

September 21, 2010

Thomas M. Ryan  
Chairman of the Board, President and Chief Executive Officer  
CVS Caremark Corporation  
One CVS Drive  
Woonsocket, RI 02895

Dear Mr. Ryan:

As Chairman of the United States Senate Special Committee on Aging, I take seriously the Committee's responsibility to protect and advocate on behalf of our nation's seniors. Part of this responsibility is the oversight of health care benefit programs enacted by Congress for the benefit of seniors, including the Medicare prescription drug program.

The merger of CVS with Caremark Rx, Inc. in March 2007 brought together the largest retail pharmacy chain in the United States with one of the nation's largest pharmacy benefit managers (PBM), thereby substantially increasing power over and responsibility for a sizable portion of the country's prescription drug market. Among those responsibilities are CVS Caremark's administration of drug benefits under Part D of the Medicare program. Pharmacy benefit services provided by PBMs include, for example, integrated network pharmacy claims processing, mail pharmacy services, specialty pharmaceuticals, benefit design consultation, drug utilization review, formulary management, disease management, and medical drug data analysis services. CVS Caremark provides such services to a variety of prescription drug plans participating in Part D, as well as CVS Caremark's own drug plan subsidiaries, SilverScript Insurance Company (SilverScript) and Accendo Insurance Company (Accendo). The company is, therefore, in a unique position to reduce or increase prescription drug costs for taxpayers and Medicare beneficiaries, and to affect health outcomes for seniors.

I am concerned, therefore, by numerous reports the Committee has received of seniors being "steered" to CVS retail or mail-order pharmacies based upon promises of lower out-of-pocket costs, only to encounter higher co-pays, as well as higher drug charges to Part D plans. The Committee also has received reports of claim denials for long-term care residents participating in CVS Caremark's "Maintenance Choice" plan, which requires residents to use a CVS retail or mail-order pharmacy for drugs they fill more than twice. Patients using CVS Caremark mail order services also reportedly have continued to receive medications by mail that they have discontinued, thereby aggravating problems of prescription drug waste and disposal, an issue of concern to this Committee. Accordingly, I write to request the following information from your company:

1. A description of CVS Caremark's policies relating to long-term care patients participating in the Maintenance Choice program, including mechanisms employed to ensure that the health and safety of long-term care residents is not jeopardized by claim denials due to inappropriate step therapy or prior authorization requirements. Please include detailed information with respect to the 20 most prevalent reasons for claims denials for long-term care residents, the 20 most frequently denied drugs, the maximum time period for appeals and reconsiderations of the claim adjudication to be resolved, and the percentage of denials that are sustained.
2. A description of CVS Caremark's "emergency override" policies allowing a non-CVS pharmacy to fill a prescription that Part D plan members would otherwise be required to fill at a CVS retail or mail-order pharmacy (including for specialty and maintenance drugs).
3. Copies of marketing materials targeted to Medicare Part D plan members, including:
  - a. Templates for any form letters sent to members of CVS Caremark's ten largest Part D plans;
  - b. All call scripts and related materials used by CVS Caremark representatives, telemarketers, and agents for purposes of calling Part D plan members regarding their benefits or prescriptions;
  - c. All call scripts and related materials used by CVS pharmacists or representatives, telemarketers, or agents acting on behalf of CVS pharmacists for purposes of calls to Part D plan members regarding their benefits or prescriptions.
4. A copy of CVS Caremark's Part D compliance plan.
5. A description of how CVS Caremark's Maintenance Choice program for patients' long-term medication needs complies with the "Any Willing Pharmacy" requirement of Part D.
6. Copies of CVS Caremark's policies with respect to drug pricing and cost-sharing in connection with Part D plan members' use of a "preferred pharmacy," and a description of the criteria for becoming a preferred pharmacy.
7. A description of how CVS Caremark ensures that Medicare payments to Part D plan sponsors are not increased by tiered cost-sharing arrangements applicable to a Part D plan member's use of a preferred pharmacy, such as a CVS retail pharmacy.
8. A description of how CVS Caremark ensures that Part D plan members do not incur increased cost-sharing through the use of a preferred pharmacy, such as a CVS retail pharmacy.

I would appreciate receiving this information no later than October 18, 2010. Should you have any questions regarding this request, please contact Jack Mitchell on the Committee staff at 202-224-5364.

Sincerely,

A handwritten signature in blue ink that reads "Herb Kohl". The signature is written in a cursive style with a large initial "H".

Herb Kohl  
Chairman