Out-of-Pocket Health Care Spending a Share of Income Now and Projections for the Future," (January 26, 2018), available at: https://www.kff.org/report-section/medicare-beneficiaries-out-of-pocket-health-care-spending-as-a-share-of-income-now-and-projections-for-the-future-report/.

[7] Riccardi, Fred; et al., Medicare Rights Center, "Medicare Trends and Recommendations: An Analysis of 2017 Call Data from the Medicare Rights Center's National Helpline," (April 2019), available at: https://www.medicarerights.org/pdf/2017-helpline-trends-report.pdf.

reduced adherence to treatment protocols, worse health outcomes, and higher costs. Current legislation (H.R. 3924) offers a commonsense solution: allow a refusal at the pharmacy counter to serve as the plan's initial coverage determination.

This one, simple change would give people with Medicare more timely information about their plan's coverage decision and eliminate unnecessary steps within the system—lessening burdens on beneficiaries, plans, providers, and pharmacists. We strongly support including H.R. 3924 in any final drug pricing bill.

Invest in the Medicare Program and its Beneficiaries

Fill Medicare Coverage Gaps. Original Medicare does not cover most dental, vision, and hearing care. While some Medicare Advantage (MA) plans may do so, benefits are often limited, expensive, and inconsistent—both across plans and from year to year. The absence of meaningful coverage for these basic health needs represents a stark gap in Medicare's benefit structure, and one that can leave older adults and people with disabilities exposed to high costs and poor health outcomes. We support reinvestments that would address these unmet needs, including by adding standardized, high-quality, affordable dental (H.R. 4650), vision (H.R. 4665), and hearing (H.R. 4618) coverage to Medicare Part B.

Improve Medicare Part D Low Income Programs. The Part D Low-Income Subsidy (LIS), or Extra Help, was designed to help low-income Medicare beneficiaries afford their prescriptions—but the program has significant flaws. We encourage you to invest in the following LIS reforms, which would ease access to and administration of the program by: eliminating cost-sharing on generics for LIS beneficiaries (HR 2757); improving notification to LIS enrollees regarding premium comparisons (HR 4632); providing for intelligent assignment (HR 4669); increasing LIS eligibility thresholds (HR 4620) and eliminating the asset test (HR 4628); allowing U.S. Territory residents to enroll in LIS (HR 4666); expanding LIS auto-enrollment (HR 4661); and excluding certain retirement accounts from the program's income calculations (HR 4655).

Modernize Medicare Savings Programs. Medicare Savings Programs (MSPs) help beneficiaries with limited incomes and savings afford Medicare Part A and/or B. However, strict MSP eligibility requirements can unduly limit access to this critical assistance. Our counselors frequently hear from older adults and people with disabilities who are unable to afford Medicare—and unable to qualify for help. As a result, they may be forced to choose between paying for health care and other basic needs, like food or rent. We support expanding MSP eligibility, simplifying enrollment into the programs, and improving retroactivity, so that fewer beneficiaries face these impossible choices (H.R. 4671).

Strengthen Medigaps. Though Medigaps help a growing number of people[8] with Medicare afford needed care, not everyone is eligible to buy the plans, and most are only guaranteed the right to do so during very limited timeframes.[9] We support ensuring that beneficiaries of all ages and abilities have access to affordable, high-quality Medigap policies as well as the opportunity to re-evaluate their coverage as their needs change. This includes extending guaranteed issue to all people with Medicare and facilitating transitions from MA (HR 4676).

Increase Language Access. In order to better address health disparities and more effectively empower beneficiaries with limited English proficiency, we support translating important Medicare notices and information—including the Medicare & You handbook—into additional languages (HR 4675).

[8] MedPAC, "Trends in Medigap Enrollment, 2010 to 2015" (February 13, 2017), available at: http://www.medpac.gov/-blog-/trends-in-medigap-enrollment-2010-to-2015/2017/02/13/trends-in-medigap-enrollment-2010-to-2015.

[9] Boccuti, Cristina; et al., Kaiser Family Foundation, "Medigap Enrollment and Consumer Protections Vary Across States" (July 11, 2018), available at: https://www.kff.org/medicare/issue-brief/medigap-enrollment-and-consumer-protections-vary-across-states/.

Thank you for your leadership. We urge all Members of Congress to seize this opportunity to reinvest in the Medicare program, improve the Part D appeals process, rein in high and rising drug prices, and lower out-of-pocket costs for older adults and people with disabilities. We look forward to working together to advance these long overdue and much-needed reforms. If you have any questions, please feel free to contact me or Lindsey Copeland, Federal Policy Director, at lcopeland@medicarerights.org.

Sincerely,

Fred Riccardi
President
Medicare Rights Center