Prescription Drug Pricing in the 7th Congressional District in Maryland: Drug Companies Profit at the Expense of Older Americans

Prepared for Rep. Elijah E. Cummings<br>Minority Staff Report<br>Committee on Government Reform<br>U.S. House of Representatives

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## EXECUTIVE SUMMARY

This staff report was prepared at the request of Rep. Elijah E. Cummings of Maryland. In Mr. Cummings's district, as in many other congressional districts around the country, older Americans are increasingly concerned about the high prices that they pay for prescription drugs. Mr. Cummings requested that the minority staff of the Committee on Government Reform investigate this issue. This report is the first report to quantify the extent of prescription drug price discrimination in Maryland and its impact on seniors.

Numerous studies have concluded that many older Americans pay high prices for prescription drugs and have a difficult time paying for the drugs they need. This study presents disturbing evidence about the cause of these high prices. The findings indicate that older Americans and others who pay for their own drugs are charged far more for their prescription drugs than are the drug companies' most favored customers, such as large insurance companies, health maintenance organizations, and the federal government. The findings show that a senior citizen in Mr. Cummings's district paying for his or her own prescription drugs must pay, on average, more than twice as much for the drugs as the drug companies' favored customers. The study found that this is an unusually large price differential -- over six times greater than the average price differential for other consumer goods.

It appears that drug companies are engaged in a form of "discriminatory" pricing that victimizes those who are least able to afford it. Large corporate, governmental, and institutional customers with market power are able to buy their drugs at discounted prices. Drug companies then raise prices for sales to seniors and others who pay for drugs themselves to compensate for these discounts to the favored customers.

Older Americans are having an increasingly difficult time affording prescription drugs. By one estimate, more than one in eight older Americans has been forced to choose between buying food and buying medicine. Preventing the pharmaceutical industry's discriminatory pricing -- and thereby reducing the cost of prescription drugs for seniors and other individuals -- will improve the health and financial well-being of millions of older Americans.

## A. Methodology

This study investigates the pricing of the five brand name prescription drugs with the highest sales to the elderly. It estimates the differential between the price charged to the drug companies' most favored customers, such as large insurance companies, HMOs, and certain federal government purchasers, and the price charged to seniors. The results are based on a survey of retail prescription drug prices in chain and independently owned drug stores in Mr. Cummings's congressional district in Maryland. These prices are compared to the prices paid by the drug companies' most favored customers. For comparison purposes, the study also estimates the differential between prices for favored customers and retail prices for other consumer items.

## B. Findings

The study finds that:

- Older Americans pay inflated prices for commonly used drugs. For the five drugs investigated in this study, the average price differential was $133 \%$ (Table 1). This means that senior citizens and other individuals who pay for their own drugs pay more than twice as much for these drugs than do the drug companies' most favored customers.

Table 1: Average Retail Prices for the Five Best-Selling Drugs for Older Americans in Maryland Are More Than Twice as High as the Prices That Drug Companies Charge Their Most Favored Customers.

| Prescription <br> Drug | Manufacturer | Use | Prices For <br> Favored <br> Customers | Retail Prices <br> For Maryland <br> Seniors | Price Differential <br> For Maryland <br> Senior Citizens |
| :--- | :--- | :--- | :---: | :---: | :---: |
| Zocor | Merck | Cholesterol | $\$ 34.80$ | $\$ 113.97$ | $228 \%$ |
| Norvasc | Pfizer Inc. | High Blood Pressure | $\$ 59.71$ | $\$ 127.17$ | $113 \%$ |
| Procardia XL | Pfizer Inc. | Heart Problems | $\$ 68.35$ | $\$ 144.89$ | $112 \%$ |
| Prilosec | Astra/Merck | Ulcers | $\$ 59.10$ | $\$ 122.62$ | $107 \%$ |
| Zoloft | Pfizer, Inc. | Depression | $\$ 115.70$ | $\$ 238.44$ | $106 \%$ |
| Average Price Differential |  |  |  | $\mathbf{1 3 3 \%}$ |  |

