

The study investigated the prices of the 10 brand name drugs with the highest sales to the elderly (Zocor, Prilosec, Fosamax, Norvasc, Relafen, Procardia XL, Cardizem CD, Zolofit, Vasotec & Ticlid).

The study estimates the differential between the price charged to the drug companies' most favored customers, such as large insurance companies and HMOs, 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 the first district of Maine.

These prices are compared to the prices paid by the drug companies most favored customers. Then, for comparison purposes, the study estimates the differential between retail prices and prices for favored customers for other consumer items.

This study has since been conducted in a number of congressional districts across the country. This is clearly a problem not only in Maine—but nationwide. A national report summarizing the investigations in our districts has been completed. I would like to take a few moments to share some of the findings of the national report.

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 and health maintenance organizations.

A senior paying for his or her own prescription drugs must pay, on average, almost twice as much for the drugs as the drug companies' favored customers. This unusually large price differential is approximately four times greater than the average price differential for other consumer goods. The average price differential for the ten prescription drugs used in this study was 86 percent, while the average price differential for the other items was only 22 percent.

Other drugs commonly used by seniors that are not among the top ten have even higher price differentials. For example, an equivalent dose of Synthroid, a commonly used hormone treatment, would cost the favored customers only \$1.75, but would cost the average senior almost \$30.00! This is a price differential of 1,603 percent!

The high price of prescription drugs is not the fault of our pharmacists. Pharmacies have relatively small markups for prescription drugs—somewhere between 3–22 percent. Large pharmaceutical companies drive up the prices. Drug manufacturers make six times more profit on prescriptions than retail pharmacies.

A recent lawsuit alleged that pharmaceutical companies have created a dual price system of drug distribution. Drug companies give discounts to the big managed care companies and HMOs, while charging higher prices to independent drugstores and pharmacy chains. Four of the pharmaceutical companies chose to settle for \$350 million. Other cases are still pending.

Drug companies make unusually high profits compared to other companies. The average manufacturer of brand name consumer goods, such as Proctor & Gamble of Colgate-Palmolive, has an operating profit margin of 10.5 percent. Drug manufacturers, however, have an operating profit margin of 28.7 percent—nearly three times greater.

Unquestionably, pharmaceuticals have improved the lives of millions of people with very

serious illnesses and chronic disabilities. Each year, drug companies introduce new drugs that restore the health, extend the life expectancy and improve the quality of life for people. However, these contributions are not a license for profiteering and price gouging.

The problems outlined in these reports, are not simply a series of numbers and charts and dollar amounts. These problems affect real people, everyday, in Maine and throughout the nation.

Recently, I joined several of my colleagues to introduce H.R. 4627, the Prescription Drug Fairness for Seniors Act. When we introduced the bill we were joined by one of my constituents, Vi Quirion.

Vi traveled from Maine to Washington to speak not only of her difficulties, but also of those of her friends and neighbors. Vi has arthritis and stomach troubles. She lives on about \$900 per month from Social Security and cannot afford supplemental coverage for her prescriptions.

Vi, like many seniors, cuts back on her medication or does not take it at all. As she said: "I can't afford to pay my prescriptions and gas and eat too. If I don't take Relafen it won't kill me, but it will certainly change my life. I won't be able to walk. We should not have to live like that."

It was for Vi and those like her that we introduced the Prescription Drug Fairness for Seniors Act. No older American should ever again have to choose between buying the drugs prescribed by their doctors and buying food for their tables or heat for their homes.

The legislation achieves these goals by allowing pharmacies that serve Medicare beneficiaries to purchase prescription drugs at the low price available under the federal supply schedule through the Secretary of the Department of Health and Human Services. The legislation has been estimated to reduce prescription drug prices for seniors by over 40 percent.

I understand that Pharmaceutical Research and Manufacturers of America President Alan Homer recently said: "the well-meaning efforts of the bill's sponsors unfortunately are likely to backfire on America's seniors. In a very real sense, this bill is a dagger pointed at the hearts of America's senior citizens."

This quote comes from an industry whose annual profits of the top ten drug companies is nearly \$20 billion. Pharmaceuticals rank as the number one industry in return in revenues and return on assets. Yes, pharmaceuticals rate well above the telecommunications and computer industries.

It is time to level the playing field and stop this price discrimination. It is time to put seniors' lives ahead of pharmaceutical profits. Support the Prescription Drug Fairness for Seniors Act.

