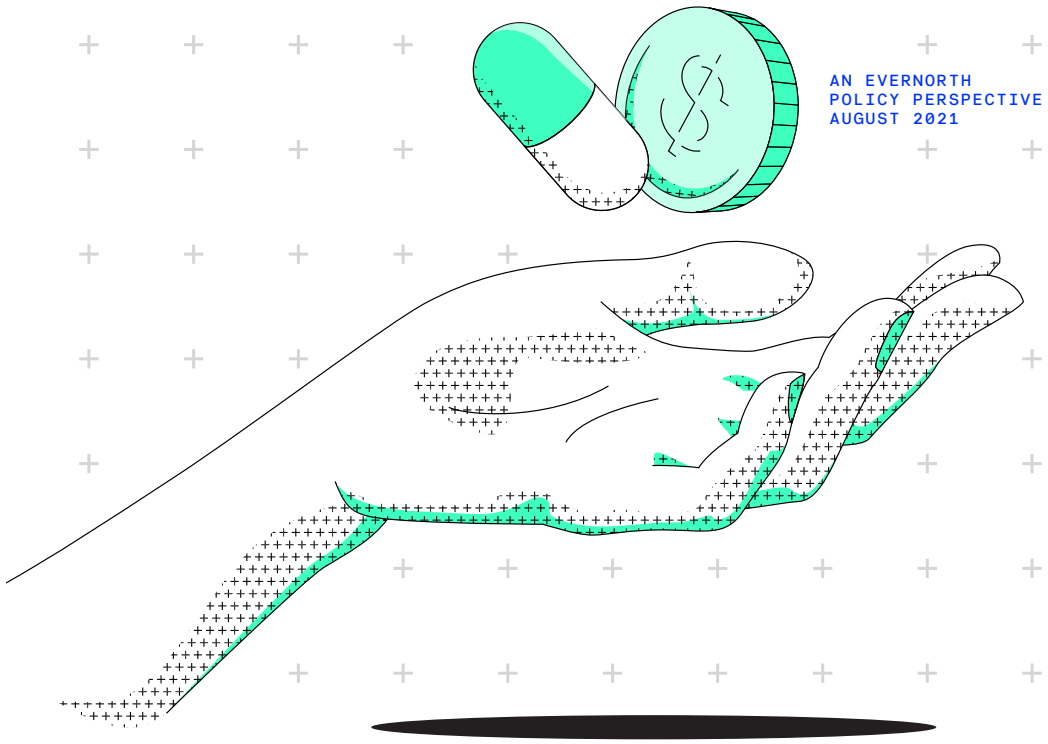
EMPLOYER GROUP WAIVER PLANS (EGWPs)
ARE AT RISK

HELP RETIREES KEEP THEIR COVERAGE



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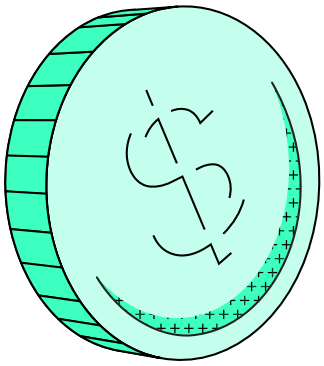
PROTECT HIGH-QUALITY, AFFORDABLE MEDICARE COVERAGE



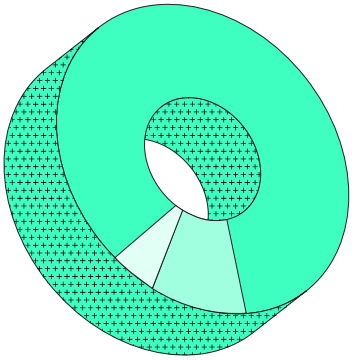
Drug pricing reforms currently under consideration will have unintended consequences—threatening EGWPs in Part D and creating a windfall for drug manufacturers

Many employers and unions provide Medicare Part D coverage to eligible retirees through dedicated plans known as Employer Group Waiver Plans (EGWPs). EGWPs offer tremendous value to retirees, employers, retirement systems and unions—as well as to Medicare—by improving access and affordability for patients at a low cost to the federal government. These plans must provide benefits that are at least the same as those offered by other Medicare plans. In addition, they provide flexibilities that allow coverage customized to support each employer's retiree benefit commitments.

