

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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<http://oversight.house.gov>

October 19, 2017

Larry J. Merlo  
President and Chief Executive Officer  
CVS Health  
1 CVS Drive  
Woonsocket, RI 02895

Dear Mr. Merlo:

I am writing to request information about a recent investigation by ProPublica and the *New York Times* indicating that insurers and pharmacy benefit managers (PBMs) may be limiting patient access to less addictive pain therapies while making it easier for patients to access cheaper, more addictive opioids.

According to this report, most prescription drug plans offered under the Medicare Part D prescription drug benefit cover common prescription opioids without limitation, while only one-third of plan beneficiaries have access to less addictive opioids such as buprenorphine. The report found that even when plans cover non-addictive pain treatments, they often require prior approval—an administrative hurdle that forces patients to obtain the consent of their insurance companies before receiving treatment—and they place less addictive drugs on higher cost-sharing tiers.<sup>1</sup> CVS Health was among the five largest Part D plan sponsors by enrollment in 2016, which collectively covered approximately two-thirds of all Part D enrollees.<sup>2</sup>

The investigation also found that insurers limit access to substance abuse treatments, such as Suboxone, which help patients transition away from opioids. According to the report:

Drug plans covering 33.6 million people include Suboxone, but two-thirds require prior authorization. Even when such requirements do not exist, the out-of-pocket costs of the drugs are often unaffordable, a number of pharmacists and doctors said.<sup>3</sup>

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<sup>1</sup> *Amid Opioid Crisis, Insurers Restrict Pricey, Less Addictive Painkillers*, *New York Times* (Sept. 17, 2017) (online at [www.nytimes.com/2017/09/17/health/opioid-painkillers-insurance-companies.html](http://www.nytimes.com/2017/09/17/health/opioid-painkillers-insurance-companies.html)).

<sup>2</sup> Kaiser Family Foundation, *Medicare Part D in 2016 and Trends Over Time* (Sept. 16, 2016) (online at [www.kff.org/report-section/medicare-part-d-in-2016-and-trends-over-time-section-1-part-d-enrollment-and-plan-availability/](http://www.kff.org/report-section/medicare-part-d-in-2016-and-trends-over-time-section-1-part-d-enrollment-and-plan-availability/)).

<sup>3</sup> *Id.*

Recognizing the link between insurance coverage and addiction, nearly 40 Attorneys General from across the country wrote to America's Health Insurance Plans in September urging insurers to revise their coverage and payment policies. They wrote:

Insurance companies can play an important role in reducing opioid prescriptions and making it easier for patients to access other forms of pain management treatment. ... All else being equal, providers will often favor those treatment options that are most likely to be compensated, either by the government, an insurance provider, or a patient paying out-of-pocket.<sup>4</sup>

This is not a hypothetical problem. The over-prescription of opioids leads to addiction and death. Each day, 142 Americans die of an opioid overdose.<sup>5</sup> In my home state of Maryland, 550 people died of an overdose in the first three months of 2017 alone.<sup>6</sup> Synthetic opioids like fentanyl are driving up the epidemic's death toll, but prescription opioids contribute significantly to this crisis by fostering addiction and causing fatal overdoses. In 2016, there were 418 prescription opioid-related deaths in Maryland—an increase of 19% over 2015.<sup>7</sup>

Insurers and PBMs have developed initiatives to address the opioid epidemic, but this new report indicates that fundamental financial incentives may be driving insurers and PBMs to steer beneficiaries to the very drugs that are fueling the opioid crisis.

In order to investigate this issue further, I request that you provide the following information and documents by November 2, 2017:

- (1) For each insurance or prescription drug plan currently offered, a list of all pain medications covered by the plan, including brand and generic medications, and also including:
  - (a) the medication's status as generic, preferred, or non-preferred;
  - (b) the cost-sharing tier or tiers on which the medication is placed;
  - (c) the co-insurance, co-payment, or any other out-of-pocket patient expenses associated with the medication;
  - (d) any prior authorization, step therapy, or other medical utilization practices applicable to the medication;

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<sup>4</sup> Letter from the National Association of Attorneys General to Marilyn Tavenner, President and CEO, America's Health Insurance Plans (Sept. 18, 2017) (online at [http://myfloridalegal.com/webfiles.nsf/WF/JMAR-ARCKCD/\\$file/NAAG-Opioid-Letter-to-AHIP.pdf](http://myfloridalegal.com/webfiles.nsf/WF/JMAR-ARCKCD/$file/NAAG-Opioid-Letter-to-AHIP.pdf)).

<sup>5</sup> President's Commission on Combating Drug Addiction and the Opioid Crisis, *Interim Report* (July 31, 2017) (online at [www.whitehouse.gov/sites/whitehouse.gov/files/ondcp/commission-interim-report.pdf](http://www.whitehouse.gov/sites/whitehouse.gov/files/ondcp/commission-interim-report.pdf)).

<sup>6</sup> *Maryland Overdose Deaths Continued to Soar in the First Part of the Year*, Baltimore Sun (Aug. 4, 2017) (online at [www.baltimoresun.com/health/bs-md-overdose-deaths-20170804-story.html](http://www.baltimoresun.com/health/bs-md-overdose-deaths-20170804-story.html)).

<sup>7</sup> Maryland Department of Health and Mental Hygiene, *Drug- and Alcohol-Related Intoxication Deaths in Maryland, 2016* (June 2017) (online at [https://bha.health.maryland.gov/OVERDOSE\\_PREVENTION/Documents/Maryland%202016%20Overdose%20Annual%20report.pdf](https://bha.health.maryland.gov/OVERDOSE_PREVENTION/Documents/Maryland%202016%20Overdose%20Annual%20report.pdf)).

- (e) whether the drug is a non-narcotic or narcotic/opioid medication;
- (2) For each insurance or prescription drug plan currently offered, a list of all non-medication pain management treatments or therapies covered by the plan, including:
    - (a) the co-insurance, co-payment, or any other out-of-pocket patient expenses associated with the treatment or therapy;
    - (b) any prior authorization, step therapy, or other medical utilization practices applicable to the medication;
  - (3) For each insurance or prescription drug plan currently offered, a list of all pain medications, including narcotic and non-narcotic medications, therapies, and treatments, placed on the highest cost-sharing tier, excluded from the formulary, or not covered by the insurance or prescription drug plan;
  - (4) For each insurance or prescription drug plan currently offered, a list of all medications to treat opioid use disorders covered by the plan, including brand and generic medications, and also including:
    - (a) the medication's status as generic, preferred, or non-preferred;
    - (b) the cost-sharing tier or tiers on which the medication is placed;
    - (c) the co-insurance, co-payment, or any other out-of-pocket patient expenses associated with the medication;
    - (d) any prior authorization, step therapy, or other medical utilization practices applicable to the medication;
  - (5) All documents, including external and internal analyses or memoranda, that have been provided to or prepared by the Pharmacy and Therapeutics Committee referring or relating to the placement of narcotic and non-narcotic pain medications on any formulary currently in use in all insurance or prescription drug plans; and
  - (6) All documents, including external and internal analyses or memoranda, that have been provided to the Board of Directors or company officials in management positions referring or relating to the cost of providing formulary coverage for narcotic and non-narcotic pain medications.

Mr. Larry J. Merlo  
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If you have any questions about this request, please contact Alexandra Golden with the Democratic Committee staff at (202) 225-5051. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, reading "Elijah E. Cummings". The signature is written in a cursive style with a large, looping "E" at the beginning and a stylized "C" at the end.

Elijah E. Cummings  
Ranking Member  
Committee on Oversight and  
Government Reform