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Drug Importation from Canada: The Right Prescription for States?
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Introduction

Currently, the Federal government, citing safety concerns, bars U.S. pharmacies and individual consumers from importing foreign drugs, including drugs from Canada. Nevertheless, this has not stopped thousands of individuals, the majority of whom are elderly and/or do not have third-party coverage for prescription drugs, from crossing the border into Canada to purchase pharmaceuticals, or from simply ordering their prescription drugs over the Internet from Canadian pharmacies. In recent months, interest in this idea has spread to the states. So far, at least 12 states have expressed their desire to import lower-cost prescription drugs from Canada on a large-scale basis for state employees, retirees, and/or prisoners, in attempts to save money and, apparently, to draw the attention of the Federal government and pharmaceutical manufacturers to the plight of states' rising pharmaceutical expenditures.

This article will provide a brief overview of the potential benefits of a drug importation program for individuals who do not currently have prescription drug coverage, people who have insurance coverage through state-sponsored health plans (i.e., state employees and retirees), and the states that pay for this coverage. The intent of this article is not to provide a dollar estimate of potential cost savings that could occur if an importation program were implemented, but rather to highlight some potential benefits, as well as some potential pitfalls, of this policy option.

Importing Prescription Drugs: the Uninsured, the Insured, and the States

In the U.S. pharmaceutical market, different payers pay different prices. Cash-paying customers, or people without prescription drug coverage, are required to pay the full retail price for prescription drugs. Third-party payers, however, such as pharmacy benefit managers or health maintenance organizations (often used by states to provide coverage for their employees and retirees), are able to negotiate discounts and manufacturer rebates for prescription drugs purchased for their members. Government programs, such as the U.S. Department of Veterans Affairs or state Medicaid programs, can achieve even greater reductions.

The Uninsured

The group that would most clearly benefit from importing lower-cost drugs from Canada would be those individuals who do not currently have prescription drug coverage and so must pay the cost of their prescriptions out-of-pocket at the full retail price. All savings achieved from purchasing cheaper drugs in Canada would directly benefit the individual consumer; access to prescription drugs could be increased for those who have been previously unable to pay for their prescription drugs under current U.S. pricing.

The Insured

State employees and retirees also could benefit from a state program to import prescription drugs from Canada. While their access to prescription drugs would not be affected (since they already have access), these individuals could benefit from costs savings if, as an incentive for participation in a drug importation program, their insurer waived or reduced copayments for prescription drugs.

The States

Supporters of drug importation programs have made claims that such programs could benefit states by saving them millions of dollars on prescription drug expenditures for state employees and retirees. Many of the cost savings estimates provided thus far, however, appear to be optimistic because they fail to account for other variables that offset some of the potential savings. Therefore, the potential benefit to states is less than clear.

Probably the most widely publicized cost savings estimate comes from the State of Illinois. A report to the Governor of Illinois from the Office of the Special Advocate for Prescription Drugs found that the state could save as much as $90.7 million per year ($56.5 million to the state; $34.2 million to state employees and retirees) by implementing a drug importation program. Soon after the release of the report, however, the U.S. Food and Drug Administration (FDA) issued a statement harshly criticizing the estimate. The FDA stated that the estimate appears to represent an implausible upper-boundary in part because the estimate assumes that 100% of eligible prescriptions would be filled through the proposed Canadian mail-order plan. The Illinois report itself states that the current domestic mail-order participation rate in Illinois is only approximately 7% of eligible prescriptions. In addition, the FDA stated that the estimate omits costs associated with shipping, pharmacists, and liability that would need to be included in order to provide a realistic estimate.

It should be noted that while most studies agree that brand-name prescription drugs are more expensive in the U.S. than in Canada[1], studies have not agreed on the size of this difference. Limitations in the current research result from comparing drugs at different points in the drug distribution chain (i.e., manufacturer, wholesale, or retail), comparing prices achieved by different payers, and comparing samples of different drugs. Having an accurate idea of the size of the discount that could be achieved through an importation program is important because states are already able to obtain significant discounts and rebates for their employees and retirees through the bulk-purchasing of prescription drugs. It is plausible that the amount of savings possible through an importation program would not be substantially greater than the current discounts.

Another concern regarding the validity of the savings estimates provided thus far, including the estimate from Illinois, is that they have assumed drug manufacturers would not alter their behavior in response to large-scale programs to import drugs to the U.S. from Canada. This is despite the fact that several drug manufacturers have threatened and even begun to take actions to limit the supply of drugs exported to Canadian wholesalers and retailers who are making their drugs available to the U.S. market. It was recently reported in the press that Pfizer is stepping up its efforts to stop pharmaceutical imports from Canada by imposing new

[1]While brand-name drugs are more expensive in the U.S., generic drugs tend to be less expensive in the U.S. than in Canada. Just under half (approximately 46%) of the prescription drugs used in the U.S. are generic.

restrictions on sales to Canadian wholesalers. Under a new sales policy, drug distributors will be authorized to deal only with approved purchasers of Pfizer products. The Pharmaceutical Research and Manufacturers of America (PhRMA) also has stressed its opposition to importation programs by stating that lobbying against the legalization of such programs will be a top priority for its organization this year. The success of pharmaceutical companies at limiting drug sales to Canadian pharmacies that export drugs to the U.S. would severely reduce the ability of states to run successful importation programs and achieve the estimated savings.

Finally, because implementing a drug importation program would be in direct conflict with Federal law, any state that does so could face civil lawsuits. The FDA has stated that litigation against states is an option if the agency considers it necessary to protect the public health. In addition, the FDA warns that states could face criminal action and financial liability if anyone is harmed by imported drugs.

Conclusion

States, as well as individual citizens, are facing continuing pressure from rising pharmaceutical expenditures. Importing drugs from Canada is being touted has a way to improve access to prescription drugs for those that cannot afford them and to provide some fiscal relief for states and their residents. Before pursuing drug importation programs, states must carefully consider whether the potential benefits of this proposal are real, and whether they outweigh the risks.