

Congress Continues to Focus on Prescription Drug Pricing

Article By:

Christine M. Clements

Susan Ingargiola

The House and Senate continue to focus on prescription drug pricing though it is unclear whether any of the proposals currently pending in either chamber will become law. On December 6th, Senators Grassley and Wyden introduced an updated [version](#) of the bipartisan Prescription Drug Pricing Reduction Act (the “PDPRA”). Senate leadership, however, appears to be in no rush to vote on the bill. On December 12th, the House passed its own version of a prescription drug price reduction bill, H.R. 3, called the Elijah E. Cummings Lower Drug Costs Now [Act](#), which was introduced by Speaker Pelosi. Senate leadership has already indicated the Senate will not take up the measure. While members of Congress on both sides agree that reducing prescription drug prices is a “must do,” they don’t agree on how to do it.

Senators Grassley and Wyden first introduced the PDPRA in July. While the Senate Finance Committee voted the bill out of committee on July 25th, it never made it to the Senate floor for a vote. We summarized the original PDPRA in a Health Law Blog post that can be found [here](#). Among other things, the original version of the PDPRA required pharmaceutical manufacturers that would increase the price of prescription drugs in the Medicare program beyond the Consumer Price Index inflation rate to pay rebates back to Medicare. It also limited Medicare beneficiaries’ out-of-pocket prescription drug expenses to approximately \$3,000, making Medicare Part D plan sponsors responsible for 60 percent of the costs over the cap and making prescription drug manufacturers responsible for the 20 percent. Medicare would be responsible for the remaining 20 percent. Further, the Congressional Budget Office (“CBO”) projected that the PDPRA would save taxpayers more than \$100 billion in Medicare and Medicaid spending over 10 years, lower Medicare beneficiaries’ out-of-pocket costs by \$27 billion and lower beneficiaries’ premiums by \$5 billion.

In an effort to re-focus policymakers’ attention on the bill, which has languished since passing out of committee in July, Senators Grassley and Wyden released an updated version of the PDPRA, which can be found [here](#). The updated draft of the PDPRA:

- Reduces the amount of spending that beneficiaries are responsible for during the initial phase of the Part D benefit from 25 percent to 20 percent after they have paid their deductible;
- Requires manufacturers to provide a new discount of 7 percent on brand-name drugs in the initial phase of the Part D benefit and resets the brand catastrophic discount to 14 percent;

- Directs Part D plan sponsors to offer a cap on the amount of out-of-pocket-costs that a beneficiary has to pay in any one month; and
- Requires Part D plan sponsors and their pharmacy benefit managers to include concessions and fees they negotiate with a pharmacy in the price beneficiaries pay at the pharmacy counter. These concessions could include rebates to drug companies or the fees pharmacies pay to participate in a plan's network, among others.

The requirement, included in the original PDPRA, that pharmaceutical companies pay rebates to the federal government if they raise the prices of their products beyond the rate of overall inflation, remains in the updated draft.

A week after Senators Grassley and Wyden released the updated PDPRA, the House voted to approve Speaker Nancy Pelosi's drug pricing legislation by a party line vote of 230-192. The bill would give Medicare the power to negotiate drug prices, limit out-of-pocket costs for Medicare beneficiaries to \$2,000 annually, and align maximum drug prices to the smaller amount other countries pay, among other things. The CBO has [said the legislation](#) would cut the federal deficit by \$5 billion and likely result in about eight fewer new drugs over the next 10 years as manufacturers receive lower profits.

While the re-introduction of the PDPRA and the House's passage of H.R. 3 reflect Congress's continued interest in reducing prescription drug prices, neither measure is likely to become law. Senate Majority Leader Mitch McConnell opposes H.R. 3 and the White House has threatened a veto. And there are no immediate plans for the Senate to vote on the revised PDPRA, which appears to lack enough support from Republican senators to pass the chamber. Senator Grassley has predicted that more GOP senators would back the bill early next year when they need a popular issue, such as lowering drug prices, to run on in the election. Though the revised PDPRA and H.R. 3 may not be the bills that ultimately pass into law, they reflect the fact that Congress is maintaining its focus on prescription drug prices and appears committed to finding a path forward despite the complicated politics that surround the issue.

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