Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

MAJORITY (202) 225–5074
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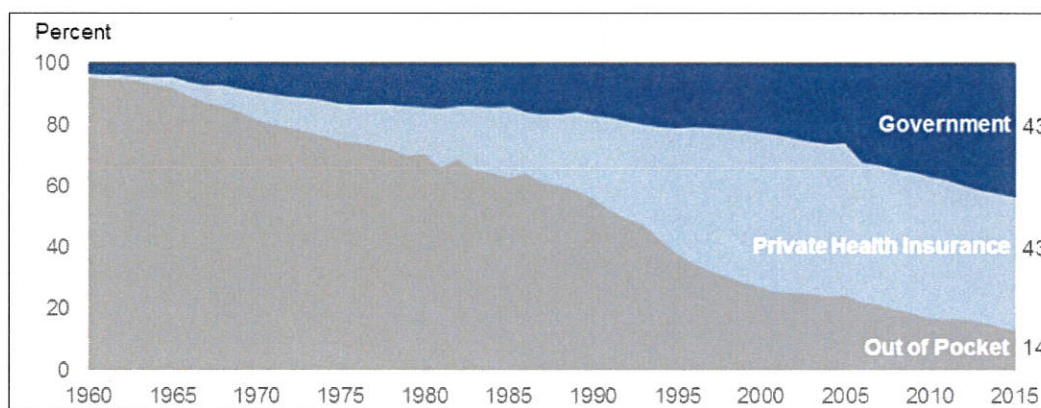http://oversight.house.gov

August 18, 2017

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Mr. Attorney General:

The Committee is concerned about the rising prices of prescription medications. In 2015, nearly one-third of branded medications increased in price by 20 percent, which has a significant effect on federal spending. [1] The federal government continues to pay for a growing share of costly retail prescription drug costs, primarily through Medicare's prescription drug benefit. In 2015, the federal government paid 43 percent of retail prescription drug expenses, while patients paid approximately 14 percent. [2]
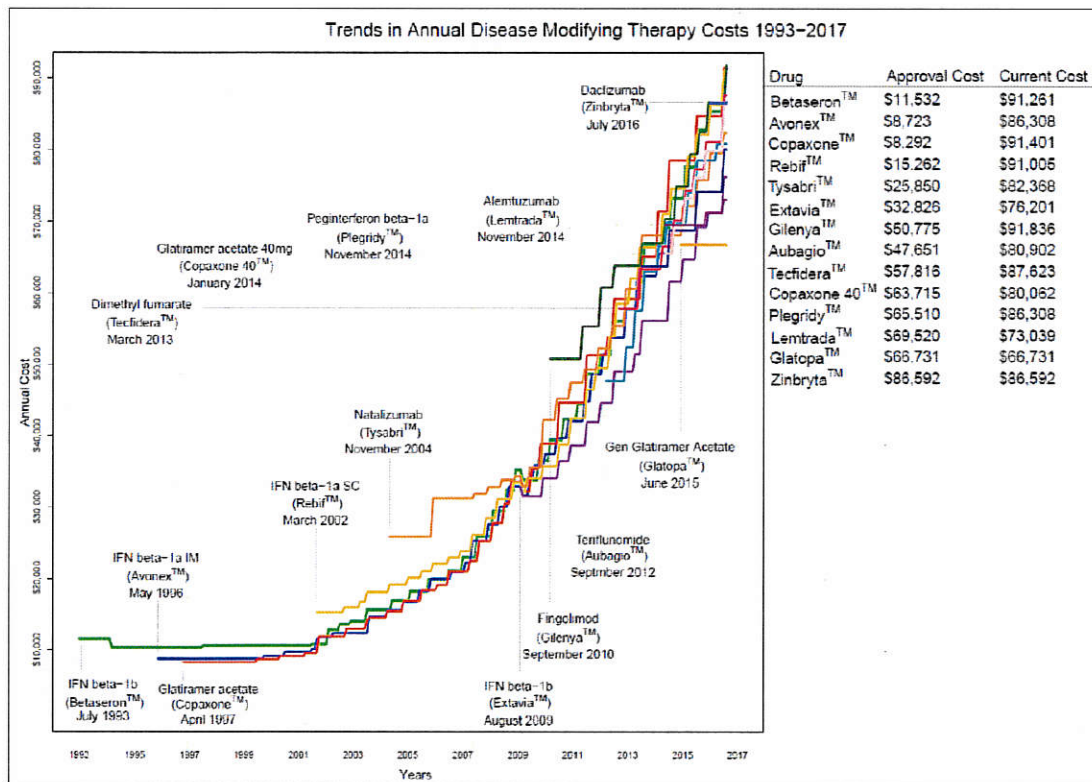

Graph 1: Prescription Drug Spending by Source of Funds[3]

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[1] THE EXPRESS SCRIPTS LAB, 2015 DRUG TREND REPORT (2016).

[2] Peter Olson & Louise Sheiner, *The Hutchins Center Explains: Prescription drug spending*, BROOKINGS UP FRONT, Apr. 26, 2017, https://www.brookings.edu/blog/up-front/2017/04/26/the-hutchins-center-explains-prescription-drug-spending/.

