

# Health Care in Motion

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## Rx Rollback: Prescription Prices (Might Be) Coming Down

Consumers are transforming their anger at prescription drug prices into a hot political issue. A majority of Americans, [79%](#) of all adults, now believe that the cost of prescription drugs is unreasonable. Similarly, 30% say that they have not taken their prescription drugs as prescribed during the past year because of high costs. There is a growing sense of frustration with drug pricing, and along with it increased public pressure to address the problem. This has led to a range of proposals that promise to help solve the problem of rising drug costs, with relief for consumers.

While mounting pressure and increased rhetorical support from both sides of the political aisle in Congress makes prescription drug policy reform seem more likely than ever before, the path forward is far from certain. In these hyper-partisan times, any “meaningful reform” – such as the total overhaul some longtime patient advocates have called for – seems highly unlikely.

In fact, if there is any unifying theme to what is making headway in the prescription drug law and policy world these days, it is drug price incrementalism. The “low-hanging fruit” of smaller, less disruptive reforms are what seem to be garnering bipartisan support in Congress. At least, there is broad agreement that we must *do something*. Although, other than tinkering around the edges, what exactly we should focus on varies depending on who you ask.

As consumers are demanding a change in the status quo, Congress and the Administration are trying to figure out how to provide immediate cost relief directly to the American public. Yet, the success of such efforts largely depend on a clear understanding of who should be held responsible for high prescription drug prices, and then how to effectively lower those costs. Policymakers are also debating how to make drug pricing less secretive and confusing, and how best to monitor accountability going forward. These are all questions Congress has been grappling with – to various degrees of success – over the past months. It’s all a bit complicated and confusing, with many players and many moving parts. This is the first of a series of articles that will hopefully help demystify current drug pricing debates. We’ll keep working to update you on Washington’s efforts to oversee a cleanup on aisle five.

### Accountability: Who Do We Blame?

Facing pressure to find a scapegoat lest the public’s ire be directed at them, Congressional committees have taken turns in holding industry actors’ feet to the fire. But who, precisely, is to blame for high drug costs? Americans and members of Congress alike have spent the last few months attempting to sort out that question. Like most of American health care, the prescription drug system is highly fragmented and includes many moving pieces. Private (and public) health insurers have a role to play. But so do the pharmaceutical companies that manufacture drugs. And

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we can't forget the pharmacy benefit managers ([PBMs](#)), who administer an insurer's list of approved medicines (called a formulary) and act as a go-between to negotiate rebates (price discounts) with drug manufacturers.

The Senate Finance Committee has brought in executives from [pharmaceutical manufacturers](#) and [PBMs](#) to testify about the persistent problem of drug pricing. Unsurprisingly, these hearings largely settled into a round of circular finger pointing, with manufacturers [asserting](#) that PBMs seeking to reap more profits and keep rebates (and thus prices) high are to blame, while PBMs largely [threw](#) the same criticism back at manufacturers.

In these and other hearings, legislators not only demanded answers, they also offered possible solutions. Some policy prescriptions, such as strengthening Medicare's bargaining power to negotiate lower drug prices under Medicare Part D, are set on securing a larger role for the federal government in drug pricing. Others, like getting rid of rebates and scaling back the role of PBMs, unravel and simplify the complex web of drug pricing. It remains to be seen if any of these ideas can provide relief to consumers.

## Transparency: Shedding Light on the Problem

Regardless of who is to blame for the mess we find ourselves in, the question of where to focus limited political energy remains. The current impetus to *do something* about drug prices is largely traceable to broad concerns over a lack of transparency in prescription drug pricing. With the poster child of pharmaceutical industry excess—“[Pharma Bro](#)” Martin Shkreli—still making headlines, the enormous profits that drug manufacturers earn remain on consumers' minds.

