

Congress of the United States
Washington, DC 20515

February 1, 2019

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

Dear Secretary Azar:

We write in support of the recently published proposed Centers for Medicare and Medicaid (CMS) rule, Modernizing Part D and Medicare Advantage to Lower Drug Prices and Reduce Out-of-Pocket Expenses, CMS-4180-P which would change the application of pharmacy price concessions, also known as direct and indirect remuneration (DIR) fees, in the Medicare Part D program. We strongly support this change and urge you to finalize it as quickly as possible for plan year 2020.

This change reflects the concerns expressed by members of the Senate last year in a letter regarding HHS' Blueprint to Lower Drug Prices and Reduce Out-of-Pocket Costs. This letter urged HHS and the administration to address pharmacy DIR fees in the Medicare Part D program through a variety of avenues, including a policy change that would eliminate all retroactive pharmacy DIR fees leveraged against pharmacies. It is also reflective of the language the Senate included in the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act which recognized the "dramatic increase" of pharmacy DIR fees in Medicare Part D and the need for CMS to consider policy options to address this issue, including an option to require that pharmacy DIR fees be accounted for at the point of sale.

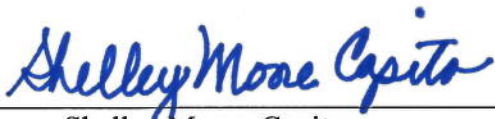
We believe the policy outlined in the proposed rule would provide needed relief from the impact pharmacy DIR fees have had on patient's out-of-pocket costs and community pharmacies. According to CMS, DIR fees on pharmacies participating in Medicare Part D networks have grown by more than 45,000 percent between 2010 and 2017. The retroactive nature of pharmacy DIR fees means beneficiaries face higher cost-sharing for drugs and are accelerated into the coverage gap or "donut hole" phase of their benefit. Finally, all retroactive pharmacy DIR fees are taken back from pharmacies months later rather than deducted from claims on a real-time basis with no transparency to the process. This reimbursement uncertainty makes it difficult for pharmacies to operate and care for their patients.

This proposal would amend the definition of "negotiated price" to include all pharmacy price concessions at the point of sale, which would effectively eliminate the retroactive nature of pharmacy DIR fees. Additionally, the proposal states that CMS hopes to develop a standard set of performance metrics for pharmacies, which would recognize the role and value of pharmacists in the Medicare program and would encourage plan sponsors to motivate pharmacies with after-

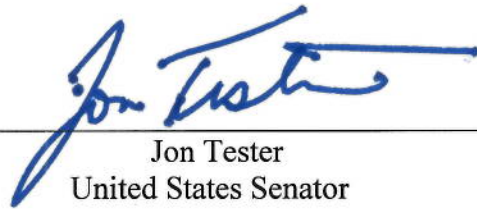
the-fact incentive payments that can drive greater quality and patient outcomes. CMS estimates their proposal would save Medicare beneficiaries \$7.1 to \$9.2 billion in reduced cost sharing over 10 years starting as early as 2020.

Pharmacy DIR fees are a small subset of the broader manufacturer rebate and price concession system, and this proposal is a first, but important, step in the right direction. Your proposal would pass through savings to those who need them most in the supply chain, our nation's seniors. We commend you and the administration on this proposal to eliminate retroactive DIR fees and provide cost savings to seniors and urge you to finalize it as quickly as possible for plan year 2020.

Sincerely,



Shelley Moore Capito
United States Senator



Jon Tester
United States Senator



James M. Inhofe
United States Senator



Susan M. Collins
United States Senator




Maria Cantwell
United States Senator



Tom R. Carper
United States Senator



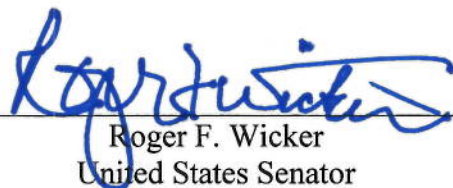
Lisa Murkowski
United States Senator



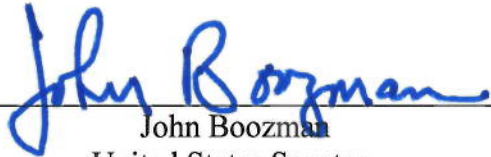
John Thune
United States Senator



Sherrod Brown
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Roger F. Wicker
United States Senator



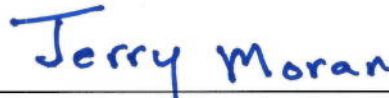
John Boozman
United States Senator



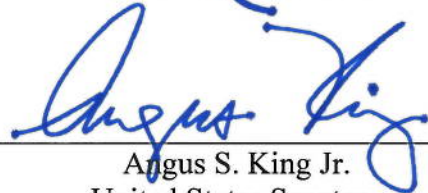
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United States Senator



Joe Manchin III
United States Senator



Jerry Moran
United States Senator



Angus S. King Jr.
United States Senator



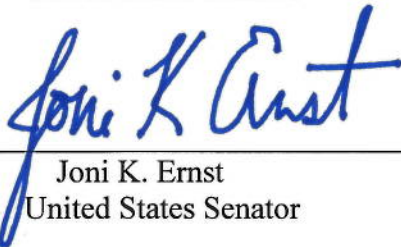
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United States Senator



Steve Daines
United States Senator



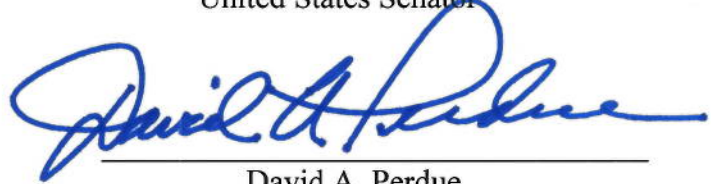
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Cory Gardner
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James Lankford
United States Senator



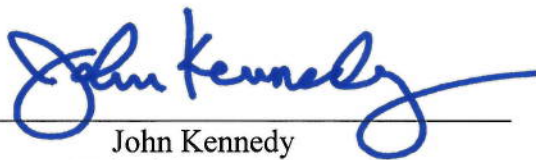
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United States Senator



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John Kennedy
United States Senator



Doug Jones
United States Senator

Cindy Hyde-Smith *Marsha Blackburn*
Cindy Hyde-Smith Marsha Blackburn
United States Senator United States Senator

Kevin Cramer
Kevin Cramer
United States Senator

CC: Seema Verma, Administrator, Centers for Medicare & Medicaid Services
Russell Vought, Acting Director, Office of Management and Budget