

## The New Medicare Drug Cards: Real Discounts or Not?

### Discount Cards and Medicare

In first two years of the new Medicare drug program, Medicare recipients will be able to purchase Medicare approved drug discount cards. Some low-income Medicare recipients will get a \$600 credit to help pay for drugs. The cards are approved by Medicare, although Medicare has no say in the prices that will be charged for the covered drugs. Drug companies will establish the base prices and discounts. A recent Prescription Action Litigation (PAL) Project lawsuit gives reasons for caution about how drug company discount cards could work and how much of a discount Medicare recipients will get.

### PAL's Together Rx Case

In December 2001, the Prescription Access Litigation (PAL) Project, a coalition of 93 consumer organizations, filed a lawsuit that includes charges against the eight large drug makers that offer the Together Rx drug discount card -- Abbott Laboratories, AstraZeneca, Aventis, Bristol-Myers Squibb, GlaxoSmithKline, Janssen Pharmaceuticals, Novartis, and Ortho-McNeil Pharmaceutical. The lawsuit focuses on the Average Wholesale Price (AWP) or "base" price for drugs set by drug companies. The PAL lawsuit alleges that the Together Rx drug makers raised "base" prices before giving discounts. If these allegations of price inflation prove true, seniors using the Together Rx care save less than expected, and everybody else pays more for drugs.

The judge hearing the case recently ruled that the case should be allowed to move forward because PAL's allegations of price manipulation by the Together Rx companies "rais[e] a reasonable inference of conspiracy."

### The Together Rx Card

In our lawsuit, PAL claims that the Together Rx companies created the discount card to try to stave off scrutiny by Congress and the public into drug prices. The PAL lawsuit also alleges that before issuing the discount card, the eight companies conspired to increase the "base" or AWP price for over 100 drugs covered by the card. Many of the Together Rx discounts are tied to these base prices. For example, the price of GlaxoSmithKline's drugs for cardholders is 25% off of the base price (AWP-25%).

By increasing the "base" price, the companies could make the discounts for seniors on the Together Rx card seem larger than they really are. Customers without the card or some form of drug coverage are even worse off, since they pay more for drugs because the cash price for uninsured customers is linked to the newly inflated "base" or AWP price.



### Who benefits from the alleged Together Rx scheme?

As noted at left, the PAL lawsuit alleges that uninsured consumers without the discount card paid more due to the inflated "base" prices. Since these customers would pay more, the Together Rx companies could make up for any money lost by giving "discounts" through the discount card.

The lawsuit further alleges that Together Rx was able to get pharmacies to accept the card by protecting the profits of pharmacies and wholesalers. The prices that consumers and health plans pay pharmacies are based on the base (AWP) price. However, the pharmacy almost always buys the drug for a lower price. The difference between these two numbers is called the "spread." The spread is how the pharmacy covers its costs and makes a profit. By increasing the "base" (AWP), the drug companies increased the spread for pharmacies. Our lawsuit alleges that the Together Rx companies conspired to raise the spreads for most of the drugs covered by the card to a uniform 25%.

The end result was that the drug companies forced cash customers, health plans and state Medicaid programs to pay for the Together Rx card. The discounts were not as large as they appeared because of the raised base prices. Meanwhile, the Together Rx companies took credit for giving "discounts" to Medicare recipients.

*Imagine a store raising its prices one night. At the same time, the store gives some customers coupons for 25% off. The customers with coupons get 25% off of the newly RAISED prices. Customers without coupons simply pay the new higher prices.*

### Lessons to take from the Together Rx allegations

Just like Together Rx, in the Medicare discount card program drug companies decide their own discounts and set their own base prices. The allegations in the PAL lawsuit should serve as a caution to consumers and policymakers as they make decisions about the new Medicare drug discount cards. **Buyer Beware!**

# Protect Yourself in Choosing a Discount Card



- 1.) **EXPLORE YOUR OPTIONS:** A Medicare discount card may not be your best choice.
- If you served in the Armed Forces, you may be eligible for Veterans Benefits. Call 877-222-VETS or [www.va.gov](http://www.va.gov)
  - Some drug companies have programs that give free drugs to needy consumers. A number of websites list these programs. Visit [www.needymeds.com](http://www.needymeds.com) or [www.rxassist.org](http://www.rxassist.org)
  - Check with your former employer to see if you qualify for retiree health coverage.
  - Many customers are getting cheaper drugs online and from Canada. Several state governments have their own Canadian pharmacy websites\*, such as [www.state.nh.us/governor/prescription/prescription.html](http://www.state.nh.us/governor/prescription/prescription.html), <http://www.state.mn.us/cgi-bin/portal/mn/jsp/home.do?agency=Rx>, and <http://drugsavings.wi.gov/>  
\*PAL does not endorse or vouch for these websites. Consumers should learn about the safety and legal aspects of ordering drugs from Canada.
  - Some states have their own drug coverage programs. Contact your local elder services office or go to [http://www.rxassist.org/pdfs/state\\_programs.pdf](http://www.rxassist.org/pdfs/state_programs.pdf)
1. **SHOP AROUND**, if you do decide to buy a Medicare-approved discount card. Medicare has a comparison of cards and drug prices at [www.medicare.gov](http://www.medicare.gov) or 1-800-MEDICARE (1-800-633-4227).
  2. **PLAN AHEAD** for changing prices. Prices on discounted drugs can change every week, but you can only change which card you have once a year. Don't expect prices to stay the same.
  3. **ASK YOUR DOCTOR** if there are lower cost alternatives to the drugs you're on, such as generics or even over the counter medications. There may be an equally effective treatment that is less costly.
  4. **ORGANIZE FOR CHANGE:** Work with local advocacy organizations to ensure real change in drug prices for seniors and other consumers.

## Other useful resources on the Medicare drug discount cards:

- Medicare Rights Center – [www.medicarerights.org](http://www.medicarerights.org) or 212-869-3850 – has resources such as weekly email “Dear Marci” update and “76 Things You Should Know about the New Medicare Drug Discount Cards”
- Alliance for Retired Americans – [www.retiredamericans.org](http://www.retiredamericans.org) or 202-974-8222
- Medicare has many resources on the cards, including a “Guide to Choosing a Medicare-Approved Drug Discount Card.” Go to [www.medicare.gov](http://www.medicare.gov) and click “Publications” or call 1-800-MEDICARE
- State Health Insurance Counseling and Assistance Programs can answer many questions about Medicare and the cards. Find your state’s program at [www.medicare.gov/contacts/Related/Ships.asp](http://www.medicare.gov/contacts/Related/Ships.asp)
- Families USA has surveyed purchasing options for ten major brand name drugs. To see their comparison of VA, mail-order, Canadian and Medicare discount card drug prices go to [http://www.familiesusa.org/site/DocServer/DrugDiscountCard\\_Price\\_Comparison.pdf](http://www.familiesusa.org/site/DocServer/DrugDiscountCard_Price_Comparison.pdf)

**LOCAL CONTACT:**