

CMS CY 2023 Part D Final Rule

On April 29, 2022, CMS issued its CY 2023 Medicare Part D [final rule](#), including changes in pharmacy price concessions aka direct and indirect remuneration (DIR) fees. **These changes are effective Jan. 1, 2024.**

NCPA's position. While not perfect, this final rule is the latest chapter of years of advocacy by NCPA and member pharmacies for Part D changes that will make pharmacy reimbursement more transparent and predictable.

NCPA key wins

- ✓ **Negotiated price redefined.** "Negotiated price" includes all pharmacy price concessions at the point of sale.
- ✓ **Coverage gap loophole closed.** Negotiated price applies throughout all phases of the benefit.
- ✓ **CMS sympathetic to small business pharmacist cash flow concerns.**

Background. What is DIR? DIR includes rebates from manufacturers, administrative fees above fair market value, price concessions for administrative services, legal settlements affecting Part D drug costs, **pharmacy price concessions**, drug costs related to risk-sharing settlements, or other price concessions or similar benefits offered to purchasers that would serve to decrease costs incurred under Part D by the plan sponsor. According to CMS, **in 2020, pharmacy price concessions were 4.8 percent of Part D gross drug costs (\$9.5 billion), up from 0.01 percent (\$8.9 million) in 2010.**

Why do plan sponsors/PBMs like DIR? Simply put, DIR: increases plan revenues; shifts costs to high utilizing beneficiaries and the government; and obscures the true costs of prescription drugs for consumers and the government. **This rule will limit the ability of plan sponsors/PBMs to reap the benefits of pharmacy DIR fees.**

Why is CMS redefining negotiated price? According to CMS, the new definition of "negotiated price" will save beneficiaries \$26.5 billion between 2024 and 2032.

WHAT NCPA LIKES

Finalized new definition of "negotiated price."

- All pharmacy DIR fees from network pharmacies must be reflected in the negotiated price at the point of sale and reported to CMS on a Prescription Drug Event record, even when such price concessions are contingent upon performance by the pharmacy. "Negotiated price" now is lowest possible reimbursement for a particular drug.
 - Includes: pharmacy price concessions and dispensing fees
 - Excludes: additional contingent amounts like incentive fees if these increase prices

Discussion of reasonable pharmacy reimbursement.

- CMS agreed to consider a reasonable rate of reimbursement in Part D in the future.
- NCPA's suggestions include:
 - Negotiated price covers costs of purchasing, dispensing, and providing services; and
 - A flat dispensing fee or an alternative model such as a pharmacy reimbursement model based on a public drug pricing benchmark like national average drug acquisition costs plus a fair dispensing fee.

WHAT NCPA DOESN'T LIKE

- Implementation of changes to pharmacy price concessions delayed until Jan. 1, 2024.
- Uncertainty surrounding timeframes for settling payment incentives and penalties.
- Clearer pathway needed for plan sponsors/PBMs to provide a drug's negotiated price to pharmacy.