**DRAFT PART D AUTOESCALATION LETTER FOR COMMENTS AND SIGN-ON**

Dear XXXX:

On behalf of Medicare beneficiaries, advocates, stakeholders, and health plan sponsors supporting Medicare, we are writing to ask you to include auto-escalation of Part D appeals to the Independent Review Entity (IRE) in the Medicare extenders legislation this fall. The lack of auto-escalation[[1]](#footnote-1) unduly burdens Part D enrollees and hinders their access to Part D drugs.

Although the Medicare Advantage (Part C) program served as the model for implementation of the Part D benefit in 2006, not all aspects of the Part C appeals process were incorporated into the Part D appeals process created in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Medicare Modernization Act). In the Part C program, “reconsideration determinations” or redeterminations conducted by the plan sponsors are automatically escalated to the Part C IRE. However, the Part D appeals process does not include the auto-escalation of benefit denials to the IRE (also called the Part D Qualified Independent Contractor).

While an enrollee who is dissatisfied with the results of a redetermination by the plan has a right to reconsideration by the Part D IRE, the enrollee or an appointed representative must initiate the escalation to the next level of appeal. The enrollee or an appointed representative must file a written request (letter or fax) for an appeal with the Part D IRE within 60 days of the date of the adverse redetermination by the Part D plan sponsor. The written appeal process is often confusing to enrollees, their representatives and their prescribers. Supplying elements for the appeal can be confusing, especially when an enrollee does not use the model appeal/reconsideration request form. For example, Part D plans are typically known by different names, and enrollees are often confused by the brand vs. generic names of drugs.

The lack of auto-escalation is a significant barrier to the entire Part D appeals process. Data prepared by the Part D IRE shows that Part D appeals rates are significantly less than Part C. While the Part C appeal rate has increased since 2006, the Part D appeals rate has not increased significantly despite changes to improve notification to beneficiaries about the appeals process and to allow health care professionals to request IRE reconsiderations of Part D coverage determinations on behalf of enrollees without having to obtain signed appointment of representative forms.

**Part C Reconsideration Appeal Rate, Per 1000 Enrollees**

|  |  |  |  |
| --- | --- | --- | --- |
| **Contract Year** | **Part C Reconsideration Appeals** | **Part C Enrollment** | **Appeal Rate / 1000 Enrollees** |
| 2006 | 22,303 | 7,405,312 | 3.01 |
| 2007 | 27,998 | 8,669,618 | 3.23 |
| 2008 | 44,166 | 10,039,544 | 4.40 |
| 2009 | 61,627 | 11,120,953 | 5.54 |
| 2010 | 62,422 | 11,735,818 | 5.32 |
| 2011 | 68,517 | 12,356,306 | 5.55 |
| 2012 | 109,636 | 13,587,492 | 8.07 |
| 2013 | 119,239 | 14,848,606 | 8.03 |
| 2014 | 46,747 | 16,270,582 | 2.87 |
| 2015 | 46,377 | 17,532,429 | 2.65 |
| **Average** | **60,943** | **12,356,666** | **4.87** |

**Part D Reconsideration Appeal Rate, Per 1000 Enrollees**

|  |  |  |  |
| --- | --- | --- | --- |
| **Contract Year** | **Part D Reconsideration Appeals** | **Part D Enrollment** | **Appeal Rate / 1000 Enrollees** |
| 2006 | 12,977 | 23,579,204 | 0.55 |
| 2007 | 11,036 | 24,168,418 | 0.46 |
| 2008 | 16,541 | 25,636,831 | 0.65 |
| 2009 | 20,733 | 26,814,113 | 0.77 |
| 2010 | 18,959 | 27,810,505 | 0.68 |
| 2011 | 13,752 | 29,329,046 | 0.47 |
| 2012 | 14,131 | 31,599,967 | 0.45 |
| 2013 | 16,208 | 35,667,604 | 0.66 |
| 2014 | 22,690 | 37,637,310 | 0.60 |
| 2015 | 33,407 | 39,440,367 | 0.85 |
| **Average** | **17,314** | **29,138,111** | **0.59** |

Includes both Medicare Advantage Prescription Drug Plans and Prescription Drug Plans

The Comprehensive Addiction and Recovery Act included auto-escalation in new Medicare Part D lock-in programs. The provision locks a beneficiary at risk to misuse a frequently abused drug to a certain prescribers and pharmacies. As part of the patient protections, Congress included automatic escalation to external review for Part D appeals for beneficiaries “locked-in to ensure beneficiaries would not have delayed access to necessary drugs.

Congress should extend the same beneficiary protection to all Part D beneficiaries to ensure they do have delayed access to necessary drugs.

Sincerely,

1. Auto-escalation is different from auto-forwarding which occurs in Part D appeals processes when a plan sponsor fails to make a decision within the required time frame. In these cases, the plan must auto-forward the case to the IRE and notify the enrollee that the plan forwarded the case. [↑](#footnote-ref-1)