Overview of Medicare Proposals
Featuring Government Negotiations &
Inflation-Based Limits on Drug Prices

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About the Kaiser Family Foundation (KFF)

KFF is a non-profit, non-grantmaking organization focusing on national health issues, and the U.S. role in global health policy

KFF serves as a non-partisan source of facts, analysis and journalism for policymakers, the media, the health policy community and the public

Headquartered in San Francisco, with a Washington DC office

KFF is not associated with Kaiser Permanente
Overview of Major Medicare Drug Pricing Proposals

**House**
- H.R. 3: the Elijah E. Cummings Lower Drug Costs Now Act
  - Passed by Education & Labor and Energy & Commerce Committees
  - October 17, 2019
  - Passed by Ways & Means Committee
  - October 22, 2019
  - 24 Yeas; 17 Nays; 1 Present

**Senate Finance Committee**
- S. 2543: Prescription Drug Pricing Reduction Act of 2019
  - Voted out of Committee
  - July 25, 2019
  - 19 Yeas; 9 Nays

**Trump Administration**
- International Price Index ANPRM
  - Released October 30, 2018
- Proposals in FY 2020 Budget
  - Released March 11, 2019

NOTE: These are drug pricing proposals related to Medicare specifically, rather than broader proposals that are not solely focused on Medicare, such as those related to drug importation, generic drug availability, patents, and price transparency.

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**Most Proposals For Lowering Prescription Drug Costs Are Popular Across Parties**

<table>
<thead>
<tr>
<th>% who strongly/somewhat favor each of the following:</th>
<th>Total</th>
<th>Democrats</th>
<th>Independents</th>
<th>Republicans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allowing the government to negotiate with drug companies to get a lower price for people on Medicare</td>
<td>88%</td>
<td>92%</td>
<td>90%</td>
<td>85%</td>
</tr>
<tr>
<td>Allowing the government to negotiate with drug companies to get a lower price for both Medicare and private insurance</td>
<td>85%</td>
<td>94%</td>
<td>84%</td>
<td>84%</td>
</tr>
<tr>
<td>Placing an annual limit on out-of-pocket costs for seniors enrolled in Medicare Part D plans</td>
<td>81%</td>
<td>83%</td>
<td>81%</td>
<td>82%</td>
</tr>
<tr>
<td>Allowing Americans to buy prescription drugs imported from licensed Canadian pharmacies</td>
<td>78%</td>
<td>75%</td>
<td>82%</td>
<td>75%</td>
</tr>
<tr>
<td>Allowing Medicare to place limits on how much drug companies can increase the price of drugs based on annual inflation rates</td>
<td>76%</td>
<td>78%</td>
<td>77%</td>
<td>77%</td>
</tr>
<tr>
<td>Increasing taxes on drug companies that refuse to negotiate the price of medications with the federal government</td>
<td>72%</td>
<td>79%</td>
<td>71%</td>
<td>69%</td>
</tr>
<tr>
<td>Lowering what Medicare pays for some drugs based on amounts in other countries where governments more closely control prices</td>
<td>62%</td>
<td>73%</td>
<td>62%</td>
<td>52%</td>
</tr>
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SOURCE: KFF Health Tracking Poll (conducted October 3-8, 2019). See topline for full question wording and response options.
Support For Government Negotiations With Drug Companies Can Shift With Arguments

Would you favor or oppose allowing the federal government to negotiate with drug companies for lower prices if you heard…?

- People could save money on prescription drugs: Favor 89% Oppose 9%
- The federal government could pay less for prescription drugs for people on Medicare: Favor 79% Oppose 17%
- It could lead to less R&D of new drugs: Favor 33% Oppose 62%
- It could limit access to newer prescription drugs: Favor 29% Oppose 65%

SOURCE: KFF Health Tracking Poll (conducted October 3-8, 2019). See topline for full question wording and response options.

How Do These Medicare Drug Pricing Proposals Compare?

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<td>Medicare Part D benefit redesign with limit on out-of-pocket costs</td>
<td>✓</td>
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<tr>
<td>HHS Secretary negotiates drug prices</td>
<td>✓</td>
<td>X</td>
<td>X</td>
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<td>Inflation-based limit on drug prices</td>
<td>✓</td>
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History of CBO’s Analysis of Government Negotiation

2003
Medicare Modernization Act of 2003 establishes Part D program and includes “non-interference clause” which prohibits government negotiation of drug prices.

