

United States Senate

SPECIAL COMMITTEE ON AGING

WASHINGTON, DC 20510-6400

(202) 224-5364

June 1, 2015

The Honorable Sylvia Mathews Burwell
Secretary of Health and Human Services
U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Burwell:

It has come to our attention that the Food and Drug Administration (FDA) has issued draft guidance for compounding and repackaging biologics.¹ While we are pleased that the FDA is taking steps to address safety issues surrounding compounding facilities, we have concerns regarding the effect that any final guidance may have on patients dependent upon affordable medications.

In particular, we are concerned that the beyond use dates proposed in the draft guidance would not allow doctors enough time to receive repackaged pharmaceuticals from compounding pharmacies and treat patients before the drug's beyond use date passes. These time constraints may limit physician access to repackaged drugs, which would in turn limit patient access to treatment options. Limiting access to repackaged pharmaceuticals could end up costing Medicare billions over the coming decade.

Specifically, concerns have been raised that this draft guidance, if implemented, would have a substantial impact on access to a drug called Avastin. When repackaged, Avastin is used to treat age-related macular degeneration and other eye diseases. Age-related macular degeneration is the leading cause of severe vision loss in older Americans.² Currently, patients faced with this diagnosis have three treatment options: Lucentis, Eyelea, and repackaged Avastin. To date, we understand that several studies have been conducted comparing the efficacy of repackaged Avastin with Lucentis and Eyelea in treating both age-related macular degeneration and diabetic macular edema, finding that the drugs can be used to treat these conditions.³ That said, a major difference

¹ *Mixed, Diluting, or Repackaging Biological Products Outside the Scope of an Approved Biologics License Application; Draft Guidance for Industry; Availability*, 80 F.R. 8881 (Feb. 19, 2015); Food and Drug Administration Draft Guidance, *Mixing, Diluting, or Repackaging Biological Products Outside the Scope of an Approved Biologics License Application* (Feb. 2015).

² Health Affairs, *Switching to Less Expensive Blindness Drug Could Save Medicare Part B \$18 Billion Over a Ten Year Period* (June 2014).

³ Health Affairs, *Switching to Less Expensive Blindness Drug Could Save Medicare Part B \$18 Billion Over a Ten Year Period* (June 2014); National Eye Institute, *Comparison of Age-*

between these three drugs is the price. Lucentis and Eyelea cost approximately \$1900 per dose, while repackaged Avastin only costs \$50 per dose.⁴ Currently, patients suffering from age-related macular degeneration require 7-8 doses per year, which only magnifies this drastic difference in cost.⁵

Currently, it is estimated that repackaged Avastin is used in approximately 60 percent of treatments for age-related macular degeneration.⁶ While many aging Americans are covered by Medicare, they are still responsible for 20 percent of the cost of treatment whether through another insurance provider or out of pocket. That is not to mention the 80 percent of the cost that Medicare is absorbing. In 2011, the Department of Health and Human Services Office of Inspector General found that “if Medicare reimbursement for all beneficiaries treated with Avastin or Lucentis for wet AMD had been paid at the Avastin rate during calendar years (CY) 2008 and 2009, Medicare Part B would have saved approximately \$1.1 billion and beneficiaries would have saved approximately \$275 million in copayments.”⁷ Similarly, it has been estimated by other organizations that the use of Avastin over Lucentis could save Medicare more than \$18 billion during the coming decade.⁸ We cite these statistics not to suggest that repackaged Avastin is the best treatment option, but rather to demonstrate the drastic effect that limiting the supply may have on Medicare and patients alike.

During a briefing with the FDA regarding this issue, Aging Committee staff were informed that the costs to Medicare and to patients were not weighed by the FDA when measuring the effect of this draft guidance.⁹ While we understand that patient safety must come first, considering such an enormous impact on our Medicare system and on patient expenditures would be appropriate when considering the impact of this guidance.

The Aging Committee was also informed by the FDA that, in drafting this guidance, the FDA did not reach out to the community of physicians that are familiar with using repackaged Avastin. Ophthalmologists have been using repackaged Avastin for almost 10 years to treat age-related macular degeneration.¹⁰ We are concerned that the FDA did not consult physicians familiar with the use of repackaged Avastin to discuss the beyond use dates that have been

Related Macular Degeneration Treatments Trials (CATT): Lucentis—Avastin Trial Manual of Procedures, §1.4.7.1 (May 2010).

⁴ Briefing by Dr. George Williams, American Academy of Ophthalmology, to Special Committee on Aging Staff (Mar. 27, 2015).

⁵ Briefing by Dr. George Williams, American Academy of Ophthalmology, to Special Committee on Aging Staff (Mar. 27, 2015).

⁶ Briefing by Dr. George Williams, American Academy of Ophthalmology, to Special Committee on Aging Staff (Mar. 27, 2015).

⁷ Health and Human Service Office of Inspector General, Review of Medicare Part B Avastin and Lucentis Treatments for Age Related Macular Degeneration, A-01-10-00514 (September 2011).

⁸ Health Affairs, *Switching to Less Expensive Blindness Drug Could Save Medicare Part B \$18 Billion Over a Ten Year Period* (June 2014).

⁹ Briefing by the FDA, to Special Committee on Aging Staff (March 23, 2015).

¹⁰ Briefing by Dr. George Williams, American Academy of Ophthalmology, to Special Committee on Aging Staff (Mar. 27, 2015).

successfully used in the past, especially when physicians' use have historically adhered to much longer beyond use dates.

FDA plays an important role in regulating the supply of pharmaceuticals and maintaining high safety standards to protect the public. To help us better understand how the FDA arrived at the draft guidance and the FDA's analysis of its effects, please provide answers to the following questions as soon as possible but no later than June 29, 2015:

1. Please state the number of adverse event reports for repackaged Avastin, Lucentis, and Eyelea received by the FDA since 2007. In addition, please include details of each adverse event report including the name of the drug involved, the reported problem, the origin of the medication and any other pertinent information. Please use the chart template attached to this request to provide your response.
2. Please provide citations to all relevant regulations relating to how adverse events associated with compounded or repackaged pharmaceuticals are reported, and when this reporting is required.
3. Please provide information sufficient to understand the date and topic(s) of any communications conducted via telephone or in person with physicians, industry representatives, or stakeholders relating to the draft guidance.

Additionally, in order to better help us understand the rationale behind the draft guidance and the FDA's analysis of its effects, please provide us with the following documents not later than June 29, 2015:

1. All documents considered in formulating the draft guidance.
2. Any and all communications with physicians, industry representatives, or stakeholders relating to the draft guidance, including information sufficient to understand the date and topic(s) of any communications conducted via telephone or in person.

The jurisdiction of the Special Committee on Aging is set forth in Section 104 of S. Res. 4, agreed to February 4, 1977.

We appreciate your assistance with this matter. Please contact Samuel Dewey of the Majority Staff at (202) 224-2798 or Caitlin Warner of the Minority Staff at (202) 224-9926 with any questions. Please note the attached Production Instructions and Data Delivery Standards which are attached hereto and are expressly incorporated herein as a part of this letter.

Sincerely,



Susan M. Collins
Chairman



Claire McCaskill
Ranking Member