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# Will Removing Rebates Really Lower Drug List Prices?

December 13, 2018



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As outlined in the May 2018 publication *American Patients First: The Trump Administration Blueprint to Lower Drug Prices and Reduce Out-of-Pocket Costs*, high drug list prices are considered a major affordability challenge for the United States healthcare system. In the blueprint, the Department of Health & Human Services (HHS) identified that there should be incentives to lower list prices. Thus far, strategies pursued by the Food and Drug Administration (FDA) include evaluating the implications of requiring manufacturers to include list prices in advertising, and consideration for updating Medicare's drug-pricing dashboard to make price increases and generic competition more transparent.<sup>1</sup>

Incentives or regulatory changes could restrict the use of rebates and thus reduce the effect of rebates on list prices. The blueprint provides a recommendation to remove a cap on rebates on drugs in the Medicaid program, which could impact list prices and price increases.<sup>1</sup>

The Medicaid Drug Rebate Program offsets the Federal and state costs of most outpatient prescription drugs dispensed to Medicaid patients.<sup>2</sup> Approximately 600 manufacturers participate in this program.<sup>2</sup> The blueprint makes the argument that rebates for federal drug programs may have caused subsequent higher list prices for drugs since drug manufacturers would raise list prices to maintain profit margins and offer larger rebates.<sup>1</sup>

Given the complexities of the drug distribution chain and payment system, any attempt to lower list prices by eliminating drug rebates could have widespread implications for payers, pharmacy benefit managers (PBMs), and ultimately, patients. List prices currently do not reflect rebates and concessions paid to health plans or government programs.<sup>1</sup>

One aspect that could have the most impact on the healthcare system outlined in the blueprint is eliminating rebates, which are cost-savings measures that PBMs often use to leverage formulary placement.

In July 2018, the Trump Administration proposed a rule that would scale back protections that allow for rebates between drug manufacturers and PBMs. Although specifics of this rule were unclear, this is an indication that the legal status of these types of rebates are being reviewed, as they are implicated as a cost-driver of list prices. This move has caused both drug manufacturers and PBMs to go on the offensive, with drug manufacturers stating they were under pressure to keep PBMs at bay while PBMs are stating that their negotiation tactics (such as leveraging rebates and formulary placement) have controlled total drug costs.<sup>3,4</sup>

Removing rebates is a unique approach to increasing the transparency of list prices, which will hopefully lead to lower prices. However, addressing how to remove rebates would take time, especially given how rebates are entangled in the Medicaid Drug Rebate Program and formulary management strategies of PBMs. A thoughtful approach would be required before any processes related to removing rebates can proceed. As a result, in August 2018, members of Congress urged the Office of Management and Budget (OMB) to consider the economic impact of the proposal that alters the use of rebates between drug manufacturers and PBMs.<sup>5</sup>

Until further economic analyses are done on the impact of rebates, it is unknown how and if the Trump Administration will untangle rebates from the intricate drug payment system to lower list prices.

In the New Year, our next blog on drug prices will tackle the issue of out-of-pocket costs.

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<sup>1</sup>U.S. Department of Health and Human Services (HHS). American Patients First, the Trump Administration Blueprint to Low Drug Prices and Reduce Out-of-Pocket Costs. May 2018. Available from: <https://www.hhs.gov/sites/default/files/AmericanPatientsFirst.pdf>.

<sup>2</sup>Medicaid.gov. Medicaid Drug Rebate Program. 2018 Sept 11. Available at: <https://www.medicaid.gov/medicaid/prescription-drugs/medicaid-drug-rebate-program/index.html>. Cited 2018 Sept 14.

<sup>3</sup>Reuters. Trump administration proposes altering rule on drug rebates. 2018 Jul 19. Available from: <https://www.reuters.com/article/us-usa-healthcare-kickbacks/trump-administration-proposes-altering-rule-on-drug-rebates-idUSKBN1K92ON>. Cited 2018 Sept 14.

<sup>4</sup>Thomas K. Meet the Rebate, the New Villain of High Drug Prices. New York Times; 2018 Jul 27. Available at: <https://www.nytimes.com/2018/07/27/health/rebates-high-drug-prices-trump.html>. Cited 2018 Sept 14.

<sup>5</sup>Hatch and Walden Call on OMB to Consider Economic Consequences of Proposed Drug Rebate Rule. United States Senate Committee on Finance; 2018 Aug 9. Available at: <https://www.finance.senate.gov/chairmans-news/hatch-and-walden-call-on-omb-to-consider-economic-consequences-of-proposed-drug-rebate-rule>. Cited 2018 Sept 14.