Medicare Doughnut Hole Reform

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Abstract

Over the years, there have been debates over the doughnut hole coverage gap in Medicare Part D Prescription Drug Plans. In the past decade, significant efforts to guard seniors against high out-of-pocket costs associated with the coverage gap have yielded many reforms, including the eventual closure of the doughnut hole in 2019 as part of the Bipartisan Budget Act of 2018 (BBA). This paper firstly identifies the problem regarding a certain provision in the BBA that shifts cost-sharing from insurers to pharmaceutical companies, and then narrows the focus down to the perspective of the main stakeholder involved – those patients eligible for Medicare. In proposing a minor adjustment to the coverage gap provision of the bill, the author provides evidence to support the closure of the doughnut hole, but also initiates conversation cautioning against the removal of elements of the market-based structure that has made Medicare Part D such an economic and societal success. Given bipartisan support for reducing out-of-pocket prescription drug costs for the elderly, this paper's proposed reform would require innovative strategies to effectively navigate around the challenges posed by oppositional parties.

Problem

Medicare Part D was introduced as part of the Medicare Modernization Act of 2003 to provide affordable medication coverage for those with disabilities and seniors over the age of 65 (Sun et al., 2007). Such a large and expensive bill could not have been passed without the inclusion of cost-sharing measures. In order to prevent seniors from excessively using brand name drugs, thereby feeding the nationwide problem of overutilization, the creators implemented

a gap in coverage after a certain threshold that required seniors to pay all of the cost of drugs purchased in that interval. After accumulating a total out-of-pocket amount that surpasses the annual spending limit, approximately $5000, beneficiaries would receive “catastrophic coverage”, in which they would only have to pay 5% of the costs of drugs purchased after that threshold has been reached (Dinerstein, 2018). Naturally, the high financial burden of drug prices in this coverage gap has warranted complaints from both sides of the political spectrum, and a unified front against this policy produced a section in the Affordable Care Act of 2010 that implemented measures to gradually close this “doughnut hole”. Currently, the portion of the bill that patients must pay for brand name drugs while in the doughnut hole coverage gap is 35%, but that number will further decrease by 10% in the coming year (Medicare Interactive, 2018).

The Bipartisan Budget Bill that passed through Congress in 2018 aimed to expedite the doughnut hole closure by one year and mandated a 70% manufacturer’s discount on brand-name drugs purchased by beneficiaries in the spending interval previously occupied by the doughnut hole (Cubanski, 2018). In doing so, the bill reduced the payment burden of insurance plans to only 5% of brand name drugs, a 20% decrease, and kept the percentage paid by consumers at 25% (CMS, 2018). While the issue is nuanced, there exists overwhelming evidence that the closure of the doughnut hole is a net benefit to society, and that the general contents of the Bipartisan Budget Bill should be preserved with one exception: policymakers should acquiesce to the demands of the pharmaceutical industry and lower the manufacturer discount rate for brand-name drugs from 70% to 63%. The plans to shift the additional cost burden of 7% from insurers to pharmaceutical companies should be repealed because it jeopardizes cost-saving measures essential to the functioning of the program, reduces the probability of support from

pharmaceutical lobbyists in passing more reforms to curtail the price of prescription drugs, and encourages manufacturers to increase their prices. Before further analyzing the negative externalities of this provision of the BBA, it is best to narrow the problem down to the perspective of the primary stakeholders.

Stakeholder's Perspective

In a country with exceedingly high prescription drug prices, seniors over the age of 65 constitute some of the most vulnerable members of society and have the most to lose if the plan to reduce the economic burden on drug manufacturers does not pass. In 2014, 28 percent, or 11 million of Part D enrollees reached the donut hole, and 3.4 million of them spent enough out-of-pocket to reach catastrophic coverage (Bunis, 2018). Seniors with chronic conditions such as hepatitis, cancer, HIV/AIDS, and schizophrenia have the highest stakes riding on the passage of the proposed reform (Bunis, 2018). Given that 20% of the country owns an outstanding balance to a collection agency over medical debt, it is reasonable to assume that the BBA, which saves beneficiaries $1.3 billion in 2019, has earned the reputation of being a generous bill that reduces patients' financial burdens (Koons, 2018). However, the proposed policy would only change the rate of the manufacturer's discount, keeping the provision expediting the closure of the doughnut hole and allowing seniors to still enjoy those savings. Although a survey of registered voters over the age of 50 showed that 78% of them support the BBA manufacturer's discount rate, these stakeholders would stand to gain in the long term if the proposed reform to reduce manufacturer payment burden to 63% passes (Bunis, 2018).