- For other popular drugs, the price differential is even higher. This study also analyzed a number of other popular drugs used by older Americans, and in some cases found even higher price differentials (Table 2). The drug with the highest price differential was Synthroid, a commonly used hormone treatment manufactured by Knoll Pharmaceuticals. For this drug, the price differential for senior citizens in Maryland was $1,641 \%$. An equivalent dose of this drug would cost the manufacturers' favored customers only $\$ 1.75$, but would cost the average senior citizen in Mr. Cummings's district over $\$ 30.00$. For Micronase, a diabetes treatment manufactured by Upjohn, an equivalent dose would cost the favored customers $\$ 10.05$, while seniors in Maryland are charged an average of $\$ 58.76$. The price differential was $485 \%$.
- Price differentials are far higher for drugs than they are for other goods. This study compared drug prices at the retail level to the prices that the pharmaceutical industry gives its most favored customers, such as large insurance companies, government buyers with negotiating power, and HMOs. Because these customers typically buy in bulk, some difference between retail prices and "favored customer" prices would be expected.

Table 2: Price Differentials for Some Drugs Are Nearly 1,650\%.

| Prescription <br> Drug | Manufacturer | Use | Prices for <br> Favored <br> Customers | Retail Prices <br> for Maryland <br> Seniors | Price Differential <br> for Maryland <br> Seniors |
| :--- | :--- | :--- | :---: | :---: | :---: |
|  | Knoll Pharmaceuticals | Hormone Treatment <br> Synthroid <br> Micronase | $\$ 1.75$ <br> Upjohn | $\$ 30.47$ | $1641 \%$ |

The study found, however, that the differential was much higher for prescription drugs than it was for other consumer items. The study compared the price differential for prescription drugs to the price differentials on a selection of other consumer items. The average price differential for the five prescription drugs was $133 \%$, while the price differential for other items was only $22 \%$. Compared to manufacturers of other retail items, pharmaceutical manufacturers appear to be engaging in significant price discrimination against older Americans and other individual consumers.

- Pharmaceutical manufacturers, not drug stores, appear to be responsible for the discriminatory prices that older Americans pay for prescription drugs. In order to determine whether drug companies or retail pharmacies were responsible for the high prescription drug prices paid by seniors in Mr. Cummings's congressional district, the study compared average wholesale prices that pharmacies pay for drugs to the prices at which the drugs are sold to consumers. This comparison revealed that the pharmacies in Mr. Cummings's district appear to have relatively small markups between the prices at which they buy prescription drugs and the prices at which they sell them. The retail prices in Mr. Cummings's district are just 5\% above the published national Average Wholesale Price, which represents the manufacturers' suggested price to pharmacies. The differential between retail prices and a second indicator of pharmacy costs, the Wholesale Acquisition Cost, which represents the average price pharmacies actually pay for drugs, is only $31 \%$. This indicates that it is drug company pricing policies that appear to account for the inflated prices charged to older Americans and other customers.


## I. THE VULNERABILITY OF OLDER AMERICANS TO HIGH DRUG PRICES

This report focuses on a continuing, critical issue facing older Americans -- the cost of their prescription drugs. Numerous surveys and studies have concluded that many older Americans pay high costs for prescription drugs and are having a difficult time paying for the drugs they need. The cost of prescription drugs is particularly important for older Americans because they have more medical problems, and take more prescription drugs, than the average American. This situation is exacerbated by the fact that the Medicare program, the main source of health care coverage for the elderly, fails to cover the cost of most prescription drugs.

According to the National Institute on Aging, "as a group, older people tend to have more long-term illnesses -- such as arthritis, diabetes, high blood pressure, and heart disease -- than do younger people." ${ }^{1}$ Other chronic diseases which disproportionately affect older Americans include depression and neurodegenerative diseases such as Alzheimer's disease, Lou Gehrig's disease, and Parkinson's disease.

The latest survey data indicate that $86 \%$ of Medicare beneficiaries are taking prescription drugs. ${ }^{2}$ Moreover, older Americans spend almost three times as much of their income ( $21 \%$ ) on health care than those under the age of $65(8 \%){ }^{3}$

The average older American uses 18.5 prescriptions annually, ${ }^{4}$ significantly more than the average under-65 population. ${ }^{5}$ It is estimated that the elderly in the United States, who make up $12 \%$ of the population, use one-third of all prescription drugs. ${ }^{6}$

[^0]Although the elderly have the greatest need for prescription drugs, they often have the most inadequate insurance coverage for the cost of these drugs. With the exception of drugs administered during inpatient hospital stays, Medicare generally does not cover prescription drugs. A recent study by federal researchers found that $35 \%$ of Medicare recipients do not have any insurance coverage for prescription drugs. ${ }^{7}$ As a result, many older Americans -- a large percentage of whom live on a limited, fixed income -- are forced to pay the full, out-of-pocket expense of prescription drugs.

