CIVICA®
2912 W Executive Pkwy, Ste 325, Lehi, UT 84043 | 1-888-304-0120 | civicarx.org | info@civicarx.org

07 November 2023

Senator Ron Wyden, Chair
Senator Mike Crapo, Ranking Member
Committee on Finance
United States Senate
BY ELECTRONIC TRANMISSION

Re: SFC discussion draft Title II, section 204, "Requirements for PDP sponsors of prescription drug plans and Medicare Advantage organizations offering MA–PD plans that use formularies under part D of the Medicare program"

Dear Chairman Wyden and Ranking Member Crapo,

Thank you for your focus on policies to support a functional marketplace and fair patient costs in the retail pharmacy setting.

Civica is a non-profit generic drug company established to reduce drug shortages and ensure a reliable supply of essential medicines to hospitals at fair prices. CivicaScript, a public benefit corporation, is the operating unit of Civica that was established in partnership with health plans to lower costs for consumers at the pharmacy counter. Civica is developing quality, affordable insulin that CivicaScript will make available to pharmacies, health plans and PBMs at a single, transparent low price, without the artificially inflated list prices and high rebates that have long characterized the brand insulin market to the detriment of consumers who may be charged based on list price.

We write in support of Title II, section 204 of the discussion draft released by the Senate Finance Committee on November 2nd.

Specifically, this section would require Medicare Part D (PDP) and Medicare Advantage prescription drug (MA-PD) plans to cover biosimilars that are available at a Wholesale

Acquisition Cost (WAC) at least 45 percent below that of the reference product and to place them on a formulary tier with lower cost sharing than the higher WAC product.[1]

The proposed Section 204 allows exemptions for "high WAC" products when the net price after rebates is lower than that cost of the "low WAC" product. This wisely avoids the potential to mandate formulary coverage of a product with a higher net cost. The risk that beneficiaries would have to pay out-of-pocket based on a high list price is obviated by recent PDP and MA-PD reforms in the Inflation Reduction Act, which cap out-of-pocket costs.

Importantly, the draft legislation also ensures that utilization management tools will not be used to disadvantage the biosimilar drug compared to the higher-priced reference product.

Thank you for advancing a policy that will help to address the longstanding scenario where a highly-rebated reference biologic retains market share even when apparently lower-cost biosimilars are available – a dynamic that discourages competition and transparency in pricing.

Sincerely,

Allan Coukell
Senior Vice President for Public Policy
allan.coukell@civicarx.org

cc: Sen. James Lankford

[1] For insulins, which are already generally in tier 1, there would be no preferential tiering or cost-sharing.