For the elderly, this measure ensures that cost-constraining forces are intact. At face value, the issue of cost-bearing balance between insurers and pharmaceutical companies appears to be a negligible issue for consumers. Both the discounts accrued from manufacturers and the amount of contribution received from insurance plans apply towards the enrollees' out-of-pocket totals, therefore putting them in a position to reach catastrophic coverage sooner regardless of the distribution of payment burden (Roberts, 2018). However, as addressed in the next section, the exclusive targeting of drug manufacturers may increase the likelihood of their passing on the costs to consumers, in addition to introducing complacency to negotiate discounts on the part of insurers.

Policy Reform

In lowering the insurers' liability to only 5% of the costs of drugs purchased in the doughnut hole, the BBA disincentivizes them from managing costs of Part D plans, thus undermining the success of Medicare Part D's market-based approach. Initially, the 25% liability ensured that insurance companies were laden with inducements to negotiate for lower drug prices on behalf of beneficiaries. Now that insurers bear minimal risk, they do not have to worry as much about increased premiums resulting from excessive drug spending and costs. Since the 70% manufacturer's discount applies to the List Price of drugs, insurers imbued with requisite incentives, such as a 7% greater skin in the game as proposed by this policy reform, would put more effort into securing higher discount rates. Proponents of the reduction in insurer liability could argue that Medicare Advantage and Prescription Drug Plans would have to assume 95% of the costs of drugs in the catastrophic coverage zone, thus providing them with sufficient

motivation to reduce the percentage of people who reach that threshold. This number is misleading, however, as Medicare pays for 80% of this cost, leaving insurers with only 15% of the bill (Frieden, 2018). Furthermore, decreases in their economic burden would likely not translate to lower premiums for beneficiaries, as there is a lack of competitive impetus to do so. In response to decreased profits, pharmaceutical companies have historically raised their prices to offset their losses, with few control measures in place to prevent that. Given the arbitrary nature of manufacturer drug prices, the onus on cost reduction should be placed on the insurer as well as the pharmaceutical company.

Perhaps the most compelling argument for Congress to agree to this minor modification of payment burden lies in the analysis of the opportunity cost of rejecting the bill. As part of their lobbying strategy, drug manufacturers intend to combine the 63% proposal with an opioid bill that increases funding in research for non-addictive painkillers, reduces shipments of fentanyl from China, and lends support for new FDA requirements for opioids (Caffrey, 2018). This multiplan bill could provide much needed solutions to deal with the opioid crisis. An equally pressing concern for beneficiaries is the looming Part D “Patent Cliff”, which increases out of pocket costs by increasing the threshold to reach catastrophic coverage by $1250, potentially offsetting any savings gained from closing the donut hole one year early. Media outlets have reported that pharmaceutical lobbyists intend to compromise by also incorporating a two year delay of the Patent Cliff into the multiplan bill. (Caffrey, 2018). In order to make up for the lost savings resulting from reduced manufacturer discounts, pharmaceutical companies have conditionally thrown support for a bill expediting approvals for generics and biosimilars that would save $2.6 billion in healthcare costs (Luthi, 2018). In an idealistic world, this shrewd

tactic of tying the fate of multiple high value proposals together could be dismissed without consequence, but in the current landscape, political compromise appears to be the best choice for maximizing healthcare value for consumers in the long term.

While the specifics of the differences between 63% and 70% for manufacturers, and 5% and 12% for insurers are better left for actuaries to explain, the evidence shows that the Congressional Budget Office had originally made a technical error in calculating the savings for consumers (Koons, 2018). The current plan reduced spending more than originally expected, so curtailing the discount to adjust for that miscalculation and to foster goodwill with an extremely powerful lobbying group would be a beneficial trade-off.

There is moderate evidence to support this reform, mostly because the distinction between 63% and 70% is unclear beyond the $4 billion that manufacturers would save. Since the BBA was only recently passed, there aren't any major studies on the residual impact it would have on insurers and consumers. In fact, changes in the BBA, including the reduction in insurer payment burden, have not been evaluated through a risk adjustment model yet (CMS, 2018). However, CMS felt enough trepidation about the provisions in the bill that they cited decreasing insurance plan liability for brand name drugs as a source of significant concern for controlling drug costs under Part D (CMS, 2018). If implemented, the magnitude of its effect is extremely large, with over 11 million seniors affected, especially in the short term (Cubanski et.al, 2018). In the long term, the failure to pass this policy reform could lead to increased prescription drug prices and job losses for many employees of pharmaceutical companies, thus affecting healthcare consumers and workers alike (Luthi, 2018).

Political Environment

Realistically, the current political environment is not ideal for the passage of this policy reform. Every major stakeholder, with the exception of pharmaceutical companies and some Republican members of Congress, is in full support of the changes made to the doughnut hole by the BBA. However, drug manufacturers are increasingly generating support for the proposal by leveraging the power they have to shape other policies.

