

## **The Medicare Bait and Switch:**

# **Seniors Pay More While Pharmaceutical and Insurance Company Profits Soar**

**Analysis of the new prescription drug deal announced by Republican leaders in Congress**

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**I N S T I T U T E F O R**  
**A M E R I C A ' S F U T U R E**

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# **Congress' Prescription Deal Costs People From Wisconsin More and Undermines the Entire Medicare System – While Drug Companies Stand to Earn Billions**

## **Analysis of the new prescription drug deal announced by Republican leaders in Congress**

This week, Congress is expected to vote on historic prescription drug legislation being championed by Republican leaders in Congress and President Bush.

For weeks, Republican leaders in Congress, the President, and a select group of lobbyists have been meeting behind closed doors on details of the prescription drug legislation. On Saturday, November 15, details of the deal began to be announced to the public. This report analyzes the deal from the perspective of 787,442 Medicare beneficiaries' needs. The report finds that far from helping people from Wisconsin get the prescriptions they need at a price they can afford – the legislation would actually saddle beneficiaries with higher costs and would erode the basic foundation of Medicare's guaranteed benefit structure.

The report highlights several ways that the legislation would force Medicare beneficiaries in Wisconsin to pay more for prescriptions and doctor visits than they do today. The report also shows how the legislation is damaging Medicare's guaranteed benefit by subsidizing HMOs to pull healthy and wealthy beneficiaries out of Medicare.

The legislation would guarantee the drug industry hundreds of billions of dollars in new taxpayer-supplied profits because of changes to the law that would prohibit Medicare from negotiating lower drug prices for Wisconsin Medicare beneficiaries. This provision protects the drug industry practice of raising prices many times the rate of inflation per year on medicine – a key goal of drug industry lobbyists for the past several years.

The report also highlights the pattern of influence that the drug industry has exerted on American politicians – with contributions exceeding some \$650 million, about 80% of which went to Republicans. Lobbyists for the drug companies, who have worked for years against government action on prescription drugs, now support Congress' legislation this year.

In contrast to the approach being considered by Congress, which will cost Medicare beneficiaries more, there are many proven ways that Medicare could lower drug costs. The report highlights examples of successful measures, used by the Veterans Administration and various states around the nation, to bring prescription costs down by using the buying power of beneficiaries to negotiate lower prescription prices with the drug industry. Republican leaders in Congress have rejected this proven approach.

Some supporters of the deal claim that though the legislation is not perfect – it is better than nothing. This analysis makes the case that the deal does more harm than good by damaging the Medicare system and costing seniors more.

## **Keeps Drug Prices High in America**

The cost of prescription drugs rose more than 15% in 2001 – the 7<sup>th</sup> straight year of double-digit increases.<sup>i</sup> According to analysis by the non-partisan group Families USA, the cost of the top 50 prescription drugs prescribed to seniors increased 3.4 times the rate of inflation last year.<sup>ii</sup> These skyrocketing costs have left many seniors and people with disabilities to face impossible choices between the prescriptions they need and other basic needs like food and heat.

These skyrocketing costs are being charged to Americans at a time of record drug industry profits and practically unparalleled drug industry spending on lobbyists, campaign contributions and political organizations around the nation.

But the Medicare prescription drug legislation contains no real relief for beneficiaries struggling with high drug costs. In fact, it explicitly PROHIBITS Medicare from negotiating lower drug prices for beneficiaries, a proven method to reduce prices used by the Veterans Administration and Canada.

