

agreement, these pharmaceutical companies promised to offer pharmacies the same price discounts as favored customers like large HMOs if the pharmacies could show the same ability to move market share as the favored customers. On July 13, 1998, four additional drug manufacturers agreed to a settlement under similar terms.

Unfortunately, the results of this study cast doubt on whether these agreements are likely to end the price discrimination practices of the large pharmaceutical companies. Eight of the ten most popular prescription drugs in this survey—Zocor, Norvasc, Prilosec, Procardia XL, Relafen, Vasotec, Fosamax, and Zolof—are covered by the agreement reached in 1996, and there is still large price discrimination for all of these drugs. Synthroid is also covered under the agreement, and this drug has a price differential of 1,512%.

The reason for the continued high price differentials may be that, unlike hospitals or HMOs, pharmacies cannot control decisions made by doctors about what drugs to prescribe, and thus are unable to demonstrate to the drug manufacturers that they can influence market share. The doubts raised by this study are consistent with the observations of other industry analysts, who note that "there is already intense skepticism among retail buying groups for independent drugstores about whether the smaller independents will have the ability to qualify for the potential windfall and pass the savings on to customers." *Wall Street Journal*, Drug Makers Agree To Offer Discounts For Pharmacies, July 15, 1998, p. B4, column 3.

¹⁹See 1998 Fortune 500 Industry List (www.pathfinder.com/fortune500/indlist.html).

²⁰Paul J. Much, Houlihan Lokey Howard & Zukin, Expert Analysis of Profitability (February 1988).

²¹USA Today, Drugmakers Have Healthy Outlook (July 20, 1998).

²²IMS America, Top 200 Drugs of 1997 (1998).

²³USA Today, *supra* note 22.

²⁴*Id.*, D1.

PRESCRIPTION DRUG PRICING

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1998

Mr. SANDERS. Mr. Speaker, I want to bring attention to a crisis in our nation. Our seniors are dying because they cannot afford the medication prescribed to them by their doctors. Either they don't take their medicine, or they stop eating in order to save money to fill their prescriptions. This is a travesty.

I am pleased to join my colleagues in supporting the Prescription Drug Fairness for Seniors Act, which will allow elderly Americans to purchase their prescriptions at a lower and fairer price. Currently, many large groups, such as HMOs, insurance companies, and hospitals, purchase drugs at a reduced price from the pharmaceutical companies. These are known as most favored customers. However, one group that makes up about one-third of the drug-buying market is left out of this discount—Medicare beneficiaries.

The Prescription Drug Fairness for Seniors Act will give Medicare beneficiaries a drug benefit card that they can use to purchase prescription drugs at reduced prices from participating pharmacies. The Government Reform and Oversight Committee estimates that seniors will be able to receive more than a 40-percent discount. This will be a much-needed, in fact, lifesaving, change for our nation's elderly citizens.

The average income for all seniors was \$17,000 in 1996. However, that number plummets to only \$13,000 per year for elderly women, or just over \$1,000 per month. Many seniors pay at least one-half that amount for prescription drugs. It is absurd to charge those individuals who can least afford it the highest

prices for their needed medication. I've heard from seniors in my state that they not only are paying a huge amount of their monthly income for prescriptions, but that they don't know how they can deal with the prices that continue to rise.

And our seniors are somewhat lucky in Vermont. There are two programs run by the state that give low-income seniors help with paying for their prescription drugs. One program, V-HAP, is for very low-income seniors who earn too much for Medicaid. This program allows seniors to pay just a few dollars a month for their drugs. The other program, VScript, has a higher income threshold and gives seniors with chronic illnesses a 50-percent discount on their prescriptions. And still, many seniors either do not know about these state programs, or they take advantage of them and still find it difficult to pay for their drugs, even with the 50-percent discount!

In two recent cases in Vermont, my constituents went to have their prescriptions refilled and found that the price had more than doubled in less than 2 months with no notice to them. This is ridiculous! One of the pharmacists even had the audacity to ridicule one of my constituents when she became upset at the huge increase in price and wondered how to pay for it.

