Executive Order Addressing Prescription Drug Costs

MAY 13TH, 2025

On May 12, 2025, the President issued an Executive Order and fact sheet aiming to establish "most-favored-nation" prescription drug pricing so Americans pay the lowest available cost of all developed nations. The Executive Order also addresses taking measures such as importation and investigative enforcement to reduce the cost of prescription drugs.

Go Deeper:

The Executive Order begins: "The United States has less than five percent of the world's population and yet funds around three quarters of global pharmaceutical profits", which is described as an "egregious imbalance."

The President contends drug manufacturers "agree to other countries' demands for low prices, and simultaneously fight against the ability for public and private payers in the United States to negotiate the best prices for patients". The President's ultimate goal is that, "as the largest purchaser of pharmaceuticals, Americans should get the best deal".

The Executive Order sets out the following initiatives aiming to achieve the President's goal over time:

- **Investigate other countries** who may engage "in any act, policy or practice that may be unreasonable or discriminatory" and potentially contributes to imbalances
- **Investigate exports** of certain pharmaceutical drugs or precursor material which "may be fueling the global price discrimination"on additional plan options that cost more and do not have to be affordable for dependent coverage tiers.

WHAT'S NEW

Global Benchmark Pricing: Aims to align U.S. drug prices with the lowest among developed nations.

Enforcement & Importation: Calls for investigations, anti-competitive crackdowns, and potential drug importation.

Direct Sales to Consumers: Proposes manufacturer-to-patient sales at reduced prices.

TAKEAWAY

Legal hurdles remain, but major prescription drug pricing reforms could be on the horizon.

- "Undertake **enforcement action against any anti-competitive practices**"
- "Communicate **most-favored-nation price targets** to pharmaceutical manufacturers"
- If drug manufacturers do not voluntarily move toward such pricing, federal agencies "shall propose a rulemaking plan to impose most-favored-nation pricing" and "shall consider certification to the Congress that **importation**" is a safe pathway the FDA can utilize "to describe circumstances under which waivers will be consistently granted"
- "Facilitate **direct-to-consumer purchasing programs** for pharmaceutical manufacturers that sell their products to American patients at the most-favored-nation price" (presumably to bypass pharmacies and pharmacy benefit managers (PBM) for a drug with a set price that does not need further negotiating, but without a clear roadmap for how that concept might work with health plans)
- Potentially **modify or revoke FDA approval** for drugs that may be "unsafe, ineffective or improperly marketed" (which is largely within their control and purview today, but the focus here is perhaps on withholding/withdrawing certain drug approvals not meeting most-favored-nation pricing targets)

Potential Impact to Employers:

The President attempted this type of Executive Order during his first term with respect to setting Medicare Part B prices at most-favored-nation amounts. It was blocked by the courts as an improper way to test new Medicare payment models. Legal challenges are expected this time as well and we will wait to see what impacts this Executive Order has on employee benefit plans in the coming months.

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