Gallagher

Compliance Directions

Taking Advantage of Direct-to-Consumer Prescription Drug Purchasing Programs

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In the fall of 2025, the Trump administration announced TrumpRx, and the Pharmaceutical Research and Manufacturers of America (PhRMA) announced AmericasMedicine.com – two websites that are live, but not yet fully operational, to provide navigation services to American consumers to purchase prescription medications via drug manufacturers' websites at substantially reduced costs, often referred to as direct-to-consumer (DTC) purchasing programs.

Below we discuss DTC programs and the possible ways employers can support employees who are interested in purchasing brand name drugs from them.

The Programs

TrumpRx

TrumpRx is a government website through which consumers can purchase prescription drugs from manufacturers that have agreed to Most Favored Nation (MFN) pricing for their brand name drugs. Under the MFN pricing model, the Department of Health and Human Services (HHS) will set prices for the accessible drugs to the lowest amount for a brand name drug without a generic or biosimilar alternative among the members of the Organization for Economic Cooperation and Development (OECD)[1] with a gross domestic product (GDP) of at least 60% of the United States' GDP. On some drugs, it has been reported that this can result in discounts from current pricing of as much as 85%. As of the first week of January, the administration had secured agreements with at least nine drug manufacturers to sell their drugs on TrumpRx.

It's currently unclear whether the federal government will limit access to TrumpRx to enrollees in public health programs under the Department of Health and Human Services' (HHS) authority (Medicare, Medicaid, and the Children's Health Insurance Program (CHIP)) or if access will be granted to all consumers, including enrollees in employer-sponsored private health plans.

[1] The OECD current members are Australia, Austria, Belgium, Canada, Chile, Colombia, Costa Rica, Czechia, Denmark, Estonia, Germany, Finland, France, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Slovenia, Slovakia, South Korea, Spain, Sweden, Switzerland, Turkey, the UK and the USA.

AmericasMedicines

The Executive Order that initiated the work on TrumpRx also called for HHS to facilitate DTC programs for pharmaceutical manufacturers to sell prescription drugs directly to U.S. consumers. The same day as the TrumpRx announcement, PhRMA announced its new website – AmericasMedicines.

PhRMA's website will operate as a navigation website to help consumers purchase drugs at MFN prices from drug manufacturer websites and will be available to all U.S. consumers. Thus, even if TrumpRx is limited to public health enrollees, AmericasMedicines will be available to everyone else.

Other Programs

There are other websites out there, including Mark Cuban's Cost Plus Drugs and Amazon Pharmacy, which can work with or without insurance. It should be noted that the Trump administration has partnered with Cost Plus to pull real time prescription drug pricing data for use in TrumpRx.

American consumers can also choose to go direct to manufacturers' websites for the prescription drugs, which are often marked down considerably from prices through pharmacy benefit managers (PBMs), the middlemen in the crosshairs with these programs.

Opportunities

Any employer-sponsored benefit that allows participants to access DTC programs will be considered employer-provided medical care. In general, there are two primary paths to accessing DTC programs – through integration with an EAP, telemedicine program, wellness benefit, or general purpose health reimbursement arrangements (HRAs) or without integration with excepted benefit HRAs or EHBRAs.

Integration: Carve-Outs, EAPs, Telemedicine, Wellness, and HRAs

Vendors may approach employers with various ideas, with the most popular being – an employee assistance program (EAP), wellness program, or telemedicine program that provides access to a subset of drugs (e.g., mental health, weight loss, hormone replacement therapy). These programs are subject to various federal mandates and the only way to comply with those mandates is to ensure that such a program is integrated with the major medical program by limiting participation to medical plan enrollees.

