

United States Senate

WASHINGTON, DC 20510

July 11, 2018

The Honorable Alex M. Azar II
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar,

On May 30th of this year, President Trump announced to the American people that, “some of the big drug companies in two weeks [are] going to announce...voluntary massive drops in prices.” Nearly six weeks have passed and the opposite has occurred. Multiple pharmaceutical companies have reported substantial price increases despite your answer to my question at recent Finance Committee hearing that you “hope they will exercise restraint” when it comes time for traditional midyear price increases.

According to the Financial Times, Pfizer announced effective July 1st that it “raised the prices of 100 products just weeks after President Donald Trump claimed the pharmaceuticals industry was about to implement ‘massive’ voluntary reductions.”¹ For instance, the price of the smoking-cessation drug Chantix increased by 17 percent and the glaucoma drug Xalatan increased by nearly 20 percent.

Yesterday, President Trump announced that “Pfizer is rolling back price hikes...We applaud Pfizer for this decision and hope other companies do the same.” In a press release, Pfizer announced they are delaying the previously announced price increases, “as soon as technically possible...until the earlier of when the president’s blueprint goes into effect or the end of the year — whichever is sooner.”

Like many pronouncements coming out of the Administration, the President’s agreement with Pfizer is long on theatrics and short on real and sustainable relief for patients being mugged at the pharmacy counter. While a delay in Pfizer’s previously announced price increases may offer some temporary relief for consumers, a temporary delay in price increases from one company is hardly what the President promised the American people.

¹ <https://www.ft.com/content/265c2012-7d9d-11e8-bc55-50daf11b720d>

Pfizer was not the only drug maker highlighted by the Financial Times. Acorda Therapeutics increased the price of their multiple sclerosis drug Ampyra at the beginning of July by just under 10 percent, bringing the costs of a bottle of 60 pills to more than \$3,000². In 2016, according to the Centers for Medicare & Medicaid Services (CMS), Medicare spent approximately \$214 million on this drug in 2016³ alone – making this substantial price increase a significant burden for patients and taxpayers.

Bayer Pharmaceuticals also increased the price of two cancer drugs, Stivarga and Nexavar, not more than 14 days after President Trump released the Administration’s “Blueprint” on prescription drugs. According to the Washington Post, both drugs are priced 13 percent higher compared to 2017.⁴

In order to better understand the agreement made between the Administration and Pfizer, and the Administration’s plan to truly deliver on the President’s promise of lower drug costs, please respond to the following questions:

- 1) Under today’s broken system, drug manufacturers have numerous financial incentives to increase the price of their drugs without regard for the costs to consumers or taxpayers. What did the Administration specifically agree to in exchange for Pfizer’s decision to delay its previously announced price increases?
- 2) In a public statement, Pfizer agreed to delay the previously announced price increase until the earlier of when the Administration’s Blueprint goes into effect or the end of the year.

Will you commit that the Administration will not move forward with any policy, including, but not limited to, proposed regulations, payment models or demonstrations implemented by the Center for Medicare and Medicaid Innovation (CMMI) that provides special treatment to Pfizer, drugs manufactured by Pfizer, or in any way takes into account the agreement announced on July 10th?

- 3) In order to implement policies described in the Blueprint by the end of the year, as indicated in the announced agreement between the federal government and Pfizer, the Administration would be required to undergo formal rulemaking processes or begin demonstrations or payment models conducted by CMMI, both of which are highly unlikely to be finalized in the next five months based on historical precedent and federal law.

What is the Administration’s understanding of what must be “implemented” in order for Pfizer to further delay its previously announced price increases? Despite not yet receiving formal feedback from the public on the Blueprint, what policies does the

² Ibid

³ <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Information-on-Prescription-Drugs/MedicarePartD.html>

⁴ https://www.washingtonpost.com/news/wonk/wp/2018/06/08/two-weeks-after-trump-unveiled-plan-to-lower-drug-prices-two-cancer-drugs-go-a-1000-per-month-price-hike/?utm_term=.4f41dd2371c5

Administration plan to implement by the end of the year in order to fulfill its agreement with Pfizer?

- 4) Current law prohibits the Secretary of Health and Human Services (HHS) from interfering in negotiations between a drug manufacturer, a Part D plan or a pharmacy. I support repealing this prohibition, and President Trump promised on the campaign trail he would allow Medicare to negotiate directly with drug manufacturers. Yet, public statements by the administration officials and the Blueprint walked away from this promise by not calling on Congress to repeal the “non-interference” clause.

However, President Trump announced that he, along with you, “talked with Pfizer CEO” Ian Reed “on our drug pricing blueprint.” As a result of these discussions Pfizer agreed to delay its previously announced price increases. As you know, manufacturers' list price is the starting point for any negotiations with a Part D plan in negotiating rebates and discounts, plan reimbursement to pharmacies, as well as negotiations with wholesalers to distribute drugs to pharmacies. You and the President engaged in a negotiation with Pfizer that impacted the list price of the drug, impacting future negotiations with Pfizer and Part D plans and pharmacies. The Administration cannot have it both ways by formally rejecting proposals to repeal the “non-interference” clause but clearly interfering with private drug-pricing negotiations.

Please provide an explanation of why the discussions announced by the President are not a violation of the non-inference clause and thereby federal law.

- 5) Does the Administration plan to engage the multiple other drug manufacturers that have recently announced price increases in the same manner it has engaged Pfizer? Or is this agreement a special arrangement reserved only for Pfizer?

Please provide a response to these questions by July 25th. Should you have questions regarding this request, please contact Matt Kazan with the Senate Finance Committee at (202) 224-4515.

Sincerely,



Ron Wyden
Ranking Member
US Senate Committee on Finance