Although Medicare beneficiaries can purchase supplemental "Medigap" insurance privately, these policies are often prohibitively expensive or inadequate. Only three of the ten available plans offer any prescription drug coverage, and even the best available Medigap policy provides only a $\$ 3,000$ drug benefit, while still leaving beneficiaries vulnerable to a high deductible and to paying at least half of their total drug costs. ${ }^{8}$ Less than $10 \%$ of the Medicare population obtains prescription drug coverage from Medigap providers. ${ }^{9}$ Moreover, while some Medicare managed care plans may offer optional prescription drug coverage, these plans serve only a small portion of the Medicare population, and have recently withdrawn coverage for over 400,000 seniors. ${ }^{10}$

Medicare beneficiaries without public or private prescription drug coverage are the group most at risk from high out-of-pocket prescription drug costs. According to the Senate Special Committee on Aging, this group includes those "who are not poor enough to receive Medicaid, do not have employer-based retiree prescription drug coverage, and cannot afford any other private prescription drug insurance plans." ${ }^{11}$

The high costs of prescription drugs, and the lack of insurance coverage, directly affect the health and welfare of older Americans. In 1993, 13\% of older Americans surveyed reported that

[^1]they were forced to choose between buying food and buying medicine. ${ }^{12}$ By another estimate, five million older Americans are forced to make this difficult choice. ${ }^{13}$

## II. ARE DRUG COMPANIES EXPLOITING THE VULNERABILITY OF OLDER AMERICANS?

Rep. Elijah E. Cummings of Maryland asked the minority staff of the Committee on Government Reform to investigate whether pharmaceutical manufacturers are taking advantage of older Americans through price discrimination, and, if so, whether this is part of the explanation for the high drug prices being paid by older Americans in his congressional district. This report presents the results of this investigation.

Industry analysts have recognized that price discrimination occurs in the prescription drug market. According to a recent Standard \& Poor's report on the pharmaceutical industry, "[d]rugmakers have historically raised prices to private customers to compensate for the discounts they grant to managed care customers. This practice is known as 'cost shifting., ${ }^{14}$ Under this practice, "drugs sold to wholesale distributors and pharmacy chains for the individual physician/patient are marked at the higher end of the scale." ${ }^{15}$

Although industry analyses acknowledge that price discrimination occurs, they have not estimated its degree or impact. This report, prepared at Mr. Cummings's request, is the first attempt to quantify the extent of price discrimination and its impact on senior citizens in Maryland.

The study design and methodology used to test whether drug companies are discriminating against older Americans in their pricing are described in part III. The results of the study are described in part IV. These results show that drug manufacturers appear to be engaged in substantial price discrimination against older Americans and other individuals who must pay for their own prescription drugs. The consequences of the manufacturers' pricing policies are discussed in part V .

[^2]
## III. METHODOLOGY

## A. Selection of Drugs for this Survey

This survey is based primarily on a selection of the five patented, nongeneric drugs with the highest annual sales to older Americans in 1997. The list was obtained from the Pennsylvania Pharmaceutical Assistance Contract for the Elderly (PACE). The PACE program is the largest outpatient prescription drug program for older Americans in the United States for which claims data is available, and is used in this study, as well as by several other analysts, as a proxy database for prescription drug usage by all older Americans. In 1997, over 250,000 persons were enrolled in the program, which provided over $\$ 100$ million of assistance in filling over 2.8 million prescriptions. ${ }^{16}$

## B. Determination of Average Retail Drug Prices for Seniors in Maryland

In order to determine the prices that senior citizens are paying for prescription drugs in Maryland, the minority staff and the staff of Mr. Cummings's congressional office conducted a survey of six drug stores -- including both independent and chain stores -- in Mr. Cummings's congressional district. Mr. Cummings represents the 7th Congressional District in Maryland, which includes downtown Baltimore, the inner harbor area, and parts of Baltimore County. The location of the stores is shown in Appendix D.

