



March 2, 2017

Re: Centers for Medicare and Medicaid Services (CMS)  
Opioid Misuse Strategy 2016  
Released by CMS January 5, 2017

Dear CMS Administrator:

I am writing to express our serious concerns about the Centers for Medicare and Medicaid Services (CMS) Opioid Misuse Strategy 2016 released on January 5, 2017. While we support measures to improve the treatment of people living with substance use disorder, we believe that the overall strategy, as is currently written, will likely cause undue suffering for the millions of Americans who live with debilitating chronic pain.

As the leading chronic pain patient education, support and advocacy organization, U.S. Pain Foundation is committed to protecting access to vital pain management options *and* preventing pain medication abuse. We believe it is possible to achieve both goals through balanced reform. Unfortunately, many recently adopted policies at the federal and state level are causing unnecessary suffering for patients with pain. We believe aspects of the CMS's Opioid Misuse Strategy will further harm patients with legitimate pain and urge you to reconsider them.

U.S. Pain supports comprehensive, multidisciplinary pain management that is tailored to the needs of each individual. While opioid medications are rarely the first choice of patients or providers for treating chronic pain, they are an important treatment option, particularly for those with moderate to severe pain who have found other treatments insufficient. Many of these patients are well-maintained on long-term opioid therapy in combination with other modalities and are simply trying their best to manage devastating and disabling conditions.

We support CMS's priority areas two and three, which we believe are important steps to reducing opioid misuse and abuse. However, we urge CMS to reconsider major provisions of priority areas one and four ("Implement more effective person-centered and population-based strategies to reduce the risk of opioid use disorders, overdoses, inappropriate prescribing, and drug diversion" and "Increase the use of evidence-based practices for acute and chronic pain management" respectively).

In addition to specific concerns detailed below, our overarching worry is that many of the measures in priority areas one and four—however well-intentioned—will have a chilling effect on pain care, which in many ways, is already under siege.

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Below are specific measures proposed by CMS that we find particularly distressing:

- 1) Revoking prescribers' enrollment in Medicare Part D for "inappropriate behavior."

Threatening prescribers with revoking participation in Medicare Part D is an extreme measure. It seems more directed at frightening care providers into not prescribing or, worse, not treating chronic pain patients than it does encouraging compassionate, patient-centered care for our sickest, oldest and most vulnerable population of Americans. Who will judge what is "inappropriate behavior" and what measures will be provided by CMS to allow prescribers to appeal such an extreme sanction?

- 2) Monitoring and tracking measures that pit pharmacists, physicians, and patients against one another.

We are concerned this will create a negative environment that is counterproductive to the collaboration and patient-provider relationship required for effective, high-quality health care. Because of the current backlash against opioids, many clinicians already are afraid to prescribe them—even when they are necessary and appropriate for a patient's pain management.

- 3) Enabling and encouraging insurers who "suspect a provider of inappropriate prescribing behavior" to alert other plans so they can take action.

We find it concerning that CMS would encourage insurers who have vested interest in reducing benefits to providers and beneficiaries to judge a prescriber's behavior and report them to other insurers. Healthcare providers have a relationship with and detailed knowledge of their patients' medical conditions that insurers do not have. It is inappropriate for CMS to condone insurers discrediting a provider based on the insurers subjective judgement of prescribers' behavior.

- 4) Monitoring, tracking and publishing individual prescribers prescribing rates and other metrics "aimed at curbing inappropriate prescribing behavior."

This strikes us as CMS using public shaming to frighten healthcare providers into no longer prescribing, regardless of whether or not is appropriate for their patients. Threatening doctors with punitive measures even when prescribing appropriately is leading to unintentional and unnecessary patient suffering.

- 5) Using the CDC Guideline number 5 dosage limit of 90 mg of morphine equivalent milligrams a day as a metric to judge the appropriateness of prescribing behavior.

We believe that medication dosage is best left to clinicians, who are explicitly trained to administer medications in a way that meets their patients' unique needs. It is crucial to understand that each patient is different. The type and amount of medication administered depends on patients' unique body



chemistry, their size and weight, and the specifics and severity of their pain. While 90 mg may be too much for one patient, for another, it might be the only way to manage their pain and allow them any semblance of daily function.

- 6) The lack of specific measures to ensure nonpharmacological treatments are accessible and affordable.

U.S. Pain strongly supports the call for an increased focus on alternative, nonpharmacological treatments, such as physical therapy, cognitive behavioral therapy, massage, and chiropractic care, as well as on non-opioid pharmacological treatments. However, in most cases, these alternative, nonpharmacological treatments are not well-covered by insurance, if they are covered at all. CMS is not specific about what it will do to ensure that these alternative treatment modalities will be covered by payers that work in conjunction with CMS. It is unfair to severely limit opioid medications for legitimate pain patients without presenting a tangible plan for increasing the accessibility of effective alternatives.

Organizations like U.S. Pain hear almost daily from patients who are not able to access the medications they rely on for basic functioning. Some health care systems are outright refusing to prescribe opioids at all.<sup>1</sup> In other cases, doctors are dropping pain patients without warning<sup>2</sup> because it's not worth the risk of treating them. Even the most reasonable doctor's offices are enacting burdensome requirements, like showing up for a pill count with an hour's notice.<sup>3</sup> Patients who are permitted to stay on their opioid medications may be subjected to arbitrary time or dosage limitations. Many clinicians recognize that these restrictions can be problematic, but they may feel they have no choice. In a *Boston Globe*<sup>4</sup> survey of 3,000 physicians nationwide, more than one-third said opioid restrictions have harmed their patients with pain.

Yet multiple studies have shown that the large majority of patients with chronic pain who take opioids use their medications as prescribed. Research on roughly one million insurance claims for opioids showed that less than five percent<sup>5</sup> of patients with chronic pain misused their medication. Another large-scale analysis, which reviewed 26 studies on chronic pain patients who take opioids, found the rate of addiction to be around 1 percent.<sup>6</sup> In addition, according to the annual National Survey on Drug Use and Health,<sup>7</sup> 75 percent of all opioid misuse does not start with a legitimate prescription, but through medication illegally obtained from a friend, family member or dealer.

We already know from the milestone 2011 Institute of Medicine report<sup>8</sup> that pain is often overlooked and undertreated. Adding more hoops for clinicians and patients to jump through for treatment will exacerbate that problem. Denying proper care to people with pain is unethical and can lead to unnecessary suffering, depression, disability and even suicide. Studies<sup>9</sup> show that patients with chronic pain are twice as likely as the average person to take their lives, and the numbers are likely underreported.<sup>10</sup>

Controlling the misuse and abuse of pain medications is critical, but the importance of decreasing substance use disorder does not outweigh the needs of millions of people who suffer from debilitating chronic pain.



Thank you for considering the perspective of millions of Americans living with pain.

Sincerely,

A handwritten signature in black ink that reads "Cindy Steinberg".

Cindy Steinberg  
National Director of Policy and Advocacy  
U.S. Pain Foundation

Sources:

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