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The Part B Access for Seniors and Physicians (ASP) Coalition Expresses Concern for Proposed Change of Best Price Definition Under the Medicaid Drug Rebate Program (MDRP)

The Part B Access for Seniors and Physicians (ASP) Coalition is watching with concern the Centers for Medicare & Medicaid Services (CMS) *Misclassification of Drugs, Program Administration and Program Integrity Updates under the Medicaid Drug Rebate Program (MDRP)* proposed rule. If adopted, the proposed rule would significantly change the MDRP's definition of Best Price to include the aggregate of all manufacturer price concessions on a single drug unit to separate entities across the pharmaceutical supply chain. The ASP Coalition is troubled by the proposal to "stack" price concessions as it would threaten beneficiary access to outpatient drugs and could result in higher out-of-pocket costs and increased utilization management for some Medicare beneficiaries. This approach would also place additional burdens on providers, including costly changes to their contracting and business processes at a time when they are navigating an increasingly challenging reimbursement environment.

Currently, Medicaid Best Price means the "lowest price available from the manufacturer... to any wholesaler, retailer, provider, HMO, nonprofit entity, or governmental entity within the United States" with certain exclusions.¹ This plain language indicates that Best Price is one price offered to a single entity. The stacked concession proposal would be a radical departure from the Best Price construct that has been in effect since the MDRP was established. The ASP Coalition is alarmed that the proposal of stacking price concessions to determine Best Price could harm beneficiary access to care and increase patient costs. CMS' proposal could disincentivize voluntary rebates and other price concessions from manufacturers. As a result, providers that administer drugs to Medicaid patients would be negatively impacted and face higher costs for treating such patients.

The proposal does not address the significant operational challenges in executing this change in Best Price definition. To operationalize, a system would have to track every entity that encounters a drug unit across the pharmaceutical supply chain, and providers would need to consent to an information exchange with each manufacturer regarding the unit. No such system exists currently. The ASP Coalition believes the creation of such a system would be complicated and include unlimited cost and uncertainties. It would also increase the burden on providers, diverting critical time and resources away from patient care. Additionally, it would further distract from preparations by entities across the pharmaceutical supply chain, including providers, who are working to adapt to significant changes to Medicare and Medicaid, such as the passage of the Inflation Reduction Act and the "AMP cap" removal set to go into effect January 2024.

The ASP Coalition urges CMS to forego its ill-advised proposal to upend the Best Price calculation to include stacked price concessions made to separate entities along the supply chain.

¹ Social Security Act (SSA) §1927(c)(1)(C).