## C. Determination of Prices for Drug Companies' Most Favored Customers

Drug pricing is complicated and drug companies closely guard their pricing strategies. For example, drug companies require HMOs to sign confidentiality agreements before offering them pricing discounts. The best publicly available indicator of the prices drug companies charge their most favored customers is the prices the companies charge the federal government.

The federal government pays for prescription drugs through several different programs. One important program is the Federal Supply Schedule (FSS), which is a price catalogue containing goods available for purchase by federal agencies. Drug prices on the FSS are negotiated by the Department of Veterans Affairs (VA) and often approximate the prices that the drug companies charge their most favored non-federal customers. According to the U.S. General Accounting Office, "[u]nder GSA procurement regulations, VA contract officers are required to seek an FSS price that represents the same discount off a drug's list price that the manufacturer

[^3]offers its most-favored nonfederal customer under comparable terms and conditions." ${ }^{17}$ To obtain additional price discounts available to the private sector, the VA has established at least two additional negotiated-price programs: (1) a VA formulary that operates similarly to the formularies established by well-managed HMOs, ${ }^{18}$ and (2) a Blanket Price Agreement (BPA) program, under which the VA commits to purchasing minimum quantities of particular prescription drugs. Yet another program through which the federal government obtains prescription drugs is section 340(b) of the Public Health Service Act, which entitles four agencies (the VA, the Indian Health Service, the Department of Defense, and the Public Health Service) to purchase drugs at a maximum price of $24 \%$ below the manufacturer's average nonfederal price.

This analysis uses the lowest price paid by the federal government as a proxy for the prices paid by drug companies most favored customers. ${ }^{19}$ All prices were updated in February 1999 to reflect current pricing.

## D. Determination of Prices Paid by Pharmacies

The survey also looked at two other pricing indicators: (1) the Average Wholesale Price (AWP) and (2) the Wholesale Acquisition Cost (WAC). These two prices provide an indicator of the extent of markups that are attributable to the pharmacy (in contrast to those that are due to the drug manufacturer). The AWP represents the price that manufacturers suggest that wholesalers charge retail pharmacies; the WAC represents the actual average price that wholesalers charge pharmacies. Both AWP and WAC were obtained from the Medispan database and were updated on March 1, 1999, to reflect current pricing.

## E. Determination of Drug Dosages

When comparing prices, the study used the same criteria (dosage, form, and package size) used by the GAO in its 1992 report, Prescription Drugs: Companies Typically Charge More in the United States Than In Canada. For drugs that were not included in the GAO report, the study used the dosage, form, and package size common in the years 1994 through 1997, as indicated in the Drug Topics Red Book.

[^4]
## F. Comparison of Price Differentials for Other Retail Items

In order to determine whether the differential between the most favored customer prices and retail prices for drugs commonly used by older Americans is unusually large, the study compared the prescription drug price differentials to price differentials on other consumer products. To make this comparison, a list of consumer items other than drugs available through the FSS was assembled. FSS prices were then compared with the retail prices at which the items could be bought at a large national chain. ${ }^{20}$

## IV. DRUG COMPANIES CHARGE OLDER AMERICANS DISCRIMINATORY PRICES

## A. Discrimination in Drug Pricing

In the case of the five drugs with the highest sales to seniors, the average price differential between the price that would be paid by a senior citizen in Mr. Cummings's congressional district and the price that would be paid by the drug companies' most favored customers was $133 \%$ (Table 1). The study thus showed that the average price that older Americans and other individual consumers in Mr. Cummings's district pay for these drugs is more than double the price paid by the drug companies' favored customers, such as large insurance companies and HMOs.

For individual drugs, the price differential was even higher. Among the five best selling drugs, the highest price differential was $228 \%$ for Zocor, a cholesterol treatment manufactured by Merck. For other popular drugs, the study found even greater price differentials. The drug with the highest price differential was Synthroid, a commonly used hormone treatment manufactured by Knoll Pharmaceuticals. For this drug, the price differential for senior citizens in Maryland was nearly $1,650 \%$. An equivalent dose of this drug would cost the most favored customers only $\$ 1.75$, but would cost the average senior citizen in Maryland $\$ 30.47$. For Micronase, a diabetes treatment manufactured by Upjohn, the price differential was $485 \%$ (Figure 1). Every drug looked at in this study had a large price differential. Among the five highest selling drugs, three (Zocor, Norvasc, and Procardia XL) had price differentials that exceeded 110\%. The lowest price differential was still high -- $106 \%$, for Zoloft.

