



## **A Better Deal:**

### ***Lowering the Cost of Prescription Drugs***

Prescription drug prices are rising at an unprecedented and unsustainable rate. Americans pay more than double what other nations pay for prescription drugs and per capita prescription drug spending in the United States exceeds that of all other countries.<sup>i</sup> Today, there are no rules in place to stop drug companies from excessively raising prices on middle-class families.

**The American people deserve a Better Deal on the cost of prescription drugs.** Unfortunately, Republicans in Congress are trying to rush through major health care legislation, which the non-partisan Congressional Budget Office has said will actually *raise* the cost of prescription drugs for millions of Americans.<sup>ii</sup>

**A Better Deal on drug prices means that we will re-write the rules so the federal government is on the side of consumers and middle-class families.** Over the past few years, we have seen hedge funds and other speculative Wall Street financial firms take stakes in drug companies and then force major price increases on life-saving drugs. The bottom line is that we will crack down on the companies that excessively raise prices on American customers without justification.

### **Specifically, the Better Deal program will:**

- **Stop outrageous prescription drug price increases**
- **Negotiate lower prescription drug prices for Medicare**
- **Require drug manufacturers to publically release hard data and information justifying any significant price increase**

**Tough New Enforcement of Drug Price Gouging:** Prescription drugs that meet a test for an unconscionable price increase will be subject to new investigative and enforcement action by a new “price gouging” enforcer. This position will be independent and confirmable by the U.S. Senate. The enforcer will be created as the Director of a new agency dedicated to stopping this outrageous behavior in its tracks. The agency will also receive its own funding stream to preserve its independence from political influence.

The enforcer will be charged with investigating drug manufacturers and protecting patients and taxpayers from egregious prescription drug price increases. The agency will identify drugs that have unconscionable price increases and impose fines on the manufacturer that are proportional to the size of the price hike, reinvesting the money from the fines into new cures research and

development at the National Institutes of Health. This new enforcement mechanism, which does not exist today, will deter abusive drug price increases.

**Allowing Medicare Part D to Negotiate Drug Prices:** Even though it is one of the largest drug purchasers in the country, Medicare is restricted from negotiating with drug manufacturers over the price of drugs in the Medicare Part D prescription drug program.<sup>iii</sup> Other government programs do not face such restrictions and have used their bargaining power to secure reduced drug prices that save their enrollees billions of dollars.<sup>iv</sup>

The Better Deal program eliminates this restriction on Medicare, and empowers the government to leverage the bargaining power of the 41 million Americans enrolled in Medicare Part D and fight for the best possible deal on drug prices.

**Transparency of Excessive Drug Price Increases:** Drugs with a significant price increase will also be required to submit to the U.S. Department of Health and Human Services (HHS) a justification for the price increase at least 30 days before the price increase takes effect. A drug with a significant price increase would be defined as:

1. A drug that is at least \$10 and had a price increase of at least 300 percent over five years or 100 percent over one year; or
2. A drug that represents the top 50<sup>th</sup> percentile of drug spending in Medicare or Medicaid and had a price increase of at least 50 percent over five years or 15 percent over one year.

The justification would include individual factors that contributed to the price increase, as well as other factors that could include the percent of total expenditures on research and development derived from federal funds and the total cost of marketing and advertising the specific drug. This information would be made public in order to hold drug manufacturers accountable for any unjustifiable price increases. Drug manufacturers could avoid submitting this information if they lower the price of the drug.