As policymakers focus on lowering drug prices and reforming the Part D program, many of the reforms under consideration will have unintended consequences that both threaten EGWPs in Part D and create a windfall for drug manufacturers.

What to know about EGWPs

Under the Part D program, Medicare beneficiaries can purchase prescription drug coverage offered by private health or prescription drug plans in their area. Employers, retirement systems and unions can also provide Medicare Advantage and Part D coverage to their Medicare-eligible retirees through dedicated plans known as Employer Group Waiver Plans (EGWPs).



There are currently 7.4M retirees enrolled in EGWPs, representing 15% of the nearly 49M Part D beneficiaries

Since the enactment of the Affordable Care Act (ACA), more employers have been offering drug benefits to retirees through EGWPs, largely due to the ACA's creation of the Coverage Gap Discount Program (CGDP) and the elimination of the tax deduction for employers receiving the Retiree Drug Subsidy (RDS).

Prior to the passage of the ACA, employers were able to deduct the subsidies reimbursed by the federal government through the RDS program from their taxable incomes. However, starting in 2013, plan sponsors were no longer permitted to deduct health benefit costs reimbursed by the RDS program, eliminating its once tax-free status and making EGWPs more desirable to retiree benefit providers. In addition, under Governmental Accounting Standards Board accounting, future subsidies cannot be used to offset liabilities for future benefits. As such, the RDS program does not impact liability and, therefore, does not allow for state and local governments to recognize the value of these subsidies in the Other Post-Employment Benefits (OPEB) actuarial funding calculations. For example, Teachers' Retirement System of the State of Kentucky has been able to reduce their OPEB liability by $1.9 billion due to enrolling retirees in EGWPs for Part D and Medicare Advantage.

The elimination of the tax-favored treatment of the RDS plan, combined with the increase in manufacturer contribution through the CGDP, made EGWPs a more attractive option for many employers, retirement systems and trusts. As a result, the number of enrollees in RDS plans has declined considerably, from 6.8M in 2010 to 1.4M in 2019, while enrollment in EGWPs has increased from 2.4M to 7M over the same period.[1] There are currently 7.4M retirees enrolled in EGWPs, representing 15% of the nearly 49M Part D beneficiaries. The majority (4.5M) of EGWPs are stand-alone Prescription Drug Plans (PDP), while 2.8M are Medicare Advantage Prescription Drug (MA-PD) plans. California, New York, Michigan, Texas and Pennsylvania are the top five states for employer retiree coverage, representing 40% of total EGWP enrollment.[2]

Many of the 7.4M EGWP enrollees are retirees from state and local governments, including first responders, teachers and other public workers. In addition, many labor unions have fought for better retiree health benefits—including EGWP drug coverage—through collective bargaining with employers. For all of these retirees, EGWPs provide health and retirement security that has been well-earned through a lifetime of hard work and service to our communities.

Why EGWPs are worth protecting

EGWPs are granted flexibilities from the Centers for Medicare & Medicaid Services (CMS) that allow them to offer benefits that maintain a level of coverage specified by commitments to retirees. As these flexibilities are paid for by the employer/retirement system as a life-long retirement benefit, they enable employers to pay for drug benefits that are much more comprehensive and cost-effective for their retirees.

Lower out-of-pocket (OOP) costs help EGWPs receive greater contributions from drug manufacturers—through the Coverage Gap Discount Program—and reduce costs in the Part D catastrophic benefit phase.

