Lower Drug Costs for Families Act

Senator Cortez Masto

Summary: The *Lower Drug Costs for Families Act* would impose a penalty payment for prescription drug price increases above the inflation rate in the commercial market (e.g., employer self-funded, employer fully insured, ACA plans), building on the *Inflation Reduction Act (IRA*) passed provision under Medicare.

This bill would also move the base-line year for price increase reference from 2021 to 2016, further increasing federal and private payer savings.

Background: Year-to-year drug price increases exceeding inflation are common and have large effects on Nevada families with private insurance.[1] However, under current law, the federal government has no authority to penalize astronomical annual price increases for drugs for people insured through private plans. The *IRA* begins to address this issue by requiring drug manufacturers to pay rebates to Medicare if they increase prices for drugs provided through Medicare faster than the rate of inflation.

The *Lower Drug Costs for Families Act* would build on the *IRA's* Medicare drug inflation rebate provisions by adding in the number of units sold to the privately-insured when calculating the inflation rebate amount owed by drug manufacturers who raise the price of their drug faster than inflation. Specifically, drugs covered under this provision would include commercial market units of drugs currently covered under Medicare Part B (which includes those administered by physicians) and Medicare Part D (prescription medications). The base year for measuring cumulative price changes relative to inflation would be 2016, moving the Medicare base year included in *IRA* in order to generate even more savings. In line with *IRA* policy, rebate payments – inclusive of total drugs sold in Medicare and the commercial market - would be deposited directly to the Parts B and D Trust Funds.

Generated Savings: This provision with a 2021 reference year was scored in *Build Back Better Act (BBBA)* at $34 billion in savings over ten years[2] for the federal government. A West Health analysis found that extending the market-wide inflation caps would generate savings of $176 billion over 10 years for workers and employers, including $42 billion in reduced premiums and copays for workers and $134 billion in reduced premiums paid by employers.[3] Expected savings would be larger with a 2016 reference year.

Endorsing Organizations: Patients for Affordable Drugs Now, AFL-CIO, American Federation of State, County and Municipal Employees (AFSCME), UNITE HERE, United Mine Workers of America, Communications Workers of America (CWA), American Federation of Teachers.

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[1] https://www.kff.org/medicare/issue-brief/explaining-the-prescription-drug-provisions-in-the-build-back-better-act/#_Require_Inflation_Rebates
[2] https://www.crfb.org/blogs/build-back-better-drug-reforms-would-lower-costs
[3] https://www.cidsa.org/publications/estimated-payments-under-the-inflation-penalty-in-the-build-back-better-act