

Protect and Strengthen Medicare

Medicare Part D Appeals Problems and Options to Correct Them



The Problem

The Medicare Part D appeals process is an essential safety valve, allowing access to needed prescription medications—such as those that are not on the plan’s formulary, or are subject to high cost sharing, when formulary or lower cost alternatives are not appropriate. However, Part D enrollees often struggle to successfully navigate this overly complex, multi-step, process, and it can also prove burdensome for pharmacists, plans, and prescribing physicians. This can result in delayed access to needed prescriptions, abandonment of prescribed medications, reduced adherence to treatment protocols, worse health outcomes, and higher costs for the patient and the Medicare program.

Background

Understanding how and when to pursue an appeal is not easy and can lead to beneficiaries choosing plans that are not well suited for their circumstances, leaving the pharmacy counter empty-handed, and not knowing where to turn for help. Those who bypass (knowingly or not) the formal appeals process may end up paying out-of-pocket for the full cost of the prescribed medication, purchasing one or two pills at a time to get by, or going without needed medication altogether. Those who do take action must embark on a tedious, fact-finding search to learn the reason for the refusal and then determine the best path forward.

Case Studies

Ms. S was prescribed a generic medication for a sleep disorder. In the new Part D plan year, her physician submitted a request for a tiering exception because the medication was very costly even though it was a generic drug. Ms. S is unable to take the other medications in the same category. She received a denial notice from her Part D plan that did not give a reason for the denial. Ms. S explained to a Medicare Rights helpline counselor that she struggled to learn the criteria on which the drug denial was based. She filed a grievance about the lack of information due to the confusing language about the denial. Unfortunately, even after filing a grievance, her plan's customer service representatives were still unable to provide Ms. S with clarifying information on what information was needed to support an appeal. As a result, Ms. S continued to go without her medication because she could not afford to pay the high tier drug copayment.

Ms. M called the Medicare Rights Helpline because she is taking a very expensive Part D-covered medication for her multiple sclerosis—an injection that she purchases at the pharmacy and administers in the home. Ms. M has a Medicare Advantage plan that initially denied coverage for the drug, but with her doctor's assistance, she appealed and won. The plan then placed the drug in a high-cost specialty tier with a \$1,600 copayment, putting it out of her reach. Though Ms. M is unable to afford her needed prescription, her household income is above the limits of the federal Extra Help program that could help lower the cost of her medication.

Possible Solutions

Current and future Medicare beneficiaries must be able to more easily access, understand, and navigate the appeals and exceptions process. This will require significant, system-wide improvements—including providing beneficiaries with better information at the point of sale, streamlining the appeals process, and implementing more rigorous plan oversight. Congress should work with the Centers for Medicare & Medicaid Services (CMS) to improve the troubling deficiencies in the appeals processes by implementing the following reforms.

- **Improve the Pharmacy Counter Notice.** Often Part D enrollees are told at the pharmacy counter that their plan will not cover their medication—but not the reason why. Knowing why a prescription drug is refused is critical to helping beneficiaries determine their next steps, whether it is working with their physician to secure an alternative medication or appealing for coverage. Part D plans should be required to provide an individually-tailored notice to beneficiaries at the pharmacy counter when a medication is denied.
- **Formally Integrate Pharmacy Counter Denials.** Currently, after being refused a needed drug at the pharmacy counter and contacting her plan to learn why, a beneficiary must then work with her provider to file an exception request with her Part D plan. Only upon receipt of a written denial in response to this request—the coverage determination—is the beneficiary permitted to request a formal appeal, termed a redetermination. Requiring the pharmacy counter refusal to serve as the coverage determination has the dual purpose of removing a burdensome step for beneficiaries and their doctors while also expediting the appeals process for those who need it. We strongly support legislation like the bipartisan Streamlining Part D Appeals Process Act (S. 1861/H.R. 3924), which would make this recommended change.
- **Automatic Escalation to Independent Redeterminations.** If a plan denies a beneficiary's exception request, she may then request a redetermination by filing a written appeal with the plan. If the redetermination is also negative, the appeal should be automatically escalated to be reviewed by an independent entity rather than requiring additional action by the beneficiary.
- **Tiering Exceptions on the Specialty Tier.** Congress should pass legislation allowing Medicare beneficiaries the right to a tiering exception for specialty tier medications. The cost threshold for inclusion in the specialty tier should also be raised in recognition of the disproportionate number of drugs that are out of reach because of their placement on this tier.
- **Transparency and Data Collection.** As advised by [MedPAC](#) and echoed by the [Senate](#), Congress should direct CMS to conduct a comprehensive, in-depth analysis of the Part D exceptions and appeals process and release the information to the public. This analysis should also include data collection on specialty tier medications and should extend to all levels of appeals, from plan decisions through the Medicare Appeals Council and federal court.