NATIONAL CONSUMERS LEAGUE
1701 K Street, NW, Suite 1200 Washington, DC 20006
Main: (202) 835-3323 Fax: (202) 835-0747 www.nclnet.org

September 6, 2017

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Attention: CMS-1676-P

Dear Administrator Verma:

Since 1899, the National Consumers League has engaged on public policy issues, bringing the consumer perspective to a host of issues including the need for affordable, accessible medications. As medical science develops new treatments for life-shortening diseases, it is vital that policymakers remember that these drugs cannot improve population health if they are not affordable. In that light, we are writing out of concern regarding the CMS payment policy for biosimilar biological products.

Specifically, we believe the development of new biological medications to treat disease must be accompanied by biosimilars in order to ensure affordability and a competitive marketplace that drives down price. The CMS policy mandating that all biosimilar products for each reference drug receive the same billing code and reimbursement rate is contrary to this consumer-focused objective.

We believe that a single, shared reimbursement code for multiple biosimilar products does the following: First, it undermines the paramount relationship between physicians and patients in determining the most effective course of treatment. If all products receive the same CMS reimbursements, regardless of clinical effectiveness, then physicians are incentivized to utilize the least expensive medication. Second, if physicians are heavily motivated by reimbursement policy to opt for the least costly product, NCL fears that manufacturers will simply no longer invest in the development of biosimilar products. Without a competitive marketplace and a fair opportunity to receive reimbursement for a product, there will likely be a sharp downturn in biosimilar investment. This is harmful for patients that cannot afford biologic drugs that do not face serious price competition.

In its proposed CY 2018 Medicare Physician Fee Schedule (MPFS) rule, CMS said it will seek new or updated information on the effects of the current biosimilar payment policy. This implies that there may be changes in the future. For today's consumers, that is not sufficient. Any delay in addressing the problems within the current payment policy will result in further destabilization

of the biosimilar market and prompt more manufacturers to discontinue development of biosimilar products.

NCL strongly encourages that, within the CY 2018 MPFS rule, CMS include new language that assigns each biosimilar product its own unique reimbursement code. In that way, the physician-patient decision making relationship remains sacrosanct and biosimilar manufacturers know they can compete and have the opportunity to receive a fair return on their investment.

CMS has an opportunity to help address the nation's drug affordability challenge and act in a fashion that directly benefits American consumers, particularly those facing the greatest health challenges. Thank you for considering our perspective on this important public health issue.

Sincerely,

Sally Greenberg
Executive Director