The Daily Dish

HHS and the 340B Program

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The Office of Management and Budget (OMB) is expected to release a report today highlighting the progress the Trump Administration has made on regulatory modernization. The report will emphasize the deregulatory actions taken on 860 federal regulations. OMB's report will also show that the administration has been able to achieve $22 million in regulatory cost savings from agencies through the utilization of the Congressional Review Act.

Yesterday the Trump Administration confirmed that the federal government will make July's cost-sharing reduction (CSR) payments to Obamacare insurers. With insurers still unsure whether they will participate in the Obamacare markets in 2018 the White House has yet to state whether they will continue the CSR payments beyond this month.

Eakinomics: HHS and the 340B Program

Price controls for Medicaid drugs date to 1990, which witnessed the creation of the Medicaid Drug Rebate Program. It put a ceiling on the price of prescription drugs provided to Medicaid beneficiaries. It also created the Medicaid "best price" provision that required manufacturers to offer Medicaid the 'best price' offered to any other health insurance provider in exchange for the privilege of selling to Medicaid beneficiaries.

Best price created an unintended consequence. Until that time, a manufacturer could donate drugs ("price" equals zero) to health care facilities that served low-income individuals. Now, however, this would set the best price at zero. Charity donations plummeted. Congress reacted two years later and created the 340B program, which requires manufacturers to provide heavily discounted drugs to those hospitals that are treating low-income individuals in an outpatient setting.

Since that time, the 340B program has mushroomed out of control: the discounts are poorly targeted, often going to hospitals providing little charity care, and more and more drugs are distributed in this fashion. Of course, what is lost in steep 340B discounts must be made up elsewhere, so reforming 340B would be one way to make some modest headway against the high cost of prescription drugs.

This past Thursday, Health and Human Services (HHS) announced a reform to 340B to take on a part of this problem. As it turns out, it is possible for a hospital to acquire a drug via the 340B program — i.e., at a very steep discount that averages 22.5 percent — and use it to treat a Medicare beneficiary. When this happens, Medicare reimburses the hospital at the usual rate, which happens to be the average sales price plus 6 percent. So, hospitals can acquire at 22.5 percent below the sales price (on average) and get reimbursed at 6 percent above (on average). Great work if you can get it! As a kicker, Medicare beneficiaries' co-pays are tied to the reimbursement price, so the "340B arbitrage" (as I named it, literally, just now) is coming out of their pocket as well.

HHS proposes that if a hospital acquires the drug in the 340B program, it get reimbursed at average sales price minus 22.5 percent. This in part shifts the program from being a slush fund for hospitals to passing along

savings to Medicare beneficiaries and taxpayers. It is a sensible and desirable reform.

It is not the whole shebang by any means. Recall that the problem began with price fixing in Medicaid, which spilled over to needing a charity program in Medicaid, which has now spilled over to administrative pricing in Medicare. A step toward really serious Medicaid drug pricing reform would be to scrap the rebate program, Medicaid best price, and 340B program entirely.