[^5]Figure 1: Older Americans in Maryland Pay Inflated Prices for Prescription Drugs.


## B. Comparison with Other Consumer Goods

The study also analyzed whether the large differentials in prescription drug pricing could be attributed to a volume effect. The drug companies' most favored customers, such as large insurance companies and HMOs, typically buy large volumes of drugs. Thus, it could be expected that there would be differences between the prices charged the most favored customers and retail prices. The study found, however, that the differentials in prescription drug prices were much greater than the differentials in prices for other consumer goods. The study found that, in the case of other consumer goods, the average difference between retail prices and the prices charged most favored customers, such as large corporations and institutions, was only $22 \%$. The average price differential in the case of prescription drugs was more than six times larger than the average price differential for other consumer goods (Figure 2). This indicates that a volume effect is unlikely to explain the large differential in prescription drug pricing.

## C. Drug Company Versus Pharmacy Responsibility

The study also sought to determine whether drug companies or retail pharmacies are responsible for the high prices being paid by older Americans. To do this, the study compared the average wholesale prices that pharmacies pay for drugs to the prices at which the drugs are sold to consumers. This comparison revealed that pharmacies appear to have relatively small markups between the prices at which they buy prescription drugs and the prices at which they

Figure 2: Price Differentials on Drugs Commonly Used by Older Americans Are Far Higher Than Differentials for Other Consumer Goods.

sell them. The study found that the average retail price for the five best-selling prescription drugs was only $5 \%$ higher than the published Average Wholesale Price, and only $31 \%$ above the pharmacies' Wholesale Acquisition Cost (Figure 3). This finding indicates that it is drug company pricing policies, not retail markups, that account for the inflated prices charged to older Americans and other individual customers. These findings are consistent with other experts who have concluded that because of the competitive nature of the pharmacy business at the retail level, there is a relatively small profit margin for retail pharmacists. ${ }^{21}$

The study found few significant differences in retail prices between pharmacies in different parts of Mr. Cummings's district. Moreover, although there were variations in prices between chain and independent pharmacies, these differences were in general not systematic.

[^6]Figure 3: Drug Companies, Not Retail
Pharmacies, Are Responsible for High Prescription Drug Costs


## V. DRUG MANUFACTURER PROFITABILITY

There are two conflicting consequences of the current drug industry pricing practices. Although these pricing practices have allowed the drug industry to grow and amass large profits, they have also imposed severe financial hardship on older Americans and others who buy their own drugs.

Drug industry pricing strategies have boosted the industry's profitability to extraordinary levels. The annual profits of the top ten drug companies is nearly $\$ 20$ billion. ${ }^{22}$ Moreover, the drug companies make unusually high profits compared to other companies. The average manufacturer of branded consumer goods, such as Proctor \& Gamble or Colgate-Palmolive, has an operating profit margin of $10.5 \%$. Drug manufacturers, however, have an operating profit margin of $28.7 \%$-- nearly three times greater (Figure 4). ${ }^{23}$

These high profits appear to be directly linked to the pricing strategies observed in this study. For instance, Merck, the country's largest pharmaceutical manufacturer, had an increase in profits of $15 \%$ to $18 \%$ in the second quarter of 1998. According to industry analysts, Merck's

[^7]increased profits were due in large part to sales of Zocor, ${ }^{24}$ which is sold in Mr. Cummings's district at a price differential of $228 \%$. Zocor itself accounts for $6 \%$ of Merck's revenues. ${ }^{25}$

Overall, profits for the major drug manufacturers are expected to grow by about $20 \%$ in 1998 , compared to $5 \%$ to $10 \%$ for other companies on the Standard \& Poors Index. The drug manufacturers' profits are expected to grow by up to an additional $25 \%$ in $1999 .{ }^{26}$ According to one analyst, "the prospects for the pharmaceutical industry are as bright as they've even been." ${ }^{27}$

Figure 4: The Pharmaceutical Industry's Profit Margins Are Larger Than Those for Other Companies.


