

**-Senator Tammy Baldwin & Senator John McCain-
-Congresswoman Jan Schakowsky-**

THE FAIR DRUG PRICING ACT

Drug Price Increase Transparency

With each new story of another major price increase for a critical prescription drug, Americans understand that the market for prescription drugs is broken. The problem of excessive drug price increases goes beyond well-known examples like Epi-Pen and Daraprim. Reports show that prices for even top selling drugs have increased dramatically over the past five years, in some cases more than doubling in price. Taxpayers and consumers are increasingly feeling the impact as prescription drug prices consume more of the federal and family budget. According to a recent AARP report, the average annual retail price of widely used specialty prescription drugs was over \$53,000 in 2013.ⁱ Unfortunately, Mylan's recent and staggering price hikes of the lifesaving EpiPen is just one example of drug companies increasing prices drastically, often several times a year, with little public transparency.ⁱⁱ

Today, nearly 60 percent of Americans are taking at least one prescription drug on a regular basis.ⁱⁱⁱ However, affordability is a growing concern. A recent survey of the 50+ population found that over 80 percent believe that prescription drug prices are too high, and nearly 90 percent think it is important for politicians to support efforts to reduce prescription drug prices.^{iv} This concern crosses party lines.

A key way to help address prescription drug price increases and high consumer costs is by requiring basic price transparency to help restore a functioning market. The current market provides no systematic transparency to inform taxpayers or consumers about significant price increases for even common drugs. The bill will not prohibit manufacturers from increasing prices, but it will, for the first time, give taxpayers and policymakers notice of major price increases—which can often cost the government tens of millions of dollars a year, if not more—and require a basic explanation for the increase. Innovative companies who invest significant resources in research and development should have the opportunity to demonstrate the value of their investment to the public. However, transparency will also apply to require companies who abuse their market power to justify their excessive price increases.

Drug corporations that choose to increase the price of prescription drugs by more than 10 percent in a year should be required to disclose the information behind this decision to taxpayers, including their spending on research and development, as well as advertising and marketing. Improved access to such information could help consumers, payers, providers, and policymakers assess whether a drug price increase is reasonable. Drug price transparency is also extremely popular with the public; 84 percent of older adults believe that drug companies should publicly explain how they price their products.^v Surveys also demonstrate that support for increased transparency to address drug pricing is broadly bipartisan.^{vi}

Summary

Price Increase Justification

The *FAIR Drug Pricing Act* would require drug manufacturers to notify the U.S. Department of Health and Human Services (HHS) and submit a transparency and justification report 30 days before they increase the price of certain drugs by more than 10 percent during a 12-month period. The report will require manufacturers to provide a justification for each price increase that took place during the year, manufacturing, research and development costs for the qualifying drug, net profits attributable to the qualifying drug, marketing and advertising spending on the qualifying drug, and other information as deemed appropriate. The bill would not in any way prohibit a manufacturer from increasing prices.

HHS will make the information from these reports—excluding any proprietary and confidential information—publicly available in an understandable online format. Failure to comply with this reporting requirement would result in a fine, which would be deposited into a new Drug Value and Price Transparency Fund and used to fund activities to improve price transparency.

Report to Congress

HHS will be required to submit an annual report to Congress summarizing the information and reports submitted by drug manufacturers under this bill.

ⁱ S.W. Schondelmeyer and L. Purvis, "Rx Price Watch Report: Trends in Retail Prices of Specialty Prescription Drugs Widely Used by Medicare Beneficiaries, 2006 to 2013," AARP Public Policy Institute, February 2015.

ⁱⁱ Wall Street Journal, "Drugmakers Raise Prices Despite Criticisms" January 10, 2016. <http://www.wsj.com/articles/drugmakers-raise-prices-despite-criticisms-1452474210>

ⁱⁱⁱ E.D. Kantor, C.D. Rehm, J.S. Haas, A.T. Chan, and E.L. Giovannucci, "Trends in Prescription Drug Use Among Adults in the United States from 1999-2012," *JAMA* Vol 314(17): 1818-1830.

^{iv} L. Mehegan and L. Skufca, "2015 Survey on Prescription Drugs," AARP Research, April 2016.

^v L. Mehegan and L. Skufca, "2015 Survey on Prescription Drugs," AARP Research, April 2016.

^{vi} Kaiser Foundation Health Tracking Poll, August 2015. Available at: <http://kff.org/health-costs/poll-finding/kaiser-health-tracking-poll-august-2015/>