The legislation states that Medicare:

“may not...interfere in any way with negotiations between PDP [Prescription Drug Plan] sponsors and Medicare Advantage organizations and EFS [Enhanced Fee-for-Service] organizations and drug manufacturers, wholesalers, or suppliers of covered outpatient drugs...”<sup>iii</sup>

According to a report released this week by Consumers Union, the absence of legislative language to rein in the skyrocketing costs of prescription drugs leaves the bill to only cover 22% of drug costs for Medicare beneficiaries between 2005 and 2014.<sup>iv</sup> Moreover, their analysis shows that in 2007 (one year after the legislation is enacted), the average Medicare beneficiary would actually pay MORE in out-of-pocket (prescription drugs, premiums, deductibles, co-payments, and coverage gap) expenses than they do today.<sup>v</sup>

## **Higher Costs for Doctors and Premiums**

In addition to paying more for prescription drug coverage, this bill will result in seniors and people with disabilities paying more for some traditional Medicare Part B services – including higher deductibles for doctor visits, up to \$110 in 2005 and growing each year after along with Part B expenditures.<sup>vi</sup>

Additionally, *CongressDaily* reports that a new analysis by the Medicare actuary shows that the monthly premiums for prescription drug coverage charged to seniors would vary dramatically throughout the country. For identical coverage options, beneficiaries would pay different premiums depending on who they are and where they live – these premiums could reach as high as \$175 per month.<sup>vii</sup>

And these high premiums, coupled with the prescription benefits structure, would leave many seniors and people with disabilities saddled with higher costs. The “break-even” point in the compromise is close to the bill that passed the House. According to a report by the non-partisan advocacy group US Action – 249,630 Wisconsin Medicare beneficiaries would be forced to pay higher costs with the passage of the House bill.<sup>viii</sup>

### **Unequal Treatment of Poor Beneficiaries**

The compromise bill will result in 75,310 poor people from Wisconsin spending more out-of-pocket for drug costs than they currently do with Medicaid. This is because states provide “wrap-around” drug coverage for beneficiaries dually eligible for Medicaid and Medicare allowing the poorest of the poor to get prescription drugs that would otherwise be out of their reach. But with the new language, states would be forbidden to provide this kind of safety net for low-income beneficiaries – instead they will have the same cost responsibilities as their peers regardless of their ability to pay.<sup>ix</sup> The cutoff for federal subsidies is also extremely low – leaving individuals with incomes of \$13,000 and couples with \$16,500 ineligible because their annual incomes are too high.<sup>x</sup>

This proposal will hurt the most vulnerable dual eligibles – those living in nursing homes. Under Medicaid, enrollees in nursing homes are exempt from cost-sharing – but eliminating the “wrap” could result in residents being responsible for the gap in coverage (between \$2,200 and \$5,044) the same as other Medicare beneficiaries.<sup>xi</sup>

### **Retirees Would Lose the Drug Coverage They Have Now**

2–3 million retirees are expected to lose the prescription coverage they have now.<sup>xii</sup> This hit comes even with some \$16 billion in subsidies to pay employers not to drop the coverage of their employees.

Prior to the inclusion of this employer subsidy, an analysis by the Congressional Budget office estimated that 32%-37% of Medicare beneficiaries would lose the employer-sponsored drug coverage they have now.<sup>xiii</sup> That percentage amounts to about 4 million beneficiaries nationwide, or about 95,753 retired people from Wisconsin. Details of the employer subsidy have yet to be released, making an accurate state analysis impossible at this time – however, it can be assumed that 47,877 to 71,815 people from Wisconsin would lose coverage.

Government agencies are not eligible for this subsidy – making the prescription coverage earned by public employees through collective bargaining especially vulnerable. As state and local governments seek out ways to trim budgets, federal, state, and local government employees may find themselves forced out of prescription coverage because of this deal.

### **No Coverage for Drug Costs Between \$2,200 and \$5,044**

The deal includes a structure for coverage not seen by any private or public insurance plan. It does not provide consistent coverage if your drug costs go up. After paying a mandatory \$275 deductible and a monthly premium of \$35 – \$175, 75% of drug costs between \$276 and \$2,201 will be covered, “catastrophic” drug costs above \$5,044 will be covered by perhaps 95%. Beneficiaries with expensive medicines costing between \$2,200 and \$5,044 would get no help.