Everyone's frustration has now resulted in calls for action and garnered bipartisan [support](#) for some sort of government intervention to demystify exactly how drug manufacturers set their prices and determine price increases. In April, the House [Ways & Means Committee](#) approved drug price transparency legislation in unanimous, bipartisan fashion. The Prescription Drug Sunshine, Transparency, Accountability, and Reporting ([STAR](#)) [Act](#) would mandate more disclosure from manufacturers about how they value their products and would require public justifications of large price increases for existing drugs and high launch prices for new drugs. Another rule [proposed](#) by the Administration would require direct-to-consumer television advertisements of prescription drugs to include the Wholesale Acquisition Cost (the list price) of that drug. While “[sunlight](#) is said to be the best of disinfectants,” it remains to be seen if any of these proposals is just what the doctor ordered.

## Reining in Consumer Costs

From the consumer perspective, it's clear that [cash rules everything around us](#). Patients have voiced concerns over out-of-pocket drug costs, especially as insurers are increasingly placing higher copayment and coinsurance [burdens](#) on consumers filling their prescriptions. In testimony before the Senate [Special Committee on Aging](#) in March, witnesses [spoke](#) about the frequent practice in which manufacturers lower the price of drugs, but consumers don't enjoy reductions in high out-of-pocket costs. Last year, Department of Health and Human Services Secretary Alex Azar [previewed](#) that these concerns weighed on the Administration, saying that “the huge gaps between the list price and the actual price are notorious. It's like the gap between the \$500 rack rate on the back of the door in your Hampton Inn room and the \$100 you actually pay.”

To date, the most notable action by the Administration on prescription drug costs has been its proposed prescription drug [rebate rule](#). Various arrangements are carved out of federal fraud and abuse laws. When it comes to pharmaceuticals,

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discounts off a manufacturer's list price, as secured by a PBM on behalf of a health plan, have historically been protected. Citing concerns relating to the entrenchment of inflated list prices and improper influence on formulary design, the Administration proposes to no longer provide blanket protection to such arrangements. Instead, the rule would protect discounts provided directly to patients at the point of sale.

The rule has divided industry titans: drug manufacturers are largely [supportive](#) of the proposal, while [insurers](#) and [PBMs](#) have been decidedly skeptical. In any case, the bottom-line effect remains unclear: prescription drug prices for some patients will fall, but [analyses](#) show that premium costs will likely rise for others. And some drug manufacturers have [suggested](#) that they are treating rebate reform as a prerequisite to lowering list prices.

For the rebate rule and for other proposed reforms, measuring what success looks like, then, depends in part on which problem we think policymakers should be fixing. System-wide reform is different than incremental reforms such as improving access or lowering drug prices for one segment of the market. And, an interest in improving outcomes for particularly vulnerable patients in the system, who often rely on multiple drugs and services, may require a more comprehensive approach than focusing solely on reducing list prices. Yet in a divided Congress, the incremental reforms on the horizon may not accomplish either.

## Walk, Don't Run, to the Nearest Policy Exit

Other, more aggressive moves to solve the drug pricing problem either were dead on arrival or have stalled, at least for now. For example, carving out a new role for the federal government to participate directly in drug research, development, and manufacturing—as [legislation](#) introduced earlier this year would do by creating a new HHS Office of Drug Manufacturing—has not gained traction. At this stage, it appears that only incremental drug pricing reform, and not revolution, is on the table.

The ground is still shifting, though. As the presidential and congressional elections of 2020 draw closer, the chances for a major federal overhaul of prescription drug pricing seem remote at best. Yet it is equally clear that the Trump administration and members of Congress, many of whom are acutely aware of the salience of drug prices in voters' minds, are eager to get a "win" on prescription drugs. Drug pricing reform that offers something new – and the political rhetoric that might accompany it – without dramatically upsetting the status quo seems likely. Prescription drug price reform efforts seem ready to usher in modest markdowns, but aren't preparing for a going-out-of-business sale. As always, we will continue to assess what is coming down the pike and evaluate the effects any proposals might have on patient communities.

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