



*Richard J. Fiesta, Chair*

March 6, 2014

VIA ELECTRONIC FILING TO: <http://www.regulations.gov>

Marilyn Tavenner, Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-4159-P  
P.O. Box 8013  
Baltimore, MD 21244-8013

**RE: Comments on Contract Year 2015 Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs [CMS 4159-P]**

Dear Ms. Tavenner:

The Leadership Council of Aging Organizations (LCAO) appreciates the opportunity to comment on the proposals in the “*Contract Year 2015 Policy and Technical Changes to Medicare Advantage and the Medicare Prescription Drug Benefit Program.*” LCAO is a coalition of 68 national nonprofit organizations concerned with the well-being of America's older population and committed to representing their interests in the policy-making arena. Collectively, we represent over 60 million seniors.

As advocates for older adults, we support many of the provisions in the proposed rule, especially those that establish or improve consumer protections for Medicare beneficiaries. We oppose provisions that would hurt vulnerable older adults, such as scaling back the six protected drug classes. However, because there are many positive provisions in the rule, we urge you to consider each proposal separately, rather than retracting or delaying the entire proposed rule, as some recommend. The following notes several consumer protections we support and the proposal to scale back the six protected drug classes, which we oppose.

**I. CONSUMER PROTECTIONS (SUPPORT).** We support several of the proposed consumer protections, including consolidating plans, increasing plan oversight, and improving drug price fairness, accuracy, and affordability.

**A. Consolidate Part D Plans.** We support consolidating the number of Part D plans offered to beneficiaries, which would allow sponsors to offer one basic and one enhanced plan per region. While the needs of diverse populations must be considered if plans are consolidated, we believe that curbing the number of Part D plans offered will enable beneficiaries to make meaningful choices about their drug coverage. In 2013, seniors could choose, on average, from 31 plans.

Research shows that numerous Part D options results in many seniors not switching to other plans, even when it would benefit them financially.

***B. Increase Oversight.*** We support increasing oversight of Medicare's contracts with Medicare Advantage and Part D plans. Greater oversight will ensure that beneficiaries are receiving the best care possible and that plans are spending federal funds wisely. We support: 1) requiring that plans have a minimum level of experience; 2) increasing audit capacity; 3) improving the authority to terminate contracts; 4) measuring plan improvements through star ratings metrics; and 5) demonstrating that private plans are using federal Medicare funds appropriately.

***C. Improve Drug Price Fairness, Accuracy, and Affordability.*** We support the following proposals to ensure that seniors have greater access to the drugs they need at an affordable cost.

- *Negotiated Drug Prices.* We support standardizing the reporting of negotiated drug prices by a network pharmacy and a prescription drug. Drug prices must be accurate and transparent to help seniors compare plans costs on Medicare Plan Finder.
- *Drug Affordability.* We support codifying requirements that preferred pharmacies, through preferred cost sharing, are truly saving money for Medicare. This could prevent plans from creating cost-sharing structures that encourage seniors to use mail order pharmacies, which is more expensive to Medicare than non-preferred retail pharmacies.
- *Pharmacy Access.* We support expanding access to preferred pharmacies by applying the *any willing pharmacy* standard to preferred networks. This will improve access, particularly for beneficiaries living in rural communities. In addition, we support more timely access for beneficiaries reliant upon mail order pharmacy services. Requiring mail order fulfillment of prescriptions to be made within the proposed 3 or 5-day time periods will help to prevent unnecessary delays in the delivery of medications to beneficiaries.
- *Preferred Pharmacies.* We support requiring that pharmacies in a preferred network consistently charge preferred cost sharing and bill no more than the ceiling price for all prescriptions. This will help make pharmacies more accountable to Medicare beneficiaries.

**II. SIX PROTECTED DRUG CLASSES (OPPOSE).** We strongly urge you not to scale back the Medicare Part D six protected drug classes, particularly excluding antidepressants, immunosuppressants, and antipsychotics. Removing any of these drugs from protected class status will be detrimental to seniors who rely on them for their mental and physical health. Without these medications, some individuals may require hospitalization, which will increase overall Medicare costs. We also believe that the current appeals process, which is confusing and unknown to many beneficiaries, will *not* be sufficient in helping seniors get the medications they need to survive. Finally, while we commend CMS for acknowledging in its proposed rule the continued misuse of antipsychotic medications among residents with dementia in long-term care facilities, we do not believe this proposed change would help to resolve this issue.

We greatly appreciate CMS' interest in trying to improve Medicare Advantage and Part D for beneficiaries. While we do not support scaling back the six protected drug classes in Part D, we

believe that many of the consumer protections proposed would improve the Medicare program for millions of beneficiaries. For this reason, we urge you to consider individual proposals and not dismiss or delay the entire rule.

We thank you for your commitment to serving our nation's seniors and strengthening the Medicare program.

Sincerely,

A handwritten signature in cursive script that reads "Richard J. Fiesta". The signature is written in black ink and is positioned below the word "Sincerely,".

Richard J. Fiesta