Lobbyists from pharmaceutical companies have been fervently trying to convince Congress to re-evaluate the measures of its Bipartisan Bill. The largest companies, such as Johnson and Johnson, have increased their lobbying budget by 30% in the third quarter in order to appeal to the last vestiges of a Republican-dominated Congress (Koons, 2018). The industry views the lame duck period of Congress, in which incumbents await the inauguration of newly elected Senators and Representatives in January of 2019, as the last opportunity to overturn this act, which would save them $4 billion over 10 years (Frieden, 2018). Their campaigning efforts appear to be somewhat effective, as congressional aides to senior members of both parties believe there to be a good chance of success (Johnson, 2018).

For many years, there has been overwhelming bipartisan support for the closing of the donut hole. Both the Democratic and Republican parties want to appease this large, politically influential voting bloc. Democrats in particular have reached a consensus of unequivocally rejecting attempts to roll back the manufacturer's discount (Luthi, 2018). Despite receiving record-breaking amounts from lobbying efforts in 2017, the Trump Administration has also waged a war on reducing drug costs, which has made matters difficult for Republican Party officials who have historically supported Big Pharma (Claypool, 2018).

As a consequence of this national backlash towards the seemingly immoral nature of the doughnut hole design, seniors have been able to expedite the closure of the coverage gap. In recent weeks, efforts by pharmaceutical companies to roll back the BBA and compromise at assuming 63% of the costs of drugs in the donut hole have incited an organized, concentrated, and vocal opposition group headed by the AARP (Frieden, 2018). The vast majority of Google News articles that showed up from a search of this policy issue were op-eds, penned by seniors and their associated stakeholders, denouncing the pharmaceutical industry for attempting to reduce their share of the economic burden.

Insurers and their lobbyists naturally prefer the reduction in liability offered by the BBA, so they are working with a unified conglomerate of Democrats, moderate Republicans, and Medicare beneficiaries to combat the policy reform proposed by the pharmaceutical lobby. The next section will delve into possible methods that could turn the tide of public opinion enough to reform the doughnut hole provisions in the BBA.

Recommendations

In framing the narrative, stakeholders should rely on the Moral Foundations Theory to appeal to the moral values that the opposing party possesses (Matthews et al., 2017). The pharmaceutical lobby is one of the most powerful in the world, yet their credibility and reputation have been under attack, rightfully so, by members of the media, the government, and the public. As a result, they have lost the ability to appeal to emotion, mostly because the other stakeholders involved would not believe their intentions are genuine. In order to convince oppositional stakeholders of the net societal harm of enforcing a 70% manufacturer discount,

they should assign the role of persuasion to other stakeholders, such as economists and citizens who believe moderate changes to the doughnut hole provisions in the BBA are ultimately beneficial for members of the senior and disabled communities.

When deciding on a strategy to generate support for this measure, one must take into account the tribalist tendencies and cognitive biases that members of the opposition hold (Matthews et al., 2017). By empowering groups of retirees to speak out on behalf of this policy reform, pharmaceutical companies can add instant credibility to their movement. These policy champions are essential to the success of this reform, because they appeal to the base moral values of Care and Loyalty that liberal oppositional groups deem essential in any policy proposal (Matthews et al, 2017). While economic evidence and risk benefit analyses may be effective in persuading some beneficiaries, these policy champions should appeal to the masses by crafting personal stories about rising drug costs that weave in evidence-based findings (Aronson, 2015). They should strive to create the narrative that insurers, not manufacturers, are exploiting the current bill at the expense of the public. Moreover, appeals to the public should never refer to this policy in isolation, but rather as part of a package deal that ultimately benefits American seniors. The opportunity cost of losing out on a multi-plan bill that would also include dedicated measures to combat the opioid epidemic, increase access to generics, and delay the Patent Cliff would not be worth a shift in the burden of cost from insurer to manufacturer (Caffrey, 2018). Additionally, policy champions must clarify that the pharmaceutical industry's interests do not always run antithetical to those of consumers. The example of the pharmaceutical industry wholeheartedly supporting the closure of the doughnut hole in 2010 due to the probability of increased brand name drug utilization might serve as a convincing argument (Forbes, 2012).

Aside from the constituents of Congressional members, lobbyists should emphasize economic concerns over reduced competitive incentives for insurers with Republican officials that have a past history of supporting market-based initiatives. To convince this group of stakeholders, we must present evidence of the long-term consequences of rejecting the proposed reform while framing the main points in simple and clear ways (Aronson, 2015). Crafting a narrative of fiduciary duty to ensure the long term prosperity of Medicare Part D would likely appeal to the Loyalty moral value that conservatives espouse.

Conclusion

While the doughnut hole closure next year has received support from all stakeholders, the details in the financing of the coverage gap leaves much to be desired. Medicare beneficiaries would be wise to support the 7% shift of payment burden from pharmaceutical companies to insurers in order to pass other bills essential to reducing costs for consumers, retain proper incentive structures to reduce Part D costs in the long-term, and mitigate corresponding pushback from manufacturers that would increase drug prices and lay off employees.

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