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Response to Drug Industry Claims on Prescription Drug Price Differences between Prices for Favored Customers and Prices for Uninsured Seniors

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Congressional reports have shown that seniors without prescription drug coverage must pay substantially more -- on average, at least twice as much -- for popular brand-name drugs than drug companies' favored customers such as HMOs, large insurance companies, and the federal government. The drug industry has attempted to discredit these findings. This factsheet analyzes the industry's claims.

Industry Claim: Comparing favored customer prices to prices for uninsured seniors is an "apples-to-oranges" comparison. The prices charged favored customers like HMOs and the federal government are "wholesale" prices, whereas the prices charged uninsured seniors are "retail" prices.

The Facts: The drug industry often cites retail markups as the explanation for the disparity in prices between the prices charged seniors without drug coverage and those charged favored customers. In fact, the congressional reports analyze the impact that wholesale and pharmacy mark-ups have on prescription drug costs. The reports find that markups by drug wholesalers and retail pharmacies are responsible for only 20% to 25% of the final retail cost to senior citizens.[1] The majority of the price differentials found in the reports are therefore the result of drug manufacturer pricing strategies, not wholesale or retail markups.

Industry Claim: The reports use an inappropriate sample of drugs that exaggerates typical price differentials.

The Facts: The drugs analyzed in the reports were chosen using a neutral selection criteria. They are the five patented, brand name prescription drugs with the highest dollar sales to seniors in 1997.[2]

If the goal had been to use a skewed sample of drugs, the congressional reports could have examined drugs that have far higher price differentials than the five most popular drugs purchased by seniors. For example, Table 1 shows five popular drugs that were excluded from the study. These drugs include Trimox, an antibiotic, which is the fourth most frequently prescribed drug in the United States, and

Furosemide, a diuretic, which is the twenty-fifth most frequently prescribed drug.[3] These five drugs have an average price differential of 618%. In the case of these drugs, senior citizens and others without insurance coverage for prescription drugs are charged on average seven times more for drugs than favored customers.[4]

Table 1: Prescription Drugs With High Price Differentials

Product	**Manufacturer**	**Use**	**Favored Customer Price**	**Retail Price**	**Price Differential**
Maxide	Bertek	High Blood Pressure	$10.25	$118.99	1061%
Furosemide	Pharm. Corp.	Pulmonary Edema, Diuretic	$1.33	$12.21	818%
Isoptin SR	Knoll	Angina, other heart problems	$24.62	$166.49	576%
Adalat CC	Bayer	Angina, high blood pressure	$45.15	$197.49	337%
Trimox	Apothecon	Antibiotic	$5.06	$19.99	295%
Average Price Differential					**618%**

Moreover, although the congressional reports mentioned that two drugs -- Synthroid and Micronase -- had even higher price differentials than the five most popular drugs purchased by seniors, the reports excluded these drugs from the calculation of the average level of price discrimination. Synthroid, which is a hormone treatment manufactured by Knoll Pharmaceuticals, is one of the most frequently prescribed drug in the United States and has a price differential of nearly 1500%.[5] If just this drug had been included in computing the average level of price discrimination, the average level would have increased to 326%, more than three times higher than reported in the congressional reports.

Industry Claim: The congressional reports are biased because they unfairly exclude generic drugs.

The Facts: The reports exclude generic drugs because the market for generic drugs is fundamentally different than the market for brand name drugs. Unlike manufacturers of brand name drugs, generic drug manufacturers do not possess patents that give them the exclusive rights to their drugs. For this reason, generic drug manufacturers have substantially less ability to engage in prescription drug price discrimination than brand name drug manufacturers.

Industry Claim: The FSS prices used in the congressional reports are not representative of the prices charged other buyers, such as HMOs.

The Facts: The congressional reports use the lowest voluntarily negotiated federal prices as proxies for the prices offered to the drug manufacturers' most favored customers because these federal prices are the best publicly available indicator of the prices for favored customers. The reports could not use the actual prices charged by manufacturers to their most favored customers because the manufacturers closely guard their pricing strategies.

