PCMA

With Point-of-Sale Rebates, Everyone Pays Except Manufacturers

Rebates Lower Health Care Costs for Everyone

- **Rebates have consistently been shown to save consumers money.** Most recently, Centers for Medicare & Medicaid Services (CMS) actuaries found a federal proposal for point-of-sale (POS) rebates in Medicare Part D would increase premiums by up to 25% and increase drug spending by $196 billion.[1]
- **Negotiations between PBMs and manufacturers leverage competition and drive lower drug costs overall.** Rebates also help keep health care costs down across the board, as employers and other plan sponsors use the savings from rebates to lower premiums for everyone.
- **Mandatory POS rebates would reveal rebate amounts, thereby fostering tacit collusion, reducing plan sponsors' ability to negotiate lower drug prices, and raising health care costs for *everyone*.** The U.S. Federal Trade Commission (FTC) found that "if manufacturers learn the exact amount of the rebates offered by competitors… the required disclosures may lead to higher prices for PBM services and pharmaceuticals."[2]

POS Rebates Won't Help the Majority of Patients Who Take Generics or Lower-cost Brands. Most brand drugs do not have rebates; only those that have one or more competitors within the drug's class typically do.[3] While POS discounts would lower out-of-pocket costs for some – patients paying for the 2.4% of brand drugs through coinsurance[4] – evidence[5] shows these POS discounts would be lower than the current rebates they would replace. Moreover, two-thirds of patients with employer-sponsored insurance do not face any type of coinsurance for their prescription drugs.[6]

Current Rebate Model	Point-of-Sale Rebate Model
Rebates are used by employers and other plan sponsors to lower overall premiums—**leading to lower drug and health care costs for everyone.**	• Rebates for a particular drug are estimated and factored into patient coinsurance at the pharmacy. • No rebates are factored into the premium, leading to higher overall drug spending and premiums for all plan enrollees. • Estimates suggest 10% of patients would save more on cost sharing than they would spend on higher premiums**—and the other 90% would pay more overall.**[7]

[1] CMS Office of the Actuary. "Proposed Safe Harbor Regulation." (August 30, 2018).
[2] FTC. "Statement of the Federal Trade Commission Concerning the Proposed Acquisition of Medco Health Solutions by Express Scripts."
[3] Milliman. "Prescription Drug Rebates and Part D Drug Costs." (July 16, 2018). https://www.ahip.org/wp-content/uploads/2018/07/AHIP-Part-D-Rebates-20180716.pdf.
[4] According to an analysis by America's Health Insurance Plans of REDBOOK™ drug pricing data.
[5] See, e.g., Ibid. CMS (August 30, 2018) and Congressional Budget Office (CBO), "Incorporating the Effects of the Proposed Rule on Safe Harbors for Pharmaceutical Rebates in CBO's Budget Projections." (May 2019).
[6] Kaiser Family Foundation. "Employer Health Benefits: 2020 Annual Survey." (2020). Page 153, http://files.kff.org/attachment/Report-Employer-Health-Benefits-2020-Annual-Survey.pdf.
[7] Pink Sheet. "Point-of-Sale Rebates in Part D: Study Highlights Trade-Offs for Medicare." (June 29, 2017)

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POS Rebates Would Do Nothing to Address High Drug Prices... Under a federal proposal for POS rebates, CMS actuaries predicted manufacturers would keep at least 15% of what they would have offered in rebates. They also found drug spending would increase by $137 billion as manufacturers would not lower list prices as a result of the policy change.[8] The fact is manufacturers—and only manufacturers—set drug prices.[9]

… And Could Impair Transition to Value-based Health Care. Restrictions or requirements on use of rebates could limit the ability of plan sponsors and PBMs to develop and implement innovative benefit designs, like value- and outcomes-based payment models for prescription drugs. This is because the primary mechanism for reconciling payment based on past performance for value *is a rebate*. These models inherently rely on evaluating a drug's performance *after the fact* and adjusting payment according to whether measures on quality, safety, and adherence have been met.

Don't Let PhRMA Fool You: Milliman Analysis Can't Be Used to Justify POS Rebates. Milliman's analysis does not represent an "average" or typical patient: it applies *only* to a few patients that are "taking certain medications."[10,11]

Manufacturers Would Receive A Bailout. The fact that both PhRMA "applaud[ed]"[12] and BIO "strongly support[ed]"[13] a federal proposal to restructure rebates should reinforce that manufacturers—not consumers, taxpayers, or employers—would be the big winners under mandatory POS rebates. Under the federal proposal, with manufacturers *keeping* 15% of the discounts they currently pay in the form of rebates, manufacturers stood to receive a **bailout of between $40 and $100 billion over 10 years.**[14]

By disrupting competition in the prescription drug market, mandatory POS rebates, whether at 100% of rebates or a lesser percentage, ultimately will increase the prices that all pay for health care and prescription drugs.

[8] Ibid. CMS (August 30, 2018).
[9] A recent study, "*Reconsidering Drug Prices, Rebates, and PBMs*," shows manufacturers alone set prices—independent of rebates. The study highlights top-selling Medicare Part D brand-name drugs (with steady price increases and no change in rebate levels) and Medicare Part B drugs, which have no negotiated rebates but extraordinary price increases.
[10] Milliman. "Point of Sale Rebate Analysis in the Commercial Market" (October 2017). https://www.phrma.org/-/media/Project/PhRMA/PhRMA-Org/PhRMA-Org/PDF/P-R/PhRMA_PointofSaleRebateAnalysis.pdf
[11] CBO concluded implementation costs of POS rebates also would increase costs to plan sponsors. *See* Ibid., Op. cit., CBO (May 2019).
[12] Pharmaceutical Research Manufacturers of America (PhRMA). "PhRMA Statement on the Administration's Proposed Rule to Reform the Rebate System." (January 31, 2019). https://www.phrma.org/press-release/phrma-statement-on-the-administration-s-proposed-rule-to-reform-the-rebate-system
[13] Biotechnology Innovation Organization (BIO). "BIO Statement on New Proposal for Lowering Out-of-Pocket Costs for Medicines." (January 31, 2019). https://www.bio.org/press-release/bio-statement-new-proposal-lowering-out-pocket-costs-medicines
[14] Ibid., Op. cit. CMS (August 30, 2018).