The Inflation Reduction Act: Key Healthcare and Prescription Drug Provisions

BY MATT DEVINO, MPH

On Tuesday, Aug. 16, President Joe Biden signed the $740 billion Inflation Reduction Act of 2022 into law, delivering on several key aspects of his "Build Back Better" social and environmental agenda. Notably, the legislation includes some significant prescription drug reform and healthcare affordability provisions set to take effect over the next six years.

The sweeping budget reconciliation package was originally introduced in the House of Representatives as the Build Back Better Act (H.R. 5376) in September 2021 and passed the House on Nov. 19, 2021. Senate negotiations on a counterpart to the House-passed legislation fizzled out in December, when moderate Democratic Senator Joe Manchin (D-WV) balked at the $2.2 trillion price tag. Still, the Senate Finance Committee continued working on the prescription drug pricing reform elements of the legislation in the spring, and Manchin suggested in private meetings with the White House that he would support a slimmed-down version of the Build Back Better Act, addressing only energy and climate, prescription drug prices, tax reform, and deficit reduction.

These negotiations took a backburner (at least publicly) as Congress focused on passing other bipartisan pieces of legislation through much of its 2022 session. As the summer wore on, passage of a broad Democrat-only package seemed more and more unlikely in a 50-50 Senate. However, in a move that took many on Capitol Hill by surprise, Manchin and Senate Majority Leader Chuck Schumer (D-NY) jointly announced they had reached a deal on a budget reconciliation bill on July 27. The Inflation Reduction Act was passed by a 51 to 50 vote in the Senate on Aug. 7, and a 220 to 207 vote in the House on Aug. 12; it was signed into law on Aug. 16.

Healthcare Affordability and Prescription Drug Costs

First, on the side of health insurance affordability, the Inflation Reduction Act extends the enhanced Affordable Care Act (ACA) premium tax credits for three years through the end of 2025. The subsidies for purchasing ACA marketplace health plans were originally expanded beyond 400 percent of the federal poverty level by the American Rescue Plan Act of 2021, but they were set to expire at the end of this year. The White House estimates that the passage of the Inflation Reduction Act will allow 3 million Americans to maintain health insurance in 2023 and that Americans will save $800 per year, on average, on health insurance premiums.[1] The passage of this law was especially timely, because a July analysis by the Kaiser Family Foundation found that premiums for marketplace plans are expected to rise by 10 percent in 2023,[2] and these subsidies will help to shield most Americans from these significant price increases.

Another set of provisions of the law are meant to address increasing out-of-pocket drug costs by redesigning Medicare Part D, the Medicare prescription drug benefit. The law will eliminate the current 5 percent coinsurance requirement above the catastrophic threshold in 2024 and implement a $2,000 cap on out-of-pocket drug spending in 2025, with the ability to spread one's annual out-of-pocket amount into monthly payments. This means that once a beneficiary has reached their $2,000 annual spending cap, they would have no further financial obligation for the cost of their covered prescriptions. This provision is seen as a major win for patients with cancer because the high out-of-pocket cost of prescription drugs at the pharmacy counter is often a barrier to medication adherence and the completion of treatment.

The final healthcare piece of the Inflation Reduction Act is a set of provisions that will allow the Department of Health and Human Services (HHS) to negotiate the price of prescription drugs covered by Medicare Parts B and D for the first time. Beginning in 2026, the drugs eligible for negotiation will include brand-name drugs or biologics without generic or biosimilar equivalents that are 9 or more years (small-molecule drugs) or 13 or more years (biologics) from approval by the U.S. Food and Drug Administration. For a negotiation-eligible drug, a "maximum fair price" would be negotiated between the Medicare program and drug manufacturers, impacting both patient cost sharing and provider reimbursement. The federal government can impose a financial penalty in the form of an excise tax on drug manufacturers that do not negotiate with HHS. The law also institutes a provision requiring drug manufacturers to pay a rebate if drug prices increase faster than the rate of inflation. These inflation caps are expected to help reduce prescription drug price growth over time.

Concerns Around Medicare Drug Price Negotiation

Of all of the reforms included in the law, ACCC is most concerned about the impact of drug price negotiation on Medicare Part B reimbursement. Specifically, basing provider reimbursement on the proposed "maximum fair price" would negatively impact reimbursement for providers who administer oncology drugs covered under Medicare Part B. These cuts could significantly reduce beneficiary access to crucial medications and treatments and threaten the financial viability of cancer programs and practices across the country. Over the past year, ACCC has communicated this concern to congressional leadership in the form of letters and formal testimony for the record, all of which can be found at: accc-cancer.org. ACCC also had the opportunity to engage directly with Senate Finance Committee members on potential solutions that would hold providers harmless.

Ultimately, the gradual implementation of the Part D redesign and prescription drug price negotiation provisions of the law over the next six years leaves the potential for future legislative delays or alterations to this reform at the federal level prior to implementation. Advocacy efforts will remain important during this time, as ACCC and other stakeholder groups continue to educate members of Congress about the downstream impacts of drug price negotiation and prioritize continued access to high-quality, equitable cancer care for all. OI

References

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Implementation Timeline of the Inflation Reduction Act

2023: Drug companies are required to provide rebates if their drug prices increase faster than the rate of inflation. The cost sharing for adult vaccines covered under Part D is eliminated.

2024: The 5 percent coinsurance requirement above the Part D catastrophic threshold is eliminated. Income eligibility expands for Part D Low-Income Subsidy full benefits up to 150 percent of the federal poverty level.

2025: Part D out-of-pocket spending is capped at $2,000 annually and other Part D benefit changes are implemented.

2026: HHS is required to negotiate the price for 10 Part D drugs.

2027: HHS is required to negotiate prices for 15 Part D drugs. (The implementation of the Trump administration Rebate Rule will be delayed to 2032.)

2028: Price negotiation expanded to include 15 Part D and Part B drugs.

2029: Price negotiation expanded to include 20 Part B and Part D drugs.