The Potent Opposition to Medicare's Proposal for Greater Drug Rebates

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One of the largest potential savings Medicare could reap is from drug costs, and that would come from asking drug companies for bigger rebates. Medicaid and the Veteran's Administration each demand steep discounts as single payers, as do most governments with national health programs.

But Medicare is unlikely to get similar huge markdowns from drug companies and middlemen anytime soon because the proposal faces a torrent of opposition from the pharmaceutical lobby and legislators allied with it.

A proposal that's been floating around Washington for years regained some traction when President Obama called for the Medicare drug discounts in his State of the Union speech on Feb. 19. The president wanted drug companies to extend the same discounts they give to all Medicaid beneficiaries to low-income seniors who also qualify for Medicare, known as dual eligibles. This is not a new proposal; it was included in Obama's budget last year and has been introduced in Congress in the past. To date, though, the legislation has not gained enough support to reach a vote.

Under federal law, drug makers must provide a 23 percent discount below retail prices to Medicaid patients. Additional markdowns are required if a drug's price rises faster than inflation.

Medicare, however, is a different story. According to the Center for Medicare Advocacy, "unlike Parts A and B, which are administered by Medicare itself, Part D is "privatized." That is, Medicare contracts with private companies that are authorized to sell Part D insurance coverage. These companies are both regulated and subsidized by Medicare, pursuant to one-year, annually renewable contracts.

In order to have Part D coverage, beneficiaries must purchase a policy (i.e., enroll in a plan) offered by one of these companies.The costs associated with Medicare Part D include a monthly premium, an annual deductible (sometimes waived by the plans), co-payments and co-insurance for specific drugs, a gap in coverage called the "Donut Hole," and catastrophic coverage once a threshold amount has been met."

Under this model, Medicare is not a single-direct buyer, so it can't demand large discounts. When Medicare started the Part D program, which allows for larger drug markups than Medicaid, Rep.

Henry Waxman (D-Calif.) told the New York Times that drug companies were able to reap "a windfall" because they could price their drugs higher to Medicare patients.

Congressmen opposed to requiring larger Medicare drug discounts claim that if the higher markdowns became law then higher prices would be passed along to patients. Drug companies have also criticized the plan, claiming that "Part D works" and that steeper discounts would force them to cut back on research.

In recent years, groups aligned with the drug companies have launched scare campaigns that have attempted to link increased drug rebates with higher Medicare premiums, according to a report by the National Committee to Preserve Social Security & Medicare.

The Dual Eligible Cost Differential

If enacted, requiring drug rebates only for dual eligibles, and not all Medicare beneficiaries, would still produce significant savings.

It this were done, the Congressional Budget Office (CBO) estimates a savings of $112 billion over 10 years. Keep in mind that if larger discounts were extended to all Medicare beneficiaries, the savings to the federal government would be much larger. The CBO's estimate only includes approximately 9 million dual eligibles. An estimate by the defunct congressional Super Committee estimated $135 billion in savings would be possible if offered to dual eligibles.

In terms of percentages, the amount recouped by each program is vastly different. According to the Department of Health and Human Services' Office of Inspector General (OIG) study (based on 2009 data), Medicaid recouped 45 percent of its spending on drugs from rebates while Medicare Part D received back only 19 percent of its expenditures.

More than doubling the discount for Medicare has understandably alarmed the drug industry. When the proposal resurfaced in the 2013 State of the Union message, lobbyists began to battle the plan in earnest. The problem is that the politics of Medicare often revolve around what patients don't know about the program. When Part D was created, the legislation was written so as to forbid the government from negotiating drug discounts. Drug companies are actually paid to be included in the program, yet are under no obligation to match the hefty discounts given to Medicaid and other government programs.

In Canada, where the government acts as a single buyer for drugs in its national program, the discounts are much larger and drug price increases are smaller, as compared to the United States.

In a Huffington Post blog, Wendell Potter, a former insurance company executive who is now a columnist for the Center for Public Integrity, noted the huge pricing gap:

"Back in 2006 for example, U.S. consumers paid about 70 percent more than our northern neighbors for prescription drugs still on patent, according to the Canadian board. Five years later,

in 2011, that difference had surged to 100 percent. And with drug price inflation in the United States hitting 11 percent in 2011, that gap will undoubtedly grow ever wider in the future."

One of the reasons that drug companies are able to beat back any aggressive discounting, according to Potter, is their well-funded congressional lobbying blitz, which totaled $2.6 billion from 1998 through 2012, according to opensecrets.org. To put that amount in perspective, the oil and gas lobby spent roughly $1.4 billion over the same period, according to opensecrets.

Will Medicare patients have diminished access to name-brand or generic drugs if steeper discounts were to be applied? The law that set up the drug program would have to be rewritten, or partially repealed, to allow the government to receive direct discounts while ensuring access to leading drugs.

As for higher premiums, there's a good probability that premiums and out-of-pocket costs will rise anyway if there is a general overhaul to Medicare. President Obama has already proposed higher premiums for upper-income beneficiaries.

Nevertheless, this proposal for greater drug discounts is worth watching to see if the Obama administration and its congressional allies can sidestep the powerful pharmaceutical lobby, which is battling to preserve its generous profit margins. At present, the federal government is the largest buyer of goods and services in the country, so it can demand hefty discounts on everything from paper to bullets. It remains to be seen, though, if prescription drugs will remain off limits.

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