

NEWS BRIEF

HHS Proposes Rule That Would End Certain Drug Rebates

On Thursday, Jan. 31, 2019, the Department of Health and Human Services (HHS) Office of Inspector General released a proposed rule that effectively eliminates certain drug rebates. This move is the latest of the Trump administration's efforts to reduce prescription drug costs and increase transparency.

What is included in the rule?

As previously mentioned, the proposed rule would eliminate the Anti-Kickback Statute (AKS) safe harbor protection for certain drug rebates. The affected rebates are paid by drug manufacturers to pharmacy benefit managers (PMBs), as well as to Medicare Part D and Medicaid managed care plans, when they agree to exclusively cover or favor a specific drug in a prescription drug plan. The proposed rule would leave PMBs and manufacturers who participate in this behavior open to legal action.

Additionally, the proposed rule would create two new safe harbors for both PBM fees that are charged to manufacturers and for point-of-sale drug discounts offered to patients.

How would this proposed rule change the market?

Under the current protections, PMBs and drug manufacturers can enter rebate agreements to

favor or exclusively cover certain drugs in a prescription drug plan.

Alex Azar, HHS secretary, said that "this proposal has the potential to be the most significant change in how Americans' drugs are priced at the pharmacy counter, ever, and finally ease the burden of the sticker shock that millions of Americans experience every month for the drugs they need."

Further, the administration hopes that the elimination of the AKS safe harbor will encourage out-of-pocket savings for consumers and reduce the incentive for drug manufacturers and PBMs to increase drug list prices.

What's next?

For 60 days following the proposed rule's publication, the public can submit their comments on the rule. For instructions on how you can submit your comment, click [here](#).

We will continue to monitor the developments of the proposed rule and will provide updates as necessary.

