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July 25, 2023

RE: *Modernizing and Ensuring PBM Accountability Act*

Dear Chairman Wyden and Ranking Member Crapo:

The Coalition of State Rheumatology Organizations (CSRO) is comprised of over 40 state and regional professional rheumatology societies whose mission is to advocate for excellence in the field of rheumatology, ensuring access to the highest quality care for the management of rheumatologic and musculoskeletal disease. Our coalition serves the practicing rheumatologist. **We write to express our support for the *Modernizing and Ensuring PBM Accountability Act* and to urge the Committee to add a provision mandating passthrough of all price concessions directly to the beneficiary in the form of reduced cost-sharing.**

Rheumatologists treat complex, autoimmune diseases, which are often managed through expensive specialty medications. Thus, we experience firsthand the consequences that high out-of-pocket costs have on medication adherence and our patients' quality of life. The drugs available to treat rheumatoid arthritis and other autoimmune diseases are often heavily rebated, yet still prohibitively expensive for patients. That alone tells us that the current system is broken. It also begs the question: where is the money going?

Researchers have found that the current rebating system – which takes credit for declining net prices – has driven list prices upward.[1] The list price is the starting point for negotiations between the drug company and the PBM; thus, it must leave headroom for the significant price concessions that the PBM will extract in return for favorable formulary placement. If these price concessions were fully passed through to the patient, this system could be positive for the consumer. In reality, however, list prices seem to be fictional for everyone *except* the patient, whose cost-sharing is often based on that price point.

Increasingly, researchers are also documenting the effect of this system on formulary construction. For example, the Office of the Inspector General examined biosimilar coverage in Medicare Part D and found that, in 2019, 38% of formularies that covered an epoetin alfa reference product did not cover a biosimilar; the same was true for 32% of formularies with regard to pegfilgrastim. In other words, about a third of formularies in Part D excluded these biosimilars from coverage. The OIG closed by predicting that for Humira and Enbrel, which account for billions of dollars in Part D

[1] "The Association Between Drug Rebates and List Prices" by Neeraj Sood, Ph.D, et al., Leonard D. Schaeffer, University of Southern California, Leonard D. Schaeffer Center for Health Policy & Economics (Feb. 11 2020): https://healthpolicy.usc.edu/research/the-association-between-drug-rebates-and-list-prices/.

spending, plans may have "even more incentives to limit formulary coverage or to employ utilization management tools to potentially discourage the use of biosimilars for these biologics. This is because drug manufacturers pay substantial rebates to Part D plans, potentially encouraging Part D plans to cover the manufacturers' reference products instead of the corresponding biosimilars, or to give the reference products preferential treatment."[2]

In a nutshell: in this broken market, the competition to get on the formulary raises prices. The higher the bid from the drugmaker (based on list price), the better chance the drug has to get on the formulary. Not only does the patient see **no** benefit, their co-insurance is based on the list price of the drug, so they actually spend more as the competition raises prices.

The delinking provision in the *Modernizing and Ensuring PBM Accountability Act* would help correct the underlying perverse incentive at work here, by severing the link between drug prices and PBM income and instead requiring PBMs participating in Part D to accept flat fee compensation at fair market value. This is a simple yet critical step to reintroduce sanity into our drug pricing system and to restore a functioning, healthy market that will benefit patients. As mentioned above, we encourage the Committee to add a provision ensuring that all price concessions are passed through – not to plans, but to beneficiaries via reduced cost-sharing.

On behalf of CSRO and the patients we serve, thank you for your bipartisan work and leadership on an issue so critical to patients. Please do not hesitate to reach out to me if CSRO can help advance this important legislation: madelainefeldman@gmail.com.

Sincerely,

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[2] "Medicare Part D and Beneficiaries Could Realize Significant Spending Reductions With Increased Biosimilar Use" Suzanne Murrin, Deputy Inspector General for Evaluations and Inspections, Office of Inspector General, U.S. Department of Health and Human Services (March 2022): https://oig.hhs.gov/oei/reports/OEI-05-20-00480.pdf.