



Prescription Drugs

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Prescription Drugs (Rx)

(A) Why Rx Is in the News

(B) Cost and Access: Recent Trends

(C) What Is Next in 2007–2008?

Session Outline

- Prescription Medication: A Public Profile
- Cost and Spending Trends
- Medicaid and Medicare Rx Programs
- The Role of States
- 2007–2008 Legislative Issues
- Resources

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Medicines - Always in the news...

Could Drug Ads Be Bad for Your Health?
 - ABC News, 1/31/07

Drug Giant Merck Suspends State Campaign for HPV Vaccines
 - ABC TV News, 2/20/07

HHS Works to Fix Drug Plan Woes; Widespread Difficulties...
 - The Washington Post, 1/18/06

Mich. drug lawsuit law may soon get vote
 - The Associated Press, 2/20/07

Analysts see RX costs slowing under Medicare drug benefit
 - The Houston Chronicle, 2/20/07

OR: Expanded bulk buys of drugs is urged
 - February 2007

CO: Rx discount program launched
 - The Denver Post, 2/1/07



Rx: A Major Priority Coast to Coast

(Rx = medical abbreviation for Prescription Drugs)

- Immense value of medicines to society: save, extend, and improve lives
 - 91% of the population take at least 1 Rx/year
 - Avg. Rx per Medicaid beneficiary = 3.3/month
 - Avg. Rx per institutional patient = 7.2/month
- Spent on research each yr. = \$51.3 billion
(Includes brand Rx+ generics + education, 2005 – PhRMA)
- **Results** = significant impact in your district and your legislative sessions
- **States: 615 Rx bills; 85 new laws** passed in 2006; 30+ Executive Orders and regulations

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Pharmaceuticals: Multiple Roles of State Legislatures

- **Purchaser**
 - Every State purchases vast quantities of pharmaceuticals
 - Medicaid + clawback is largest: high of \$45 billion
 - Public employees, prison, mental health, SPAPs
- **Access Broker**
 - Fund Rx initiatives subsidies and discounts
 - Restrict or expand eligibility or benefits?
 - Consumer education, clearinghouses
- **Regulator**
 - Local pharmacies, wholesalers (*all States*)
 - Marketing, disclosures, PBMs, pricing (*fewer States*)

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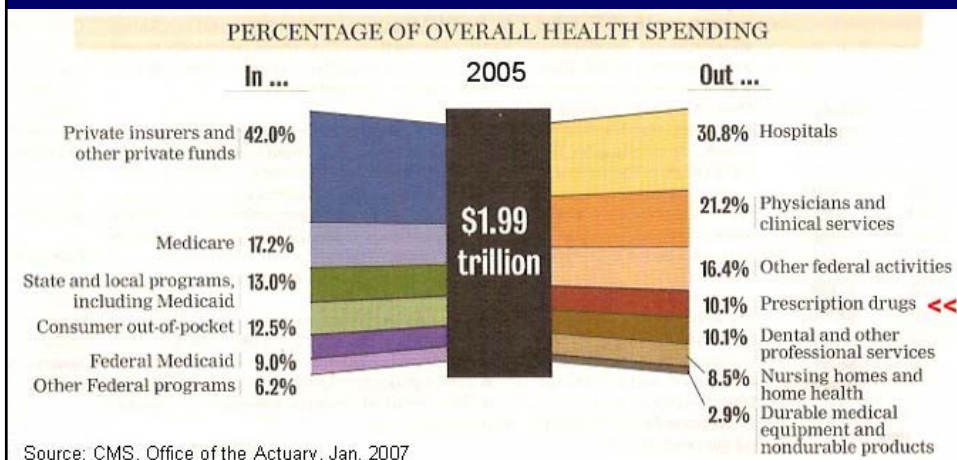
At Your State Capitol: Numerous Interested Stakeholders

Access *vs.* Cost
Brands *vs.* Generics
Free Market *vs.* State Regulation

- Pharmaceutical manufacturers (PhRMA, generics)
- Federal Government (HHS: CMS, FDA, HRSA, AHRQ)
- Local retail pharmacists + chain pharmacies
- Patient groups + consumer groups
- Medicaid + State agencies
- Pharmacy benefit managers, wholesalers, Rx boards

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What the Research Tells Us: Rx Spending: 10% of Health; \$214 Billion Annually (2006)



