

April 18, 2019

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Azar:

Thank you for your dedication to fighting the opioid epidemic. We write today to call your attention to important policy work still to be done, focusing on the reduction of unnecessary opioid utilization through increased access to non-opioid pain management.

We urge you to work with the Centers for Medicare & Medicaid Services (CMS) to revise reimbursement policies that limit patient access to non-opioid drugs, biological products, and medical devices used to treat postsurgical and chronic pain. Leading experts across the federal government are calling for these changes, including the President's Commission on Combating Drug Addiction and the Opioid Crisis, and more recently, the Pain Management Best Practices Inter-Agency Task Force. The Task Force's draft report concluded that non-opioid alternatives are underutilized, and that public and private payers should reconfigure reimbursement policies to encourage the use of non-opioid options. Most importantly, we hear from our experts -- physicians, patients and community leaders -- that this reimbursement problem limits patient choice.

Under the Hospital Outpatient Prospective Payment System (OPPS) rule, Medicare packages payment for drugs and supplies used to manage postsurgical pain with payment for the surgical procedure, providing hospitals with the same payment regardless of whether they incur the additional cost of a non-opioid postsurgical pain management treatment. Similarly, under the comprehensive APC (C-APC) policy, CMS packages payment for physician-administered postsurgical pain management treatment provided in connection with specific outpatient procedures. In contrast, pharmacy-dispensed opioids prescribed after surgery, for use in the ambulatory care setting and at home, can be covered separately by Medicare Part D, incentivizing their use.

We commend you for Medicare's policy change in the Ambulatory Surgery Center (ASC) setting last year, which reversed this packaging policy for procedures performed in the ASC for certain non-opioid drugs, though more can be done to include other non-opioid alternative modalities for post-operative pain management. We urge you to take the opportunity to make an even more impactful change in both the ASC and in the Hospital Outpatient Department (HOPD) setting by changing this packaging policy without increasing out-of-pocket costs for Medicare beneficiaries.

In the case of medical device alternatives to opioids, payment for devices proven to effectively manage chronic pain are packaged into a procedure payment in the hospital outpatient and ASC settings, limiting hospitals' and ASCs' incentive to offer advanced technologies – even for those

devices where peer-reviewed published evidence has demonstrated their ability to reduce or eliminate the use of prescription opioids. We urge you to move forward with payment policy revisions for evidence-based, opioid-sparing pain management devices, consistent with Section 6082 of HR 6, the SUPPORT for Patients and Communities Act (PL 115-271).

CMS clearly understands the need to make non-opioid treatments more accessible to reduce unnecessary opioid prescribing and abuse, and we look forward to working with you to achieve that goal.

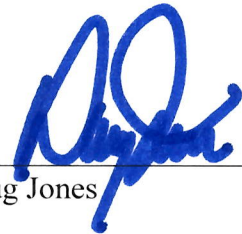
If you should have any questions, please contact Jeff Lucas at Jeff_Lucas@cassidy.senate.gov

Sincerely,



Bill Cassidy, M.D.