### **Changes to Entire Medicare System – Set to “Wither on the Vine”**

Many American seniors remember then Speaker of the House Newt Gingrich’s infamous quote about his desire to see Medicare “wither on the vine.” Newt Gingrich tried and failed to subsidize HMO corporations with taxpayer dollars to pull healthy and wealthy beneficiaries out of Medicare.

The Medicare legislation being considered today would put Gingrich's plan into action. The drug deal goes far beyond the scope of adding prescription help to Medicare – it would fundamentally change the structure of Medicare from one of guaranteed healthcare for all – to a system of profit-driven coverage for some.

The deal gives HMOs about \$12 billion of taxpayer money to encourage them to sell the health care coverage that Medicare provides now. In some parts of the country – Medicare would be forced to “compete” with these subsidized HMOs. This “demonstration” project would force 6 million American seniors into managed care.

As the healthiest, lowest-cost beneficiaries are lured away from the Medicare system – Medicare would be left with the responsibility of covering the most needy and sick – artificially increasing Medicare's costs. Even if you stay in the traditional Medicare system, your premiums might go up. If you leave Medicare for an HMO – you can't go back to traditional Medicare and the HMO can change the terms of your care (benefits, premiums) every two years.

### **“Cost-Containment” Provisions Starve Medicare of Funds**

Despite the fact that the deal would force Medicare to pay increasingly high prices for prescription drugs, the deal includes phony “cost containment” provisions that would trigger more Medicare changes when costs go up – these provisions would squeeze Medicare at the top, while skyrocketing drug prices squeeze Medicare from the bottom.

Conservatives in Congress have demanded “cost containment” mechanisms for the Medicare program as a whole in return for their votes on the drug deal. According to a Center on Budget and Policy Priorities analysis, these proposals would limit general revenue financing of Medicare program's overall cost to 45%. If the Medicare trustees project the program exceeding that arbitrary limit, seven years into the future, the President is required to introduce legislation changing the program and its benefits to make it fit inside the 45% box. Measures to reduce program costs to fit this level could include rapidly reducing provider payments, increasing beneficiary co-payments, premiums and deductibles, raising the eligibility age, and potentially converting Medicare to a voucher system.<sup>xiv</sup> The deal would then treat those changes differently than other Congressional actions – like tax breaks – increasing the likelihood of benefit cuts.

In a letter to Medicare conferees, the Leadership Council of Aging Organizations warned that these measures will not only threaten the very essence of the Medicare program but could adversely impact beneficiaries in an emergency. "Requiring Congressional action if and when Medicare spending exceeds an estimated target would bring fear and uncertainty to millions of Americans at a time in their lives when they need security... An unforeseen outbreak, such as SARS, in the future would obviously make any spending estimates irrelevant."<sup>xv</sup>

### **Medicare Beneficiaries May Lose Their Doctor**

Unlike Medicare, private health plans limit a patient's choice of doctors to those within the HMO selected “networks”. The Medicare legislation being considered by Congress would shift Medicare beneficiaries to HMOs. Beneficiaries in these HMOs would be told who can and who cannot provide care for them – Congress has not provided a guarantee that an individual's family doctor or specialist is included in this new plan.

This is particularly alarming for rural seniors. According to the National Rural Health Association, rural areas have roughly half the number of physicians compared to urban areas. Moreover, almost all specialists practice in urban areas.<sup>xvi</sup> Adding insurance company “approved” networks to this already limited choice will only exacerbate rural residents’ access to care.

### **The History of HMOs and Medicare Beneficiaries – Seniors in Wisconsin Lose Coverage**

In Wisconsin, 18,572 seniors and people with disabilities have already been abandoned by HMOs in the Medicare+Choice program since 1999. Nationwide, more than 2.4 million Medicare beneficiaries have been dropped by a private plan that contracted with Medicare during that same period.

Now, Congress’ prescription deal would convert the entire Medicare program to this failed model.