[^8]
## Appendix A

## The Five Top Selling Patented, Nongeneric Drugs for Seniors Ranked by 1997 Total Dollar Sales

| Rank | Drug | Manufacturer | Indication |
| :---: | :--- | :--- | :--- |
| 1. | Prilosec | Astra/Merck | Ulcer |
| 2. | Norvasc | Pfizer, Inc. | High Blood Pressure |
| 3. | Zocor | Merck | Cholesterol reduction |
| 4. | Zoloft | Pfizer, Inc. | Depression |
| 5. | Procardia XL | Pfizer, Inc. | Heart Problems |

Source: Pharmaceutical Assistance Contract for the Elderly ("PACE"), Pennsylvania Department of Aging, Annual Report to the Pennsylvania General Assembly: January 1 - December 31, 1997 (Apr. 1998).

## Appendix B

## Information on Prescription Drugs Analyzed in This Study

|  |  |  | Prices (Dollars) |  |  |  |  |
| :--- | :--- | :--- | :--- | :---: | :---: | :---: | :---: |
| Brand Name <br> Drug | Dosage <br> and <br> Form | Indication | Favored <br> Customer <br> Price | Wholesale <br> Acquisition <br> Cost | Average <br> Wholesale <br> Price | Average <br> Retail <br> Price | Price <br> Differential <br> (Average Retail <br> Price vs. Favored <br> Customer Price) |
| Zocor | 5 mg, <br> 60 tablets | Cholesterol <br> reducer | $\$ 34.80$ | $\$ 85.47$ | $\$ 106.84$ | $\$ 113.97$ | $228 \%$ |
| Norvasc | 5 mg, <br> 90 tablets | High Blood <br> Pressure | $\$ 59.71$ | $\$ 95.33$ | $\$ 119.16$ | $\$ 127.17$ | $113 \%$ |
| Procardia XL | 30 mg, <br> 100 tab. | Heart <br> Problems | $\$ 68.35$ | $\$ 110.69$ | $\$ 110.69$ | $\$ 144.89$ | $112 \%$ |
| Prisolec | 20 mg, <br> 30 cap. | Ulcer | $\$ 59.10$ | $\$ 96.74$ | $\$ 120.93$ | $\$ 122.62$ | $107 \%$ |
| Zoloft | 50 mg, <br> 100 tab. | Depression | $\$ 115.70$ | $\$ 181.71$ | $\$ 227.14$ | $\$ 238.44$ | $106 \%$ |
| Average Price Differential |  |  |  |  |  | $\mathbf{1 3 3 \%}$ |  |

## Appendix C

Price Comparisons For Non-Prescription Drug Items

| Item | FSS Price | Retail <br> Price | Differential |
| :--- | :---: | :---: | :---: |
| Binder Clip, small, 1 box | $\$ 0.49$ | $\$ 0.49$ | $0 \%$ |
| Rubber Bands, 1 lb. | $\$ 2.57$ | $\$ 2.67$ | $4 \%$ |
| Toilet Paper, 96 Rolls | $\$ 44.74$ | $\$ 47.98$ | $7 \%$ |
| Rolodex, 500 Card | $\$ 13.24$ | $\$ 14.29$ | $8 \%$ |
| Tape Dispenser | $\$ 1.44$ | $\$ 1.69$ | $17 \%$ |
| Wastebasket, Plastic, 13 qt. | $\$ 2.95$ | $\$ 3.49$ | $18 \%$ |
| Scissors | $\$ 10.88$ | $\$ 12.99$ | $19 \%$ |
| Pencils, \#2, 20-pack | $\$ 1.03$ | $\$ 1.26$ | $22 \%$ |
| Paper Towels, 30 Rolls | $\$ 22.94$ | $\$ 29.98$ | $31 \%$ |
| Post-It Notes | $\$ 2.08$ | $\$ 2.89$ | $39 \%$ |
| Envelopes, 500, White, 20 lb. | $\$ 6.45$ | $\$ 9.49$ | $47 \%$ |
| weight |  |  |  |
| Correction Fluid, 18 ml., dozen. | $\$ 6.66$ | $\$ 9.99$ | $50 \%$ |
| Average Price Differential |  |  | $\mathbf{2 2 \%}$ |

Appendix D:
Prescription Drug Pricing Survey Locations in Maryland's 7th Congressional District



