

July 16, 2018

Mr. Alex M. Azar
Secretary
Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201

RE: RIN: 0991-ZA49 - HHS Blueprint to Lower Drug Prices and Reduce Out-of-Pocket Costs

Mr. Azar,

The National Alliance of Healthcare Purchaser Coalitions appreciates the opportunity to comment on this important policy proposal. The National Alliance is a non-profit 501(c)(6) organization that provides expertise, resources, and leadership to approximately 50 purchaser-led coalitions across the U.S. These coalitions represent 12,000 employer purchasers providing health coverage to over 45 million Americans. Purchasers range in size from small and mid-sized companies to large organizations with over 5,000 employees.

The National Alliance is in a unique position to objectively lead unparalleled collaboration and innovation in the current changing health care marketplace. However, systemic problems in the prescription drug market are preventing innovation, competition, and movement toward value. This Administration has a historic opportunity to move the ball forward and create opportunities for plan sponsors, including employers, to offer even better coverage to our beneficiaries at even better prices, but only if bold steps are taken.

Employers were largely left out of the discussion in the Blueprint. The National Alliance represents thousands of companies, all of which offer comprehensive group health benefits to their employees in compliance with the myriad federal requirements placed upon group health plans subject to the Employee Retirement Income Security Act (ERISA), and other federal laws. These self-insured employers typically pay 75% (or more) of the costs of health insurance for their employees. While prescription drugs are not the largest cost-driver within employer-sponsored health insurance, they are the fastest growing, least predictable, and often times, the most opaque. Efforts to reduce drug costs on public payers should not come at the expense of employer plans as a result of cost shifting. Otherwise, employers and employees alike will likely incur even greater increases in overall plan costs as a result of drug coverage, with potential adverse effects on the pricing and utilization of essential coverage for American workers and their families.

Employers are very interested in moving forward with **value-based purchasing** arrangements with pharmaceutical and medical device manufacturers. As HHS and CMS move forward with demonstration projects to test value-based purchasing for prescription drugs, employers should be consulted and perhaps offered the opportunity to participate. Efforts to change the health care system have the greatest chance of success when there is coordination between the public and private sectors.

Employers are also very interested in working with the federal government to continue to take steps towards **increasing transparency** across all stakeholders, including the government and private sector. The way that drugs are priced in the U.S. makes very little sense to any outside observer. Sky-high list prices are developed, which no actual payer actually pays. New prices are negotiated and paid, and then

later, some amount of money may flow back to the payer based on myriad other factors such as volume or competitive pressures. This process does not benefit anyone, least of all the patients. The absence of publicly available pricing data/price transparency makes it difficult for employers to effectively negotiate for reduced drug prices for their plans and participants. Also, absent such data, employers may not always know whether the formulary that is contemplated includes lower - or lowest-cost alternatives. The Administration can and should take proactive steps to further the cause of price transparency, and to reduce the confusion caused by rebates. National Alliance members and plan beneficiaries would benefit from a system where it is clear what products cost. If that necessitates changes to antitrust law so that manufacturers are not vulnerable to lawsuits for negotiation of up-front volume discounts, then this should be considered. Conversely, the Administration should be cautious about any proposal that could enshrine the current rebate system.

An area where these critical concepts of value-based purchasing and transparency come together in a practical way is the issue of *specialty pharmaceuticals*. While recognizing the clinical value of many of these drugs, employers have sought to implement reasoned innovations and strategies designed to manage overall drug costs while ensuring their employees and their dependents have broad access to needed drugs and services. Spending on specialty drugs is not necessarily problematic if it adds value, cures diseases, lowers other health care spending, and keep employees healthier and more productive at work. Employers, who pay the very high prices for these drugs, would like to explore options – through transparency and value-based purchasing arrangements – for how to ensure there is some accountability in the use of these drugs. If employers are going to pay for these drugs, they would like to have some way to ensure they are actually working and patient outcomes are improving. We encourage the federal government to rely on employers’ experiences with specialty pharmaceuticals when designing value-based purchasing arrangements and transparency efforts.

Finally, at this point, all of the major PBM companies have stated that they do not include so-called “*gag order*” clauses in their contracts with pharmacies. These clauses would prevent a pharmacist of alerting a patient that their prescription might be cheaper to fill simply paying cash, rather than the negotiated rate under their insurance coverage. However, the issue continues to be discussed, and as such, may well require additional attention. As such, we support efforts to ban gag clauses – the Administration should prohibit these clauses in Part D plans, and Congress should take action to prevent these clauses in private sector and other plans. Further, the Administration should explore requiring patients to be notified, as a prescription is filled, if there is a lower cash price, or a low-cost alternative medication they could use instead.

The National Alliance appreciates the opportunity to provide feedback at this time. We, and our members, are fully committed to efforts to lower prescription drug costs and bring increased transparency to the system. We hope to serve as a resource through the regulatory process, and look forward to working with the Department on regulations that recognize the important role of large plan sponsors and the benefits they provide to millions of workers, retirees, and their families.

Thank you,

Michael Thompson
CEO