[3] *Id.*

Medication to treat patients diagnosed with Multiple Sclerosis (MS) is an especially instructive case study for congressional overseers. The prices of more than a dozen MS therapies have increased steadily in the past decade, which imposes substantial financial burdens on the nearly 400,000 Americans afflicted by the debilitating disease.[4] An MS treatment now costs on average $60,000 annually, far surpassing the price only three years ago of $16,050.[5] Instead of increased competition reducing or stabilizing the costs of these drugs, the entrance of multiple treatments into the MS drug market has only served to raise the prices of these drugs. In 1993 the Food and Drug Administration (FDA) approved the first MS treatment at the annual wholesale acquisition cost of $11,532; today the drug is priced at over $90,000 per year.[6] All available treatments cost between approximately $66,000 and $91,800, even the older treatments and the new generic entrant.[7]

Drug	Approval Cost	Current Cost
Betaseron™	$11,532	$91,261
Avonex™	$8,723	$86,308
Copaxone™	$8,292	$91,401
Rebif™	$15,262	$91,005
Tysabri™	$25,850	$82,368
Extavia™	$32,826	$76,201
Gilenya™	$50,775	$91,836
Aubagio™	$47,651	$80,902
Tecfidera™	$57,816	$87,623
Copaxone 40™	$63,715	$80,062
Plegridy™	$65,510	$86,308
Lemtrada™	$69,520	$73,039
Glatopa™	$66,731	$66,731
Zinbryta™	$86,592	$86,592

Graph 2: Price Trends in Annual MS Drug Costs 1993-2017[8]

[4] OFFICE OF THE ATT'Y GEN., COMMONWEALTH OF MASSACHUSETTS, EXAMINATION OF HEALTH CARE COST TRENDS AND COST DRIVERS (2015); *see also* Matthew Herper, *A Market-Based Proposal For Controlling Drug Prices*, FORBES, Jun. 20, 2016.

[5] NAT'L MULTIPLE SCLEROSIS SOC'Y, ACCESS TO MS MEDICATIONS (2017), *available at* http://www.nationalmssociety.org/NationalMSSociety/media/MSNationalFiles/Advocacy/2017-PPC-Access-to-MS-Meds-Leavebehind.pdf; *see also* Daniel Hartung et al., *The Cost of Multiple Sclerosis Drugs In The U.S. and The Pharmaceutical Industry*, 84 Am. Acad. of Neurology 2185 (2015), *available at* http://www.ncbi.nlm.nih.gov/pubmed/25911108.

[6] NAT'L MULTIPLE SCLEROSIS SOC'Y, *supra* note 5.

[7] *Id.*

[8] *Id.*

Patient advocates have questioned the practice of pharmaceutical companies raising prices in lockstep with their competitors—a strategy commonly known as "shadow pricing." When one drug increases in price, or when a more expensive drug enters the market, other pharmaceutical companies raise their prices to match—or shadow—the highest price. A 2015 *American Academy of Neurology* study found that "the dramatic increases in the costs of the first-generation DMTs [disease-modifying therapies] may have been a response to the introduction of competing treatments with higher prices."[9] The study concluded that pharmaceutical companies manufacturing older MS drugs face no competitive or regulatory constraints in increasing their prices to match costlier new alternatives.

Drug	2017 Cost*	2012 Cost**	Mean Annual % Increase in Cost	Mean Number of Increases per Year	Mean % Change per Increase
Betaseron™	$91,261	$48,676	13.4%	2.2	5.9%
Avonex™	$86,308	$44,781	14%	2.2	6.2%
Copaxone™	$91,401	$51,315	12.2%	1.4	8.6%
Rebif™	$91,005	$46,464	14.4%	2.2	6.3%
Tysabri™	$82,366	$49,294	10.8%	1.8	5.9%
Extavia™	$76,201	$41,883	12.7%	1.8	6.9%
Gilenya™	$91,836	$55,295	9.4%	1.6	5.8%
Aubagio™	$80,902	$47,651[†]	14.2%	1.6	6.8%
Tecfidera™	$87,623	$57,816[†]	11.4%	1.8	6.1%
Copaxone 40™	$80,062	$63,715[†]	7.9%	1	7.9%
Plegridy™	$86,308	$65,510[†]	9.6%	1.7	5.7%
Lemtrada™	$73,039	$69,520[†]	1.7%	0.7	2.5%
Glatopa™	$66,731	$66,731[†]	0%	0	0%
Zinbryta™	$86,592	$86,592[†]	0%	0	0%

*February 2017
**January 2012
[†]Market entry cost if approved after 2012

Graph 3: Trends in Annual Disease Modifying Therapy Costs 2012-2017[10]

The Federal Trade Commission and Department of Justice are jointly responsible for enforcing our antitrust laws. To assist the Committee, please provide a briefing to Committee staff on MS drug prices as soon as possible, but no later than September 1, 2017.

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[9] Daniel Hartung et al., *supra* note 5.
[10] *Id.*

Thank you for your attention to this matter. Please contact Sarah Vance of the Majority staff at (202) 225-5074 or Francesca McCrary of the Minority staff at (202) 225-5051 with any questions about this request.
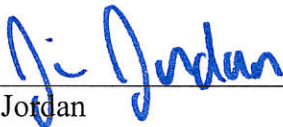
Sincerely,

Trey Gowdy
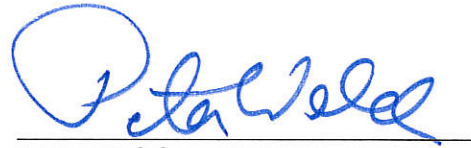Chairman

Elijah E. Cummings
Ranking Member

Jim Jordan
Chairman
Subcommittee on Health Care,
    Benefits, and Administrative Rules

Raja Krishnamoorthi
Ranking Member
Subcommittee on Health Care,
    Benefits, and Administrative Rules

Mark Meadows
Chairman
Subcommittee on Government Operations

Peter Welch
Member

cc: Ms. Maureen Ohlhausen, Acting Chairman, U.S. Federal Trade Commission