



States & the Rising Cost of Pharmaceuticals: A Call to Action

NASHP's Pharmacy Cost Work Group

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On October 18, 2016 NASHP's Pharmacy Costs Work Group released findings aimed at addressing the increasingly rising costs of pharmaceuticals. The findings were released as part of their 29th Annual State Health Policy Conference and outline 11 specific proposals for states to consider when developing policies to help control rising pharmaceutical costs.

11 Solutions to Address Rapid Increase in Prescription Drug Spending

1. Increase price transparency to create public visibility and accountability

Promoting greater transparency in the current opaque pricing and payment environment may be a helpful first step to address rising prescription drug costs. While not a panacea, these efforts can give states critical information for more effective decision-making, and can provide the data needed to implement other strategies.

2. Create a public utility model to oversee in-state drug prices

Like the regulatory approach include widely-implemented rate reviews and approval mechanisms for electricity and gas, states could regulate the pharmaceutical industry as a public utility. Within health-care, states already review health insurance premiums and can accept or reject proposed annual increases exceeding 10 percent.

3. Bulk purchase and distribution of high-priced, broadly-indicated drugs that protect public health

States and the federal government could adapt current models such as the Vaccines for Children (VFC) program and more recent initiatives surrounding naloxone availability for purchase and distribution by negotiating favorable prices for high-priority drugs. States can also leverage their negotiating position and improve price, supply, and accessibility of those same drugs for these other groups.

4. Utilize state unfair trade and consumer protection laws to address high drug prices

States could take a more active stance in enforcing laws already on the books, designed to protect consumers, including those focused on the disruption of predatory pricing, as well as stepped up enforcement of antitrust laws to curb pay-for-delay settlements.

5. Seek the ability to re-import drugs from Canada on a state-by-state basis

New provisions of federal law regulating drug safety, growing public support and potential new roles for states make re-importation worthy of renewed consideration. Current laws allow re-importation of drugs from Canada by wholesalers and pharmacies only after DHHS certifies that the program of re-importation is safe and likely to result in savings for the American public. To date, DHHS has never made such a finding in the U.S.

6. Pursue Medicaid waivers and legislative changes to promote greater purchasing flexibility

There are several policy options available to states seeking increased Medicaid purchasing flexibility, such as pursuing a waiver to allow Medicaid to opt out of rebate provisions; seeking waivers of the Medicaid rebate law while maintaining access to minimum and best-price rebates; and expanding Medicaid rebate laws to a variety of state health financing and delivery programs, including plans offered on state-operated exchanges.

7. Enable states to operate as pharmacy benefit managers to broaden their purchasing and negotiating powers

Purchasing pools were important initiatives that represented ground-breaking policy, however these purchasing initiatives are limited. While they keep pace with rising pharmaceutical prices, they are not structured to modify the trajectory of those prices. Instead, states can consider strengthening their negotiating leverage by operating more like commercial pharmacy benefit managers.

8. Pursue return on investment pricing and forward financing approaches to allow flexible financing based on long-term, avoided costs

This broad, long view provides an opportunity to negotiate with manufacturers for prices that reflect a state's return on investment (ROI). This ROI would measure and incorporate the cost avoidance produced by a drug across relevant state programs and cost centers. ROI investment estimation analysis and pricing would put to the test the industry's assertion that pricing reflects the value of drugs over time by linking payment or price to a longer term ROI.

9. Ensure state participation in Medicare Part D through Employer Group Waiver Plans

States as employers can leverage the Medicare Part D prescription drug benefit subsidy for their state retirees by creating an Employer Group Waiver Plan (EGWP). This Medicare Part D prescription drug plan is offered to retirees who have been promised prescription drug coverage as a retirement benefit.

10. Protect consumers against misleading marketing

Many manufacturers have established coupon programs. These reduce out-of-pocket, but not third-party payer costs. To curb this practice, states can impose transparency requirements on program administrators. Another option is to pass legislation or regulations requiring manufacturers to more clearly highlight the use terms of their coupons. Finally, states could reinstate bans on the use of coupons for state-sponsored programs, including state employee/retiree health programs

11. Use shareholder activism through state pension funds to influence pharmaceutical company actions

Public pension managers as shareholders, acting collectively or through organizations like the Council for Institutional Investors, could introduce ballot proposals requiring certain pharmaceutical companies to reduce launch prices or engage in ROI pricing with state governments, for example.

About the National Academy for State Health Policy:

NASHP is an independent academy of state health policymakers working together to identify emerging issues, develop policy solutions, and improve state health policy and practice. As a non-profit, nonpartisan organization dedicated to helping states achieve excellence in health policy and practice, NASHP provides a forum on critical health issues across branches and agencies of state government. NASHP resources are available at: www.nashp.org.

About the NASHP Pharmacy Costs Work Group:

NASHP's Pharmacy Costs Work Group is comprised of state leaders from governors' staff, state legislatures, Medicaid programs, public employees, attorney generals' offices, state-based insurance exchanges, comptrollers' offices, and corrections departments. The group aimed to find new approaches to limit pharmaceutical costs by examining the many levers state governments have as policymakers, regulators, and purchasers.