



Maryland Prescription Drug Affordability Board

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State Action on Prescription Drug Prices

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State Legislative Action

Drug Pricing Laws 2017-2020					
Year	2017	2018	2019	2020	Total
Number of States Enacting Laws	13	28	37	17	48
Total Laws Enacted	18	45	62	35*	160*
PBM	8	32	33	19	92
Transparency	3	4	7	4	18
Importation	0	1	3	2	6
Affordability Review**	1	0	3	1	5
Volume Purchasing	0	0	2	0	2
Coupons/Cost Sharing	1	0	4	9	14
Study	0	1	5	1	7
Other	5	7	5	0	17

*Totals laws enacted are lower than column totals because a New Hampshire law contains multiple provisions.

** Includes New York's Medicaid drug cap and Massachusetts' enhanced negotiating authority.

- Since 2017, legislation to address prescription drug costs has been **introduced** in all 50 states.
- Since 2017, 48 states have **enacted** 160 laws to address prescription drug costs.



Medicaid: Rx Carve-outs / PBM Contracts



West Virginia:

- 2018 - \$54.5 mil in savings from Rx carve-out, net of dispensing fees (550,000 enrollees)

Ohio:

- 2018 – DoH report: PBMs serving Medicaid MCOs retained \$224 mil in profits from spread pricing
- 2019 – required MCOs to have transparent, pass-through (no spread) contracts with PBMs
- 2020 – Rx carve-out from MCOs; single PBM contract for Ohio Medicaid (3 mil enrollees)

California:

- Jan. 2021 - Medi-Cal Rx carve-out; Single PBM contract for Rx benefit for Medi-Cal, corrections, and counties
- Estimated net savings of \$100s of millions annually

Medicaid: Single PDL



Washington:

- Jan 2018: Health Care Authority (HCA) began instituting a single Medicaid PDL across all MCOs/FFS
- Phased in all drug classes over two years
- Evidence-based PDL determined by:
 - ✖ P&T Committee / Drug Utilization Review Board review of clinical effectiveness
 - ✖ Opportunities to maximize supplemental rebates
- HCA estimated \$22 mil in savings over the biennium

Medicaid: Enhanced Rebate Negotiations



New York (2017)

- Medicaid has authority to negotiate with drug companies for supplemental rebates if Medicaid spending is projected to exceed an annual Rx cap. If unable to reach a rebate agreement, drugs are referred to the Drug Utilization Review Board for a value assessment.
- April 2020: legislation expanded negotiating authority to high-cost drugs
- More than \$300 million in savings from negotiating supplemental rebates for 50 drugs (as of July 2020)

Massachusetts (2019)

- HHS has authority to negotiate supplemental rebate agreements directly with manufacturers. If unable to reach an agreement and the drug meets exceeds cost thresholds, the drug is referred to the Health Policy Commission (HPC) for further review and the HPC may determine if the drug's price is reasonable based on its value

Public Employees: Waste-Free Formularies



- Wasteful drugs cost more but offer no additional benefits. Examples include:
 - high-priced brand-name drugs with a generic equivalent
 - combination drugs when the combined product is more than the component parts purchased individually
 - ✖ Duexis, a Rx combination of ibuprofen (Motrin) and famotidine (Pepcid) = \$1,500/month vs \$20/month for the 2 drugs OTC)
 - Rx drugs with an OTC equivalent
 - new drugs that have been slightly tweaked (different strength/dosage/extended release)
- Self-Insured Schools of California (260,000 members)
 - Excluded 600 drugs that did not provide value
 - PMPPM drug costs decreased from \$87.31 in 2013 to \$78.65 in 2019
- NJ State Health Benefits Program and School Employees' Health Benefits program (800,000 members)
 - Excluded high-cost brands/generics when a therapeutically equivalent, lower-cost generic available
 - \$12.8m in savings/year
 - Excluding drugs that have OTC equivalents is projected to save \$12.6 million/year

Public Employees: Reverse Auctions



- Reverse auction model allows public plans to reduce costs by negotiating higher-value contracts with PBMs without reducing drug benefits:
 - Requires all participating PBMs to offer the same contract terms and to compete on price only, - with consecutive rounds of competitive bidding against the lowest offer

New Jersey:

- First state to successfully implement a reverse auction process for its 800,000 public employees
 - \$2.5-\$3.05 billion projected savings between 2017 and 2022 resulting from lower PBM contract costs
 - \$45.9 million in additional savings from using reverse auction platform for PBM oversight to identify claim processing issues over an 18-month period
- 2020: Maryland & New Hampshire passed leg. enabling reverse auctions
 - NH estimates it could save between \$42.5 million and \$53.1 million on its next 3-year PBM contract

Bulk Purchasing Groups

MMCAP Infuse (1985)

- Group purchasing organization that combines state agencies, counties, cities, school districts, and clinics in 49 states
- Contracts are competitively bid following state procurement guidelines
- Combined negotiation power results in lower prices for purchasers
- An evaluation conducted by Florida found MMCAP prices were 2.8-4.4 percent lower than other group purchasing orgs and were roughly equivalent to Medicaid best price

Northwest Prescription Drug Consortium (2006)

