

# CAPITOL STREET

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March 26, 2025

## PBM Reform & Reconciliation Update

### Senate Plans Vote on Budget Resolution Next Week

Relevant Companies



### »» Our Take & Next Up

**PBM reforms appear likely to be included in the GOP's reconciliation bill, as we have discussed ([here](#)).** House Speaker Johnson (R-LA) committed to including four PBM reform bills dropped from the December Continuing Resolution ([here](#)) in the bill, according to House E&C Health Subcommittee Chair Carter (R-GA) speaking at the *Hill's* Health Next Summit ([here](#)). See below for a Capitol Street chart (published Jan. 29) with our take on drug & supply chain policies that may be considered in Reconciliation. PBM reform measures save and would likely pass the Byrd Rule. Potential reforms that are being discussed include (1) commercial transparency and rebate pass through; (2) Medicare delinking; and (3) Medicaid spread pricing ban. NOTE: Commercial transparency would not meet the Byrd Rule, but may be attempted to be included anyway.

**Senate leader Thune (R-SD) announced today ([here](#)) that he intends for the Senate resolution to be voted upon next week (likely due to debt ceiling deadline & updated estimates (see CBO [here](#))).** Budget reconciliation instructions are currently being discussed between House and Senate GOP leaders. Speaker Johnson (R-LA) has targeted the week of April 7 to finish work on the budget resolution ahead of the Easter Recess. Then, the committees of jurisdiction will be tasked with crafting the actual reconciliation package – including policies and pay fors which could take weeks-into-months – based on the resolution “top line” instructions.

### Key Points

- **PBMs may be back in a GOP reconciliation bill.** Reforms being considered are those that saw bipartisan agreement last year and were included in an early version of the CR in December. (CBO [here](#) and [here](#)).
- Private Insurance Pharmacy Benefit Manager (PBM) transparency requirements (saves ~\$2.2 B). PBMs will be required to provide group health plans and issuers with detailed data on prescription drug spending at least semi-annually (includes gross and net drug spending, drug rebates, spread pricing arrangements, formulary placement rationale). (NOTE: this provision would likely not pass Reconciliation budget muster since it does not impact Medicare/Medicaid).

- For ERISA plans, PBMs must fully pass through 100% of drug rebates and discounts, excluding bona fide service fee, for new contracts, extensions, or renewals entered into for plan years beginning 30 months after the date of enactment. The meaning of “covered service provider” under ERISA is also clarified. (NOTE: this provision may not pass Reconciliation budget muster).
- Medicare Part D transparency requirements & de-linking for PBMs (saves ~\$700 M). Annual requirements set out for PBMs to report on drug prices and other information to Part D plan sponsor clients. PBMs and their affiliates prohibited from deriving remuneration for covered Part D drugs based on the price of a drug. Part D plan sponsors are provided with new audit rights with respect to PBMs.
- Prohibition of PBM “Spread Pricing” in Medicaid (which we note is a dying contract form in states) (saves \$300 M – 1 B).

## »» Key Points

RECONCILIATION OPTIONS For Drugs & PBMs				
POLICY	DESCRIPTION	SECTORS IMPACTED	(SAVINGS) OR COST	LIKELIHOOD
<b>BIOPHARMA</b>				
IRA Orphan Drug Fix	Broadens the IRA negotiation orphan exception to exclude drugs that treat “one or more rare diseases or conditions” from negotiations	Medicare	NA, ~\$20 B	Procedurally very possible, but high costs (needs offset). Budgetary effect from changes to negotiation and meets the Byrd Rule test that the provision be predominantly budgetary in nature
9 to 13 Parity IRA Fix	Equalizes the eligibility requirements for negotiation under the IRA for both small and large molecule drugs	Medicare	NA	Possible but less likely, unless sunset or offset after 10 years.
Part B MFP Rebate	Requires manufacturer rebates for Part B drugs products subject to maximum fair price from negotiation	Medicare	NA	Possible, savings come directly from the rebate requirement
Cost-sharing Based on Rebates	Enrollee coinsurance for certain Part D drugs would be based on their net prices rather than their Part D negotiated prices or list price	Medicare	\$1.15 B	Possible, not likely. Byrd precedent of including Part D redesign in the Inflation Reduction Act (IRA)
Limits on Step Therapy	Requires exceptions for step therapy protocols	Commercial	\$2 B	Unlikely. Substantial budgetary effect but would be excluded as it targets commercial plans and the costs are “merely incidental” to the policy impact

BIOSECURE	Prohibits companies that receive federal funding from using biotech services from listed companies that are associated with China	Medicaid, Medicare & Commercial	<\$500K	Unlikely. Very limited budgetary impact which is not strongly connected to the operations of the policy
<b>PBMs</b>				
Medicaid Spread Pricing Ban	Prohibits PBM "Spread Pricing" in Medicaid	Medicaid	(\$1 B)	Likely
PBM Part D De-linking	PBM may only charge flat fees not tied to price, discounts, rebates, fees or other remuneration	Medicare	(\$226 M)	Possible. Savings from increased scrutiny by CMS and OIG
Formulary Placement Rebate ban	Prohibits "kickbacks" or rebates for preferential formulary placement	Medicare, Commercial, Medicaid	NA	Possible, not likely. Same large budgetary cost as the Trump "rebate ban" rule which was delayed under the IRA
Part D PBM Pharmacy reimbursement	Part D plans will be required to reimburse independent community pharmacies not less than average NADAC	Medicare	~\$1 B	Possible, not likely
Medicaid Rebate Pass-through	PBMs must remit all rebates to the plan	Medicaid	NA	Possible, not likely
Part D PBM Transparency	Requires PBMs to report to payers on rebates and fees PBMs receive from drug manufacturers, which CMS must publish publicly and online at least annually	Medicare	(\$720 M)	Unlikely.  Savings generated from plan sponsor usage of the reported data (savings are likely too remote from the operation of the core policy)
Pharmacy Reimbursement	Requires HHS to survey retail community pharmacies' drug prices to determine national average drug acquisition costs	Medicare & Medicaid	(\$2 B)	Unlikely. State involvement separates the government cost impact from the policy operation
<b>BIOSIMILARS</b>				
Mid-year Biosimilars Formulary Changes	Enables mid-year formulary changes for biosimilar and biologic products	Medicare Part D	(\$222 M)	Likely, Byrd precedent of Part B and D provisions in the IRA that adjust cost sharing
Biosimilar Reimbursement	Three-year demo which would increase payment rates for biosimilar drugs under Part B	Medicare Part B	\$227 M	Possible

Sources: Manatt, CBO, Congress.gov, Capitol Street, 2025.

NA = not available

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