October 20, 2021

Chiquita Brooks-LaSure

Administrator

Centers for Medicare and Medicaid Services

7500 Security Boulevard

Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

Earlier this week, Bi-Mart, a regional chain of retail stores offering pharmacy services in the Northwest, began closing 56 pharmacies across Oregon, Idaho, and Washington, citing “increasing costs and ongoing reimbursement pressure.” Thirty-seven of these closures will be in Oregon.

I write with deep concerns about these closures, which reports indicate are caused by the negative financial impact of direct and indirect remuneration (DIR) fees imposed by Part D plans and pharmacy benefit managers (PBMs) on local pharmacies in Oregon and other states. Pharmacies across Oregon report that these fees exert significant financial strain and impede their ability to deliver critical services. These fees do nothing to lower the amount Medicare beneficiaries must pay for their drugs each time they fill a prescription and seemingly serve only to pad plan and PBM profits.

In addition, the Centers for Medicare and Medicaid Services (CMS) reported in June to Congress that Part D plans and PBMs increased pharmacy DIR fees by an astounding 91,500 percent from 2010 to 2019. Fees doubled from 2018 to 2020. I am deeply concerned that the rise of these fees has contributed to the permanent closure of 2,200 pharmacies nationwide between December 2017 and December 2020. Meanwhile, middlemen like Part D plans and PBMs continue to generate exceedingly high profits under the Medicare program—PBMs collectively generated annual revenue of $449 billion in 2020—using such forced post-point-of-sale price concessions and shifting costs onto beneficiaries and taxpayers.

These trends raise alarm bells: mechanisms like pharmacy DIR fees can be deployed as anti-competitive tactics by PBMs given that they destabilize pharmacy revenue and subsequent closures serve to benefit pharmacies owned by plans and PBMs responsible for DIR fees by driving volume in their direction. Our rural communities are particularly dependent on local community pharmacists for their care, and are especially impacted by these closures. Pharmacies not only provide access to medication in these communities, they also play an essential role in the provision of other critical services, such as patient education, management of chronic disease, preventative care, certain testing, and vaccine administration.

Given the circumstances, I urge CMS to conduct a formal review of pharmacy closures in the US in the last five years. These reviews should examine Part D plan and PBM payment practices to pharmacies, like pharmacy DIR fees, the exact nature and impact of those practices in terms of pharmacy reimbursement under Medicare, and how pharmacy closures in this time frame affected equitable access to pharmacy services for Medicare beneficiaries. Finally, I urge CMS to immediately use its authority to stringently regulate pharmacy DIR practices and require all pharmacy price concessions to be included in the negotiated price at the point of sale.

Sincerely,

 Ron Wyden

 Chairman

 Committee on Finance