

Opening Statement of the Honorable Fred Upton
Subcommittee on Health
Hearing on “The Obama Administration’s Medicare Drug Experiment: The Patient and
Doctor Perspective”
May 17, 2016

(As Prepared for Delivery)

Today’s hearing is an important exercise in Congressional oversight on a recently proposed rule from the Centers of Medicare and Medicaid Services (CMS) on Part B drugs. There is bipartisan concern that this proposed Medicare drug experiment will threaten the care of our most vulnerable seniors in Michigan and throughout the country, and reduce access and availability of lifesaving drugs.

There are several characteristics that make this proposal unique when taken together. The new model is mandatory. CMS proposes to waive entire sections of statute and carefully negotiated Medicare reimbursement policy, effectively re-writing at least seven payment provisions established by Congress over the years.

Currently, Medicare pays for Part B drugs by reimbursing providers the Average Sales Price (ASP) plus 6 percent. In the first phase of the new model, providers in half the country would be reimbursed ASP plus 2.5 percent and an additional flat fee of \$16.80 per drug per day. Application of sequestration would effectively bring this payment to 0 percent. Translation: reimbursement will fall short in covering the costs of acquisition, storage, and administration of many drugs that seniors with serious medical conditions need - quite a dangerous policy change.

CMS has also suggested value based purchasing arrangements be applied in half of the country under Phase II, including reference pricing and Indication Based Pricing. CMS would set payment rates for drugs they believe are therapeutically similar, despite which drug a patient needs and vary payments for drugs based on what the federal government determined is their clinical effectiveness. These tools are dramatic departures from how we approach prescription drugs access in this nation and give the federal government far too much control over decisions that should be left between a doctor and their patient. Another dangerous policy change.

I do support efforts to test models that seek to improve quality of care, lower cost, and increase access. These themes are the backbone of our SGR reform legislation, MACRA. In the past, patient rights and access to care have always been given serious attention and weight but they are disturbingly lacking in this proposal. There was no input from patients or providers. In fact, this proposal threatens to disrupt many important Medicare models from Accountable Care Organizations to the CMMI sponsored Oncology Care demonstration. This is unnecessary and disruptive as providers prepare for MACRA.

Fundamentally though, there is a serious separation of powers issue that cannot be overlooked. This model represents a dangerous precedent where future administrations could change the statutory reimbursement for any provider or service, anywhere or everywhere in the country, under the guise of a demonstration, without any input from patients, providers, or Congress.

Each reason by itself should cause us pause. Taken together, there is no question that the policy must be withdrawn. And today, we will examine thoughtful legislation by Dr. Bucshon to do that and protect seniors.

The potential for harm from the administration’s alarming proposal for seniors in Michigan and across the country is real. Doctors, patient advocates, and patients are standing up and vocally declaring the threat this model could have on their care. We are talking about our moms and dads, grandparents, friends, neighbors, and our Greatest Generation – and the government wants to experiment with their care. Seniors deserve our respect. They deserve to be treated with nothing but dignity.

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