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Employers pay for drug benefits that are much more comprehensive and cost-effective for their retirees

Enhanced Drug Benefits: While EGWPs must meet the same standard for actuarial value as other Part D plans, employers have more flexibility to enhance the standard Part D benefit cost sharing in different phases of the benefit. This buy-up, which is funded by the employer, retirement system or union, builds upon the standard Part D benefit and is sometimes known as an "Employer Wrap."

In practice, EGWP coverage is far more robust than what is offered by other Part D plans. Though there is a lot of variation across employers, EGWPs typically have lower or no deductibles and charge enrollees fixed copayments for their prescriptions (see Member Cost Sharing in Table 1). In addition, they typically offer broader formularies and allow enrollees better access to medicines. As an example, 92% of Express Scripts EGWP members are in an open formulary. And 98% of the Express Scripts EGWPs have an enhanced formulary and cover non-Part D drugs.

Higher Discounts from Manufacturers: Part D beneficiaries move through the coverage gap and into the catastrophic coverage phase based on their true out-of-pocket (TrOOP) costs. TrOOP costs include both the OOP costs paid by the enrollee and the discounts paid by drug manufacturers in the coverage gap. Since EGWP enrollees have lower OOP costs, they move through the Part D benefit phases more slowly than other beneficiaries—even if the cost of the drug is the same. Lower OOP costs for EGWP enrollees prolongs the time they spend in the coverage gap compared to non-EGWP enrollees. For this reason, drug manufacturers pay more coverage gap discounts to EGWPs than other Part D plans (see Table 1), which EGWPs reinvest to offset the costs of the more generous coverage or higher premiums.

TABLE 1:

Stakeholder costs for hypothetical patient taking a $1,000-a-month brand drug, Standard Plan vs. EGWP, 2021

STANDARD PLAN	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
Manufacturer Discount	$0	$0	$0	$0	$0	$609	$700	$700	$700	$411	$0	$0	**$3,820**
Member Cost Sharing	$584	$250	$250	$250	$250	$250	$250	$250	$250	$167	$50	$50	**$2,851**
Plan Liability	$416	$750	$750	$750	$141	$50	$50	$50	$50	$91	$150	$150	**$3,399**
Federal Reinsurance	$0	$0	$0	$0	$0	$0	$0	$0	$0	$331	$800	$800	**$1,931**

EGWP	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
Manufacturer Discount	$0	$0	$0	$0	$609	$700	$700	$700	$700	$700	$700	$700	**$5,509**
Member Cost Sharing	$50	$50	$50	$50	$50	$50	$50	$50	$50	$50	$50	$50	**$600**
Plan Liability	$750	$750	$750	$750	$141	$50	$50	$50	$50	$50	$50	$50	**$3,491**
Employer Wrap	$200	$200	$200	$200	$200	$200	$200	$200	$200	$200	$200	$200	**$2,400**
Federal Reinsurance	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	**$0**

Assumes standard benefit design for Standard Plan and no deductible and $50 brand copayment for EGWP.

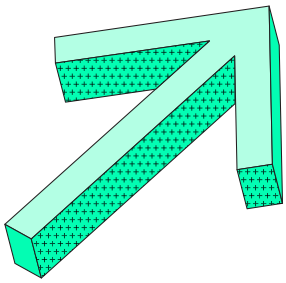
Plan Liability and Employer Wrap are both paid for by the employer.

