Should Medicare be allowed to negotiate drug prices?

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Bending the health care cost curve in the right direction will require new mechanisms to control drug prices. Drug spending in the United States increased 12 percent in 2014, faster than nearly every other health care spending component and the highest rate in more than a decade. Overall, Medicare spending grew 5.5 percent, but drug spending grew 16.9 percent, hardly a sustainable rate.

Medicare is the largest purchaser of drugs, with 39 million individuals enrolled in Part D plans that help pay for prescriptions. Yet a recent study by Marc-André Gagnon and Sidney Wolfe reported that the program pays 73 percent more than Medicaid and 80 percent more than the Veterans Administration for brand-name drugs. Both agencies negotiate with drug companies for price discounts.

The Medicare Drug, Improvement, and Modernization Act of 2003 created prescription drug coverage through the Medicare Part D program but specifically prohibited Medicare from negotiating lower prices for drugs. Calls to change this have gone unheeded. Some opponents to negotiating Medicare drug prices fall back on hackneyed arguments that the pharmaceutical industry has used for years whenever the issue has come up: that negotiation would stymie innovation and limit access to medications. Others question whether the government could successfully negotiate lower prices. But these arguments assume the government cannot change and enforce laws to ensure the necessary leverage for negotiating reasonable prices. The arguments also violate the principle that prices should — and, in fact, must — be subject to the free market when a patent expires.

To pretend that negotiation will discourage progress violates every economic rule we know. Negotiation is how two parties reach a mutually advantageous compromise. Plus, we know that excess monopoly profits, from which Big Pharma [the Pharmaceutical Research and Manufacturers of America] has "suffered" for decades, do not lead to greater research but rather to higher dividends and greater market concentration through acquisition of competitors, a guarantee of even more inflated prices.

Monopoly drug pricing, particularly in the Medicare program, can only be called corporate welfare. The American public has had enough. A national survey conducted by the Kaiser Family Foundation in August 2015 reported that 83 percent believe the government should directly negotiate drug prices for Medicare beneficiaries. This is a step long overdue.

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Presidential candidates and members of Congress often recommend having the government negotiate for drug discounts on behalf of the Medicare program. Most recently, presumptive GOP presidential nominee Donald Trump joined Vermont Sen. Bernie Sanders and Democratic front-runner Hillary Clinton in supporting negotiations.

The typical proposal is to allow the secretary of Health and Human Services (HHS) to negotiate with prescription drug manufacturers on behalf of the Medicare Part D program — something banned by the so-called "noninterference" clause in the 2003 Medicare Modernization Act. This idea is hardly new. It arose during discussions over passage of the law, and the Congressional Budget Office, Congress' nonpartisan budget analysis agency, noted at the time that getting rid of the noninterference provision would have a negligible impact.

This is hardly surprising. Drug companies negotiate annually with prescription drug insurance plans. Those plans go into the negotiations with some strong leverage: a formulary, or list of drugs offering the greatest overall value, that can be used to favor a drug company's products and millions of customers who could be delivered to the drug company or, faced with too high a price, its competitors. Adding HHS to the mix does not change that leverage. Here's how such a negotiation would go:

HHS Secretary: I'd like a discount on your prescription drugs.

Drug Manufacturer: What do you have to offer?

HHS Secretary: I can guarantee millions of senior citizens as customers; shouldn't I get a discount?

Drug Manufacturer: What is your formulary like?

HHS Secretary: I don't have one. We can't discriminate.

Drug Manufacturer: Sorry, the prescription drug plans have already guaranteed us the customer base, promised to treat our drugs favorably in the formulary, and we've given them the discounts. What else have you got?

HHS Secretary: Uh, a used copy of healthcare.gov?

Drug Manufacturer: We are done here.

The private-sector prescription drug plans already have all available market-based leverage. Of course, the government can do one thing that the private sector can't: impose price controls. Thus, many suspect that a call to repeal the noninterference clause is really just a stalking horse for price controls. Price-fixing never works, will hurt innovation and restrict the availability of valuable therapies.

Medicare Part D is not broken. It is the best-functioning entitlement program, and adding secretarial negotiation would be far from fixing it.