



# Tackling Drug Costs

## A 100 Day Roadmap

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with Tim Horn

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on behalf of the

**F**AIR **P**RICING **C**OALITION

# About the Fair Pricing Coalition

The Fair Pricing Coalition, founded by the late Martin Delaney of Project Inform, is a national coalition of activists and policy leaders who work on HIV and viral hepatitis drug pricing issues, and to help control drug costs for patients who are privately insured, underinsured and uninsured. The Fair Pricing Coalition also works to ensure access for individuals covered by state AIDS Drug Assistance Programs (ADAPs), Medicare, and Medicaid. For more information about the Fair Pricing Coalition and its history, visit: [www.fairpricingcoalition.org](http://www.fairpricingcoalition.org).

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# Executive Summary

Drug prices are too high. Record price increases stretch household and government budgets, and Americans are outraged. Net spending on drugs and biologics grew 8.5% in 2015 to \$310 billion.<sup>1</sup> Those increases hurt Americans' health – in 2015, 24% of Americans reported that affording their prescription medicine was difficult; nearly a quarter reported that they or a family member had not filled a prescription, skipped a dose, or cut dosing in half because of the cost.<sup>2</sup> Swift executive and legislative action is needed, and this report outlines a clear, achievable path to address drug prices in the Administration's first 100 days.

There is increasing bipartisan support for cost controls and a groundswell of consumer-based advocacy for novel, forward-thinking regulations. While radical ideas abound, prices can be dramatically lowered through tailored adjustments to existing regulatory programs. Cost control regulations and statutes already exist. Federal legislation, however, has not maintained pace with drug manufacturers' tactics to circumvent these measures. With this report, the Fair Pricing Coalition provides a roadmap to promptly modernize and strengthen existing regulations and statutes for controlling drug costs, drawing on existing authority and concrete legislative actions under four pathways: **Fix the Formulas, Enhance Existing Penalties, Pool Purchasing Power, and Pull Back the Curtain.**

The comprehensive but achievable reforms proposed here will:

- **Fix the Formulas:** Modernize and strengthen current ceiling price formulas to ensure that government payers are not paying more than commercial payers;
- **Enhance Existing Penalties:** Remove inflation penalty caps, increase penalties on drugs with the most egregious price hikes, and apply penalties to new drugs with launch prices far in excess of top sellers in the same class;
- **Pool Purchasing Power:** Increase inter- and intra-agency collaboration to consolidate Federal and State negotiating power; and
- **Pull Back the Curtain:** Buttress existing transparency tools while studying the effects of additional manufacturer price and payer cost disclosures.

The Administration and 115<sup>th</sup> Congress must prioritize swift and meaningful action against runaway drug pricing. This report is a roadmap of reforms that can feasibly be implemented through existing authority and new legislation in the first 100 days of the Administration, highlighting areas for immediate action and providing model legislation. Pharmaceutical manufacturers are steadfast in their determination to keep prices high, with plans to spend “hundreds of millions of dollars” to fight any new price control measures,<sup>3</sup> but the American people demand action.

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<sup>1</sup> IMS Health, “Medicines Use and Spending in the U.S.: A Review of 2015 and Outlook to 2020,” April 2016, Page 6, available at: <http://www.imshealth.com/en/thought-leadership/quintilesims-institute/reports/medicines-use-and-spending-in-the-us-a-review-of-2015-and-outlook-to-2020>.

<sup>2</sup> DiJulio B, Firth J, Brodie M, “Kaiser Health Tracking poll: August 2015,” Henry J. Kaiser Family Foundation, Aug. 20, 2015, available at: <http://kff.org/health-costs/poll-finding/kaiser-health-tracking-poll-august-2015/>.

<sup>3</sup> Karlin-Smith, Sarah, “Drug lobby plans counterattack on prices,” Politico, Aug. 4, 2016, available at: <http://www.politico.com/story/2016/08/drug-lobby-gears-up-for-massive-pr-campaign-226646>; Karlin-Smith, Sarah, Palmer, Anna, “Drug lobby adds \$100M to war chest ahead of pricing battle,” Politico, Oct. 25, 2016, available at: <http://www.politico.com/story/2016/10/phrma-lobby-pricing-battle-230277#ixzz4OrpD1ZJa>.

# The First 100 Days

## A Roadmap for Action

### Fix the Formulas

Include all commercial discounts in Average Sales Price through existing administrative authority

Include all commercial discounts in Average Manufacturer Price and non-Federal Average Manufacturer Price through legislation

Ensure the government pays no more than the lowest commercial price while protecting additional discounts to safety net programs through legislation

### Enhance Existing Penalties

Remove the cap on Medicaid inflation penalties through legislation

Double and triple the Medicaid inflation penalty for egregious price increases through legislation

Extend inflation penalties to new drugs with prices that drastically exceed average prices for widely-used drugs in their class through legislation

### Pool Purchasing Power

Establish a coordinated national Medicaid negotiating pool while continuing to allow states to negotiate on their own through existing authority or legislation

Expand existing inter- and intra-agency negotiations through existing authority

### Pull Back the Curtain

Strengthen existing transparency tools by modernizing price reporting formulas through existing authority and legislation

Require manufacturer disclosure of detailed drug development costs, marketing costs, and executive compensation for egregious price increases through legislation

Study whether additional transparency, such as public and private payer discount and rebate amounts, will reduce costs or lead to anti-competitive price fixing

Study the relationship between drug development costs and prices