

**Board of
Directors**

Gary Harbin, CPA
Kentucky
President

Tonya Brown
Ohio

Marla Bump
Ohio

Ted Cheatham
West Virginia

Katrina Daniel
Texas

Elizabeth Harrison
Michigan

Dee Jones
North Carolina

Jessica Linart
Colorado

Donna Townes, CPA, CGBA
Alabama

June 5, 2019

Seema Verma, Administrator
The Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244-8013

Re: Request to Protect Medicare Employer Group Waiver Plan (EGWP) Public Sector Beneficiaries from Severe Premium Increases

Administrator Verma:

On behalf of the undersigned public sector entities representing millions of public sector retirees and their families, we write today to express our strong concern for the recent Centers for Medicare and Medicaid Services (CMS) proposal to exempt Medicare Employer Group Waiver Plans (EGWPs) from the relief given to individual Medicare Part D plans in recent CMS guidance as it relates to the proposed elimination of the safe harbor protection for manufacturer rebates in Part D. We have deep concerns that the new guidance and proposed policies would drastically increase premiums for EGWP retirees and we ask that CMS issue additional guidance that offers financial relief to EGWPs and their beneficiaries at parity with the guidance on April 5, 2019 to individual Part D plans and beneficiaries.

The undersigned organizations are all members of the Public Sector HealthCare Roundtable (Roundtable), a non-profit, non-partisan coalition of public sector purchasers from across the U.S. including states, counties, and municipalities working together to bring a voice to the tens of millions of public sector employees, retirees, and their dependents they serve. Over 15 percent of the American workforce is employed by public sector entities, and collectively they spend over \$43 billion annually on health care benefits that serve as a critical component of state compensation programs.¹ As such, the members of the Roundtable have a long-term commitment to maintaining programs that enable their members to obtain high-quality health benefits at a cost that is affordable.

As you know, 6.7 million Medicare beneficiaries were enrolled in a Part D EGWP in 2017, including former teachers, local and state government employees, and first responders.² Public sector employers are increasingly selecting EGWPs as a cost-effective, high-quality solution to meeting commitments made to former employees to offer health and prescription drug coverage in retirement in return for their years of service. EGWPs enable employers to provide

Administration

Tom Lussier
Administrator
P.O. Box 26368
Alexandria, VA 22313
(T) 703.684.5236
(C) 978.835.5424
Tom@healthcareroundtable.org

Andrew MacPherson
Senior Policy Advisor
600 H Street, NE, #627
Washington, DC 20002
(T) 202.420.8505
Andrew@healthcareroundtable.org

Website

www.HealthCareRoundtable.org

¹ "State Health Care Spending: Key Findings." Pew Charitable Trusts & MacArthur Foundation, 2016. Accessed 4 February 2019. <https://www.pewtrusts.org/~media/assets/2016/05/state-health-care-spending.pdf>.

² Kaiser Family Foundation, "Medicare Advantage 2017 Spotlight: Enrollment Market Update"

Seema Verma, Administrator
The Centers for Medicare & Medicaid Services
June 5, 2019
Page two

retirees access to comprehensive coverage that includes care coordination, disease management, and protections against high out-of-pocket costs. The popularity of EGWPs is a reason they are one of the fastest growing segments of Medicare Advantage – according to MedPAC’s recent report,³ enrollment in EGWPs grew 12 percent in 2018.

In January, the Department of Health & Human Services (HHS) and the Office of the Inspector General (OIG) issued a proposed rule entitled, *Removal of Safe Harbor Protection for Rebates Involving Prescription Pharmaceuticals and Creation of New Safe Harbor Protection for Certain Point-of-Sale Reductions in Price on Prescription Pharmaceuticals and Certain Pharmacy Benefit Manager Service Fees*, that would eliminate the safe harbor protection for manufacturer rebates in Part D – including EGWPs that provide Part D coverage. The Roundtable submitted comments to CMS strongly opposing the proposal on the grounds that it would drastically increase premiums for public sector retirees and their families and do nothing to address the underlying cause of rising drug prices: original list prices. Furthermore, the Roundtable recently conducted a survey of 10 state plan sponsor members which showed almost \$6 billion in spending on drugs for just over 1 million public sector retirees in 2018, with \$1.5 billion in Medicare rebates or one-fourth of the total drug spend.⁴ Every plan surveyed indicated that these rebates are used to reduce plan costs for members and their removal would increase costs for public sector retirees they serve.

On April 5th, CMS released additional guidance in which it announced that, if the rebate rule is finalized as proposed, it would offer a voluntary, two-year demonstration program in which the government would absorb 95 percent of any losses (beyond the first 0.5 percent) experienced by Part D plans in 2020 resulting from the elimination of rebates. **However, while the demonstration would be available to individual Part D and Medicare Advantage-Prescription Drug (MA-PD) plans, EGWPs would be ineligible to participate.** The demonstration would function by narrowing risk corridors in Part D, but because EGWPs do not submit individual bids, they do not participate in the risk corridor program.

If the guidance is not revised to protect public sector retirees in EGWPs, our plan members will not be able to absorb new costs associated with eliminating rebates and will have to pass along increased cost or reduced benefits to retirees. Given that the demonstration program would not afford protection to millions of EGWP beneficiaries from the devastating premium increases resulting from the elimination of manufacturer rebates, additional action is needed to protect EGWP enrollees.

³ Medicare Payment Advisory Commission (MedPAC) Report to Congress, March 2019.

⁴ Survey of Public Sector HealthCare Roundtable members conducted March 2019. Data available upon request.

Seema Verma, Administrator
The Centers for Medicare & Medicaid Services
June 5, 2019
Page three

For this reason, we are asking that should the underlying proposal be finalized that CMS take action to shield EGWP beneficiaries from significant premium increases. Specifically, we are asking CMS to provide additional subsidy payments to EGWPs that reflect the average risk corridor payment made to individual Part D plans as part of the demonstration if the proposed rule is finalized. We believe this option is an administratively feasible, straightforward way to provide some financial protection to EGWP beneficiaries and mitigate excessive premium increases in the coming years.

We welcome the opportunity to meet with you or your staff to discuss this issue in more detail. We are committed to ensuring that EGWPs continue to be a viable, cost-effective, high-quality solution for public sector retiree health care coverage, and we look forward to engaging with you further on this issue.

Sincerely,

Public Sector HealthCare Roundtable
California Public Employees Retirement System
Colorado Public Employees' Retirement Association
New Mexico Retiree Health Care Authority
North Carolina State Health Plan
Ohio Public Employees Retirement System
School Employees Retirement System of Ohio
State Teachers Retirement System of Ohio
State of Oklahoma – HealthChoice
Teachers' Retirement System of Kentucky
West Virginia Public Employees Insurance Agency