



June 7, 2024

Senator Ron Wyden
221 Dirksen Senate Office Bldg.
Washington, DC 20510

Senator Mike Crapo
239 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Wyden and Ranking Member Crapo,

On behalf of the nation's Medicaid Directors, the National Association of Medicaid Directors (NAMD) is writing in response to [your draft legislation on generic drug shortages](#). The draft legislation would exempt most generic drugs from the Medicaid Drug Rebate Program's inflationary rebates. **NAMD has serious concerns that the legislation, as written, would weaken the Medicaid Drug Rebate Program, impact the fiscal stability of Medicaid programs, and fail to address the root causes of generic drug shortages.**

NAMD is a professional community of state and territory leaders who provide health insurance to more than 84 million individuals and families through Medicaid and the Children's Health Insurance Program in each of the 50 states, the District of Columbia and the U.S. territories. NAMD elevates thought leadership on core and emerging policy matters, amplifies the experience and expertise of Medicaid and CHIP directors, supports state programs in continuous improvement and innovation, and optimizes federal-state partnerships to help millions live their healthiest lives.

Medicaid Directors report serious concerns over the increasing costs of prescription drugs. In fiscal year 2021, Medicaid programs spent [\\$38.1 billion on outpatient prescription drugs](#) – a 45 percent increase since 2018. This trend is [projected to accelerate](#) as new high-cost cell and gene therapies enter the market.

The Medicaid Drug Rebate Program (MDRP) has been highly effective at lowering state and federal expenditures on prescription drugs. According to the Medicaid and CHIP Payment and Access Commission (MACPAC), [rebates lowered gross federal and state Medicaid spending](#) on prescription drugs by approximately 53 percent in fiscal year 2021. The inflationary rebate is an important aspect of the MDRP, [significantly increasing total rebates](#) for both brand name and generic drugs in fiscal year 2021. Importantly, the inflationary rebate also protects Medicaid agencies from "price spikes" by [automatically increasing rebate amounts](#) when drug prices rise faster than inflation.

NAMD is concerned that the Senate Finance Committee's draft legislation would undercut the MDRP and make Medicaid agencies vulnerable to generic drug price spikes, [a perspective that is shared by academic experts](#). As written, the legislation would exclude all generic drugs that are not single source ([approximately 70 percent of generic drugs in 2017](#)) from inflationary rebates. Although the draft legislation references increasing the basic rebate for generic drugs to "keep the Medicaid program whole," the legislation would likely [make Medicaid agencies vulnerable to price spikes](#). This would reduce budget predictability for Medicaid agencies, undercutting the fiscal stability of the program.

If there were a clear causal association between the MDRP's inflationary rebates and generic drug shortages, this may be a worthy tradeoff. However, [in their 2019 report on drug shortages](#), the Food and Drug Administration (FDA) could not find evidence supporting an association between inflationary rebates and generic drug shortages. Instead, the FDA pointed to intense price competition for generic drugs, contracting practices, quality management issues among manufacturers, and supply chain challenges as root causes of drug shortages.

The MDRP has been extremely effective at lowering state and federal Medicaid spending on prescription drugs. Inflationary rebates are an important component of the MDRP and protect Medicaid programs from price spikes. NAMD urges the Senate Finance Committee to protect the fiscal stability of Medicaid agencies by **not** excluding most generic drugs from these inflationary rebates.

We appreciate the opportunity to provide comment on the Senate Finance Committee's draft legislation. Please reach out to [Jack Rollins](#), NAMD's Director of Federal Policy, with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kate McEvoy', with a stylized flourish at the end.

Kate McEvoy, Esq.
NAMD Executive Director