June 2010

## Inside this Brief




Legislative Committee Services
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Background Brief on …

# Prescription Drugs

The United States spent approximately $2.3 trillion on health care in 2008. In 2008, health care spending was approximately $7,681 per resident and accounted for 16.2 percent of the nation's Gross Domestic Product (**GDP**). Hospital inpatient/outpatient services, prescription drugs, and physician services contribute to the total increases in health care costs.

For several years, spending on new medical technology and prescription drugs have been cited as a leading contributor to the increase in overall health care spending; however, in recent years, the rate of spending on prescription drugs has decelerated, according to the Kaiser Family Foundation *U.S. Health Care Cost Brief (March, 2010).*

## Spending for Prescription Drugs

Oregon's Health Authority reports that Oregon Health Plan (**OHP**) pharmaceutical costs were $568 million in the 2007-2009 biennium and estimated to be $844 million in the 2009-2011 budget cycle.

The reasons for increased spending on prescription drugs are debated among health care researchers, pharmaceutical manufacturers, state health officials, consumer groups, and others. Many researchers and consumer groups state that the pharmaceutical industries' extensive advertising of newer and higher-priced drugs influences consumers to seek brand name and often more expensive medications instead of using lower-cost generic drugs. However, pharmaceutical companies and others note that higher prices are often due to expensive research and development costs to bring new drugs to market and that advertising assists many people in recognizing conditions that may prompt them to seek medical help.

A number of sources cite the drivers of pharmaceutical costs as being price inflation, increased drug utilization, and a mix of more expensive drugs. There is general agreement that a higher utilization of drugs among the aging population, which is living longer, is one of the key variables of increased drug spending.

## Medicare and Prescription Drugs

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 **(MMA)** created prescription drug coverage for Medicare recipients. Medicare recipients who wish to use this program enroll in a plan and pay a monthly fee, a deductible, and co-payments in order to receive drugs at a discounted price. The program is designed to provide drugs at a greatly reduced price when recipients exceed high out-of-pocket costs within the year. Lower-income Medicare recipients are eligible for additional assistance.

## State Discount Programs

Beginning in 1999, a growing number of states established prescription drug discount programs, sometimes termed "Rx Buying Clubs" or Discount Cards. These state-sponsored efforts differ from the State Pharmaceutical Assistance Programs (**SPAPs**) or subsidy plans in at least two ways: Discount programs do not use state or federal funds to pay for pharmaceuticals. Instead they generally rely on the large-volume purchasing power of the state to negotiate a sizable discount on a wide selection of prescription products, brand and generics. Second, a majority of such programs have contracted with a management firm such as a pharmaceutical benefit manager (**PBM**) to handle the negotiations over price. The consumer still pays the resulting discounted price at the pharmacy counter, and the state is not involved in the individual transactions. Unlike most subsidized SPAP programs, there is no comparable federal program or federal regulation affecting these discount plans.

Drugs purchased in this way do not count as part of Medicare or Part D calculations. In the past three years, a growing number of states have emphasized serving residents under age 65, the population segment not eligible for Medicare or Part D.

Medicare is a federal-only program, about 20 states administer an optional subsidy program that wraps-around or adds to the federal benefit. As of March 2010, the following 14 states authorize covering parts or all of this “donut hole” (Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Nevada, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Vermont, and Wisconsin)**.** The federal $250 annual subsidy increase could have a small, incremental effect in these states, potentially lowering the state subsidy expenditure for certain individuals.

## Discount Cards and Assistance Programs

Many pharmaceutical manufacturers offer their own discount cards to low-income individuals. These cards allow a person to obtain discounts on some or all of companies’ prescription drugs. The programs have varying eligibility requirements (level of income, age), annual fees, amounts that enrollees must pay, and other requirements. Many pharmaceutical companies also provide free or low-cost drugs to low-income people through patient assistance programs operated by drug manufacturers. While these programs are not meant to be a permanent solution to providing free or low-cost prescription drugs, they do serve as a stopgap measure for those who may need temporary assistance.

## Oregon Prescription Drug Program (OPDP)

The OPDP was established as a discount card program in 2003. The OPDP negotiates discounts with pharmacies and seeks rebates from manufacturers in order to provide discounted prices thus making prescription drugs available at the lowest possible cost to participants in the program. The program also maintains a list of prescription drugs recommended as the most effective drugs available at the best possible prices. Participants can enroll in the OPDP at no cost and receive an

identification card that is recognized at most Oregon pharmacies. All prescriptions by a licensed Oregon clinician are eligible for a discount, and participants save an average of 43 percent.

Initially, the OPDP participation was limited by age and income, but Ballot Measure 44 (2006) removed the eligibility criteria, opening the program to all Oregonians without prescription drug coverage. Also in 2006, the OPDP joined with Washington State's Prescription Drug Program to combine purchasing power, to form the Northwest Prescription Drug Consortium. In 2007, Senate Bill 362 expanded the program to include the underinsured, private entities, and labor organizations. Then in 2009 restrictions on contracting were lifted by Senate Bill 735 allowing OPDP to contract for GPO and 340B pricing. As of March 2010, the Consortium has 654,000 members; 311,000 are Oregonians of which 141,000 are Oregon residents and members of OPDP through their group benefit programs including 100,000 members insured through the Oregon Educators Benefit Board (**OEBB**).

OPDP has implemented a Pilot GPO pricing program for OEBB and once the model is tested and proven will offer it to other eligible purchasers. GPO pricing provides deep discounts from manufacturers.

