

United States Senate

COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

October 3, 2017

VIA ELECTRONIC TRANSMISSION

The Honorable Don J. Wright, M.D., M.P.H.
Acting Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Acting Secretary Wright:

We appreciate that the Department of Health and Human Services (HHS), under the current Administration, continues to identify our nation's opioid epidemic as a top priority. As you are aware, the opioid epidemic is having a devastating impact on American lives. According to the Centers for Disease Control and Prevention, 91 people die each day from an opioid overdose. As members of the Senate Committee on Finance, which has oversight authority and sole jurisdiction in the Senate over critical HHS programs such as Medicare and Medicaid, we applaud recent enforcement actions and other steps taken to address this epidemic by cracking down on fraud, waste, and abuse.

Health Care Fraud Takedown

On July 13, 2017, HHS, in collaboration with the Department of Justice, thirty state Medicaid Fraud Control Units, the Internal Revenue Service, Department of Defense, and the Drug Enforcement Administration, participated in the largest health care fraud takedown by the Medicare Fraud Strike Force to date. This enforcement action targeted fraud schemes that billed Federal programs for "medically unnecessary prescription drugs and compounded medications that often were never even purchased and/or distributed to beneficiaries." As a result of these efforts, \$1.3 billion in false billings were identified and 412 defendants were charged for participating in the fraud schemes. According to the HHS Office of Inspector General (OIG), of these defendants, 295 doctors, nurses, and other providers were suspended from participation in Federal healthcare programs on the basis of improper opioid related diversion and abuse.

The broad participation across the government on the important topic of opioids and prescription drugs sends a powerful message to those who consider breaking the law. We commend your efforts to protect patients and safeguard taxpayer dollars across the nation.

To help the Committee identify the top fraud trends that could help inform additional efforts to prevent and combat future opioid-related fraud schemes, we ask that HHS provide answers to following:

1. What were the most prevalent opioid related fraud schemes identified in the July 13, 2017 enforcement action?
2. How does HHS and its agencies plan to prevent other potential fraudsters from participating in similar schemes in the future?
3. Does HHS and its agencies have any specific congressional recommendations as to additional authority needed to protect beneficiaries and prevent fraud and abuse of opioids?

Office of Inspector General Part D Data Brief

The July 2017 HHS OIG data brief, *Opioids in Medicare Part D: Concerns about Extreme Use and Questionable Prescribing*, presented detailed analysis on the number of opioids prescribed in Medicare Part D last year and exposed potential problems faced by at risk beneficiaries, pharmacists, and providers. The report identified 500,000 beneficiaries in the Medicare Part D program that received high amounts of opioids with almost 90,000 beneficiaries at serious risk in 2016. It also identified 400 prescribers that had questionable opioid prescribing patterns for these beneficiaries at serious risk.

We appreciate that the Centers for Medicare and Medicaid Services (CMS) has taken steps to identify and prevent opioid fraud, waste, and abuse in the Part D program. CMS maintains the Medicare Part D Overutilization Monitoring System (OMS) to review cases that involve high opioid use to mitigate risk to beneficiaries. The agency also established claim edits that flag cases of extreme opioid use to promote appropriate use at the point of care. In addition, Congress provided CMS and Part D sponsors with an additional tool by enacting the Stopping Medication Abuse and Protecting Seniors Act, originally introduced by Senators Toomey, Portman, Brown, and Kaine, as part of the landmark Comprehensive Addiction and Recovery Act of 2016 (CARA). As one of the many important policy changes, this provides authority for Part D sponsors to restrict certain beneficiaries to a specific pharmacy and prescriber thereby reducing unscrupulous opioid use. We believe that this tool, which was championed by bipartisan members of the Finance Committee, will help prevent beneficiaries from being harmed by overprescribing and address those who are doctor shopping or intentionally seeking unnecessary prescriptions.

While a number of positive steps have been taken or are in the process of being implemented, the OIG data brief, as well as the cross-agency July enforcement action, is a reminder that the Part D program remains vulnerable to fraud, waste, and abuse. To help the Committee evaluate possible actions that can reduce opioid abuse and diversion, we ask that HHS provide answers to the following:

1. For the over 400 prescribers identified in the July 2017 OIG report as having questionable opioid prescribing patterns for beneficiaries at serious risk, what is HHS and its agencies plan to follow-up with these prescribers and future prescribers like them?

2. Is HHS contemplating additional safeguards to ensure that Medicare Part D does not pay for opioids that are being abused or diverted?

Request for Increased Engagement

While HHS and others are diligently working to address this multi-faceted problem, it is clear that more must be done.

Further collaboration between the HHS and members of the Committee on Finance to address this growing epidemic is necessary to improve the lives of individuals and families, protect our communities, and ensure the appropriate use of taxpayer dollars. Important actions that are in the Committee's jurisdiction could be taken administratively under HHS' existing authority or through legislation. Accordingly, we ask that HHS officials engage with the Committee on policy options including, but not limited to, review of Medicare and Medicaid payment incentives related to treatment of pain and addiction. Thorough engagement will enable us to determine the most prudent steps to achieve our shared goal.

We appreciate HHS's commitment to address the opioid epidemic and we look forward to further collaboration to make additional improvements that Americans need and deserve. If you have any questions, please contact [REDACTED]

Sincerely,



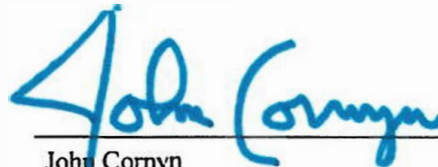
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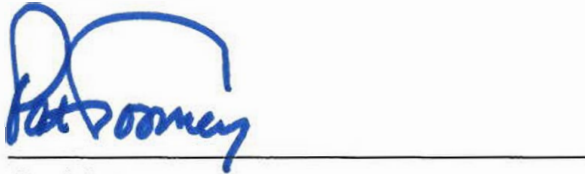
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