If EGWP providers cease offering coverage to retirees, it is estimated to increase annual federal reinsurance liabilities by $2.5B to $3B

Improved Employer, Retirement System and Union Finances: Medicare subsidies (through the direct subsidy and reinsurance payments) combined with coverage gap discounts discounts allow employers to maximize their resources through EGWPs versus other retiree drug coverage options such as RDS. If these subsidies and discounts diminish, employers, retirement systems and unions would need to find other funds to meet their obligations to their workers or reduce their benefits. The alternative is placing all EGWP beneficiaries on the individual Part D open market. This would greatly increase Medicare's liability during the reinsurance phase (see Table 1). If EGWP providers cease offering coverage to retirees, it is estimated to increase annual federal reinsurance liabilities by $2.5B to $3B.[3]

Signficant Value for Medicare: EGWP enrollees have lower OOP costs, which result in fewer EGWP beneficiaries reaching the catastrophic phase of the benefit where Medicare pays 80% of drug costs. In a March 2020 report, MedPAC cited that only 5% of EGWP enrollees reached the catastrophic phase compared to almost twice the share of non-EGWP enrollees.[4] Also, the comprehensive drug coverage offered by EGWPs can improve access to prescription drugs, thereby increasing medication adherence. Successful adherence to medications can improve health outcomes and lead to lower medical costs, which may decrease Medicare spending on services covered by Parts A and B.[5]

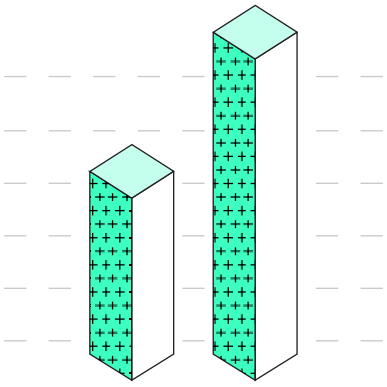
PROPOSED CHANGES THREATEN EGWPs—BUT IT'S NOT TOO LATE



Several independent analyses found the Rebate Rule would raise federal spending and increase seniors' premiums by as much as 25-40%

Policymakers are currently considering several changes to Medicare Part D that would have a substantial impact on the ability of employers to continue to offer high-quality drug coverage through EGWPs. Proposals to redesign the Part D benefit have been put forth by bipartisan, bicameral leaders in Congress aimed at reducing OOP costs for a subset of seniors who reach the catastrophic phase and decrease Medicare's spending on reinsurance. While these are worthy goals, the problems of high OOP costs and large reinsurance payments do not exist in the EGWP market, so policymakers should be careful to avoid creating disruption.

In addition, the final Rebate Rule from the previous Administration, set to take effect in 2023, will result in higher costs for patients, taxpayers and plan sponsors.[6] In fact, several independent analyses, including one by the Congressional Budget Office[7] (CBO) and by CMS' own actuaries,[8] found the Rebate Rule would raise federal spending and increase seniors' premiums by as much as 25-40%, while providing only limited relief on OOP costs for select beneficiaries. Because patients in EGWPs almost always pay fixed copayments that are not based on the price of the drug, the Rebate Rule will increase premiums for employers and unions without reducing drug list prices at all.



Many EGWPs would not benefit from the proposed changes to the Medicare Part D program

Current Part D Redesign Proposals

One Senate proposal, the Prescription Drug Price Reduction Act (PDPRA), and two House proposals, the Elijah E. Cummings Lower Drug Costs Now Act (H.R. 3) and the Lower Costs, More Cures Act (H.R. 19), would completely reform the Part D benefit. While there are many differences, key elements are similar across these proposals: 1) patient OOP costs would be capped at the catastrophic threshold, 2) the manufacturer coverage gap discounts would be replaced by a new discount program both above and below the catastrophic phase, and 3) government reinsurance costs would be shifted predominantly onto plans. For all proposals, only OOP costs (not manufacturer discounts) would count towards a patient's OOP cap and manufacturer discounts would be higher above the cap than below it.

Many of these reforms to standard Part D plans are intended to address rising drug costs for both beneficiaries and the federal government. However, very few EGWP beneficiaries will experience those benefits, as the reforms are attempting to correct problems not applicable in the EGWP market. In fact, both proposals cause the drug benefits that workers have fought for to be in jeopardy. Due to their employer subsidies, very few EGWP beneficiaries have high-enough OOP costs to enter the newly proposed catastrophic phase, where their plan could access higher discounts and federal reinsurance. That means that many EGWPs would not benefit from the proposed changes to the manufacturers' discount. In fact, the discount paid by manufacturers for retirees enrolled in EGWPs will be substantially lower than what is paid today. If policymakers hope to increase manufacturers' liability in the Part D program to disincentivize high prices, applying these reforms to impact EGWPs will have the opposite result.