## Other Initiatives

Oregon has a number of current and upcoming programs and policies to lower the state's cost for prescription drugs while providing prescription drug coverage for more OHP clients and many low-income seniors:

*Generic drugs* – Under current state law, a doctor must prescribe generic drugs to OHP fee-for-service **(FFS)** clients. However, if a generic drug equivalent is available and the doctor still wants the patient to receive the brand name drug, the doctor must document the medical necessity of the brand drug before a pharmacist can receive approval for the brand name drug price.

*Copayments* – OHP FFS clients pay between $0 and $3 for generic and brand name drugs prescribed from the preferred prescription drug list. The copayments also apply to mental health drugs for all OHP clients, including those in FFS and fully capitated health plans. Some OHP clients and services, such as pregnant women, children under age 19, institutionalized clients (including community-based and those in Waiver services), Tribal Health Clinics, managed care, emergency services, mail order drugs, and family planning, are exempt from co-payment requirements. Clients receiving coverage through the OHP Standard benefit package are also exempt from co-payments.

*Pharmacy Management Program* – OHP clients in the FFS system who are in a Pharmacy Management Program based on prescription drug usage must choose one pharmacy for obtaining prescriptions. The purpose of the pharmacy management program is to identify and monitor high drug utilization. Clients can periodically change pharmacies and are exempt from the rule under certain conditions (e.g., enrolled in a fully capitated health plan, have private medical insurance and/or Medicare, child in-state care, in a hospital, long-term residential care or other medical facility).

*Practitioner-Managed Prescription Drug Plan (**PMPDP**)* In 2001, Oregon established the PMPDP for those OHP clients in the FFS system. Using the latest evidence, the Health Resources Commission (**HRC**) reviews all drugs within a given class (such as long-acting opioids for pain relief, proton pump inhibitors for treatment of heartburn, etc.) and identifies which drugs have the highest safety profile and are the most efficacious. Under authority granted to it by HB 2126 (2009), DMAP has begun to negotiate with drug manufacturers for discounts on specific drugs. Only those drugs that are both efficacious and, based on discounts, the most cost effective are added to the PMPDP. Only those drugs that are listed on the PMPDP are available to OHP FFS clients, unless specifically requested by a doctor. OHP clients who receive a drug on the PMPDP will pay no co-payment, otherwise they pay $1.00 for non-listed Generic

products and $3.00 for non-listed branded products.

*Statewide Preferred Drug List (**PDL**)* – House Bill 2009 (2009) authorized the establishment of a statewide PDL. The Oregon Health Authority **(OHA)** began with the 32 classes of drugs contained in the PMPDP and has expanded the number of drug classes to 80 using the latest evidence-based information. This PDL will become the benchmark for all state financed programs that purchase drugs.

*Reimbursement* – Payment for eligible prescription drugs is made to pharmacies at Average Wholesale Price **(AWP)** less 15 percent plus a $3.50 dispensing fee. Institutional pharmacy prices are at AWP less 11 percent plus a $3.91 dispensing fee. (The AWP is the average of the prices charged by national drug wholesalers for a given drug. The dispensing fee is the amount paid to a pharmacist for professional services--labor/administrative effort--in filling prescriptions.) A recent court case requires OHP to find an alternative to the AWP which will lead to changes in how pharmacies are reimbursed for the drugs they dispense.

*Oregon-specific Maximum Allowable Cost (**OMAC**) for Generic Drugs* – The state pays the lesser of the federal maximum allowable amount: AWP less 15 percent or the OMAC. The OMAC is determined on selected multiple-source drug designations (at least two drugs that are equally effective in treating a condition) when bio-equivalent (usually generic) drugs are available from at least two wholesalers serving the State of Oregon.

*Polypharmacy program* – DMAP imposes prescription drug payment limitations on clients with more than 15 unique FFS drug prescriptions in a 6-month period. DMAP will review the client's drug therapy in coordination with the client's prescribing practitioner to evaluate for appropriate drug therapy.

*Contracted Mail Order Program* – The contracted mail order pharmacy is a voluntary program available to OHP FFS clients. Compared to a retail pharmacy (AWP-15 percent), the mail order contract specifies AWP-21 percent for brand name and AWP-60 percent for generic drugs. To increase mail order pharmacy use, the OHA has implemented a communication strategy with clients through notices included in Medical ID mailings throughout the year, through OHA caseworkers, through OHP regional meetings, and with targeted provider populations such as clinics and Primary Case Managers to explain the convenience of the mail-order program.

*Cost savings opportunities* – Oregon joined a purchasing pool to help leverage Medicaid drug discounts. The pool includes the states of Maine, Vermont, Utah, Iowa, West Virginia and Wyoming. Federal Health Care reform has allowed OHA to use the drug utilization by the MCOs to negotiate greater discounts for all Medicaid drugs.

*AIDS Drug Assistance Program (CAREAssist) DHS-Public Health*. This program provides payment for prescription drugs (full cost or as copayment behind a primary health insurance) for low-income persons with documented HIV disease, who are residents of Oregon and have income at or below 300 percent of the federal poverty level.

Funding for this program is received from The Ryan White HIV/AIDS Treatment Extension Act of 2009, state General Funds and revenue from client fees and rebates paid by manufacturers. The program pays for any drug deemed by a primary care medical provider as necessary for the management of HIV disease and other co-occurring disorders. The program will implement the mail order pharmacy option and contracted network of retail pharmacy sites in fall 2010. Participating contract pharmacies will be paid on a fee-for-service basis.

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