



NATIONAL HEALTH COUNCIL

September 20, 2023

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
7500 Security Blvd  
Baltimore, MD 212441

**RE: Maximum Monthly Cap on Cost-Sharing Payments Under Prescription Drug Plans: Draft Part One Guidance on Select Topics, Implementation of Section 1860D-2 of the Social Security Act for 2025, and Solicitation of Comments**

Dear Administrator Brooks-LaSure:

The National Health Council (NHC) appreciates the opportunity to provide comments to the Centers for Medicare & Medicaid Services (CMS) on the proposed guidance for the newly created Medicare Prescription Payment Plan (MPPP). The guidance begins to put in place provisions of the Inflation Reduction Act (IRA) that are of critical importance to Medicare beneficiaries — the ability to spread payment for prescription drug costs up to the new \$2,000 annual cap throughout a calendar year. The NHC and its members worked for years to advocate for this mechanism and are invested in its successful implementation. Earlier this summer, the NHC and the Alliance for Aging Research convened a stakeholder roundtable to develop recommendations to implement this and other considerations related to the out-of-pocket maximum provisions of the IRA. [The report](#) from that roundtable has informed these comments.

Created by and for patient organizations over 100 years ago, the NHC brings diverse organizations together to forge consensus and drive patient-centered health policy. We promote increased access to affordable, high-value, sustainable health care. Made up of more than 150 national health-related organizations and businesses, the NHC's core membership includes the nation's leading patient organizations. Other members include health-related associations and nonprofit organizations including the provider, research, and family caregiver communities; and businesses representing biopharmaceutical, device, diagnostic, generic, and payer organizations.

The NHC commends CMS for its continued efforts to reduce out-of-pocket costs and financial burdens on patients. While implementing this new program, it will be critical that CMS work with patients and their representatives to support choice and access to clear, understandable, and actionable information. This is particularly true for people with chronic diseases and disabilities who are most likely to avail themselves of this option.

The NHC appreciates that this guidance provides significant patient protections, is focused on assuring that patients are educated about their options under this new program and have the information they need to make sound financial decisions. We

have specific technical comments on how to administer this program in a way that will be patient-friendly and increase the chance of successful implementation of this new program. Specifically, the NHC calls on CMS to prioritize the creation of a point-of-sale election option as soon as the program is launched. Finally, we have included recommendations for ongoing monitoring and oversight from CMS.

### **Overarching Comment: Participant Outreach and Education**

CMS is requesting input on the most effective tools and messengers for educating beneficiaries about the program, as well as how the new program will interact with existing programs to assist beneficiaries with payments.

In the experience of our members, there is no single answer to the question of which mode will be most effective for education and outreach. It is important that beneficiaries are reached through multiple channels and hear about options repeatedly and from different messengers. The NHC encourages CMS to partner with patients and patient groups from the outset to develop the specifics of what is included in educational materials and how to best disseminate them. In addition, because there is such a high-level of need for outreach and education, it will be important that CMS devote critical time and resources to this effort. Regardless of the messenger or tool, there are three key venues when beneficiaries will need to be informed of their options. These are the points of prescription, pharmacy fill, and plan election or change.

### **Technical Guidance**

#### *Participant billing requirements (section 40)*

Beneficiaries should have the option to autopay costs they opt to smooth. This will reduce the burden on beneficiaries and reduce the likelihood of missed payments. We appreciate that the guidance includes the option to do an electronic fund transfer as well as credit card and check options. Part D beneficiaries are also able to deduct their premiums from Social Security benefits, and we recommend that MPPP payments should be eligible for this option as well. In general, CMS should encourage sponsors to offer as many payment options as possible and align billing with premium billing, timing, and payment methods.

The NHC also appreciates the clarity in the guidance on protections from debt collection and feels strongly these protections must remain in place to assure beneficiaries are not subject to inappropriate debt collection activities.

Finally, the NHC recommends that plans be required to notify beneficiaries when they have reached their \$2,000 cap. Plans should then be required to notify beneficiaries of what their remaining payments will be for the year. At this point, the payments remain stable and predictable, so beneficiaries should be able to use this actionable information. This will also remove any insecurity about people who choose smoothing but are unaware of the annual out-of-pocket (OOP) cap.

#### *Requirements related to Part D enrollee outreach (section 60)*

While much of the information on education and outreach will be included in part two of this guidance, the NHC encourages CMS to create standardized communications

materials for insurance plans, pharmacies, pharmacists, and providers. Materials should be developed with opportunities for input from multiple stakeholder types. Consistent, clear information about the option to smooth costs should be available at multiple points so that beneficiaries are aware of and understand their ability to opt into the smoothing option. Specifically, we encourage CMS to update the Medicare.gov Plan Finder to include information about the MPPP and the OOP cap to help beneficiaries when selecting a plan. All the information outlined below should be incorporated into this important tool.

One of the most important outreach tools will be a reliable, accessible monthly cost calculator that tells beneficiaries what their monthly obligation will be if they opt into the program. By making this tool available at each decision point, it will offer beneficiaries the most basic information they need when they need it. **CMS referred to this calculator in the technical memo, and the NHC encourages CMS to prioritize operationalizing the calculator before open enrollment begins in the fall of 2024.**

While the examples provided are helpful, the NHC believes the information can be simplified. Most beneficiaries need a simple month-by-month total of what their obligations are with a short explanation that monthly payments may vary depending on several variables, but the total OOP costs will not exceed \$2,000. The columns about monthly costs incurred and monthly cap, like the examples in the guidance, are not actionable information for most beneficiaries, and inclusion may overly complicate it.

CMS also requests information on targeted education and outreach. While outreach to those likely to benefit is important, situations will vary, and the priority should be getting all beneficiaries the information they need to make their own decisions about whether they will benefit and whether it fits their own financial situation.

