

CHUCK GRASSLEY, IOWA, CHAIRMAN

MIKE CRAPO, IDAHO	RON WYDEN, OREGON
PAT ROBERTS, KANSAS	DEBBIE STABENOW, MICHIGAN
MICHAEL B. ENZI, WYOMING	MARIA CANTWELL, WASHINGTON
JOHN CORNYN, TEXAS	ROBERT MENENDEZ, NEW JERSEY
JOHN THUNE, SOUTH DAKOTA	THOMAS R. CARPER, DELAWARE
RICHARD BURR, NORTH CAROLINA	BENJAMIN L. CARDIN, MARYLAND
JOHNNY ISAKSON, GEORGIA	SHERROD BROWN, OHIO
ROB PORTMAN, OHIO	MICHAEL F. BENNET, COLORADO
PATRICK J. TOOMEY, PENNSYLVANIA	ROBERT P. CASEY, JR., PENNSYLVANIA
TIM SCOTT, SOUTH CAROLINA	MARK R. WARNER, VIRGINIA
BILL CASSIDY, LOUISIANA	SHELDON WHITEHOUSE, RHODE ISLAND
JAMES LANKFORD, OKLAHOMA	MAGGIE HASSAN, NEW HAMPSHIRE
STEVE DAINES, MONTANA	CATHERINE CORTEZ MASTO, NEVADA
TODD YOUNG, INDIANA	

## United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

KOLAN DAVIS, STAFF DIRECTOR AND CHIEF COUNSEL  
JOSHUA SHEINKMAN, DEMOCRATIC STAFF DIRECTOR

June 6, 2019

### VIA ELECTRONIC TRANSMISSION

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

The Honorable Seema Verma  
Administrator  
The Centers for Medicare and Medicaid Services  
200 Independence Ave, SW  
Washington, DC 20201

Dear Secretary Azar and Administrator Verma:

I am writing to inquire about your efforts to understand opioid misuse patterns as part of the Center for Medicare and Medicaid Services' (CMS) Opioid Misuse Strategy. According to the Department of Health and Human Services, Office of Inspector General (HHS OIG), nearly one in three Medicare Part D beneficiaries received an opioid prescription in 2017, and Medicare spending for prescription opioids approached \$3.4 billion that year.<sup>1</sup> The Centers for Disease Control and Prevention (CDC) has also indicated that more than 47,000 overdose deaths in the United States in 2017 involved an opioid, and many of those deaths were linked to prescription opioids.<sup>2</sup> The Government Accountability Office (GAO) has also noted that those at risk for opioid misuse are more likely to be younger than 65, female, and dually eligible for Medicare and Medicaid.<sup>3</sup>

---

<sup>1</sup> HHS OIG, OEI-02-18-00220, *Opioid Use in Medicare Part D Remains Concerning*, (2018), available at <https://oig.hhs.gov/oei/reports/oei-02-18-00220.asp>.

<sup>2</sup> Center for Disease Control, *Understanding the Opioid Epidemic*, (2018) <https://www.cdc.gov/drugoverdose/epidemic/index.html>.

<sup>3</sup> U.S. Gov't Accountability Office, GAO-18-15, *Prescription Opioids: Medicare Needs to Expand Oversight Efforts to Reduce the Risk of Harm*, (2017), available at <https://www.gao.gov/assets/690/687629.pdf>.

I am particularly concerned about the effects the opioid epidemic is having on Federal healthcare programs and the patients that participate in them. In June 2018, HHS OIG reported that up to 15,000 Medicare beneficiaries appear to be “doctor shopping” or seeking a prescription for opioids in higher doses from multiple physicians and pharmacies.<sup>4</sup> Doctor shopping may be a sign that patients are diverting medications for an illicit use or that the patient is a victim of identity theft. Furthermore, receiving high amounts of opioids may also indicate that prescribers are not checking the patient’s medical history and past opioid use before prescribing. This indicates that the Federal government, plan sponsors, prescribers, and pharmacies need to better monitor patient care as it relates to opioid use.

On January 1, 2019, HHS implemented strategies to help patients and plan sponsors participating in Medicare Part D avoid opioid misuse and addiction, including the issuance of safety alerts at the time the prescription is dispensed. CMS also issued guidance to help plan sponsors monitor opioid use and how to implement a drug utilization review system. This guidance is incredibly important--especially at a time when the opioid epidemic continues to wreak havoc on our communities. I also believe that these and other steps by the Trump Administration, such as the implementation of the SUPPORT for Patients and Communities Act, which I helped to develop, will help stem the tide of opioid misuse and addiction. However, our work is not done yet.

Recently, GAO reported that CMS could be doing more to prevent opioid misuse and abuse. GAO recommended that CMS collect additional data on Medicare Part D patients who receive high doses of opioids and identify providers who prescribe large amounts of these addictive painkillers.<sup>5</sup> GAO explained that CMS’s “approach misses some [patients] who could be at risk of harm, based on [CDC’s] guidelines,” and “as a result CMS is limited in its ability to assess progress toward meeting the broader goals of its Opioid Misuse Strategy.”<sup>6</sup> GAO also recommended that CMS gather information over time on the number of patients at risk of harm from opioids (including those who receive high opioid morphine equivalent doses regardless of the number of pharmacies or providers), ensure that its contractors scrutinize providers who prescribe high amounts of opioids, and require plan sponsors to report on investigations into individuals who prescribe high amounts of opioids for non-chronic pain.

Given the staggering number of opioid-related deaths in this country, I urge CMS and HHS to consider implementing the GAO’s 2017 recommendations that have not yet been acted on and implement additional policies and evaluation tools to accurately detect and access treatment and prevention tactics. In order to better understand what steps CMS and HHS are taking to implement these recommendations, I ask that you respond to the following questions by no later than June 20, 2019:

1. What is the status of CMS efforts to implement GAO’s recommendations? Does CMS disagree with any of the recommendations? If so, please explain why CMS disagrees.

---

<sup>4</sup> HHS OIG, *supra* note 1.

<sup>5</sup> U.S. Gov’t Accountability Office, GAO-18-15, Prescription Opioids: Medicare Needs to Expand Oversight Efforts to Reduce the Risk of Harm, (2017), available at <https://www.gao.gov/assets/690/687629.pdf>.

<sup>6</sup> *Id.*

2. What is CMS's plan to implement safety protocols to identify patients who are at risk for addiction, such as those who "doctor shop" or travel to multiple providers for their opioid prescriptions?
3. What actions will CMS take in response to GAO's recommendations that CMS develop provider protocols to reduce overprescribing of opioids?
4. What practices does CMS embrace to identify beneficiaries who are "at-risk" for misusing opioids?
5. Have you established performance measures and target goals for assessing access to medication assisted treatment (MAT), and, if so, what are they?
6. Have you established a timeframe for evaluation of your efforts to expand MAT? Please explain.
7. To whom will plan sponsors report to?

Thank you in advance for your prompt attention to these matters. Should you have any questions, please contact Evelyn Fortier or Kirsten Wing of my Committee staff at 202-224-4515.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.