

Understanding Big Pharma’s Playbook

One of the significant drivers of health care costs is the price of prescription drugs. 68% of doctor visits now result in a treatment involving drugs. While the federal government is attempting to place guardrails around the cost of drugs, specifically the ability for Medicare to negotiate the 10 drugs with the highest total spend, the pharmaceutical industry continues to use tactics designed to protect and expand profitability at the expense of both consumers and businesses.

Pharmaceutical manufacturers say high U.S. prices support research and development and point out that Americans tend to get new treatments first. But [recent research](#) has shown that the price of a drug is related neither to the amount of research and development required to bring it to market nor its therapeutic value.

Here are some of the ways drug companies elude attempts at cost controls:

Peripheral Patents

Humira, the best-selling drug in history, is effective in the treatment of various autoimmune diseases. Its core patent, the one on the biologic itself, expired in 2016. But the “controlling patent,” the last to expire, is far more important since it allows an ongoing monopoly. AbbVie blanketed Humira with 165 peripheral patents, covering things like a manufacturing step or slightly new formulation, creating a so-called patent thicket, making it challenging for generics makers to make lower-cost copycats.

Co-opting Competitors Revlimid, a multiple myeloma treatment that must be taken for life by Celgene (now part of Bristol Myers Squibb), won FDA approval to treat that previously deadly disease in 2006 at about \$4,500 a month; today it retails at triple that. Though Revlimid’s patent protection ran out in 2022, Celgene avoided meaningful price-cutting competition by offering generic competitors “volume-limited licenses” to its patents so long as they agreed to initially produce a small share of the drug’s \$12 billion monopoly market. *Benefits Pro* <https://bit.ly/3Rs03G2> and *Health System Tracker* <https://bit.ly/3PghuXK>

List Prices of Drugs Used for Weight Loss in the U.S. & Peer Nations

	▼ Ozempic (semaglutide, injection)	Rybelsus (semaglutide, tablets)	Wegovy (semaglutide, injection)	Mounjaro (tirzepatide, injection)
U.S.	\$936	\$936	\$1,349	\$1,023
Japan	\$169	\$69	-	\$319
Canada	\$147	\$158	-	-
Switzerland	\$144	\$147	-	-
Germany	\$103	-	\$328	-
Netherlands	\$103	\$203	\$296	\$444
Sweden	\$96	\$103	-	-
United Kingdom	\$93	-	-	-
Australia	\$87	-	-	-
France	\$83	-	-	-

Note: List prices in \$USD based on web searches as of August 15, 2023. Prices are for one-month supply of Ozempic 1mg, Rybelsus 7mg, Wegovy 2.4mg, and Mounjaro 15mg. Some drugs are not available in all countries and prices were unable to be found in other countries. Some drugs are approved for diabetes and prescribed off-label for weight loss.

Source: KFF analysis

Peterson-KFF
Health System Tracker

Affordability for 2024

Each year since the Affordable Care Act was passed, the IRS has updated the percentage for employers to use in determining “affordability” of their health plans for their workforce. In 2023 the percentage was 9.12%. For 2024 this percentage will be reduced to 8.39%. The smaller percentage means that the maximum costs employers may charge employees is smaller in 2024 than 2023. This percentage applies to all safe harbors, W-2, Rate of Pay or the Federal Poverty Line Safe Harbor.

Calfee <https://bit.ly/3PfwjJZ>

Educational Assistance Programs Can Be Used For Student Loan Payments

Though educational assistance programs have been available for many years, the option to use them to pay student loans has been available only for payments since March 2020, and, under current law, will continue to be available only until December 31, 2025.

Traditionally, educational assistance programs have been used to pay for books, equipment, supplies, fees, tuition and other education expenses for the employee. These programs can now also be used to pay principal and interest on an employee's qualified education loans. Payments made directly to the lender, as well as those made to the employee, qualify.

By law, tax-free benefits under an educational assistance program are limited to \$5,250 per employee per year. Assistance provided above that level is taxable as wages.

Employers who don't have an educational assistance program may want to consider setting one up. In a tight labor market, worthwhile fringe benefits such as educational assistance programs can help employers attract and retain qualified workers.

For additional information go to the IRS website: <https://bit.ly/3Ron9gT>

DOL Revises Medicaid/CHIP Model Notice

The Department of Labor ("DOL") has released a revised Model Notice for employers to use to inform employees about the potential for them to receive state-provided premium assistance subsidies to use towards the purchase of group healthcare coverage.

The Children's Health Insurance Program ("CHIP") Reauthorization Act of 2009 requires employers that maintain group health plans to annually notify employees about the opportunity for them to receive premium assistance subsidies from state-administered Medicaid or CHIP programs. Employers must provide the Medicaid/CHIP Model Notice to all employees who reside in states that provide such assistance, regardless of whether the employees are currently participants in the employer's group health plan.

Because the Medicaid/CHIP Model Notice lists the states that provide premium assistance, the DOL has said that an employer can meet its notification obligation by simply providing the Model Notice to all employees, regardless of where they live.

For 2023, the maximum penalty for an employer's failure to provide its employees with the required Medicaid/CHIP Model Notice is \$137 per day, per employee.

The revised DOL Medicaid/CHIP Model Notice is available for review at: <https://bit.ly/3t0XbFW> and at *Wagner Law Group* <https://bit.ly/487GXex>

Scientists Develop Blood Test for Chronic Fatigue



A new blood test is highly accurate at diagnosing chronic fatigue syndrome, offering for the first time an objective way to identify the sometimes disabling condition that is estimated to affect up to 2.5 million people in the U.S.

A University of Oxford-led research team compared test results among 61 people with chronic fatigue syndrome, 21 people with multiple sclerosis, and 16 people who had no known health problems. They found that the new test is 91% accurate, according to findings published in the journal *Advanced Science*. The test can also differentiate between mild, moderate, and severe cases of the illness 84% of the time.

Currently, chronic fatigue syndrome is so difficult to diagnose that an estimated 9 in 10 people who have the condition don't know they have it. The current process to identify the illness involves self-reporting symptoms, questionnaire responses, and other subjective measures.

WebMD <https://wb.md/45NBUOx>