

## The Medicare Drug Price Negotiation Act of 2021

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### BACKGROUND:

- ***Prescription drug prices continue to skyrocket.*** From 2007 to 2018, the prices of brand name drugs have risen three times faster than inflation, and prescription drug spending reached \$369.7 billion in 2019. In 2018, the average annual cost of therapy for widely used specialty drugs was about \$79,000. This is more than twice the median income for people on Medicare and more than three and half times the average Social Security retirement benefit. A 2019 Kaiser Family Foundation survey found that nearly 1 in 4 adults taking prescriptions say it's difficult to afford their medicines.
- ***Medicare pays far more for drugs than government programs that negotiate.*** Under current law, the Secretary of the Department of Health and Human Services (HHS) is prohibited from negotiating lower drug prices on behalf of Medicare Part D beneficiaries. In contrast, other government programs, like Medicaid and the Department of Veterans Affairs (VA), are allowed to negotiate. According to a recent report by the Government Accountability Office, which Senator Sanders commissioned, Medicare paid twice as much for the same prescription drugs as VA in 2017. Another Sanders-commissioned report released last month by the Congressional Budget Office found that Medicare pays nearly three times more than Medicaid for top-selling brand name drugs, on average. According to one estimate, the federal government could save between \$15.2 and \$16 billion a year if Medicare Part D paid the same prices as Medicaid or VA.
- ***High drug prices continue to stress the federal budget, particularly within Medicare.*** Since 2006, government programs have paid for approximately 40% of the retail prescription drug expenditures in the United States. Medicare paid for 29% of retail drug costs in 2016. In large part as a result of skyrocketing drug prices, total annual spending on Medicare Part D is projected to drastically increase in coming years, from \$116 billion in 2021 to \$190 billion in 2029, according to the latest estimates.
- ***Americans fully support negotiating authority for Medicare.*** According to a recent Kaiser Family Foundation poll, 92% of Americans—including, Democrats, Republicans, and Independents—want Medicare to negotiate for lower drug prices. According to the Center for Economic and Policy Research, the U.S. government could save \$976 billion over ten years if Medicare negotiated the same prices for drugs as people in Denmark pay.

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## SUMMARY OF LEGISLATION:

### *Allowing Medicare to Negotiate Lower Drug Prices*

- Under current law, the Secretary of HHS is prohibited from negotiating lower drug prices on behalf of Medicare Part D beneficiaries. This is called the “non-interference clause.”
- The bill would strike the non-interference clause and direct the Secretary to negotiate lower prices with drug manufacturers that participate in Medicare Part D.
- The bill would direct the Secretary to prioritize negotiating for drugs that place the most burden on seniors and taxpayers: high-cost drugs, drugs that have significant price increases, drugs that drive up Medicare Part D spending, and drugs without competition.
- The Secretary may adjust negotiated drug prices for inflation, and may establish a process whereby stakeholders may petition for drug prices to be renegotiated after an appropriate length of time.
- The bill would direct the Secretary to further leverage the purchasing power of the government by using drug formularies to enhance competition.
- The bill would allow Part D plans to use additional benefit design and formulary tools to secure steeper discounts or rebates for beneficiaries.
- The bill would establish fallback prices based on what other federal agencies and five foreign countries – Canada, the United Kingdom, Germany, France, and Japan – pay. These fallback prices would kick in automatically if negotiations with drug manufacturers are unsuccessful.
- The bill would preserve critical protections for patient access by including in any formulary certain categories and classes of drugs that are protected under current law and by strengthening the patient appeals processes for Part D plans.
- ***Restoring Low-Income Beneficiary Rebates***
- The bill would restore required drug rebates for low-income beneficiaries that were lost when Medicare Part D was created in 2006.
- CBO has projected that restoring these rebates for brand-name drugs alone would save taxpayers \$148 billion over ten years.
- Before Part D came into effect, people who were eligible for both Medicare and Medicaid received their drug benefits through Medicaid. After Part D was created, these people began receiving their drug benefits through Medicare.
- Drug manufacturers that participate in Medicaid are required to provide discounts in the form of rebates back to Medicaid, but there are no similar statutory rebates for Medicare.
- As a result of shifting the drug benefits for these dual-eligible individuals from Medicaid to Medicare, the pharmaceutical industry received a huge windfall of billions of dollars in rebates drug companies were no longer required to pay.