



# Commercial Prescription Drug Market



## Reforming prescription drug market dynamics to lower spending for employers, patients, and families who are insured by commercial plans.

### THE ISSUE:

Americans get their prescription drug coverage from a variety of sources, depending on their individual circumstances. Most Americans not covered by Medicare or Medicaid get their prescription drug coverage through an insurer in the commercial market, often through their employer.

In the United States, drug manufacturers maximize their total revenue by charging different prices in different markets.<sup>1</sup> In the commercial market, drug manufacturers generally have broad discretion to set prices at will, unlike in government programs where prices are generally influenced by statutory rules and regulations.<sup>2</sup> Ultimately, drug manufacturers and an insurer or their contracted Pharmacy Benefit Manager (PBM) negotiate the final drug price after rebates (the “net prices”). However, when a branded drug faces little competition from similar products within a therapeutic class, insurers and PBMs are limited in their leverage to negotiate.<sup>3</sup>

Manufacturers are also known to exploit market distortions by inhibiting competition that would lead to lower prices, thereby inappropriately maximizing their revenues.<sup>4</sup>

### THE EVIDENCE:

Patients, families, and employers across the country are facing the highest drug prices in the world compared to other comparable high-income countries,<sup>5</sup> with over half of U.S. voters reporting difficulty in affording their prescriptions, not taking them as prescribed, or not filling them due to cost.<sup>6</sup> What’s more, an analysis by the Congressional Budget Office shows that growth in average net prices for brand-name drugs in the United States has outpaced the rate of inflation in recent years.<sup>7</sup> For employers in particular, prescription drug costs have been the fastest-growing component of health benefits costs, jumping 8.4% in 2023.<sup>8</sup>

These prices are enabled in part by high launch prices and branded drug and biologic manufacturers engaging in anticompetitive behaviors to keep lower-cost alternatives off the market. Abusive tactics such as product hopping, pay-for-delay patent settlements, and citizen petitions allow manufacturers to perpetuate significant profit by extending monopoly protections and preventing patient access to more affordable prescription drugs.<sup>9</sup>

At the pharmacy counter, manufacturers also leverage copayment coupons to incentivize the use of high-cost branded therapies with little to no generic competition.<sup>10</sup> Although coupons reduce patients’ immediate cost burden at point-of-sale, they can distort the market in ways that increase premiums by encouraging the use of higher-cost products and limiting an insurer’s ability to prioritize coverage of the lowest-cost products.<sup>11</sup>

### SOLUTIONS:

Policymakers should work to implement reforms to lower drug prices and improve patients’ access to affordable medicines while maintaining incentives for meaningful innovation.

- Implement inflation penalties in the commercial market. When the price of a drug rises faster than the rate of inflation, require a rebate penalty. Both Medicaid and Medicare have inflation penalties, wherein drugmakers are required to pay a rebate to the government if their drug price increases faster than the rate of inflation.



- In states that have established Prescription Drug Affordability Boards (PDABs) that can set Upper Payment Limits (UPLs), expand the PDAB's authority to include the state's commercial market. In early 2025, Maryland was the first state to pass legislation to this effect.<sup>12</sup>
- Implement reforms that address anticompetitive behaviors and patent abuses by pharmaceutical manufacturers. Reforms may include limiting pay-for-delay agreements, prohibiting product hopping strategies, and penalizing those who submit baseless citizen's petitions to the FDA that delay approval of generic comparators.<sup>13</sup>
- Prohibit the use of manufacturer-issued coupons and vouchers that offset point-of-sale drug copayments. The use of coupons may interfere with formulary design and physician decision making, ultimately leading to higher costs in the commercial market.<sup>14</sup>
- Codify the FDA's guidance that no longer requires an additional clinical trial to demonstrate a biosimilar's interchangeability with its reference product. This would encourage greater biosimilar uptake. Legislation should continue to provide flexibility to the FDA to require these studies in certain instances.<sup>15</sup>
- Ensure that state substitution laws provide maximum ability for pharmacists to substitute the lowest-cost biologic for patients at the pharmacy counter.
- Leverage public purchasing power by creating a purchasing consortium to pool resources and negotiating power to lower drug costs. ArrayRx, formerly the Northwest Prescription Drug Consortium, is an example of such a consortium.<sup>16</sup>

## ENDNOTES

- 1 Congressional Budget Office. "Alternative Approaches to Reducing Prescription Drug Prices." (2024). Retrieved from <https://www.cbo.gov/publication/58793>
- 2 Ibid.
- 3 Ibid.
- 4 Arnold Ventures. "Anticompetitive Behaviors." (2024). Retrieved from <https://www.arnoldventures.org/resources/anticompetitive-behaviors-policy-brief-sept-18-2024>
- 5 Assistant Secretary for Planning and Evaluation. US Department of Health and Human Services. "International Prescription Drug Price Comparisons: Estimates Using 2022 Data." (2024). Retrieved from <https://aspe.hhs.gov/sites/default/files/documents/8e057b0a094e6f9b9d01171fce6698f4/international-price-comparisons.pdf>
- 6 Arnold Ventures. "New Poll Finds Americans Agree, Drug Prices are Too High and Congress Needs to Act." (2025). Retrieved from <https://www.arnoldventures.org/resources/national-targeted-cd-registered-voter-surveys>
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- 8 The ERISA Industry Committee, "Finish the Job-Enact PBM Reform." (2025). Retrieved from <https://www.eric.org/finish-the-job-enact-pbm-reform/>
- 9 Arnold Ventures. "Anticompetitive Behaviors." (2024). Retrieved from <https://www.arnoldventures.org/resources/anticompetitive-behaviors-policy-brief-sept-18-2024>
- 10 Dafny, Leemore, et al. "How Do Copayment Coupons Affect Branded Drug Prices and Quantities Purchased?". National Bureau of Economic Research (2023). Retrieved from <https://www.nber.org/papers/w29735>
- 11 Sen, Aditi, et al. "Characteristics of Copayment Offsets for Prescription Drugs in the Untied States." JAMA Internal Medicine (2021). Retrieved from <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2777962>
- 12 Silverman, Ed. "Maryland governor signs law to expand powers of the state's prescription drug affordability board." STAT News (2025). Retrieved from <https://www.statnews.com/pharmalot/2025/05/20/pharmaceuticals-biotech-medicines-pharma-maryland-prices-affordable-diabetes-amgen-colorado/>
- 13 Arnold Ventures. "Anticompetitive Behaviors." (2024). Retrieved from <https://www.arnoldventures.org/resources/anticompetitive-behaviors-policy-brief-sept-18-2024>
- 14 Sen, Aditi, et al. "Characteristics of Copayment Offsets for Prescription Drugs in the Untied States." JAMA Internal Medicine (2021). Retrieved from <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2777962>
- 15 Arnold Ventures. "Biosimilars Policy Brief." (2025). Retrieved from <https://www.arnoldventures.org/resources/biosimilars-policy-brief>
- 16 See <https://www.arrayxsolutions.com/>

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