[^0]:    ${ }^{1}$ National Institute on Aging (NIA), NIA Age Page (1997) (online at www.nih.gov/nia/ health/pub/medicine.htm).
    ${ }^{2}$ Health Affairs, Prescription Drug Coverage, Utilization, and Spending Among Medicare Beneficiaries, 237 (Jan./Feb. 1999).
    ${ }^{3}$ AARP Public Policy Institute and the Lewin Group, Out of Pocket Health Spending By Medicare Beneficiaries Age 65 and Older: 1997 Projections (Feb. 1997).
    ${ }^{4}$ Prescription Drug Coverage, Utilization, and Spending Among Medicare Beneficiaries, supra note 2, at 237.
    ${ }^{5}$ Senate Special Committee on Aging, Developments In Aging: 1996, 105th Cong., 1st Sess. 121 (1997) (S. Rpt. 36).
    ${ }^{6}$ Senate Special Committee On Aging, Developments in Aging: 1993, 103d Cong., 2d Sess. 35 (1994) (S. Rpt. 403).

[^1]:    ${ }^{7}$ Prescription Drug Coverage, Utilization, and Spending Among Medicare Beneficiaries, supra note 2.
    ${ }^{8}$ Id. at 232.
    ${ }^{9}$ Id. at 235.
    ${ }^{10}$ Clinton Plans to Intervene as HMOs Exit Medicare, New York Times, A1 (Oct. 8, 1998).
    ${ }^{11}$ Developments In Aging: 1996, supra note 5, at 122.

[^2]:    12 Families USA Foundation, Worthless Promises: Drug Companies Keep Boosting Prices, 6 (Mar. 1995).
    ${ }^{13}$ Senate Special Committee on Aging, A Status Report -- Accessibility and Affordability of Prescription Drugs For Older Americans, 102d Cong., 2d Sess. 2 (1992) (S. Rpt. 100).
    ${ }^{14}$ Herman Saftlas, Standard \& Poor's, Healthcare: Pharmaceuticals, Industry Surveys, 19-20 (Dec. 18, 1997).
    ${ }^{15} I d$. at 19.

[^3]:    ${ }^{16}$ Pharmaceutical Assistance Contract for the Elderly ("PACE"), Pennsylvania Department of Aging, Annual Report to the Pennsylvania General Assembly January 1 December 31, 1997 (Apr. 1998).

[^4]:    ${ }^{17}$ U.S. General Accounting Office, Drug Prices: Effects of Opening Federal Supply Schedule for Pharmaceuticals Are Uncertain 6 (June 1997) (emphasis added).
    ${ }^{18}$ For a detailed description of the Department of Veterans Affairs Formulary program, see the National Formulary Content Page, online at www.dppm.med.va.gov/newsite/ national.htm.
    ${ }^{19}$ For Norvasc, Prilosec, Procardia XL, Micronase, and Synthroid, the Federal Supply Schedule price was used as the indicator of best price. For Zocor the VA's formulary price was used as the indicator of best price. For Zoloft, the VA's Blanket Pricing Agreement price was used as the indicator of best price.

[^5]:    ${ }^{20}$ The items used were paper towels, envelopes, rubber bands, toilet paper, pencils, Rolodexes, tape dispensers, waste baskets, correction fluid, post-it notes, paper clips, and scissors.

[^6]:    ${ }^{21}$ National Association of Chain Drug Stores, Did You Know . . . (pamphlet) (citing financial data assembled by Keller Bruner \& Company, P.C., Certified Public Accountants 1995).

[^7]:    ${ }^{22}$ Fortune, 1998 Fortune 500 Industry List (1998) (Online at www.pathfinder.com/ fortune500/indlist.html).
    ${ }^{23}$ Paul J. Much, Houlihan Lokey Howard \& Zukin, Expert Analysis of Profitability (Feb. 1998).

[^8]:    ${ }^{24}$ USA Today, Drugmakers Have Healthy Outlook (July 20, 1998).
    ${ }^{25}$ IMS America, Top 200 Drugs of 1997 (1998) (Online at www.pharmacytimes.com/ top200.html).
    ${ }^{26}$ Drugmakers Have Healthy Outlook, supra note 24.
    ${ }^{27} I d$.