## **BACKGROUND**

National spending on prescription drugs is on the rise. Prescription drug prices increased an average of 12.6 percent in 2014 and 10 percent in 2015. In 2015, 16.7 percent of health care spending in the U.S. went to prescription drugs, compared to about seven percent in the 1990s.<sup>v</sup> In 2017, prescription drug costs for those under 65 years of age are expected to jump 11.6 percent, while wages will rise by just 2.5 percent.<sup>vi</sup> Prescription drug spending in Medicare will grow faster than any other type of Medicare benefit over the next ten years<sup>vii</sup>, and drug spending in Medicaid already increased 24 percent in 2014.<sup>viii</sup>

Americans are feeling the effect of these price increases. One in four Americans who regularly take prescription drugs report that they are paying more for their prescription drugs today than they did a year ago. Many of those people are now paying at least \$50 more out-of-pocket for the same prescription they had last year, and the vast majority of them received no notification in advance that their costs would go up.<sup>ix</sup>

- **The Better Deal proposal could stop the drug manufacturers that have garnered national attention for their price hikes and profiteering:** Turing Pharmaceuticals increased the price of an anti-parasitic medication from \$13.50 to \$750 per pill, a more than 5,000 percent increase overnight.<sup>x</sup> In 2015, Valeant Pharmaceuticals imposed massive price increases on two important heart medications immediately after it bought the drugs, raising Isuprel, a drug for abnormal heart rhythms, from \$180 to \$1,472 and raising Nitropress, an emergency blood-pressure medication, from \$215 to \$881 per vial.<sup>xi</sup> These examples could face tough new penalties from the independent price gouging enforcer or be required to publically release justification for their price increases.
- **Medical innovation in our country can produce remarkable and extraordinary cures, but it won't matter if these cures are unaffordable:** Democrats are committed to developing lasting policy solutions that balance the challenge of rising drug costs with the promise of innovation, while protecting the public from bad actors in the pharmaceutical industry that unreasonably increase the price of drugs.
- **There is nothing to stop drug manufacturers or the financial firms that own them from raising their prices over time, and they are not required to publicly report increases in the list prices of their drugs:** It has become increasingly clear that there are bad actors in the pharmaceutical industry that are arbitrarily increasing the price of drugs – many of which were once affordable – and putting them out of reach for millions of working Americans. Some of these decisions are made by the companies themselves, but many are forced by hedge funds or private equity firms that have an investment stake in them. Examples of this include: hedge fund Pershing Square Capital's role in price increases of 377 percent in drugs produced by Valeant Pharmaceuticals - making up 12 of the top 25 fastest increasing pharmaceuticals - between 2013-2015, or the influence of private equity firm Cerberus Capital Management that increased the price of Dutoprol, a medication used in the treatment of high blood pressure, ten times over, making it the second-fastest branded medication price increase between 2013-2015.

Bottom line, the results of these decisions are heartbreaking. Roughly one in five people say that they or a family member have either skipped doses or cut pills in half because they could not afford their medications.<sup>xii</sup> Some drug makers are choosing to dramatically raise the price overnight, while others use steady year-over-year increases that are far greater than medical inflation or Americans' income. Patients who need access to lifesaving drugs, and taxpayers are both on the hook for these price hikes.

- **While these examples have drawn the greatest press scrutiny, they are illustrative of a concerning trend in the pharmaceutical industry:** One recent study found that since December 2014, the price of 60 drugs more than doubled, and the price of 20 drugs more than quadrupled.<sup>xiii</sup> The Government Accountability Office found that between 2010 and 2015, about one-in-five established generic drugs at least doubled in price. In that same time period, 48 drugs had a price increase of at least 500 percent, and 15 had price increases of at least 1,000 percent.<sup>xiv</sup> The American people and the millions of patients

who rely on these drugs deserve bold action in order to ensure lifesaving medication is affordable.

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- i [UPI](#), 8/23/16c
  - ii [NPR](#), 6/27/17
  - iii [Kaiser Family Foundation](#), 1/23/17
  - iv [Commonwealth Fund](#), 5/10/16
  - v [Time](#), 6/22/16
  - vi [CBS News](#), 12/30/16
  - vii [Kaiser Family Foundation](#), 2/2/17
  - viii [Kaiser Family Foundation](#), 7/15/16
  - ix [Consumer Reports](#), 5/16/17
  - x [New York Times](#), 9/20/15
  - xi [New York Times](#), 5/11/16
  - xii [Kaiser Family Foundation](#), 5/2/17
  - xiii [Time](#), 9/7/16
  - xiv [Medscape](#), 9/15/16