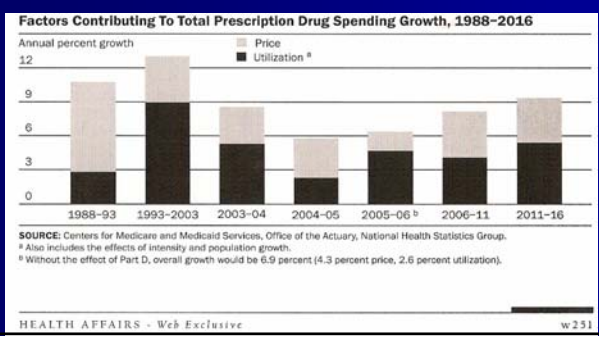
Graphic by Modern HealthCare, 1/15/07

\$446 billion for Rx by 2015? – Federal estimate by HHS

What the Research Tells Us: Rx Costs and Spending trends

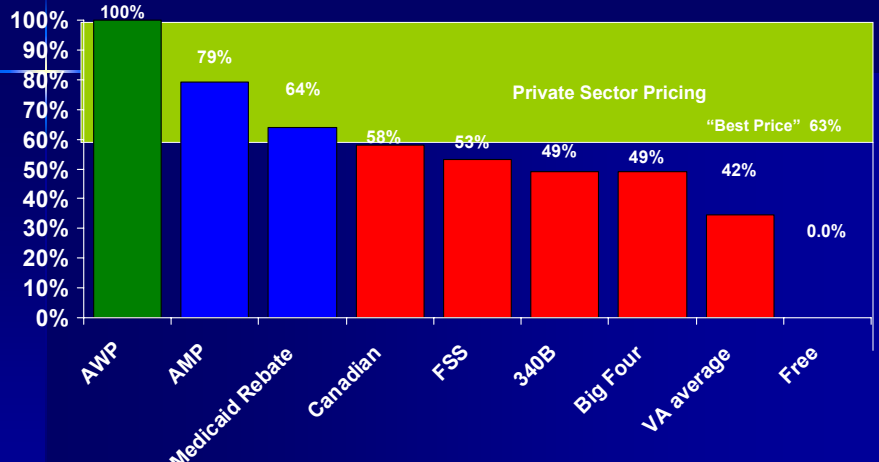
- Increased use + new patients + new drugs
- Price increases (4.3% annually)
- "Good news": annual spending increase dropped from 18% (2001) to 6.6% (2006)

CMS Chart published 2/21/2007



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Rx: Comparison of Federal and Other Prices



Prices for Brand-Name Drugs Under Selected Federal Programs. Washington: Congressional Budget Office; June 2005. von Oehsen WH. Pharmaceutical Discounts under Federal Law: State Program Opportunities. Washington: PPSV; May 2001.

Medicaid Pharmaceuticals

- Medicaid programs spent \$40 billion in 2005 (19% of total Rx spending)
- Major change for 2006–2007 due to Medicare: est. \$27 billion + \$8 billion clawback in 2006

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Medicaid Pharmaceuticals (cont.)

- Cost containment: now widespread, but still controversial:
 - **Preferred drug lists** – more effective or less expensive products may be listed as “preferred” = 44 States
 - **Prior authorization required** = all States, but only 3.4% of all claims (covering 7.5% of total Rx spending)
 - **Generic Rx use required** = 41 States
 - **Disease management**
 - **“Supplemental rebates” and wholesale prices**

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DRA*: Recent Federal Medicaid Reforms Can Mean State changes in 2007–2008

- **Disclose "Average Manufacturer Price"** monthly to States and public – a policymaker tool
- Provide States with option to contain costs by increased **cost sharing for "nonpreferred" drugs** (was \$3 maximum; now 20% of price)
- **New Pricing Formula** - for generic Rx, will dramatically affect or lower payment to pharmacies, especially local, independent druggists (effective 1/1/07)

* DRA = Federal Deficit Reduction Act of 2005

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Medicare Rx "Part D" State Law Responses and Examples

- As of 2006, federally funded Rx benefit for all Medicare (elders and disabled) means major changes for States; some State cost shares are reduced (by 5–25%), but there are very active or new State roles in most locations
- **Wraparound benefits:** Twenty State pharmaceutical assistance programs (SPAPs) are funding premiums, copayments, and a benefit gap* not covered by MMA

* "Donut hole" gap refers to \$2,400.00–\$5,451.25/year without Federal payments

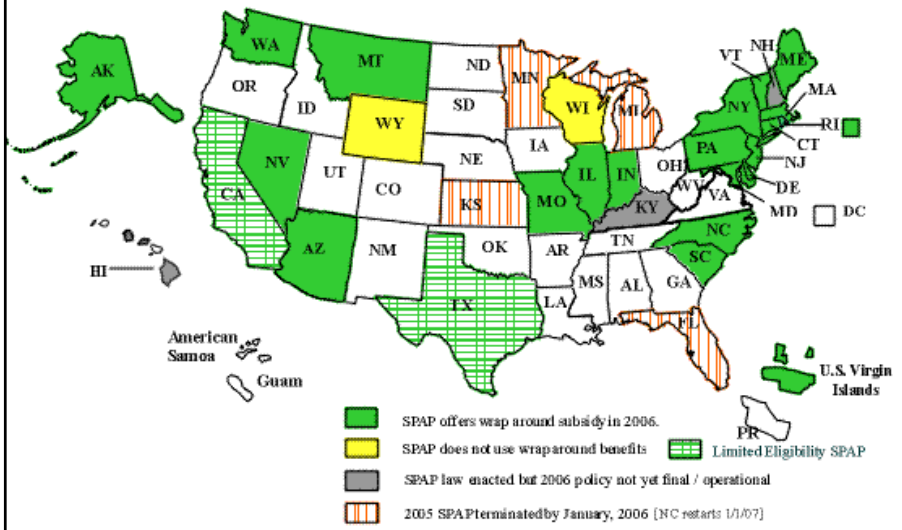
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Medicare Rx "Part D" State Law Responses and Examples (cont.)

