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March 7, 2022

Chiquita Brooks-LaSure, Administrator
Center for Medicare and Medicaid Services
7500 Security Blvd.
Baltimore, MD 21244

Re: Comments on Negotiated Price and Price Concessions (CMS-1492-P)

Dear Administrator Brooks-LaSure:

Thank you for the opportunity to submit comments on the Center for Medicare and Medicaid Services (CMS) proposed changes to the definition of negotiated price and price concessions (CMS-1492-P). The Global Healthy Living Foundation (GHLF) writes to express our support for these changes and provide further proof of their need and benefit.

By way of background, GHLF is a 501(c)(3) non-profit patient organization reaching millions of chronically ill patients and their caregivers across the country through social media, community events, and our online support and education. GHLF works to improve the quality of life for patients living with chronic disease by making sure their voices are heard and advocating for improved access to care at the community level. Our patients suffer from chronic conditions including arthritis, psoriasis, gastrointestinal disease, and migraine. These patients incur significant financial burdens due to the high cost of the necessary treatments to manage their condition without the benefit of many of the payment concessions are behind the scenes of the price they pay at the pharmacy counter.

At GHLF, we believe the price a patient pays out of their pocket is the most crucial price when discussing medical costs and healthcare spending. Over the past decade, we have seen pharmacy benefit managers and the insurers they work with push more and more of the cost of these medications onto patients, all the while saying that they are keeping “net prices” low and lowering premium prices of people across the country. Unfortunately, many of the costs borne by chronically ill patients for their prescription drugs are not charged based on net prices but computed at the much higher list price. And patients who are chronically ill and require ongoing medical treatment are not benefited by premium reductions as much as they are by reduced cost-sharing responsibilities.

That is why we are very encouraged by CMS’s decision to update the definitions of “negotiated price” and create a general definition for “price concessions.” One of the most used, and often misunderstood or unclear, practices employed by pharmacy benefit managers to enhance their bottom line is to include price concessions in their contracts with pharmacies, often based on the pharmacy’s performance. Patients are rarely, if ever, aware of these agreements and the potential impact they may have on the price that patients are paying. By updating the definition of

“negotiated price” to include any such price concessions or other performance-based standards that might be used, and by forcing these concessions to be applied at the point of sale at the pharmacy counter, patients in Part D will finally begin to see some of the reduced financial burdens that they were previously promised. We understand that this change may result in a slight average premium increase; however, we firmly believe that the benefits from the reduced cost-sharing at the pharmacy counter will significantly outweigh the slight premium increase. Additionally, by finally creating a concrete definition for “price concessions,” CMS will eliminate many of the backdoor loopholes that PBMs and insurers have historically used to continue to increase their profits while claiming they are working on behalf of patients.

Thank you for your consideration and we would be please to provide any further information that you need.

Sincerely,



Steven Newmark
Director of Policy and General Counsel
Global Healthy Living Foundation

