

# ISSUE BRIEF

## Prescription Drugs

**Escalating prescription drug costs are unsustainable.** Double-digit increases in prescription drug costs are forcing consumers to choose between medications and other essentials, threatening employer-sponsored coverage and draining state budgets. Congress must rein in the rapidly rising cost of prescription drugs, beginning with legislation that would close loopholes in drug patent laws that keep generic drugs from coming to market and prevent true price competition.

Last year, the Senate approved—with overwhelming bipartisan support—S. 812, the Greater Access to Affordable Pharmaceuticals Act, which would close loopholes that skirt the intent of the Hatch-Waxman Act and keep generic drugs from coming to market. However, the House failed to act on similar legislation before recessing for the November elections. In late October, the Bush administration announced plans to issue new Food and Drug Administration (FDA) regulations regarding generic drug approval, but they will fall far short of the reasonable and effective reforms included in S. 812.

**A key driver of overall health care cost hikes in recent years is prescription drugs.** Authors Katherine Levit, Cynthia Smith and Cathy Lorrain et al., have shown that drug costs have grown at more than twice the rate of other aspects of health care spending (such as physician and clinical services). In addition, a Families USA study found the prices of the 50 most prescribed drugs for seniors rose, on average, by nearly three times the rate of inflation in 2001.

**Consumers overwhelmingly want—and can benefit significantly from—greater availability of generic drugs.** A survey conducted by AARP, RxHealthValue and the Coalition of Competitive Pharmaceutical Market in 2002 found 84 percent of Americans age 45 and older said generic drugs are an important part of controlling rising drug costs; two-thirds said they favor legislation to close loopholes in drug patent laws. The same survey found one-quarter of respondents said they have not been able to afford a prescribed medicine when there was no generic drug available. These survey respondents' experiences and views are supported by the data on drug prices. The Families USA study of the 50 most prescribed drugs for seniors found brand-name drug costs rose four-and-one-half times faster than the rate of price increases for generic drugs (8.1 percent versus 1.8 percent).

**Congress must return to the generic drug legislation that passed the Senate last year.** Congress must not defer legislative action in anticipation of FDA regulations that would be considerably weaker and only partially address the problem. The Senate must once again pass the Greater Access to Affordable Pharmaceuticals Act—and the House must follow with its own bill. Consumers, businesses and states all need an effective remedy to rising drug prices. In addition, Congress must consider other more aggressive measures to rein in drug costs, some of which passed the Senate last year. Congress should enact legislation that authorizes the re-importation of prescription drugs from Canada, where they sell for a fraction of the cost charged to U.S. customers; give states the authority to use the buying power of their Medicaid programs to leverage better prices from drug companies; and tie the prices of prescription drugs to prices in other industrialized countries.

**Enacting effective drug cost containment will also make a long overdue prescription drug benefit more affordable.** Medicare must be updated to include coverage for outpatient prescription

drugs. Since Medicare was started more than 35 years ago, many illnesses that were once only treatable in a hospital now can be effectively treated with prescription drugs, yet four in 10 beneficiaries lack drug coverage. Adding a drug benefit to the program makes it current with health care today. Congress must craft a drug benefit that provides a guaranteed, comprehensive benefit with a low premium and coverage of the vast majority of drug costs. In addition, any new drug benefit must recognize the contribution of employer-provided drug coverage, which is the primary source of prescription drug coverage for Medicare beneficiaries, assisting nearly three in 10 seniors with their drug costs, according to the Kaiser Family Foundation.