Given this financial reality, employers, unions and state and local governments will be forced to make difficult decisions, either shouldering sharp premium hikes, increasing OOP costs for patients, or not offering drug coverage for their retirees at all and placing them on the individual Part D open market where more costs will shift to the federal government.

Congress can reform Part D and still retain the value of EGWPs

Reforms are essential to keep drug prices affordable and to protect patients from high OOP costs. However, Part D reforms must also protect the EGWP drug benefits that millions of retirees depend on. Recognizing that applying a separate set of rules for EGWPs may not be administratively feasible nor efficient, we propose a solution (on the following page) that policymakers can incorporate into current Part D redesign proposals to protect EGWP beneficiaries and plan sponsors.

This change would result in the least amount of disruption for retirees by making it easier for EGWPs to maintain their current coverage

Treat EGWPs as defined standard plans with respect to catastrophic coverage

Today, EGWP sponsors follow the rules that apply for defined standard benefit plans, regardless of the benefit structure of the Other Health Insurance benefit. To avoid penalizing employers, retirement systems and unions for honoring their commitments to retirees and paying for more valuable coverage, we propose a technical fix to Part D redesign proposals. For EGWPs only, allow the cost-sharing amount dictated under the standard benefit design to count towards the beneficiary's OOP cap. This would be similar to how manufacturer discounts are calculated, based off the defined standard benefits for EGWPs today—easing any challenges CMS may have in implementing this change.

Another way to think about this recommendation is to leverage the total gross spend accumulator, which will be determined as part of the new defined standard spend amount, for entry into the catastrophic stage. This change would result in the least amount of disruption for retirees by making it easier for EGWPs to maintain their current coverage, preventing drug manufacturers from paying lower manufacturer discounts, and maintaining the ability to have EGWPs operate as a "wrap" while still achieving policymakers' goals of Part D benefit redesign proposals.

As shown in Table 2 and Figure 1, counting only the employee contribution based on the defined standard would lower the members' copay while maintaining program stability.

TABLE 2:

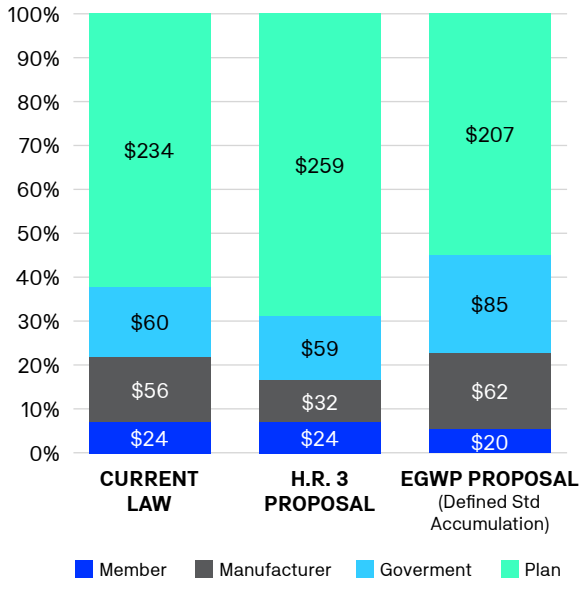
Estimated stakeholder costs for plan* under three policy options, 2022 PMPM

