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Moving toward a pay-for-value model of prescription drug pricing

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Credit: Washington University School of Medicine in St. Louis

One of the health care issues about which seemingly all Americans agree: Prescription drug prices have skyrocketed. And they keep going higher. How do Americans get better value for their health care dollars?

One answer may be novel pricing models that more closely link a drug's price to its value, rather than paying for volume. Drug manufacturers, however, argue that Medicaid's "best-price rule" inhibits their ability to enter into these new pricing arrangements.

Not so fast, says an expert on drug pricing and regulation at Washington University in St. Louis.

"The best-price rule is not as serious a problem as drug manufacturers might perceive it to be," said Rachel Sachs, associate professor of law and co-author of "Innovative Contracting for Pharmaceuticals and Medicaid's Best-Price Rule," recently published in the *Journal of Health Politics, Policy and Law*.

The best-price rule essentially states that Medicaid is entitled to the best price for any drug that's paid in the private market. If a drug company wants to give a big discount to a private insurer, Medicaid is entitled to that discount as well.

"The rule does not apply to a wide range of payers—drug manufacturers can enter into innovative contracting models with Medicare Part D or the U.S. Department of Veterans Affairs without running afoul of the rule," Sachs said. "It only applies when the discount it would trigger exceeds the statutorily required Medicaid discount, which is already quite large. And manufacturers can structure their contracts with payers ahead of time to minimize its impact."

The rule, argue Sachs and co-authors Nicholas Bagley of the University of Michigan and Darius N. Lakdawalla of the University of Southern California, should not be an obstacle to pricing innovation alternatives, including indication-based pricing, outcome-based pricing, drug licenses and drug mortgages. Where it is an obstacle, drug manufacturers can often restructure their contracts to avoid or mitigate the rule's impact.

"Pharmaceutical companies and insurers have expressed interest in a number of different innovative pricing models, chief among them outcome-based pricing and indication based pricing," Sachs said. "Many people find an intuitive appeal in the idea behind outcome-based pricing—if a drug doesn't work for a patient, why should they have to pay for it?"

Sachs said she is looking forward to more indication-based pricing deals, where manufacturers charge different prices for the same drug depending on the indication for which it is being prescribed.

"If the indication-based price is tied to how much value that drug provides for the particular indication, shifting to indication-based pricing systems could begin to move our payment system for drugs more in the direction of value, not volume," she said.

"The best-price rule is not as serious a problem as drug manufacturers sometimes make it out to be," Sachs and her colleagues write in the paper. "But it is also not simply a convenient excuse for refusing to try something new. The law here is complex, and fostering the adoption of new pricing models will require close coordination among manufacturers, payers and regulators.

More information: Rachel Sachs et al. Innovative Contracting for Pharmaceuticals and Medicaid's Best-Price Rule, *Journal of Health Politics, Policy and Law* (2017). DOI: 10.1215/03616878-4249796

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