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## Drugmakers to Cut Off Some Free Prescriptions

Seniors, Disabled Face Big Financial Crunch

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Several of the nation's largest drug manufacturers say they will no longer provide free or discounted medications to low-income elderly and disabled patients because they should be covered by the new Medicare drug benefit.

But for about 1 million Americans with serious illnesses such as AIDS and cancer -- patients who last year relied on the pharmaceutical industry's giveaways -- that means Medicare coverage could cost them more than \$3,600 this year.

Hardest hit will be patients such as James Hayes. Suffering from AIDS, the 45-year-old North Carolina man takes an average of 10 drugs each month at a cost of \$3,700. In recent years, he has relied on several drug company patient assistance programs for his lifesaving medications. Because he is on disability, receiving \$1,900 a month, Hayes qualifies for the new Medicare drug benefit.

But in the past few weeks, drugmakers such as GlaxoSmithKline have sent Hayes and others letters saying that as of Jan. 1, anyone eligible for Medicare would be dropped from its program. The cheapest Medicare drug plan he can find is expected to cost him \$6,000 out of pocket.

"I can't afford that. I am struggling to make ends meet right now without going into bankruptcy," he said yesterday. "I'm scared I'm going to have to go off of my drugs."

Less than four weeks after the drug benefit went into effect, some of the neediest seniors have found themselves worse off. Although the new program, projected to cost \$700 billion in the first 10 years, was intended to shield retirees from burdensome drug costs, several quirks in the law have had the opposite effect for some.

"These are individuals who did have something before; they had patient assistance programs," said John Coburn, senior policy analyst for the Chicago-based Health & Disability Advocates. "We are seeing the unintended consequences of this law."

Drugmakers blamed the Bush administration for issuing a legal opinion that suggests companies could run afoul of anti-kickback laws if they provide free drugs to Medicare beneficiaries. That guidance, from the Health and Human Services Inspector General's office, warned that providing free medicine to someone enrolled in a Medicare plan could be viewed as an effort to keep the patient on that particular product, rather than a generic or cheaper version sold by a competitor.

Administration officials, already racing to fix other glitches in the new drug program, yesterday pointed the finger back at drugmakers, saying there are a variety of legal ways to assist low-income patients. If a drug company's patient assistance program ends, "that's the manufacturer's decision," said Mark McClellan, administrator of the Centers for Medicare and Medicaid Services. He said drugmakers could continue their patient assistance programs as long as they remain separate from Medicare or contribute money to charities

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that help poor patients.

However, that would mean those free medications would not count toward a patient's spending total. The total is especially important for an individual taking numerous expensive medications because once that person has used \$5,100 worth of drugs (or about \$3,200 out of pocket) the Medicare plan's catastrophic coverage kicks in, paying all but 10 percent of the remaining drug costs.

"That much money could well be a quarter of someone's income," said Robert Hayes, president of the nonprofit Medicare Rights Center, which assists seniors. Even after the person reaches that threshold, the 10 percent co-payments could be unaffordable, he added.

For decades, drugmakers have offered discounted or free medications to uninsured Americans or people who could not afford critical therapies. In 2004, the 37 companies in the industry donated 22 million prescriptions worth \$4.1 billion, said Ken Johnson, senior vice president for the Pharmaceutical Research and Manufacturers of America.

"The current manufacturer's patient assistance programs work very well," he said. "They are already helping patients without any middlemen or additional overhead. It seems a lot more efficient to allow these programs to continue to help Medicare beneficiaries."

Only one company, Merck, said it will continue its program, stressing that the company will evaluate applications from Medicare beneficiaries on a case-by-case basis. "Like anyone with insurance, they can come to Merck at any time," said Ian Spatz, Merck's vice president for public policy.

Administration officials said this week that the early glitches in the drug benefit are being resolved, but states continued to report difficulties.

More than two dozen governors, noting that former Medicaid clients have been incorrectly denied coverage or overcharged at the pharmacy, have declared public health emergencies and announced they would cover the cost for any senior caught in the mix-ups.

Yesterday, Florida Gov. Jeb Bush (R) joined that list, while California Gov. Arnold Schwarzenegger (R) extended his state's program. So far, California has spent \$9.2 million filling 110,000 prescriptions that should have been covered by Medicare plans, officials said.

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