

Leadership Day, May 17-18, 2022

Prescription Drug Reform

The cost of prescription drugs continues to rise, affecting access to life-saving treatments for patients who are unable to afford higher prescription and out-of-pocket costs. Patients increasingly face higher co-pays, more drug tiers and prescription drug deductibles, adding to the burden they face in affording high-cost medications. Many Americans face the difficult choice of filling their prescriptions or paying for necessities and may therefore resort to cutting back or skipping doses of their medicines to save money, which can lead to more serious health complications.

Prescription drugs are used by more than [131 million people](#) – 66 percent of all adults in the U.S. More than [25 percent](#) of American voters said they or a family member had financial difficulty affording a prescribed medication in the last 12 months. In addition, over 50 percent of cancer patients report going into debt because of the price of their care, with chemotherapy and pharmacy drugs cited among the top reasons for that debt. [One out of four](#) Americans with diabetes report rationing insulin due to cost. The cost of insulin has increased [300 percent](#) during a recent 10-year period.

As outlined in ACP's 2019 [position paper](#), *Policy Recommendations for Public Health Plans to Stem the Escalating Costs of Prescription Drugs*, the U.S. spends more on prescription drugs than any other high-income country, with average annual spending of \$1,443 per capita on pharmaceutical drugs and \$1,026 per capita on retail prescription drugs. In a 2021 [study](#) by the Rand Corporation, prescription drug prices in the U.S. average 2.56 times those seen in 32 other Organization for Economic Cooperation and Development (OCED) nations. Global [spending](#) on prescription drugs in 2020 was expected to be \$1.3 trillion, with the U.S. spending approximately \$350 billion. In a 2020 study by the Medicare Payment Advisory Commission (MedPAC), it estimated that more than half of the growth in Part B drug spending between 2009 and 2015 was accounted for by price growth, reflecting both increases in the prices of existing drugs and new drugs becoming available. A [report](#) by the Senate's Homeland Security and Governmental Affairs Committee found that the prices of many of the most popular brand name drugs increased on average 12 percent every year for the last five years—approximately ten times higher than the average annual rate of inflation from 2012 to 2017. However, where drug pricing negotiations were allowed, a Government Accounting Office (GAO) [study](#) found that, on average, the Department of Veteran Affairs paid 54 percent less than Medicare on a sample of 399 brand and generic drugs by negotiating as a single health system and using discounts defined by law not presently available to Medicare.

In addition to rising prescription drug costs, step therapy has been employed by insurers resulting in patients not getting some of the drugs prescribed for them. Step therapy is an insurance protocol that requires patients to try and fail drugs selected by their insurer before the treatment prescribed by their doctor is covered, resulting in an arbitrary administering of drugs. In 2020, ACP released a position paper on mitigating the negative effects of step therapy on patient safety, which recommends all step therapy and medication switching policies should aim to minimize care disruption, harm, side effects, and risks to the patient.

Overview of Congressional Action

ACP has a longstanding policy supporting the ability of Medicare to leverage its purchasing power and directly negotiate with manufacturers for drug prices. We have supported legislation that would mandate that the Secretary of Health and Human Services (HHS) identify 250 brand name drugs that lack competition

in the marketplace and that account for the greatest cost to Medicare and the U.S. health system and then negotiate directly with drug manufacturers to establish a maximum fair price for a bare minimum of 25 of those drugs.

Last year, Congress failed to pass the House-passed H.R. 5376, the *Build Back Better Act* (BBBA), which would have allowed HHS to negotiate the price of 10 of the most expensive drugs by 2025 and going up to 20 drugs by 2028 on drugs that are beyond their period of exclusivity. That bill would have imposed an excise tax on drug manufacturers for raising prices faster than the rate of inflation, reduced out-of-pocket expenses for customers, and ensured patients pay no more than \$35 a month for insulin products. While ACP supports full repeal of the noninterference clause, we also are supportive of an interim approach, such as allowing the Secretary of HHS to negotiate for a limited set of high-cost or sole-source drugs.

Request of Congress

- ✓ **Co-sponsor and pass in the Senate S. 833, the Empowering Medicare Seniors to Negotiate Drug Prices Act of 2021**, which would allow the Secretary of HHS to negotiate directly with drug companies for price discounts for the Medicare Prescription Drug Program, thus eliminating a restriction that bans Medicare from negotiating better prices, and institute a price structure for reimbursement of drugs covered under the Medicare prescription drug benefit. Representatives should introduce and pass the companion bill in the House.
- ✓ **Co-sponsor and pass S. 898 in the Senate, the Fair Drug Pricing Act**, to require drug companies to disclose and provide more information to HHS about imminent drug-price increases, including data about research and development costs. Specifically, manufacturers must provide a justification report 30 days before they increase the price of certain drugs that cost at least \$100 by more than 10 percent in one year or 25 percent over three years. Representatives should introduce and pass the companion bill in the House.
- ✓ **Co-sponsor and pass in both chambers S. 464/H.R. 2163, the Safe Step Act**, which would ensure patient access to appropriate treatments based on clinical decision-making and medical necessity rather than arbitrary step therapy protocols. Specifically, it would require that a group health plan grant an exemption if: 1) the patient tried and failed required drug; 2) delayed treatment will cause irreversible consequences; 3) the required drug will harm the patient; 4) the patient is stable on current medications; and 5) the required drug will prevent the patient from working or fully engaging in daily activities.

Additional policy priorities can be found at: [Policy Priority Issues | ACP Services](#)