The federal government buys its drugs under a multitude of programs. Some of these programs (such as the Federal Supply Schedule (FSS), the VA Formulary, and the VA "Blanket Price" Program) determine prices through voluntary negotiations between the federal government and each participating manufacturer. Other programs (such as section 340B of the Public Health Services Act) use statutory discounts. Although these programs use different mechanisms for acquiring drugs, their common goal is to obtain prices for the federal government that are as low as those offered to the most favored private-sector purchasers.

The U.S. General Accounting Office confirms that the voluntarily negotiated federal prices used in the reports are an accurate measure of drug prices charged to favored private sector customers. According to GAO, "[u]nder GSA procurement regulations, VA contract officers are required to seek an FSS price that <u>represents the same discount off a drug's list price that the manufacturer offers its most-favored nonfederal customer</u> under comparable terms and conditions."[6] Furthermore, in a letter to Rep. Henry A. Waxman, GAO confirmed that "federal supply schedule prices represent the best publicly available information on the prices that pharmaceutical companies charge their most favored customers."[7]

The President released a report on prescription drug pricing this spring that suggests drug manufacturers may charge some buyers lower prices than those charged to the federal government. According to the President's report, there are probably "cases where ... third parties achieved prices below this FSS price."[8] If so, this would indicate that the actual level of price discrimination could be larger than the congressional studies find.

Industry Claim: The President's report on prescription drug pricing released this spring finds that the average uninsured person pays only about 15% more for the same medications than an insured person, far less than the price differences reported in the congressional reports.

<u>The Facts</u>: The 15% price difference from the President's report refers only to retail level price differences. The President's report notes that large purchasers like HMOs and pharmaceutical benefit managers frequently obtain large discounts and rebates that are not reflected in the 15% price differential. For this reason, the President's report expressly states that its findings "<u>should not be interpreted as inconsistent</u>" with the findings of the congressional reports.[9]

The President's report does not calculate the combined effect of retail-level price differences and manufacturer-level price discrimination for specific drugs. The report does, however, provide an "illustrative example" of the combined effect of these two forms of price differences. The table that features this comparison is based on "a composite of commonly prescribed brand name drugs and reflect documented relationships among the prices for different transactions."[10] According to this illustrative example, uninsured consumers must pay over 70% more for common brand-name drugs than some private-sector purchasers, such as some insurers and PBMs, and over 100% more for these drugs than the federal government.[11]

Endnotes

1. The Wholesale Acquisition Cost (WAC) is the best measure of actual pharmacy markups. The WAC represents the average amount that wholesalers actually pay for prescription drugs. When this figure is compared to the average retail price for drugs, the reports find that pharmacy markups account for, on average, 20% to 25% of the retail cost of drugs to consumers.

2. The drugs included in the study are: Zocor (5 mg), Prilosec (20 mg), Zoloft (50 mg), Norvasc (5 mg), and Procardia XL (30 mg). The list is based on claims data available from the Pennsylvania Pharmaceutical Assistance Contract for the Elderly program (PACE), the largest out-patient prescription drug program for older Americans in the United States.

3. Pharmacy Times, *The Top 200 Drugs of 1998* (1999) (online at www.pharmacytimes.com/top200.html).

4. The retail prices were obtained via phone survey from pharmacies located in Washington, D.C. Prices were obtained for the following dosages: Furosemide, 40 mg, 100 tabs; Maxide, 75/50 mg, 100 tabs; Isoptin SR, 240 mg, 100 tabs; Adalat CC, 60 mg, 100 tabs; and Trimox, 250 mg, 100 tabs.

5. *The Top 200 Drugs of 1998*, *supra* note 3.

6. U.S. General Accounting Office, *Drug Prices: Effects of Opening Federal Supply Schedule for Pharmaceuticals Are Uncertain*, 6 (June 1997) (emphasis added).

7. Letter from William J. Scanlon, Director, GAO Health Financing and Public Health Section (Apr. 21, 1999).

8. Department of Health and Human Services, *Report to the President: Prescription Drug Coverage, Spending, Utilization, and Prices*, 108 (Apr. 2000).

9. *Id.*, at 111, fn. 22.

10. *Id.* at 97.

11. *Id.* at 98 (table 3-1). The price for uninsured consumers is $52, which is 73% more than the $30 price for some insurers and PBMs and 117% more than the $24 price for the federal government under the Federal Supply Schedule.