

## **Trump Administration Announces Executive Orders to Reduce Drug Prices**

### *Executive Actions Do Not Have Immediate Impact and Will Face Legal Challenges*

On Friday, July 24, the President signed four executive orders aimed at reducing prescription drug prices. While executive orders do not need congressional approval, each of these orders requires further rulemaking and are thus not immediately enforceable. In addition, all four orders will be fought in the courts by affected stakeholders and the orders could be withdrawn by a future administration. Nevertheless, if ever finalized, the orders could have a significant impact on drug costs in the future. The four orders are:

- 1) **International Price Index:** The most aggressive and potentially far reaching order would require drugs paid for by Medicare Part B to be sold at a price based on an international price index (IPI) from a market basket of other industrialized countries. The administration says that this rule could reduce the price of Part B drugs by as much as 30%. Based on vehement opposition from the pharmaceutical industry, the president agreed to wait 30 days before officially submitting the executive order to allow time for drug makers to offer an alternative proposal. In addition to hostility from the drug industry, most congressional Republicans also oppose the concept. Conversely, the sweeping drug pricing reform bill passed by congressional Democrats last year – H.R. 3, the *Elijah E. Cummings Lower Drug Costs Now Act* – utilizes an IPI as part of its price control mechanism.
- 2) **Part D Rebates:** This order directs the Secretary of Health and Human Services to finalize a rule requiring pharmacy benefit managers (PBMs) to pass on savings accrued from negotiating rebates with drug manufacturers to patients enrolled in the Medicare Part D program. When proposed last year, the rule garnered significant controversy. The net impact of the rule on federal spending, Medicare beneficiary costs, private payers, and the pharmaceutical industry is unclear as different governmental and private analyses have yielded different results. This rule is strongly opposed by PBMs and the health insurance industry but supported by drug makers.
- 3) **Drug Reimportation:** The executive order would make it easier for states to reimport drugs from other countries at prices lower than the drugs are currently offered in the United States. Drug reimportation has strong support among many congressional Democrats and some Republicans. Its overall impact on the price of drugs in the United States is likely small. The policy is strongly opposed by the pharmaceutical industry.
- 4) **340B:** The final order makes changes to the 340B program. 340B allows certain safety net providers, including community health centers and some hospitals, to purchase drugs at steep discounts, while selling those drugs to many patients at prevailing retail prices -- a controversial practice known as "spread pricing." This order would require community

- 5) health centers to sell insulin and injectable epinephrine to all their patients, including those covered by private insurance, at the discounted price. While the order takes on spread pricing, it is limited to a few drugs and does not affect hospitals, which are widely seen as the primary “bad actors” in the program.

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