

# Trump Signs Executive Orders Aimed at Tying Domestic Drug Prices to Foreign Prices

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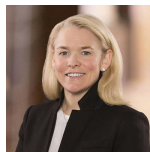
President Trump has followed through on his threat to pharmaceutical manufacturers, signing new executive orders on Sunday that take a preliminary step toward the President's goal of tying domestic drug prices to the prices manufacturers charge in foreign countries. The "Executive Order on Lowering Drug Prices by Putting America First" follows a trio of drug pricing-related executive orders the administration issued this past July. At that time, President Trump also signed a different executive order with the same name, but withheld the order in an attempt to force pharmaceutical manufacturers to the negotiating table. The President warned manufacturers that if they did not propose alternatives to lower drug pricing within 30 days, his administration would take action to implement its previously-abandoned plan to peg U.S. drug prices to foreign prices. Sunday's order follows weeks of negotiations between the White House and drug manufacturers that have apparently not resulted in any mutually-acceptable proposals for lowering American drug prices.

The new order seeks to effectuate a "most favored nation" policy applicable to drug prices in Medicare Part B and Part D. The most favored nation price contemplated by the order is "the lowest price, after adjusting for volume and differences in national gross domestic product, for a pharmaceutical product that the drug manufacturer sells in a member country of the Organisation for Economic Co-operation and Development (OECD) that has a comparable per-capita gross domestic product." The order instructs the Secretary of the Department of Health and Human Services (HHS) to begin the rulemaking process to test payment models pursuant to which Medicare would pay for certain Part B and Part D drugs at most favored nation prices. It also revokes the identically titled executive order that the President signed but withheld on July 24, 2020.

Pharma industry stakeholders have already begun speaking out against the most favored nation policy promoted in the new order. PhRMA, the trade group representing drug manufacturers, quickly called it an "irresponsible and unworkable policy" that will inappropriately cede some control over Americans' access to pharmaceutical treatments to foreign governments. The biotech industry's trade organization, BIO, similarly rebuked the Trump administration for the order, vowing to "fight this risky foreign price control scheme."

While the new order directs HHS to begin the rulemaking process to test new payment models, it does not have any immediate impact on drug pricing in the U.S and likely would not have an impact (if any) until after the election.

## Authors



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Theresa advises clients on all aspects of the pharmaceutical supply chain, including counseling industry stakeholders on a range of business, legal, transactional, and compliance matters. She provides clients with strategic counseling and creative business modeling that considers legal restrictions and regulatory risk in light of innovation and business goals.

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