



February 5, 2024

Ilisa BG Bernstein, PharmD, JD, FAPhA
Senior Vice President, Pharmacy Practice & Government Affairs
American Pharmacists Association
2215 Constitution Avenue, NW
Washington, DC 20037

Dear Ilisa Bernstein:

Thank you for your letter regarding the role of pharmacists in supporting patient access to care. The Centers for Medicare & Medicaid Services (CMS) values the critical role that pharmacists play in health care delivery, particularly in helping to initiate access to Preexposure Prophylaxis (PrEP) for Human Immunodeficiency Virus (HIV) prevention. I appreciate hearing from you on this important issue.

We recognize that pharmacists are an essential part of our health care system and appreciate the important role that pharmacists played in the response to the COVID-19 public health emergency. While the Medicare program covers many types of services that pharmacists may provide, the Medicare Part B statute does not include pharmacists as a type of practitioner that can enroll in the Medicare program and be paid directly for their professional services. Because of the way the law is written, CMS does not always have a mechanism to pay pharmacists, or the pharmacies that employ them, for their professional services. Pharmacists can, however, work with a Medicare-enrolled physician or practitioner to provide services as auxiliary personnel under Medicare's incident to regulations at 42 C.F.R. section 410.26. As such, pharmacists may provide services incident to the professional services, and under the appropriate level of supervision, of the billing physician or nonphysician practitioner, if payment for the services is not made under the Medicare Part D benefit.

With respect to Medicaid coverage of pharmacist-provided services, states have the option to use the Other Licensed Practitioner benefit at 42 CFR 440.60(a). This regulation defines "medical care or any other type of remedial care provided by a licensed practitioner" as any medical or remedial care or services, other than physicians' services, provided by licensed practitioners within the scope of practice as defined under state law. Additionally, states have the option of enrolling pharmacists in the state Medicaid program. As an enrolled provider, pharmacists must comply with federal and state law including the Medicaid state plan that determines scope of practice requirements for this practitioner type.

Your letter also provided input about how a National Coverage Determination (NCD) for PrEP for HIV prevention might impact patient access to PrEP. CMS received several public comments on the proposed NCD that expressed similar concern over the potentially complex

transition of coverage of these drugs from Part D to Part B. As you know, CMS did not finalize the proposed NCD by the expected completion date in October 2023, and CMS is currently focused on minimizing any disruption in access for those beneficiaries currently on PrEP as we work towards finalizing the NCD. Information regarding this NCD can be accessed via the tracking sheet¹.

Thank you again for sharing your thoughts on these issues. We welcome your feedback and appreciate your interest in these important issues as we work toward the goal of strengthening the Medicare and Medicaid programs for all beneficiaries.

Sincerely,



Chiquita Brooks-LaSure

¹ <https://www.cms.gov/medicare-coverage-database/view/ncacal-tracking-sheet.aspx?NCAId=310>.