Point32Health

July 23, 2021

Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
US Department of Labor
Attention: Request for Information Regarding Reporting on Pharmacy Benefits and Prescription Drug Costs
200 Constitution Avenue NW, Room N-5653
Washington, DC 20210

Re: Request for Information Regarding Reporting on Pharmacy Benefits and Prescription Drug Costs (Published in the Federal Register Vol. 18, No. 118 on June 23, 2021)

Dear Secretary Walsh,

On behalf of Point32Health, we appreciate this opportunity to provide comments on the Request for Information (RFI) Regarding Reporting on Pharmacy Benefits and Prescription Drug Costs published in the Federal Register on June 23, 2021.

Point32Health is a leading health and wellbeing organization, delivering an ever-better health care experience to everyone in our communities. Building on the quality, nonprofit heritage of our founding organizations, Tufts Health Plan and Harvard Pilgrim Health Care, we leverage our experience and expertise to help people find their version of healthier living through a broad range of health plans and tools that make navigating health and wellbeing easier.

Our programs take a 360-degree view of health for our members—no matter their age, health, race, identity or income—and our Foundation and Institute work to improve population health. We use empathy to understand what's important to those we serve, always making their priorities our own. And we work to guide and empower people by bringing together wide-ranging partners and perspectives to create new approaches that make a real difference for both our industry and our 2.2 million members across New England.

Point32Health strongly supports the Administration's and Congress' ongoing efforts to understand the impact high-cost prescription drugs have on health insurance coverage premiums and overall costs. We appreciate the opportunity to provide the Office of Personnel Management, Department of the Treasury, Department of Labor and the Department of Health and Human Services ("the Departments") with specific feedback on the reporting requirements under section 204 of Title II of Division BB of the Consolidated Appropriations Act, 2021 (CAA) applicable to group health plans and health insurance issuers offering group or individual health insurance coverage.

To provide further transparency into drug costs, Section 204 of the CAA requires that plans annually submit a report detailing top drivers of prescription drug costs which includes total plan spending on health care services, broken down by the type of costs, and provide other information about the plan's premiums and the impact of rebates, fees and other remuneration on premiums and out-of-pocket costs. The Departments will release a bi-annual report on drug pricing trends, drug reimbursement, and the impact of drug prices on premiums.

Point32Health recognizes the impact rising pharmaceutical prices has on consumers' premiums and out-of-pocket spending and we support efforts to measure the impact of these rising pharmaceutical prices on premiums and out-of-pocket spend; however we have significant concerns that Section 204's December 2021 effective date fails to account for the administrative burden placed on plans to become compliant. We, therefore, respectfully request a **delay until at least six months after any reporting system is built and technical specifications are finalized, based on substantial stakeholder input.**

The CAA has presented plans with numerous implementation hurdles and the complexities of its requirements are not to be understated. To implement Section 204, plans must develop or modify a complex reporting system and processes and pull data from multiple sources. A delay in implementation would allow for full implementation of the reporting requirements using a designated reporting system and in compliance with, yet to be proposed, technical specifications.

As the Departments work to finalize the reporting requirements, we offer the following specific recommendations that support the development of accurate and minimally burdensome reporting requirements for both health plans and the Departments:

Development of Top 50 Lists
We urge the Departments to collect information on the "top 50" and "top 25" lists (elements 4, 5, 6, and 9(B)), using drug name and strength. Reporting by National Drug Code ("NDC") would be too granular and has the strong potential to distort the results of the report.

NDCs account not just for drug name and strength, but for different manufacturer(s) and/or packaging style, often resulting in there being multiple NDCs for any given drug/strength combination. As a result, reporting at the NDC level would mask what the true "top 50" and "top 25" drugs are. This is particularly problematic for generic drugs which can have many different manufacturers. For example, Simvastatin 20mg has fifteen unique NDCs just for this single strength. Similarly, the brand drug Ajovy injection 225/1.5 for migraines, currently has three unique NDCs. If we were to report the "top 50" NDCs in a given year, that drug/strength total would be incomplete, only the highest utilized Simvastatin 20mg NDCs (for example) might appear in the "top 50" drugs. The Simvastatin 20mg utilization in the lesser used NDCs would not be reported.

To further ensure the "top 50" and "top 25" lists are reflective of the true cost-drivers, medical benefit drugs should be excluded from the report. Vaccines, for example, are seasonal and can skew results.

Reporting Level

To minimize administrative burden and facilitate collection, we respectfully request the Departments permit health insurance issuers to report data for all products (i.e. HMO, PPO) and markets (i.e. self-insured, fully insured) for all states in which the issuer operates combined. Alternatively, if the Departments require data aggregation at a more granular level, the Departments should request data be aggregated and reported either by:

(1) state for all product types and market segments,
(2) product type (i.e. HMO, PPO) for all states in which the issuer operates, or
(3) market segment (i.e. fully insured, self-insured) for all states in which the issuer operates.

Reporting at these higher levels would allow the Departments to identify trends with respect to prescription drugs that are increasing premiums across all market segments.

The administrative complexity of gathering the required data increases as the level of granularity specified increases. If these data reports were collected at the individual health plan or group level, the amount of effort to make the required calculations would be massive and yield little to no additional value for the Departments or the public. Further, the added complexity increases the opportunities for errors in collection and reporting of such data.

We also have significant privacy concerns with reporting at a more granular level, particularly for small groups. The Department's approach must protect the privacy of individuals in small group plans who are unlikely to have sufficient claims data to support this kind of reporting. Reporting aggregated data as recommended will reduce any privacy concerns with compiling and submitting this information.

Reporting Timeframe

Reporting on a calendar year basis will yield the most accurate information. Formulary changes happen on a calendar year basis and those changes impact utilization patterns. Therefore, we recommend that, for the initial submission, CMS should use January 2020 through December 2020 as the current period and, for any prior period comparison, use January 2019 through December 2019. For the submission due in June 2022, we recommend using January 2021 through December 2021 and, for the prior year period, January 2020 through December 2020. We do not recommend data aggregation cross calendar years, as formulary and preferred product changes happening in the middle of the reporting period would skew the "top 50" and "top 25" drug lists.

Finally, as noted above, we urge the Departments to delay the initial reporting deadline until at least 6 months after delay implementation until any required reporting system is built and technical specifications are finalized.

Prescription drugs play an important role in our health care system; however, in recent years, drug manufacturers have routinely pushed through dramatic price increases for their life-saving products and have set high prices for new drugs. We thank the Departments for their collaboration on developing

reporting requirements that will provide transparency into these initial high prices and subsequent increases.

We appreciate your consideration of our specific responses offered above and look forward to continuing to work with the Departments on development of these reporting requirements.

Sincerely,

Christina Nyquist
Head of Federal Affairs
Point32Health