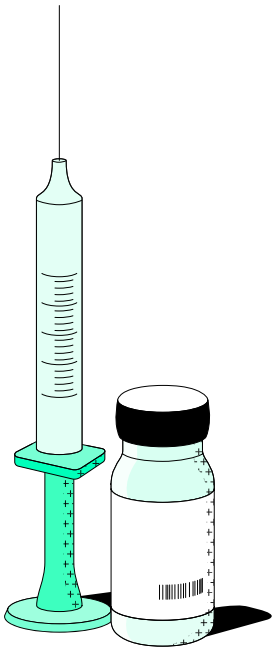
	CURRENT LAW	H.R. 3 PROPOSAL	EGWP PROPOSAL (Defined Std Accumulation)
Drug Cost	**$374**	**$374**	**$374**
Member Cost Sharing	$24	$24	$20
Manufacturer Discount	$56	$32	$62
Federal Reinsurance	$60	$1	$27
Net Claim Cost	**$234**	**$317**	**$265**
CMS Direct Subsidy	$0	$58	$58
Plan Liability	**$234**	**$259**	**$207**

* Three-tier copay plan ($5/$20/$50)

FIGURE 1:

Contribution by stakeholder





Eliminating the use of rebates in Part D creates winners and losers among seniors and would be especially harmful for EGWPs

We strongly encourage the Administration or Congress to repeal the Rebate Rule

In 2020, the Trump Administration finalized the Rebate Rule, which eliminates the safe harbor for rebates from drug manufacturers to Part D plan sponsors, thus requiring that all discounts from manufacturers be offered to the patient at the point-of-sale. Eliminating the use of rebates in Part D creates winners and losers among seniors and would be especially harmful for EGWPs.

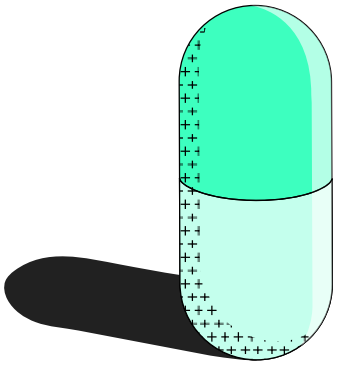
Harmful Effects of the Rebate Rule

+ **Higher premiums for retirees.** As noted earlier, several independent analyses found that the Rebate Rule would increase seniors' premiums by as much as 25-40%. Employers, retirement systems and unions, which subsidize EGWP premiums, would feel the brunt of a premium hike, making retiree drug coverage less affordable to provide. For states and local governments, it would reduce OPEB actuarial savings.

+ **Profits for drug manufacturers.** Pharmaceutical manufacturers benefit the most from the Rebate Rule. Independent analysts show that point-of-sale discounts would be lower than manufacturer rebates, allowing drug manufacturers to realize billions in revenue currently used to subsidize EGWPs. Also, the Rebate Rule would decrease the total amount of CGDP discounts paid by manufacturers in Part D.[9]

+ **Higher costs for the federal government.** CMS and CBO agree the Rebate Rule would cost the government substantially, resulting in almost $200 billion in higher federal spending over the next decade.[10]

+ **Little gain for EGWP beneficiaries.** While some beneficiaries may pay less if their prescriptions carry rebates (such as during the deductible phase) or if their cost-sharing is based on co-insurance rather than copays, the majority of beneficiaries would not.[11] Retirees in EGWPs typically pay fixed copayments for their prescriptions, so these beneficiaries would gain little from the Rebate Rule. For example, 80% of Express Scripts EGWPs have a flat copay for preferred brand drugs.



The proposals currently under consideration would make it harder, not easier, for employers and unions to continue providing comprehensive drug coverage

Bottom Line: Policymakers can reform *and* protect

Despite skyrocketing drug prices, EGWPs in Part D have made drugs affordable for beneficiaries—and coverage affordable for the government, employers and unions. While drug pricing reform is essential, the proposals currently under consideration would make it harder, not easier, for employers and unions to continue providing comprehensive drug coverage for their retirees. Thankfully, by considering the policy options described above, policymakers can do both—enact meaningful reforms and protect employer drug benefits for millions of retirees covered under EGWPs.

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