Amid Repeal Debate, Congress Considers Drug Pricing, Access Bills

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By Diana Manos, Senior Reporter
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Although the ongoing repeal-and-replace debate over the Affordable Care Act has taken up most of the attention in Washington, D.C., drug pricing and access also are on the radar in Congress. DBN rounds up six of the bills under consideration and how they are being received.

(1) The Improving Transparency and Accuracy in Medicare Part D Spending Act (H.R. 1083/S. 413) would amend Title XVIII (Medicare) of the Social Security Act to prohibit Medicare Prescription Drug Plan sponsors from retroactively reducing payment on clean claims submitted by pharmacies. The National Community Pharmacists Association (NCPA) says this bill would force PBMs to apply Direct and Indirect Remuneration (DIR) fees at the point of sale. As a result, beneficiaries’ out-of-pocket costs would not increase and pharmacies’ viability would not be threatened by the delayed timing and undetermined amount of these PBM drawbacks. The Pharmaceutical Care Management Association (PCMA) responds that the bill would raise Part D premiums and federal government costs by hobbling the use of DIR fees. Even though the bill might increase drugstore profits, it would raise premiums for beneficiaries and increase costs for taxpayers, according to PCMA.

(2) The Pharmacy and Medically Underserved Areas Enhancement Act (H. R. 592/S. 109) would allow pharmacists to provide services to underserved Medicare Part B beneficiaries, subject to state scope of practice laws, according to the National Association of Chain Drug Stores (NACDS). NACDS says it endorses the bill because providing these services would be key in helping to lower health care costs, increase patient access and improve health care quality.

(3) The Prescription Drug Price Transparency Act (H.R. 1316) would codify, strengthen and extend current Part D maximum allowable costs (MAC) disclosure requirements for generic prescription drug reimbursements to TRICARE and the Federal Employee Health Benefits Program, NCPA says. It adds that the bill would put an end to hidden MAC lists that PBMs use to overcharge federal health programs while paying much lower reimbursement rates to independent community pharmacies. This legislation has bipartisan support and similar laws have been “overwhelmingly enacted in 33 states,” according to NCPA. The Community Oncology Alliance (COA) endorses the bill. “PBMs have been abusing patients, pharmacies, and taxpayer in the shadows of our health care system for far too long. The result has been rising drug prices and an unnecessary layer of bureaucracy that has a very real — and sometimes dangerous — impact on patient care,” said Ted Okon, executive director of COA, in a statement. “If passed, the Prescription Drug Price Transparency Act, and other legislation like it, will finally help curb PBM abuses. Increasing PBM transparency and fees will also finally move our country closer to solving rising drug costs.”

(4) The Ensuring Seniors Access to Local Pharmacies Act (H.R. 1939/S. 1044) would allow pharmacies in medically underserved areas to participate in Part D preferred pharmacy networks if they accept the contract terms and conditions that other in-network providers operate under, says NCPA, and as a result, beneficiaries...
would have greater access to discounted copays. “Those opposed to greater access for seniors to copay
discounts will claim that S. 1044/H.R. 1939 would spell the end of ‘preferred pharmacy’ drug plans. They’re
wrong. This legislation simply increases choice for patients and competition among pharmacies,” NCPA says.
PCMA argues that eliminating popular preferred pharmacy plans in Medicare with so-called “any willing
pharmacy” mandates would increase spending by $21 billion over 10 years. PCMA says it bases its opinion
on a 2014 Federal Trade Commission letter to CMS warning that requiring prescription drug plans to contract
with any willing pharmacy would reduce the ability of plans to obtain price discounts and would impair the
ability of prescription drug plans to negotiate the best prices with pharmacies.

(5) The Pharmaceutical Information Exchange Act (H.R. 2026) would expand the ability of drug and device
companies to share clinical and financial data with payers prior to FDA approval. The bill is supported by
America’s Health Insurance Plans and the Academy of Managed Care Pharmacy (AMCP) (DBN 7/14/17, p.
8).

(6) The Creating and Restoring Equal Access To Equivalent Samples (CREATES) Act of 2017 (H.R.
2212), currently in subcommittee review, has bipartisan support. According to AMCP, generic manufacturers
need samples from brand manufacturers in order to complete the FDA application process for a generic
equivalent of the brand drug. Some brand manufacturers have been using the Risk Evaluation and Mitigation
Strategies (REMS) program as a way to deny and/or delay providing samples to the generic companies.
Without the samples, those companies cannot file an application for approval. Supporters of the legislation
believe that it will stop this abuse of the REMS program, increase the ability of generic companies to offer an
alternative to more expensive brand medications and thereby increase access for patients to more affordable
generic and biosimilar medications, AMCP says.

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