COALITION FOR AFFORDABLE PRESCRIPTION DRUGS

What They're Saying: HHS Safe Harbor Rule on Rebates in Medicare Part D

In February, Department of Health and Human Services (HHS) and the HHS Office of the Inspector General released a proposal to end prescription drug rebates in Medicare Part D. Over the last two months, experts across the healthcare system submitted comments sharing their concerns that **the rule will lead to increased costs for seniors and that the proposal fails to address the root of our drug pricing crisis: the high and rising prices set by drug manufacturers.**

IMPACT ON PATIENTS

- **Jane Gilbert, Director of Retiree Health Care, Teachers' Retirement System of Kentucky:** "Unfortunately, the proposed rule will take us backward and not forward, leading to higher net drug prices and premiums, and increased costs for most beneficiaries and the government....For true drug cost containment, we need to start with the drug list price."

- **Francis J. Crosson, M.D., Chairman, Medicare Payment Advisory Commission (MedPac):** "Estimates that cover the initial 10 years of the proposed changes suggest that the rule would have negative financial consequences for most enrollees and for the Part D program, while reducing the share of benefit costs assumed by pharmaceutical manufacturers."

- **Steven Kreisberg, Director of Research and Collective Bargaining Services, The American Federation of State, County & Municipal Employees (AFSCME):** "The proposed rule is a shot in the dark, with deep uncertainty about whether it will further these goals. This uncertainty includes unanswered questions about whether beneficiaries on average (and which individuals in particular) will ultimately pay less out of pocket in combined cost-sharing and Part D premiums, and whether list prices, net prices and overall costs will decrease."

- **Katie Mahoney, Vice President of Health Policy, U.S. Chamber of Commerce:** "By mandating that rebate dollars only flow to beneficiaries directly at point of sale, the proposed rule will remove an important lever that employers currently use when designing and pricing benefits to best reflect the needs of their employees, retirees and companies. Instead, we urge the Department to continue to allow plan sponsors to determine how to structure rebates for their retiree plans and not impose a one-size fits all approach on where and to whom rebates are issued."

- **J.C. Scott, President, Pharmaceutical Care Management Association (PCMA):** "Part D emerged as a private sector solution to providing prescription drug coverage in an affordable way to seniors and the disabled. …. If the Department has significant concerns about the existing system then a more robust and deliberate approach is warranted, rather than a swift repeal of the foundational processes the entire system is based upon."

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IMPACT ON GOVERNMENT SPENDING

- David Certner, Legislative Counsel and Director of Legislative Policy for Government Affairs, AARP: "While the intent behind the proposed rule is laudable, we are troubled by estimates that the proposal will increase Medicare and taxpayer spending, raise premiums for all Medicare Part D beneficiaries, and increase revenue for drug manufacturers."

- Samantha Zenlea, Senior Regulatory Policy Specialist, National Council on Aging: "We are concerned that given the uncertainty, this proposal could cost the federal government billions of dollars without significantly lowering out-of-pocket costs for beneficiaries."

- Alex Brill, Founder and CEO, Matrix Global Advisors: "While the federal share of Part D spending will increase significantly, premiums for all beneficiaries also will rise. Moreover, total spending on prescription drugs will increase as a result of the proposed rule. These outcomes are directly contrary to the stated goal."

MISGUIDED NOTIONS

- Brian J. Marcotte, President and CEO, National Business Group on Health (NBGH): "Focusing only on rebates is a diversionary tactic from the real pricing conundrum created by the dynamics of the supply chain, starting from initial pricing all the way to the sale at the pharmacy counter."

- Ike Brannon, Ph.D. & Anthony T. Lo Sasso, Ph.D.: "HHS's proposal ties the hands of one side of the negotiating table – the pharmacy benefit managers specifically – while leaving the pharmaceutical manufacturers with free rein to set prices as they please. There is no reason to think this would reduce Medicare's total drug costs."

- Matthew Eyles, President & CEO, America's Health Insurance Plans (AHIP): "The roots of the American drug pricing problem are extraordinarily deep and have grown from seeds of legislative and regulatory policy planted over decades that have warped the economic balance in favor of pharmaceutical manufacturers over patients, payers, and hardworking taxpayers. This problem is bigger than can be addressed in one rule. It is bigger than rebates, and it's bigger than Medicare Part D and Medicaid managed care. Simply, the problem is the price."

- Allyson Y. Schwartz, President & CEO, Better Medicare Alliance (BMA): "Any effort to reduce high prescription drug costs must address transparency around list prices set by drug manufacturers. Particular attention must be paid to high-cost specialty drugs, the main drivers of rising out-of-pocket costs….The proposed rule does not address this issue, and merely shifts costs to beneficiaries in the form of premium increases and benefit reductions."

- Lauren Aronson, Executive Director, Campaign for Sustainable Drug Pricing (CSRxP): "Rather than improving prescription drug affordability, this proposed rule takes away the very tools that health insurers and PBMs leverage in negotiations with drug makers to lower costs for patients… [and] does nothing to address the root cause of the problem: brand drug companies alone – and brand drug companies alone – set list prices way too high and raise those prices at unsustainably high rates."