Another of my constituents, Katherine Bentley, whose story is mentioned in my Vermont report on seniors' drug prices, was unable to pay her electric bill because she was paying almost \$600 per month—more than half her income—for her prescription drugs. This forced her out of her home and she still cannot afford all of her medication. Our seniors deserve to be treated much, much better than this.

In recent years, many Members of Congress, including myself, have advocated having Medicare cover prescription drugs. I still believe that this is a fair, solid proposal. However, why should the Federal Government take up the cost of this plan when the pharmaceutical companies, with annual profits in the billions of dollars, which put them on the Forbes 50 list annually, could and should offer the same discount to Medicare beneficiaries as they offer to HMOs and insurance companies? Who do we side with here? The multi-billion dollar pharmaceutical companies or poor, sick, elderly Americans who need prescription drugs? It is only fair to allow Medicare beneficiaries with their considerable buying power, to get the same discount on their drugs as large corporations.

In addition to allowing seniors to purchase drugs at this reduced rate, another solution to providing lower-cost drugs for all Americans, including the elderly, is to reinstate the reasonable pricing clause at NIH. This provision was repealed in 1995. It directed NIH to take into account the cost that a pharmaceutical company would charge future customers for a drug before agreeing to issue a cooperative research and development agreement (CRADA). I have introduced bipartisan legislation, along with Representatives ROHRBACHER, CAMPBELL, and PATRICK KENNEDY, to reinstate this provision. The bill is H.R. 3758, the Health Care Research and Development and Taxpayer Protection Act.

Let me detail how important the reasonable pricing clause is. Today, drug companies charge whatever they want for drugs. Taxpayers get hit twice—once when their tax dol-

lars go to develop these drugs at NIH and again when they have to buy the medication.

Here are some examples of how the taxpayers are gouged by the pharmaceutical companies: Taxol, a breast cancer treatment drug, costs its manufacturer, Bristol Myers Squibb, \$500. Bristol Myers Squibb turns around and charges \$10,000 for that drug. This drug makes the pharmaceutical company \$1 million every day. In this decade, two million women will be diagnosed with breast cancer—1/2 million of them will die. They are dying because they do not have \$10,000 for Taxol, which would save thousands of lives. Levamisole, which was sold by Johnson&Johnson as an anti-worm drug for sheep at six cents a pill, was found to treat colon cancer. With this discovery, Johnson&Johnson began charging \$6 a pill, a 100-percent markup. Colorectal cancer killed over 50,000 Americans in 1995. Again, seniors are dying because they cannot afford these ridiculously expensive drugs to treat their cancer.

I hope that we can pass both pieces of legislation quickly—both the seniors drug pricing legislation and the NIH reasonable pricing clause legislation—as many of my constituents have urged, so that no more seniors are forced out of their homes, or are forced to choose between food or medicine. This is disgraceful and we need to give seniors access to their medication at a fair price.

PRESCRIPTION DRUG PRICING

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1998

Mr. TIERNEY. Mr. Speaker, and I would first like to thank my good friend from Maine, Tom Allen, for his work to end the gouging of prices for prescription drugs by pharmaceutical companies.

We have heard horror stories about seniors forgoing food, electricity or other necessities in order to pay for their monthly medications. In some instances, seniors will choose one medication of the other, alternating each month, because they simply cannot afford to be buying everything they need. We have seen the profits of pharmaceutical companies skyrocket to nearly \$20 billion a year. And there profits will continue to grow, at the expense of our nation's seniors. It is time to end this cycle of discrimination.

In Massachusetts, we are fortunate to have a number of safety nets in place to help seniors with their prescription drug needs. Our state Medicaid system, MassHealth, protects the poorest of the poor. Our State Pharmacy Program provides up to \$750 a year in prescription drug coverage. The State Legislature even passed a law in 1994 to require all Medicare HMO's to provide an optional prescription drug benefit. Approximately 75 percent of the 211,000 beneficiaries in the state enrolled in Medicare HMO's benefit from this option.

However, there are many who fall through the cracks and for reasons beyond their control, are not eligible for any federal or state assistance.

For example, Georgia LaPine from North Andover, MA is a 74 year old retiree who is completely dependant on her monthly Social Security check. She is on numerous medications, including three different asthma inhalers,