



Mandated POS Rebates Legislation Would Increase Costs for the States

What is a “point-of-sale” (POS) rebate?

Drug rebates are discounts negotiated by pharmacy benefit companies (PBMs) from drug companies that reduce the net cost of prescription drug coverage. Plan sponsors get to decide how to use the rebates passed to them by PBMs. Ultimately, these rebates are used to reduce patient out-of-pocket costs or enhance benefits for all members. A “point-of-sale” (POS) rebate is when the value of a rebate, instead being used by the plan sponsor to reduce costs benefitting all patients, goes directly to an individual patient at the pharmacy counter or “point of sale”.

How would a mandated POS rebate policy affect the plan sponsors?

Rebates are the primary way that plan sponsor reduce the net cost of drugs for patients. When competition is available, rebates can save a significant amount of money. POS rebates are estimates of rebates because the final amount of a rebate typically is not calculated until the end of a set period (quarterly, annually, etc.), after the drug is picked up. Because of that, POS rebates create a mandatory disclosure of the value of rebates that can result in lower levels of price concessions by manufacturers due to tacit collusion, leading to higher drug costs for patients and plan sponsors. The Federal Trade Commission (FTC)¹ and the Congressional Budget Office (CBO)² have concluded that legislation resulting in the disclosure of rebates could lead to tacit collusion among manufacturers resulting in higher costs.

Nationwide, implementing this type of legislation in every state could increase drug spending in the commercial market by an estimated \$71.1 billion over 10 years.³

Methodology

POS rebate policies could cause current average rebate levels to decline. To model this effect, we have assumed that the current range of average rebates reduces to a new, lower range. Assuming a normal distribution, this would result in a new marketplace average rebate that is lower than the current marketplace average.⁴

10-Year Cost Impact of POS Rebates by State, 2024–2033 (in millions)

State	Patients in Commercial Plans	Estimated Cost of POS Rebates Policy
Alabama	2,567,600	\$1,132
Alaska	359,000	\$131
Arizona	3,685,800	\$1,443
Arkansas	1,375,600	\$636
California	20,592,800	\$7,432
Colorado	3,387,400	\$1,275
Connecticut	2,024,500	\$843
Delaware	552,000	\$202
District of Columbia	404,300	\$141
Florida	11,110,400	\$4,912
Georgia	5,838,100	\$2,486
Hawaii	751,100	\$292
Idaho	1,034,500	\$487
Illinois	7,162,800	\$2,649
Indiana	3,777,600	\$1,443
Iowa	1,819,500	\$749
Kansas	1,704,300	\$755
Kentucky	2,167,400	\$834
Louisiana	2,022,000	\$763
Maine	716,500	\$281
Maryland	3,563,900	\$1,440
Massachusetts	4,048,500	\$1,673
Michigan	5,441,800	\$1,948
Minnesota	3,424,500	\$1,337
Mississippi	1,380,200	\$623
Missouri	3,453,700	\$1,337

State	Patients in Commercial Plans	Estimated Cost of POS Rebates Policy
Montana	559,400	\$237
Nebraska	1,172,500	\$480
Nevada	1,623,000	\$664
New Hampshire	847,500	\$377
New Jersey	5,475,300	\$2,107
New Mexico	827,500	\$351
New York	10,113,000	\$3,773
North Carolina	5,573,900	\$2,402
North Dakota	478,900	\$201
Ohio	6,401,100	\$2,456
Oklahoma	1,899,700	\$748
Oregon	2,232,900	\$789
Pennsylvania	7,020,500	\$2,750
Rhode Island	606,100	\$216
South Carolina	2,650,400	\$1,107
South Dakota	518,600	\$225
Tennessee	3,763,200	\$1,513
Texas	15,818,300	\$6,680
Utah	2,319,500	\$988
Vermont	335,300	\$139
Virginia	4,811,600	\$2,020
Washington	4,377,700	\$1,805
West Virginia	791,100	\$328
Wisconsin	3,418,800	\$1,349
Wyoming	326,100	\$148

1 FTC and DOJ. "Improving health care: a dose of competition." 2004.

2 Letter to Rep. Joe Barton and Rep. Jim McCrery, U.S. House of Representatives, Congressional Budget Office, Mar. 12, 2007.

3 Visante. "Increased Costs Associated With Proposed State Legislation Impacting PBM Tools." 2023.

4 Ibid.

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