



Protect Patient Access to Cancer and Complex Therapies ACT (S. 2764, H.R. 5391)

FACT SHEET | SEPTEMBER 2023

The Inflation Reduction Act Unintentionally Threatens Patient Access to Part B Drugs Administered in Independent Medical Practices

A provision in the Inflation Reduction Act of 2022 threatens patient access to certain Medicare Part B drugs provided in physician offices, infusion centers and hospitals. The provision cuts reimbursement for certain Part B drugs from Average Sales Price plus six percent to the Maximum Fair Price (MFP) that is negotiated by the Centers for Medicare & Medicaid Services (CMS).¹

According to the Congressional Budget Office, reimbursement for Part B drugs (and the associated add-on payment) will be cut by an estimated 50 percent or more for those drugs that are subject to negotiation.

Starting in 2028, certain Part B drugs that are on the market for 13 or more years and do not have a biosimilar on the market will be subject to MFP price cuts of a MINIMUM 40 percent, but the cuts could be much greater as the law does not provide any price floor.

Each year thereafter, more Part B drugs are subject to significant reimbursement cuts under MFP and physician practices and other providers will see a significant reduction to the add-on payment to MFP Part B drugs.² The add-on payment is a vital component of provider payment for physician-administered drugs, as the professional fee for drug administration only covers a small fraction of providers' costs.

Because the add-on payment comprises a significant portion of physicians' reimbursement for administering Part B drugs, cuts of this magnitude could threaten patient access.

This policy could jeopardize the viability of medical practices, especially smaller groups, and those in rural or underserved areas. If independent practices are no longer able to afford to administer these drugs, patients will be forced to get their medications in the more expensive hospital setting.

Protect Patient Access to Part B Medications

The Protecting Patient Access to Cancer and Complex Therapies Act (S. 2764, H.R. 5391) has been introduced by U.S. Senator John Barrasso (R-WY), U.S. Representative Michael Burgess (R-TX), and U.S. Representative Greg Murphy (R-NC). The Legislation is budget neutral and would maintain current reimbursements to providers while saving Medicare and its beneficiaries the same amount of money by replacing the payment cut with a manufacturer rebate.

The bill protects providers and their patients from becoming collateral damage in negotiations between CMS and the manufacturer, while saving Medicare the same amount of money by replacing the ASP payment cut for Part B drugs with a manufacturer rebate.

Patient's coinsurance would be based off the lower, rebated price (the MFP) and the manufacturer rebate would account for the coinsurance reduction. Rebates, such as the Medicaid Drug Rebate Program and inflation rebates in Medicare, are a common cost-savings tool used by the government and private payers and would not cause disruption to providers and beneficiaries.

1. MFP-designated products of manufacturers that refuse to agree to the "negotiated" price would be subject to a 95% excise tax or other products of the manufacturer could be excluded from coverage by Medicare and Medicaid.

2. <https://avalere.com/insights/part-b-drug-negotiation-under-bbba-would-reduce-payments-to-providers>

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