

4 Drugmakers Commit to Medicare Drug Price Negotiations Despite Legal Challenges

Despite ongoing legal challenges, four major pharmaceutical manufacturers confirmed participation in Medicare price negotiations with the Centers for Medicare and Medicaid Services (CMS). The Inflation Reduction Act (IRA) allows the federal government to negotiate directly with drug manufacturers to improve access to some of the costliest brand-name drugs.

Several companies—whose drugs are the first 10 prescription drugs subject to Medicare price negotiations—argue that the IRA is unconstitutional, resulting in eight lawsuits. While participation in the price negotiation program is voluntary, companies that don't participate could have to pay a major excise tax (up to 95% of their medication's sales in the United States) or withdraw their products entirely from the Medicare and Medicaid markets.

Despite ongoing lawsuits to halt the negotiation process, the following companies have signed agreements to participate in the first round of negotiations:

- **AstraZeneca** (Farxiga, for treating diabetes, heart failure and chronic kidney disease)
- **Boehringer Ingelheim** (Jardiance, for treating diabetes and heart failure)
- **Bristol Myers Squibb** (Eliquis, for preventing and treating blood clots)
- **Merck** (Januvia, for treating diabetes)

Pharmaceutical companies were given until Oct. 1 to choose whether to participate in the negotiation

process. The remaining manufacturers—Amgen, Johnson & Johnson, Novartis and Novo Nordisk—have yet to announce their intentions.

“Withdrawing all of the company’s products from Medicare and Medicaid would have devastating consequences for the millions of Americans who rely on our innovative medicines, and it is not tenable for any manufacturer to abandon nearly half of the U.S. prescription drug market.”

- A Merck spokesperson

What's Next?

The CMS named the first round of drugs subject to Medicare price negotiations at the end of August, kicking off a lengthy negotiation process through Aug. 1, 2024. The CMS will send an initial offer for each selected drug no later than Feb. 1, 2024, and drugmakers will have 30 days to respond.

Employers should continue to monitor health care trends, utilization and spending. Contact us today for more information.