Any employer-sponsored benefit that pays for or reimburses the cost of prescription drugs purchased through DTC programs (whether through an EAP, telemedicine, or wellness program) is providing medical care and is treated as a group health plan. Because of the limited nature of the benefit, these programs most likely cannot be offered on a standalone basis[2] because the benefits are not designed to comply with the various federal mandates employers are required to comply with in conjunction with their group health benefits (e.g., the Patient Protection and Affordable Care Act (ACA)). Thus, any benefit paying or reimbursing costs from a DTC program should be limited to medical plan enrollees.

This is also true if an employer utilizes a general purpose HRA to support access to DTC programs. Current rules allow employers to integrate a general purpose HRA with their own health plan or with another group health plan (e.g., the spouse's health plan). Thus, as long as an individual purports to be enrolled in an employer-sponsored group health plan, the general purpose HRA can provide reimbursements for that individual's medical expenses.

The only way around the integration rule to access the DTC programs is through an EBHRA.

No Integration: EBHRAs

EBHRAs are currently the only benefit that can reimburse the cost of medical care, including prescription drugs, to individuals not enrolled in a group health plan. EBHRA enrollees must be eligible for the employer's major medical plan but are not required to enroll.

Employers are limited to $2,200 in EBHRA reimbursements per employee in 2026 (indexed). Employer contributions made available under other account-based plans are counted toward the EBHRA maximum unless those account-based plans only reimburse excepted benefits. For example, most health FSAs are designed to be excepted benefits and employer contributions toward those plans would not count against the EBHRA limit, but employer contributions toward a general purpose HRA would. Employer health savings accounts (HSAs) contributions would not count toward the EHBRA maximum.

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[2] EAPs that provide insignificant medical care may be considered excepted from group health plan status, but current available guidance illustrates that providing ongoing access to prescription drugs is not considered insignificant medical care, thus EAPs that provide ongoing access to prescription drugs is very likely a group health plan.

Otherwise, EHBRAs mimic general purpose HRAs in terms of 1) the benefit must be available to all similarly situated employees on the same terms and conditions, and 2) the EBHRA can reimburse any medical expense (as defined under IRC 213(d)), and 3) reimbursements are subject to substantiation requirements.

Risks

High Deductible Health Plans

Plan sponsors of high deductible health plans (HDHP) that are coupled with HSAs must meet minimum deductible and maximum out-of-pocket standards. To remain qualified, only telemedicine interactions and preventive care may be provided at no cost on a pre-deductible basis. “Preventive care” includes items and services defined under either the ACA preventive care mandate or the IRS HDHP guidance. The IRS guidance includes the following drugs (truncated list) if offered as preventive and not treatment for a condition:

- Tobacco cessation programs
- Weight-loss programs
- ACE inhibitors
- Anti-resorptive therapy
- Beta-blockers
- Inhaled corticosteroids
- Insulin and other glucose lowering agents
- SSRIs
- Statins

As such, if a plan sponsor of an HSA-qualified HDHP chooses to support employee access to DTC programs, whether through an integrated benefit or an EBHRA, the sponsor must ensure that any pre-deductible reimbursements are limited to ACA and IRS defined preventive care.

Contractual Terms

Almost all employer-sponsored group health plans contract with a PBM to provide access to prescription drugs. Through those contracts, some but not all, rebates for brand name drugs are paid back to the plan. To truly take advantage of the DTC programs, employers may want to carve out of the medical plan the prescription drugs available through the DTC programs. However, carving out brand name drugs from the major medical plan may result in unfavorable contractual terms, or may even result in the plan losing access to all brand name drug rebates. This may or may not increase plan costs.

Employer Action Steps

Plan sponsors can prepare for the upcoming DTC programs by:

- Saving the DTC website links to stay informed of any developments;
- Staying informed of the prescription drugs available through those programs;
- Analyzing the available opportunities and their corresponding compliance issues;
- Understanding the extra attention required for HSA-qualified HDHPs; and
- Understanding the contractual and financial impact any change may have with their PBM partner.

The intent of this article is to provide general information on employee benefit issues. It should not be construed as legal advice and, as with any interpretation of law, plan sponsors should seek proper legal advice for application of these rules to their plans.