- **Emergency benefits:** Medicaid steps in when private plans fail to pay (40+ States in January–March 2006); Medicaid still covers products not in Part D
- **Education, outreach, and enrollment coordination**
- **New help for other populations**

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States with Laws or Programs to Wrap Around or Coordinate SPAP and Medicare Part D Benefits



© Compiled by NCSL; updated 2/22/07. Does not include Medicaid-only programs in HI, KS and NE.
 For details regarding content and status, consult NCSL reports online at:
www.ncsl.org/programs/health/SPAPCoordination.htm

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State Assistance Example:

Illinois Cares^{Rx} NO SENIOR OR PERSON WITH DISABILITIES LEFT BEHIND

- Rx coverage wraps around Federal Medicare benefits, paying premiums, deductibles, and gap coverage
- State pays up to \$3,000+ share
- Extends separate discount program to cover all residents with incomes under 300% FPL*
- 241,000 residents eligible for help in 2006

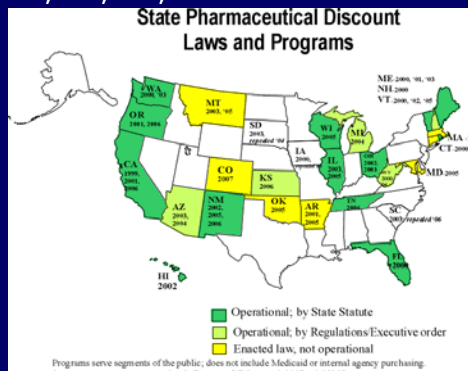
* FPL = Federal poverty level: 300% = \$30,630 for individual in 2007

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State Rx Discount Programs

- **No State or Federal \$\$**; no connection to HHS/CMS.
- **Negotiated prices via volume buying**
- **Eligibility** expansions mostly to serve **non-Medicare** populations under age 65; recent examples, 2005–2007: AR, CA, CO, IL, MD, MT, NM, OK, OR, WA

- Simple card good at thousands of local druggists
- Savings of 5–40% on many Rx
- Usually contracted to a PBM to work out rebates and savings
- Some have income max: 350% FPL; some have no income limits
- Low State costs, but widespread marketing required for "success"



Pharmacy Benefit Managers State Role: To Regulate or Not?

PBMs are a growing

market factor: manage \$158 billion or 68% of \$234 billion in U.S. Rx sales (2004)

- Retail druggists say "Level the playing field," initiating State bills to regulate PBMs
- Latest interests:
 - Licensing, annual reporting
 - Requiring "fiduciary role and responsibility"
 - Disclosure and "transparency"
 - Pass-through of rebates or discounts

Example: Maine PBM law

- Requires "full disclosure of contracted activities" between PBM and Rx makers
- Pricing discounts and rebates to be passed through to payers
- Violations enforceable by private action by the AG

Signed June 2003; court challenge upheld in Maine, April 2005

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States Using the "340B Federal Drug Pricing" Program

- Established 1990; allows "grantees" of Federal agencies to buy for patients at deep discounts (avg. wholesale price = 51%)
- Expanding rapidly, now 12,200 locations
 - Consolidated health centers (FQHCs)
 - Disproportionate share hospitals (DSHs)
 - AIDS, STDs, Family Planning clinics
- Some States encourage wider use
 - www.hrsa.gov/opa
 - www.ncsl.org/programs/health/drug340b.htm

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More 2007–2008 Legislative Issues, Part I

- **Multi-State pools** – 5 operating groups, 19 States, spreading gradually; 5% savings?
- **“Evidence-based medicine”** – Detailed evaluation of high-use Rx, compared w/generics; education of physicians and patients; 17 State partners in “DERP,” an academic project based in Oregon
- **Return and recycle programs** – 20+ States authorize the donation of unused Rx for the needy
- **Direct price negotiation** – All States use this in Medicaid, most in SPAPs and by State employees

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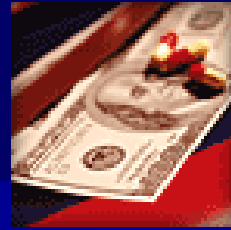
More 2007–2008 Legislative Issues, Part II

- **\$4 discounted generics** – Chain stores
- **Clinical trials** – Several states seeking to require fuller disclosure if State funds are affected
- **Marketing** – Require disclosure of gifts or ad \$\$
- **State regulation of PDPs?** (CA, CT, MN laws)
- **Dispensing fees for pharmacies**
- **Extra pay for Rx consultations**
- **Drug importation** (11 small State programs)

500+ Rx bills pending for 2007 sessions

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NCSL Rx Resources



Reports (updated March 2007)

Rx Overview: Listing 45+ NCSL Reports and Presentations

www.ncsl.org/programs/health/pharm.htm

Pharmaceutical Assistance: SPAPs and Discounts

www.ncsl.org/programs/health/drugaid.htm

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