United States Senator



Doug Jones

United States Senator



Shelley Moore Capito

United States Senator



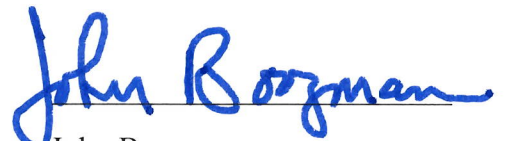
Jeanne Shaheen

United States Senator



Kevin Cramer

United States Senator



John Boozman

United States Senator



Joe Manchin III

United States Senator



Margaret Wood Hassan

United States Senator



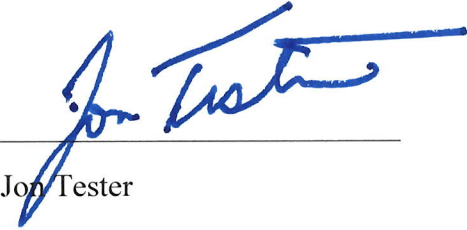
John Hoeven

United States Senator



Dan Sullivan

United States Senator



Jon Tester

United States Senator



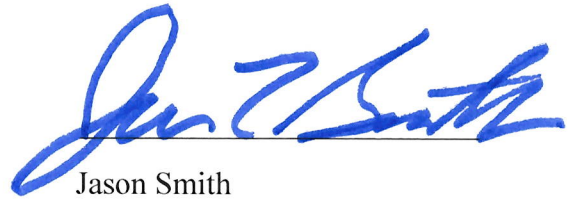
Martin Heinrich

United States Senator



Billy Long

United States Representative



Jason Smith

United States Representative



Kenny Marchant

United States Representative

Congress of the United States
Washington, DC 20515

April 9, 2019

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Azar:

Thank you for your dedication to fighting the opioid epidemic. We write today to call your attention to important policy work still to be done, focusing on the reduction of unnecessary opioid utilization through increased access to non-opioid pain management.

We urge you to work with the Centers for Medicare & Medicaid Services (CMS) to revise reimbursement policies that limit patient access to non-opioid drugs, biological products, and medical devices used to treat postsurgical pain. Leading experts across the federal government are calling for these changes, including the President's Commission on Combating Drug Addiction and the Opioid Crisis, and more recently, the Pain Management Best Practices Inter-Agency Task Force. The Task Force's draft report concluded that non-opioid medications are underutilized, and that public and private payers should reconfigure reimbursement policies to encourage the use of non-opioid options. Most importantly, we hear from our experts -- physicians, patients and community leaders -- that this reimbursement problem fundamentally limits patient choice.

Under the Hospital Outpatient Prospective Payment System rule, Medicare packages payment for drugs and supplies used to manage postsurgical pain with payment for the surgical procedure, providing hospitals with the same payment regardless of whether they incur the additional cost of a non-opioid postsurgical pain management treatment. Similarly, under the comprehensive APC (C-APC) policy, CMS packages payment for physician-administered postsurgical pain management treatment provided in connection with specific outpatient procedures. In contrast, pharmacy-dispensed opioids prescribed after surgery, for use in the ambulatory care setting and at home, can be covered separately by Medicare Part D. As a result of these policies, CMS is incentivizing use of pharmacy-dispensed opioids over use of physician-administered non-opioid alternatives.

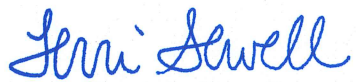
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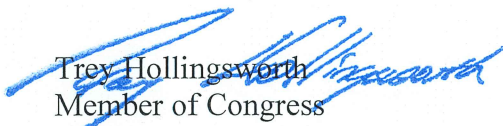
prescribing and abuse, and we hope that you will continue your mission to ending the opioid epidemic by making these needed changes.


If you should have any questions, please contact Hillary Beard with Congresswoman Terri Sewell at Hillary.Beard@mail.house.gov or Christopher Buki with Congressman David B. McKinley, P.E. at Christopher.Buki@mail.house.gov.

