NCPA Member Summary of the Inflation Reduction Act

On Aug. 16, 2022, President Biden signed the Inflation Reduction Act, which includes provisions that should impact community pharmacy. For a thorough analysis, see Kaiser Family Foundation's (KFF) slides and presentation.

Medicare Drug Price Negotiation. For pharmacies, reimbursement could be impacted under the new Medicare price negotiation framework, as any difference between the negotiated price and discounted price for a drug would be "trued-up" within prompt pay requirements. NCPA has secured language for the record in the House of Representatives that the Centers for Medicare & Medicaid Services (CMS) will not implement the act in a way that would cause any reduction in pharmacy reimbursement or require or permit price concessions or other remuneration from the pharmacy because of Medicare drug price negotiation. Additionally, the language stated that implementation should operate in the same manner as the Medicare Part D Coverage Gap Discount Program.

Starting in 2026, the secretary of the Department of Health and Human Services will **negotiate pricing** for the 10 top-spend drugs in Medicare Part D, many of which are dispensed in community pharmacy, and would increase the number of drugs negotiated yearly and include Part B drugs by 2028:

- 2026: 10 drugs based on Part D spending
- 2027: 15 drugs based on Part D spending
- 2028: 15 drugs based on combined Part D and Part B spending
- 2029 and beyond: 20 drugs based on combined Part D and Part B spending

The above is a cumulative list and should result in 60 negotiated drugs by the end of the decade. According to Juliette Cubanski, deputy director of the program on Medicare policy at KFF, CMS should know in 2023 the list of drugs for 2026. Manufacturers who do not negotiate will face an excise tax, starting at 65 percent of a drug's prior year sales, increasing by 10 percent every quarter up to 95 percent. The tax would be suspended if manufacturers choose to have their drugs no longer covered by Medicare or Medicaid. Additionally, manufacturers face a civil monetary penalty for not offering the negotiated price of up to 10 times the difference between the price charged and the negotiated price.

Negotiated price of drugs. Under Medicare Part D and Medicare Advantage, manufacturers must provide access to pharmacies to the government-negotiated rate, i.e., the "maximum fair price," and the pharmacy's negotiated rate shall allow for a dispensing fee. Under the 340B program, manufacturers must give providers eligible for the 340B discount applicable drugs at the lower of the 340B price or the negotiated price. Manufacturers are not required to provide price concessions that exceed the lower of a drug's 340B price or the Medicare negotiated price.

Annual out-of-pocket cap. The 5 percent coinsurance for catastrophic coverage in Medicare Part D is eliminated in 2024. Out-of-pocket costs for Medicare Part D beneficiaries would be capped at $2,000 per year in plan year 2025. In subsequent years, the $2,000 threshold will be increased at the rate of growth for the Part D program.

Optional "smoothing" of patient cost-sharing. Starting in 2025, Part D patients can elect to have cost-sharing smoothed out over the course of the benefit year. The growth in Part D premiums is capped at 6 percent per year from 2024 to 2030.

Vaccines. Cost-sharing for adult vaccines covered under Medicare Part D is eliminated beginning January 2023 and access to adult vaccines under Medicaid and CHIP is improved.

Drug rebate rule. The drug rebate rule is delayed to 2032, which Democrats are using once again as a budget gimmick to offset the cost of the legislation.

Drug rebates. For each calendar quarter beginning on or after January 1, 2023, drug manufacturers must pay a rebate if drug prices increase faster than the rate of inflation for:

- Single-source drugs and biologicals covered under Medicare Part B, except those whose average annual cost is less than $100; and
- All covered drugs under Medicare Part D, except those where average annual cost is less than $100.

340B exemption. Under Medicare Part B, manufacturers will pay rebates on rebatable drugs based on Medicare beneficiary utilization in the applicable quarter, unless the utilized drug was sold at the 340B price or subject to a Medicaid Drug Rebate Program rebate. Under Medicare Part D, manufacturers must pay rebates on rebatable drugs unless the drugs dispensed are purchased under the 340B program.

Insulin. Monthly copayment spend on insulin is capped at $35 for plan years 2023, 2024, and 2025 for those drugs covered in Medicare Part D and Medicare Advantage. For plan year 2026 and subsequent years, the cap will be the lesser of $35 or an amount equal to 25 percent of the maximum fair price established for the covered insulin product or an amount equal to 25 percent of the negotiated price of the covered insulin product. A copayment cap for insulin in private insurance plans was stripped. Insulin furnished through durable medical equipment under Medicare Part B will also have a monthly copayment cap at $35, with no deductible, beginning in 2023. Currently, Medicare Part D's Senior Savings Model has a $35 maximum copayment for insulin. According to the National Conference of State Legislatures, at least 21 states have enacted state legislation capping insulin copayments.

Tax provisions. NCPA joined in a sign-on letter to leadership expressing concerns about the law's tax provisions. The law gives the Internal Revenue Service an additional $80 billion in funding to grow the IRS from 80,000 to over 160,000 employees. Additionally, an amendment added last minute by the Senate extends for two years the Section 461(l) cap on losses business owners can claim. This $52 billion tax hike on pass-through businesses was used to offset the cost of exempting private equity investors from the 15-percent corporate minimum tax.