



October 28, 2019

The Honorable Alex M. Azar, II
Secretary
U.S. Department of Health and Human Services (HHS)
Hubert H. Humphrey Building
200 Independence Ave. SW, Room 600E
Washington, DC 20201

Re: Implementation of Executive Order (EO) 13890: Protecting and Improving Medicare for Our Nation's Seniors

Dear Secretary Azar:

On behalf of the American Pharmacists Association (APhA), I write in strong support of your efforts to implement EO 13890: “Protecting and Improving Medicare for Our Nation's Seniors.”¹ In particular, “Sec. 5. Enabling Providers to Spend More Time with Patients,” which requires the HHS Secretary, within one year, to propose Medicare reforms eliminating regulations including “...burdensome regulatory billing requirements, conditions of participation, supervision requirements, benefit definitions, and all other licensure requirements of the Medicare program that are more stringent than applicable Federal or State laws require...” that limit non-physician practitioners, such as pharmacists, from practicing at the “...top of their profession.” We also strongly support the provision in the EO “proposing a regulation that would ensure appropriate reimbursement by Medicare for time spent with patients by...health providers practicing in all types of health professions” and conducting a review to ensure services “...are appropriately reimbursed in accordance with the work performed rather than the clinician’s occupation.”

APhA, founded in 1852 as the American Pharmaceutical Association, represents 60,000 pharmacists, pharmaceutical scientists, student pharmacists, pharmacy technicians, and others interested in improving medication use and advancing patient care. APhA members provide care in all practice settings, including community pharmacies, physicians’ offices, hospitals, specialty pharmacies, long-term care facilities, community health centers, managed care organizations, hospice settings and the uniformed services.

APhA believes EO 13890 will solidify the November 2018 report² “Reforming America’s Healthcare System Through Choice and Competition,” which also recommended allowing pharmacists and other health care providers to practice to the top of their license, utilizing their full skill set and training. The 2018 report also encouraged the federal government

¹ The White House. EO 13890: Protecting and Improving Medicare for Our Nation's Seniors. October 3, 2019. Available at: <https://www.federalregister.gov/documents/2019/10/08/2019-22073/protecting-and-improving-medicare-for-our-nations-seniors>

² Authorized under EO 13813 Promoting Healthcare Choice and Competition Across the United States. The White House. October 12, 2017. Available at: <https://www.federalregister.gov/documents/2017/10/17/2017-22677/promoting-healthcare-choice-and-competition-across-the-united-states>

and states to consider legislative and administrative proposals to allow nonphysician providers, including pharmacists, to be paid directly for their services.³

As HHS is aware, pharmacist-provided patient care services are not currently covered by Medicare Part B but are covered by other payers, including several Medicaid programs.⁴ Accordingly, APhA urges CMS to take advantage of any discretion to remove regulatory barriers to payment for pharmacist-provided patient care services. For example, APhA urges HHS to look at the state of Washington in clarifying billing for evaluation and management (E/M) levels. Under Washington State law, pharmacists are recognized as providers by those commercial health plans under the State's purview. Washington pharmacists have billed and been paid for E/M services using the full range of applicable CPT codes (99211-99215) appropriate for the type of service provided.⁵

Pharmacists are highly trained professionals with extensive medication expertise to meet the needs of patients, particularly those with complex conditions. As HHS/CMS develops regulations and policies to fully implement EO 13890, we urge to you to include provisions that reduce the regulatory burden and provide for appropriate pharmacist reimbursement and billing for pharmacist-provided patient care services. Such action would also align Medicare with the states and Medicaid programs that are already turning to pharmacists to improve patients' health and outcomes and lower medication-related costs.⁶ In addition, increased recognition of pharmacists and payment for the patient care services they provide would align pharmacists with other health care professionals' services covered under Medicare Part B.

If you have any questions or require additional information, please contact Michael Baxter, Director of Regulatory Affairs, at mbaxter@aphanet.org or by phone at (202) 429-7538.

Sincerely,



Thomas E. Menighan, BSPHarm, MBA, ScD (Hon), FAPhA
Executive Vice President and CEO

cc:

The Honorable Seema Verma, Administrator, Centers for Medicare & Medicaid Services (CMS)
Ilisa Bernstein, PharmD, JD, APhA Senior Vice President, Pharmacy Practice & Government Affairs

³ U.S. Departments of HHS, the Treasury, and Labor. Reforming America's Healthcare System Through Choice and Competition. November 30, 2018, available at: <https://www.hhs.gov/sites/default/files/Reforming-Americas-Healthcare-System-Through-Choice-and-Competition.pdf>

⁴ CMS/ CMCS Informational Bulletin. State Flexibility to Facilitate Timely Access to Drug Therapy by Expanding the Scope of Pharmacy Practice using Collaborative Practice Agreements, Standing Orders or Other Predetermined Protocols. January 17, 2017, available at: https://www.medicaid.gov/federal-policy_guidance/downloads/cib011717.pdf

⁵ Roshan, Jeff. Credentialing and Privileging 101: Essential Steps to Bill for Patient Care Services. Slide 61. Presentation at APhA2018. March 28, 2018, available at: http://apha2018.pharmacist.com/sites/default/files/slides/Cred_and_Priv_101_3-18-18_104AB_HO.pdf

⁶ CMS/ CMCS Informational Bulletin. State Flexibility to Facilitate Timely Access to Drug Therapy by Expanding the Scope of Pharmacy Practice using Collaborative Practice Agreements, Standing Orders or Other Predetermined Protocols. January 17, 2017, available at: https://www.medicaid.gov/federal-policy_guidance/downloads/cib011717.pdf