HMOs have routinely blamed low profit margins from Medicare subsidies as the reason to drop seniors; however, private plans have received several increases in their federal payments and still they cut-back service.<sup>xvii</sup>

Lower administrative costs are a principle reason the traditional Medicare program (2%) is more efficient and reliable than HMOs (20%-30%) particularly when providing care to a population with deteriorating health.<sup>xviii</sup> These private plans offer Medicare beneficiaries no guarantee.

### **Drug and Insurance Industry Political Contributions: 80% to Republicans**

In 2002, the drug industry ranked as the most lucrative industry in America – reaping profits more than 5 ½ times the median for all Fortune 500 industries.<sup>xix</sup> Political contributions from the drug industry topped \$91 million in the same year with more than 80% going to Republicans.<sup>xx</sup> The drug industry has spent a whopping \$650 million to influence politicians since 1997.<sup>xxi</sup>

Some of the biggest recipients of drug and insurance industry contributions are the members of the elite Congressional committee deciding the fate of the Medicare program behind closed doors. This select group, which includes only two Democrats, has taken an unbelievable \$3.6 million from the drug industry alone.<sup>xxii</sup> These include: Rep. Bill Thomas (R-CA), Chairman of the Committee – \$481,637; Sen. Charles Grassley (R-IA), Finance Chairman – \$325,130; Rep. Nancy Johnson (R-CT) – \$471,808; Sen. Orrin Hatch (R-UT) – \$788,793; Sen. Jon Kyl (R-AZ) – \$89,885; Sen. Don Nickles (R-OK) – \$136,296; Sen. Bill Frist (R-TN) – \$271,023; Sen. John Breaux (D-LA) – \$168,349; Sen. Max Baucus (D-MT) – \$212,292; Rep. Billy Tauzin (R-LA) – \$254,997; Rep. Michael Bilirakis (R-FL) – \$295,478; and Rep. Tom DeLay (R-TX) – \$149,250.

Direct political contributions are not the only way that the drug and insurance industries influence Members of Congress. The drug industry also funds many sham “senior” organizations including the United Seniors Association, 60 Plus and Seniors Coalition and confederacies like the Alliance to Improve Medicare (AIM) and Citizens for Better Medicare – with millions in unreported contributions. These organizations then use drug industry money to buy television, radio, and print ads to support or oppose Members of Congress on drug industry priorities. Because these organizations are not required by law to report their contributions, there is no definitive accounting of the amounts involved, but some estimates put the total in the hundreds of millions of dollars.

These groups have a history of misleading the public with persuasive print and television ads that target elderly Americans and prey on their fears. The United Seniors Association spent \$17.6 million in 2002 on these “outreach” campaigns supporting the Republican Medicare bill.<sup>xxiii</sup> Recently, the

“Alliance to Improve Medicare” (AIM), a coalition of pharmaceutical companies, trade groups, sham seniors organizations, and health care companies, spent between \$3 million - \$5 million running hokey advertisements to push legislators to vote for this bill.<sup>xxiv</sup>

**\$6.8 Billion Tax Break for Wealthy**

Included in the bill is a \$6.8 billion subsidy for the fledgling Health Savings Account business – a key prize for the insurance industry. This new tax break has nothing to do with prescriptions – the tax break allows wealthy Americans to shelter income in tax-free health account plans. The deal requires plans to have high deductibles, which most seniors can’t afford.