2004
“...striking that provision would have a negligible effect on federal spending...the Secretary would not be able to negotiate prices that further reduce federal spending to a significant degree.”
CBO letter to Majority Leader Bill Frist, January 23, 2004

2007
“Negotiation is likely to be effective only if it is accompanied by some source of pressure on drug manufacturers to secure price concessions. The authority to establish a formulary, set prices administratively, or take other regulatory action against firms failing to offer price reductions could give the Secretary the ability to obtain significant discounts in negotiations with drug companies.”
CBO letter to Senator Ron Wyden, April 10, 2007

2019
“The key factor in determining whether negotiations would lead to price reductions is the leverage that the Secretary would have to secure larger price concessions from drug manufacturers than competing PDPs currently obtain.”
CBO letter to Senator Chuck Grassley, May 17, 2019

*The provision of title I [of H.R. 3] that would levy an excise tax for not entering into negotiations or for not agreeing to a maximum fair price provides leverage for the Secretary; it differentiates this analysis from previous ones.*
CBO letter to Representative Frank Pallone, October 11, 2019

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How Would the Secretary Negotiate Prices Under H.R. 3?

- H.R. 3, as modified by Committees, modifies the non-interference clause
- Secretary negotiates prices for at least 25 and up to 250 drugs without market competition (phasing up to 35 drugs by 2033)
  - Based on 125 drugs with the highest Medicare Part D spending, 125 drugs with the highest net spending in the commercial market, and insulin (in year 1)
  - Newly-approved drugs with prices at or above median household income may also be subject to negotiation
- Maximum fair price not to exceed 120% of average price in up to 6 countries: Australia, Canada, France, Germany, Japan, & UK*
  - If no international price is available, maximum fair price not to exceed 85% of average manufacturer price
- Maximum fair price applies to both Medicare & private payers (group & individual)
- Drug companies subject to:
  - Excise tax for not negotiating with the Secretary -- 65% up to 95% of the previous year’s gross sales for a given drug
  - Civil monetary penalty for not offering private payers the agreed-upon maximum fair price = 10x difference between price charged & negotiated price

*The Administration’s International Price Index ANPRM first proposed using international reference pricing.*
How Does CBO Score Negotiation Under H.R. 3?*

- Preliminary and partial CBO estimate: $345 billion in Medicare savings (2023-2029)
  - H.R. 3’s provision to levy an excise tax on drug companies that fail to negotiate provides the Secretary with needed leverage to achieve lower drug prices
- CBO expects that lower drug prices resulting from this policy would lead to:
  - higher use of prescription drugs in the U.S.
  - improved health outcomes resulting from greater medication adherence due to reduced costs
  - lower utilization and spending for other Medicare-covered services due to higher adherence
- But CBO also expects that lower drug prices resulting from this policy would lead to:
  - higher drug prices in other countries
  - lower revenues for drug manufacturers
  - 8 to 15 fewer drugs coming to market over the next 10 years due to loss in revenue for manufacturers (5% of the ~300 drugs expected to be approved during this period)
- CBO has not yet estimated the effects of H.R. 3 on private health plans, Part D premiums, or other provisions of the bill

*Based on H.R. 3 prior to any changes made by committees of jurisdiction.

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List Prices Increased Up to 9 Times Faster Than Inflation for 20 of the Top 25 Part D Drugs

Figure 9

How Would Proposals Use Inflation Rate to Limit Drug Price Increases?

Figure 10

Most Adults Think the Cost of Prescription Drugs is Unreasonable

In general, do you think the cost of prescription drugs is reasonable or unreasonable?

- 79% think the cost is unreasonable
- 17% think the cost is reasonable
- 4% do not know/refuse to answer

- **29% of adults** did not take prescription medicine as directed because of cost according to recent KFF poll
- In 2015, 2016 and 2017, **1 million** Medicare Part D enrollees had high out-of-pocket drug costs (above the catastrophic threshold)—more than twice the number in 2007
- Prescription drug costs now comprise **20%** of Medicare spending


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Medicare Resources on KFF.org

- Assessing Drug Price Increases in Medicare Part D and the Implications of Inflation Limits (NEW)
- What's the Latest on Medicare Drug Price Negotiations? (NEW)
- The Out-of-Pocket Cost Burden for Specialty Drugs in Medicare Part D in 2019
- 10 Essential Facts About Medicare and Prescription Drug Spending
- How Much Does Medicare Spend on Insulin?
- A Look at Recent Proposals to Control Drug Spending by Medicare and its Beneficiaries
- Overview of the Medicare Part D Prescription Drug Benefit

For more information, contact trician@kff.org or visit kff.org/medicare
Thank you.