

Non-Interference in the Medicare Part D Program



What is Non-Interference?

Non-interference refers to a provision in the Medicare Modernization Act (MMA) that prohibits the Secretary of the U.S. Department of Health and Human Services (HHS) from interfering in price negotiations between Medicare Part D prescription drugs plans, pharmacies and prescription drug manufacturers or establishing a particular formulary for the program. Instead, Part D plans negotiate discounts and rebates directly with manufacturers, helping hold program costs far below projections, while achieving high satisfaction rates from seniors.

The Positive Impact of Non-Interference

The non-interference provision fosters successful plan competition within Part D that helps create savings for seniors and the government. In fact, the Congressional Budget Office's (CBO) current estimates for total Part D spending are \$346 billion (or 45 percent) less than initial projectionsⁱ and CBO has also reduced its 10-year forecast of Part D spending by over \$100 billion in each of the past three years.ⁱⁱ According to former CMS Administrator Don Berwick, "a competitive market and good competition among Part D plans" have played a critical role in controlling program costs.ⁱⁱⁱ

Additionally, these privately negotiated discounts and rebates, often as high as 20-30 percent, are passed through to Medicare beneficiaries and can help lower premiums, deductibles and copays.^{iv,v} As a result, monthly beneficiary premiums for 2013 are far below initial projections at approximately \$30 (less than half of the originally forecasted \$61).^{vi} Moreover, the program enjoys a 90 percent satisfaction rating from beneficiaries.^{vii}

The Threat of Government Interference

Proposals to repeal the non-interference provision have been suggested as a way to cut Medicare costs as part of federal deficit reduction efforts. CBO has repeatedly said that requiring the Secretary to negotiate would have a negligible impact on federal spending unless HHS were to limit access to prescription medications.

Restricted access to affordable prescriptions means patients may not take the medicines they need. Taking medicines as prescribed can improve health outcomes and avoid costly emergency room visits and hospitalizations. In 2011, Harvard researchers found that **for those with limited prior drug coverage who subsequently enrolled in Part D, there was an average savings of \$1,200 per beneficiary in total nondrug medical costs in both 2006 and 2007.**^{viii} Not only could these proposals impact health outcomes, but they could also lead to higher spending for other Medicare services.

The Medicare Part D program has succeeded beyond expectations due to strong competition. Changes to the program, such as repealing the non-interference provision, threaten to increase costs and negatively impact seniors' health without helping to reduce government spending.

ⁱ See CBO Medicare Baselines available at <http://www.cbo.gov>.

ⁱⁱ See CBO, Preliminary Analysis of the President's Budget for 2012, March 18, 2011, p. 12. <http://www.cbo.gov/ftpdocs/121xx/doc12103/2011-03-18-APB-PreliminaryReport.pdf> and CBO, Updated Budget Projections: Fiscal Years 2012 to 2022, March 2012, p. 9. <http://www.cbo.gov/sites/default/files/cbofiles/attachments/March2012Baseline.pdf>. See also CBO Part D Baselines for Part D Mandatory Outlays for 2010 through 2013, available at www.cbo.gov.

ⁱⁱⁱ Nocera, Medicare prescription drug costs to go down, POLITICO, August 4, 2011, <http://www.politico.com/%20news/stories/0811/60689.html>.

^{iv} Medicare Board of Trustees, *2012 Annual Report of the Board of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds* (April 2012), www.treasury.gov/resourcecenter/economicpolicy/ssmedicare/Documents/TR_2012_Medicare.pdf.

^v Medicare Payment Advisory Commission, *Data Book: Health Care Spending and the Medicare Program* (Washington DC: MedPAC, June 2011), www.medpac.gov/documents/Jun11DataBookEntireReport.pdf (accessed 5 August 2012).

^{vi} CMS Press Release, "Medicare Prescription Drug Premiums to Remain Steady for Third Straight Year" August 6, 2012; CMS Press Release, "Medicare prescription drug premiums will not increase, more seniors receiving free preventive care, discounts in the donut hole." August 4, 2011; 2004 Medicare Trustees Report, p. 164.

^{vii} KRC Survey for Medicare Today, Seniors' Opinions About Medicare Rx: Seventh Year Update, September 2012.

^{viii} J.M. McWilliams et al. Implementation of Medicare Part D and Nondrug Medical Spending for Elderly Adults with Limited Prior Drug Coverage, *Journal of the American Medical Association*, 27 July 2011.