Look at what \$6.8 billion could purchase compared to the global sales of the seven drugs most commonly prescribed for seniors.

| <b>DRUG</b>               | <b>GLOBAL SALES 2002<sup>xxv</sup></b> |
|---------------------------|--|
| Lipitor                   | \$8.6 billion                          |
| Norvasc                   | \$4.0 billion                          |
| Plavix                    | \$1.3 billion <sup>xxvi</sup>          |
| Prilosec                  | \$5.2 billion                          |
| Celebrex                  | \$3.1 billion                          |
| Prevacid                  | \$3.6 billion                          |
| Zocor                     | \$6.2 billion                          |
| <b>Total global sales</b> | <b>\$32 billion</b>                    |

**Congress Rejected These Proven Methods To Fairly Bring Down Drug Prices**

**Negotiating With Drug Companies to Get Seniors the Best Deal on Medicine**

The Department of Veterans Affairs (VA), U.S. Coast Guard, Department of Defense, and other agencies negotiate with drug companies to get veterans and the military the best deal on prescriptions. If a brand-name drug is to be included in the Federal Supply Schedule (FSS), manufacturers must provide their product to these agencies at a price *at least* as low as Average Manufacturer Price (AMP) minus 24%.<sup>xxvii</sup> The Veterans Administration then incorporates competitive bidding by drug companies to fairly bring prices for veterans even lower than those published in the FSS – roughly 1/3 lower.<sup>xxviii</sup>

U.S. PIRG compared the average price paid by uninsured Americans to the Federal Supply Schedule price for 10 commonly prescribed drugs.<sup>xxix</sup> The percentage *more* paid by the uninsured is striking:

|                 |                  |
|-----------------|------------------|
| Prilosec - 105% | Furosemide - 65% |
| Norvasc - 93%   | Prevacid - 100%  |
| Lipitor - 84%   | K-Dur 20 - 110%  |
| Celebrex - 35%  | Lanoxin - 31%    |
| Plavix - 39%    | Zocor - 105%     |

Unfortunately, seniors and people with disabilities will not see savings like these as the Medicare prescription drug bill contains a provision explicitly PROHIBITING the Medicare Administrator from negotiating lower prices with prescription drug companies.<sup>xxx</sup>

Three states have passed legislation giving state governments the power to negotiate fair prices with drug companies. Maine, Hawaii and Illinois laws are slated for enactment in 2004.

**Maine** – In 2000, Maine’s legislature passed “Maine Rx,” a groundbreaking bill giving the state the ability to negotiate drug prices directly with manufacturers. Almost immediately, drug companies tied the legislation up in court claiming it was Constitutionally invalid. In May 2003, the U.S. Supreme Court disagreed. In the meantime, Maine’s legislature passed a more comprehensive version of the law known as “Maine Rx Plus.” It is expected to provide nearly 275,000 residents with prescriptions at a 15%-60% discount when it goes into effect on January 1<sup>st</sup>. To qualify for the coverage, residents must have an income at or below 350% Federal Poverty Level (\$31,430/individual - \$53,410/couple) or spend more than 5% of their total income on prescription drugs.<sup>xxxii</sup>

**Hawaii** – Following Maine’s success, Hawaii introduced and passed “Hawaii Rx” in 2002. The program is estimated to serve 228,000 people and provide prescription drugs at negotiated discounts of 25%-40% when it goes into effect on July 1<sup>st</sup>.<sup>xxxiii</sup>

**Illinois** – Illinois designed and passed a prescription drug buying program with the state negotiating directly with drug manufacturers that will be enacted in January. It will reduce prescription drug prices for seniors and people with disabilities by about 30% at an estimated savings of \$120 million.<sup>xxxiv</sup>

Massachusetts hopes to join the ranks of these states by passing a bill currently in the legislature’s Joint Committee on Health Care. The Massachusetts Fair Pricing Program will allow the state to provide prescription drugs at negotiated discounts for millions of state employees and Medicaid recipients.<sup>xxxv</sup>

Pennsylvania offers seniors prescription drug coverage through two pharmacy assistance programs, PACE (incomes at or below \$14,000/individual and \$17,200/couple) and PACENET (incomes at or below \$17,000/individual and \$20,200/couple).<sup>xxxvi</sup> While Pennsylvania does not negotiate each drug’s price for the program formulary, they do contract with manufacturers to receive rebates for drugs purchased through the program and reimburse pharmacies the Average Wholesale Price (AWP) minus 10% (plus state pharmacy dispensing fee, \$3.50).