- Combination of the Oregon and Washington Prescription Drug Programs (~1 million lives)
- Administered by Navitus: transparent pricing / no spread /pass-through of manu. rebates / fixed admin. fees / audits
- Open to state agencies, local government, private sector businesses, labor organizations
- Offers a discount card program for underinsured or uninsured individuals: savings of 42% off retail; up to 60% for generics
- 2017: estimated savings of \$130 mil in drug costs
- 2018: saved an additional \$20 million above contract guarantee

Civica Rx for generics (2018)

- Non-profit drug manufacturer that produces affordable, sustainable supplies of certain generic drugs for health systems/hospitals
- 2020: partnered with Blue Cross Blue Shield health plans to expand access to outpatient setting
- State purchasers can join the Civica Rx/BCBS partnership, - open to all health plans, employers & retailers
- Expanding list of available generic products

ME and NH Prescription Drug Affordability Boards



PDABs in ME and NH do not set upper payment limits but do:

- Determine annual spending targets for prescription drugs purchased by public payors and for specific drugs that may cause affordability challenges to enrollees in a public payor health plan
- Consider methods for public payors to meet spending targets, including negotiating specific rebate amounts for costly drugs, establishing a common formulary, purchasing drugs in bulk, and others
- Boards were delayed in their initial meeting/reporting due to COVID-19 but are convening again

International Reference Rates



- **Why:**
 - Foreign countries pay a fraction of what Americans pay for prescription drugs
 - Rate setting is a common approach in the health care sector – one that can be extended to setting rates for prescription drugs
 - International prices offer a fair, easy-to-implement approach to rate setting
- **What:**
 - The Superintendent of Insurance works with the SEHP and BOP to develop a list of the 250 drugs costing the state the most
 - The state references Canadian prices for the four most populous provinces (available online)
 - The lowest price becomes the international reference rate for payers in the state
- **Impact:** This model act can greatly lower prescription drug spending in a state - without running afoul of patent law through price setting.

International Reference Rates



Drug Name & Dosage Source: National Average Drug Acquisition Cost (NADAC) data	US Price (NADAC)	Canadian Reference Rate*	Price Difference	Savings off US Prices
Humira syringe (40 mg/0.8 ml) (arthritis, psoriasis, Crohn's)	\$2,706.38	\$541.29	\$2,165.09	80%
1 ml of Enbrel (50 mg/ml syringe) (arthritis, psoriasis, Crohn's)	\$1,353.94	\$272.28	\$1,081.66	80%
1 ml of Stelara (90 mg/1 ml syringe) (arthritis, psoriasis, Crohn's)	\$21,331.28	\$3,267.64	\$18,063.64	85%
1 ml of Victoza (2-pak of 18 mg/3 ml pen)* (diabetes)	\$103.44	\$17.30	\$86.14	83%
Truvada tablet (200 mg/300 mg) (PrEP for HIV)	\$59.71	\$19.78	\$39.93	67%
Xeljanz tablet (5 mg) (rheumatoid arthritis)	\$76.07	\$17.50	\$58.57	77%
Epcusa tablet (400 mg/100 mg) (hepatitis C)	\$869.05	\$541.32	\$327.73	38%
Zytiga tablet (250 mg) (cancer)	\$87.63	21.47	\$66.16	75%
<i>Average discount based on 8 top selling drugs in 2018</i>				73%

*Converted based on \$1 CAN = \$0.76 USD

Canadian price per ml of Victoza established based on \$136.98 price for 2-pak of 3 ml pens - 6 mg/ml



Penalizing Unsupported Price Increase



- **Background:**
 - The Institute for Clinical and Economic Review (ICER) produces an annual report identifying the drugs with unsupported price increases outpacing 2x medical inflation that are the greatest drivers of net spending
 - Unsupported price increases = unjustified by new clinical data
- **What:**
 - State tax authority is used to assess penalties on manufacturers identified in annual ICER report as having a drug with an unsupported price increase
 - Penalties = 80% of excess revenues (i.e., revenue from unsupported portion of price increase)
 - Manufacturers must report information on total sales revenue in the state to the Tax Assessor to determine the penalty owed
- **Impact:** Because ICER's analysis targets drugs with the greatest impact on net spending, penalties can result in millions in revenue for a state -- revenue that the Model Act specifies must be used to offset costs to consumers

2020 ICER Analysis: Results



	2018-19 WAC Increase	2018-19 Net Price Increase*	Increase in US Drug Spending Due to Net Price Change (in Millions)
Enbrel® (etanercept, Amgen)	5.4%	8.9%	\$403
Invega Sustenna®/ Invega Trinza® (paliperidone palmitate, Janssen)	6.8%	10.7%	\$203
Xifaxan® (rifaximin, Salix)	8.4%	13.3%	\$173
Orencia® (abatacept, Bristol-Myers Squibb)	6.0%	7.4%	\$145
Tecfidera® (dimethyl fumarate, Biogen)	6.0%	3.7%	\$118
Humira® (adalimumab, AbbVie)	6.2%	2.0%	\$66
Vimpat® (lacosamide, UCB)	7.0%	5.6%	\$58