People with chronic diseases and disabilities should be included in any targeted efforts, as they are the most likely to incur high costs, often exceeding the \$2000 annual cap. Their costs to manage their conditions may also be regular and predictable, making a monthly payment option very important and understandable. Patient groups are a key partner for reaching this population and are ready to help. The NHC recommends that CMS assemble patient groups' help line/navigators to provide input into outreach processes and tools. They have unique expertise in this area. Plans should also be required to provide information on MPPP to people with new diagnoses of chronic diseases and disabilities that are likely to include prescriptions for medicines covered by Medicare Part D. When a patient receives a diagnosis and a prescription, the provider should have access to information to share as well.

CMS also requests information about targeted notification at the POS. A notification requirement is not useful to beneficiaries if not accompanied by an easy way to opt-in at POS. If they need to step away, contact their plan to enroll, and then return to the pharmacy, it will impact uptake and medication adherence. We feel strongly that the option to opt into the program at POS needs to be available as soon as possible and offer additional comments in the following section. CMS also presents several options for a dollar amount threshold to trigger this targeted notification. The NHC encourages CMS to set the threshold as low as possible, potentially below the \$400 threshold proposed, to assure the greatest amount of information and outreach.

*Requirements related to Part D enrollee election (section 70)*

CMS states that “once an individual has opted into the program, OOP cost sharing for all covered Part D drugs must be included until the participant reaches the OOP threshold or opts out of the Medicare Prescription Payment Plan.” We commend this approach. Having to opt in for each prescription could present a barrier to participation and this approach will ease the beneficiary experience. In addition to opting in for the current year, we encourage CMS to require plans to automatically re-enroll beneficiaries who remain with an existing plan and opted into the MPPP in the prior year to streamline the process.

It is also laudable that CMS is requiring Part D sponsors to provide individuals with information about both the MPPP and Low-Income Subsidy (LIS) program prior to the plan year and upon opting into the Medicare Prescription Payment Plan. The more information the beneficiary has about all programs to assist them, the better. Once again though, it is important that beneficiaries have all the financial information readily available, and the decision is theirs to make. We also appreciate that a missed payment notice must come with information about LIS eligibility to assist beneficiaries in managing their payments.

CMS solicits comments on whether there is an interim solution that Part D sponsors could implement to prevent Part D enrollees from waiting 24-hours to receive their prescription at \$0 out of pocket while waiting for their election into the program to process. The NHC appreciates the “urgent election” process and urges CMS to require broad eligibility for that process to assist those that need swift approval.

We appreciate that CMS calls for the election following the individual when they change plans mid-year. When this occurs, the NHC recommends that the previous plan should be required to notify individuals that they will continue to receive bills from them for the balance of the year. This will help avoid confusion and wrongly ignored correspondence.

*Request for information on real-time POS election (section 70)*

We urge CMS to achieve POS election as swiftly as possible to negate the impact of wait times on beneficiaries. CMS should not wait until 2026 as proposed, and certainly not until after 2026, to achieve POS real-time or near-real-time election. If CMS continues to delay this option in final guidance, CMS should specify what technical barriers are hindering implementation, why the final timeframe was chosen, and steps they and/or stakeholders will take to address the specified barriers. POS election is a critical component of meeting the underlying goals of this program and minimizing the burden on beneficiaries. We urge CMS to make every effort to implement POS election when the program begins in 2025. The NHC and the patient community stand ready to work with CMS and other stakeholders to overcome barriers to achieving this goal and to create solutions to getting POS election in place for as many people as possible as soon as possible.

CMS also presents options for the methods of POS election. The NHC believes that the clarification code option will be the most effective and least burdensome for patients but that both phone and electronic options for election are feasible.

*Procedures for termination of election, reinstatement, and preclusion (section 80)*

The NHC commends the involuntary termination notice requirements in the proposed guidance. They provide important patient protection. The two-month grace period in the guidance for payment will help beneficiaries avoid being disenrolled. While two months is a reasonable grace period, we encourage CMS to pursue a longer period to further protect beneficiaries. In final guidance, CMS should also clarify that the grace period carries over into the next calendar year if non-payment happens at the end of a calendar year.

The NHC also recommends that final guidance should clarify the “good cause” option for beneficiaries to demonstrate why they did not pay. There should be clarity on how lenient and what types of causes the plans should consider and the timeframe and process for seeking this option. Also, it should be clear how the option is communicated to those who are behind on payment. We must hold plans to maximum leniency in these cases. This is especially true since repayment in full is still required.

Finally, the NHC recommends that CMS develop language and guidance on beneficiaries’ rights and responsibilities. This tool will help patient advocacy groups and others with education efforts as we implement this new program. In general, more tools from the patient perspective would be welcome.

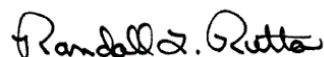
**Additional Issues to Address**

As with any new initiative, particularly one directly impacting beneficiaries, ongoing monitoring and oversight to refine the program is necessary. The NHC encourages CMS to put in place efforts to monitor the uptake and use of the program. This should include specific collecting and sharing data on the demographics and other characteristics of those using the program, data on numbers of people behind on payments or disenrolled, and other key information. In addition, CMS should monitor the unintended consequences on access, such as increased utilization management, of this and other parts of the Part D redesign during implementation.

**Conclusion**

The NHC appreciates the opportunity to provide input into the MPPP. Please do not hesitate to contact Eric Gascho, Senior Vice President of Policy and Government Affairs, if you or your staff would like to discuss these issues in greater detail. He is reachable via e-mail at [egascho@nhcouncil.org](mailto:egascho@nhcouncil.org).

Sincerely,



Randall L. Rutta  
Chief Executive Officer