22 other states have similar programs to lower the cost of prescription drug costs for enrollees, including Wisconsin.

### **Stopgap Measure: Drug Re-Importation**

Americans pay more than twice the price for prescription drugs than Canadians do for the same drugs.<sup>xxxvii</sup> Both the House and Senate have supported measures to enable seniors to purchase prescriptions from Canadian pharmacies without fear of prosecution.

Bowing to intense pressure from the drug industry – the deal rejects proposals to make re-importation of prescriptions easier for seniors. The deal locks American seniors into paying artificially high prices for the medicines they need.

Canadians have reasonably priced prescription drugs as a result of government negotiations with drug manufacturers – our government will have to do the same if we are to benefit from fair prices.

In the meantime, seniors are flocking to Canada and Mexico by the busload, Canadian pharmacies have opened at least 85 storefronts in states, and online business is booming for mail-order Canadian wholesalers and pharmacies.

While those savings are a real and immediate salve for skyrocketing costs to seniors and people with disabilities, it is not a viable solution to the problem of high drug prices in America.

According to the latest report by Consumers Union:

U.S. consumer anger and frustration about paying the highest prescription drug prices in the world has led many to resort to the illegal purchase of their medicines from Canada. For many, this “illegal” activity is viewed as preferable to going without their medicine because of its unaffordable price. Reimportation of drugs from other countries is at best a short-term solution because over time, more drug companies will cut their sales to Canada, and prices in Canada are likely to increase if sales to the U.S. become a large share of the market.<sup>xxxvii</sup>

Desperate to help their constituents pay for prescriptions, lawmakers in many U.S. cities and states are also researching and implementing healthcare systems that use Canadian pharmacies and suppliers.

**Springfield, Massachusetts** – The city is currently encouraging city workers and retirees to import their prescription drugs from Canadian pharmacies. Savings are expected to be about \$4 million this year depending on the number of enrollees. Mayor Michael Albano has said he will use the savings generated from re-importation to restore city programs and workers that were cut as a result of the city’s budget crisis. Mayor Albano also asked city pension funds to divest itself of pharmaceutical stocks.

**Burlington, Vermont** – Mayor Peter Clavelle is investigating the possibility of re-importing drugs for the city’s workers. This action could save the city between \$100,000 and \$200,000 of its annual prescription drug costs – about \$670,000.

**New York City, New York** – Mayor Michael Bloomberg recently told reporters this about reimportation: “It is a great idea to use our combined economic power to (buy drugs from Canada) ... It is on our to-do list.”<sup>xxxviii</sup> He estimates New York City could save more than \$640 million in prescription drugs for Medicaid patients alone.<sup>xxxix</sup>

**Illinois** – Governor Rod Blagojevich issued a report recently showing that reimportation would save the state and retired and current employees more than \$91 million. He is currently asking the federal government to grant Illinois a legal waiver so they may implement a statewide system for obtaining Canadian drugs.

Other Governors, such as Wisconsin’s Jim Doyle; Vermont’s James Douglas; Michigan’s Jennifer Granholm; Minnesota’s Tim Pawlenty; and Iowa’s Tom Vilsack are exploring this stop-gap measure because of Congress’ failure to bring drug prices down for seniors in America.

Far from simply getting the best prescription deal for seniors, the Republican Medicare proposal would make fundamental changes to the entire Medicare system that threaten the Medicare guarantee.

Republican leaders in Congress rejected proven methods of bringing down drug prices in favor of a deal that would funnel hundreds of billions of taxpayer dollars to drug companies and HMOs, and includes billions in new tax breaks geared towards America's wealthiest. Not surprisingly, these payouts have distorted the deal, resulting in higher costs for seniors and a guarantee that the skyrocketing cost of prescriptions in America will continue to rise unabated.

For Wisconsin's Medicare beneficiaries and the nation, the prescription drug deal does more harm than good.

## Endnotes

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