Sincerely,



David B. McKinley, P.E.
Member of Congress

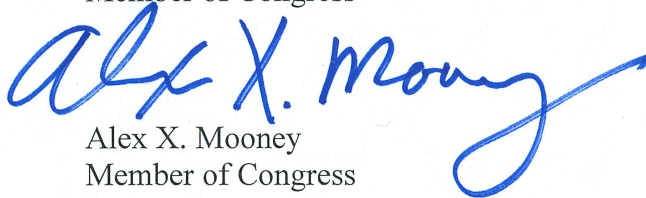

Terri A. Sewell
Member of Congress


Trey Hollingsworth
Member of Congress


Eleanor Holmes Norton
Member of Congress


Mark Meadows
Member of Congress



Bob Gibbs
Member of Congress

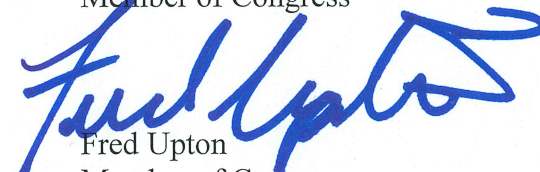

Alex X. Mooney
Member of Congress

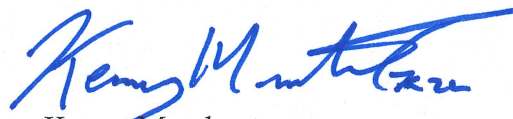

Henry Cuellar
Member of Congress



Bill Johnson
Member of Congress

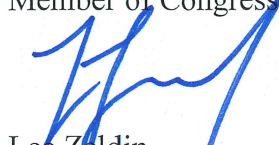

Wm. Lacy Clay
Member of Congress



Susan W. Brooks
Member of Congress


Fred Upton
Member of Congress


Kenny Marchant
Member of Congress


Michael R. Turner
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Lee Zeldin
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Carol D. Miller
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Trent Kelly
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Susan A. Davis
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Mike Kelly
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Robert B. Aderholt
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Stephanie N. Murphy
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David P. Joyce
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Raúl M. Grijalva
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John Joyce, M.D.
Member of Congress

George Holding
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Sean P. Duffy
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Conor Lamb
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Ami Bera, M.D.
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Jimmy Panetta
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Xochitl Torres Small
Member of Congress

Bradley Byrne
Member of Congress

Ben McAdams
Member of Congress

Jackie Walorski
Member of Congress

Chris Pappas

Chris Pappas
Member of Congress

Ann McLane Kuster

Ann McLane Kuster
Member of Congress

Eric Swalwell

Eric Swalwell
Member of Congress

Jim Costa

Jim Costa
Member of Congress

John R. Curtis

John R. Curtis
Member of Congress

Congress of the United States
Washington, DC 20515

May 15, 2018

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Ms. Seema Verma
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, SW
Washington D.C. 20201

Dear Secretary Azar and Administrator Verma:

We write today to urge the Centers for Medicare & Medicaid Services (CMS) to revise reimbursement policies that limit patient access to non-opioid drug, biological products, and medical devices used to treat postsurgical pain, as recommended by the President's Commission on Combatting Drug Addiction. We have all seen firsthand the devastating impact that the opioid epidemic has had in our communities. While there is no magic bullet that will end the opioid epidemic, we believe the Commission's commonsense recommendation can help turn the tide.

It is our understanding that Medicare policies discourage hospitals and physicians from adopting certain non-opioid pain management therapies in the hospital outpatient setting. Under the Hospital Outpatient Prospective Payment System rule, Medicare packages payment for drugs used to manage postsurgical pain with the payment made by Medicare for the surgical procedure. This allows hospitals to receive the same payment from Medicare for the procedure regardless of whether they incur the additional cost of purchasing and administering a non-opioid postsurgical pain management treatment. Similarly, under the comprehensive APC (C-APC) policy, CMS packages payment for physician-administered postsurgical pain management drugs provided in connection with specific outpatient procedures. Pharmacy-dispensed opioids prescribed after surgery, for use in the ambulatory care setting and at home, can be covered separately by Medicare Part D. As a result, Medicare policies incentivize prescribing of pharmacy-dispensed opioids over the use of physician-administered non-opioid alternatives.

In November 2017, the President's Commission on Combatting Drug Addiction recommended CMS revise reimbursement policies that limit patient access to the non-opioid drug, biological products, and medical devices used to treat postsurgical pain. We are concerned that CMS has not yet committed to revising these policies four months after the release of the Commission's Final Report. New, effective non-opioid pain management strategies need to be on the front


lines of the fight against this terrible epidemic. We urge CMS to immediately take the steps recommended by the Commission to revise the Medicare policies that discourage the use of non-opioid treatments for postsurgical pain management, including the hospital outpatient packaging policies.


We appreciate your assistance with this request. If you should have any questions, please contact Martin Schultz at martin.schultz@mail.house.gov or by phone at 202-225-3915.


Sincerely,


Jackie Walorski
Member of Congress


Terri Sewell
Member of Congress


Larry Bucshon, M.D.
Member of Congress


Ami Bera, M.D.
Member of Congress


David B. McKinley, P.E.
Member of Congress


Suzan DelBene
Member of Congress