PRESCRIPTION DRUG PRICING

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1998

Mr. FORD. Mr. Speaker, at its core, the issue we are discussing today—the astronomically high prices seniors pay for prescription drugs—is about fairness.

Anyone in America who has older relatives or friends who are living on a fixed income

and taking prescriptions drugs, understands first-hand the devastating impact that the high cost of medication can have on the health and well-being of seniors.

As we all know, with age comes a greater susceptibility to health problems. As such, it is no surprise that: on average Americans over the age of 65 spend three times as much of their income (over 20%) on health care than Americans under the age of 65; 75% of Americans 65 and older take prescription drugs; on average older Americans take 2.4 prescription drugs at any one time; and even though older Americans only comprise 12% of the population, they take 33% of the nation's prescription drugs.

One would think that since older Americans make-up such a large segment of the market for prescription drugs that they would pay reasonable prices for their medication.

Unfortunately, that is not the case. Rather due to a pharmaceutical industry practice known as "cost-shifting" and the limited powers of seniors, they get the short end of the stick compared to HMO's and other "most favored customers" when it comes to the cost of drugs.

For example, studies conducted by the Government Reform & Oversight Committee of Congressional Districts across the nation (see Attachment "Prescription Drug Pricing in the 9th Congressional District in Tennessee, Drug Companies Profit at the Expense of Older Americans") shows that for commonly prescribed drugs, seniors on average pay between 96%–104% more than "most favored customers." Back home in my Congressional District, seniors who have suffered a stroke or have high blood pressure or depression, can pay anywhere from \$110–\$275 for their prescription medication. For the senior in my District that is taking the national average of 2.4 prescription drugs, that means a medication bill of: at least \$264 a month or \$3,168 a year; or at most \$633 a month or \$7,600 a year.

No matter how you cut it, these prices and the discrepancy in cost between what seniors and HMOs pay is fundamentally unfair and must come to an end. In my view, if anything, seniors and not HMOs should be the "most favored customers" of pharmaceutical companies.

Fortunately, thanks to the leadership of my colleagues JIM TURNER and TOM ALLEN, we now have legislation—the Prescription Drug Fairness Act and the Prescription Drug Fairness for Seniors Act—designed to help level the playing field when it comes to the cost of prescription drugs. Under these measures, the price of medication for seniors will be reduced, among other ways, by: providing Medicare beneficiaries with a drug benefit card that will entitle the holder to purchase drugs at reduced prices from participating pharmacies; and allowing pharmacies to purchase drugs at the same lower price as the Federal Government, thus allowing pharmacies to pass the savings on to seniors.

As Congress continues in the weeks and months ahead to discuss and debate the scope and nature of health care reform, it is critically important that we take the time to confront issues like this—issues that affect the ability of millions of Americans to receive quality health care in an efficient and cost effective manner.

As a public policy maker at the federal level, I believe Congress has a responsibility to help

protect seniors—who because of their pressing health needs and limited incomes are particularly vulnerable—from the unreasonably high costs of prescription drugs.

The Prescription Drug Fairness Act and the Prescription Drug Fairness for Senior Act are designed to accomplish just that.

PRESCRIPTION DRUG PRICING IN THE 9TH CONGRESSIONAL DISTRICT IN TENNESSEE: DRUG COMPANIES PROFIT AT THE EXPENSE OF OLDER AMERICANS

EXECUTIVE SUMMARY

This staff report was prepared at the request of Rep. Harold E. Ford, Jr. of Tennessee. In Mr. Ford'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. Ford requested that the minority staff of the Committee on Government Reform and Oversight investigate this issue.

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, the first of its kind in Tennessee, presents new and 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 and health maintenance organizations. The findings show that a senior citizen in Mr. Ford's district paying for his or her own prescription drugs must pay, on average, over twice as much for the drugs as the drug companies' favored customers. The study found that this is an unusually large price differential—more than five 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 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 their 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 Americans.

A. Methodology

This study investigates the pricing of the ten 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 and HMOs, 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. Ford's congressional district in Tennessee. 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 in Tennessee pay inflated prices for commonly used drugs. For the ten drugs investigated in this study, the average price differential in Mr. Ford's district was 115% (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 BEST-SELLING DRUGS FOR OLDER AMERICANS IN TENNESSEE ARE TWICE AS HIGH AS THE PRICES THAT DRUG COMPANIES CHARGE THEIR MOST FAVORED CUSTOMERS

Prescription drug	Manufacturer	Use	Price for favored customers	Retail Prices for Tennessee senior citizens	Price differential for Tennessee senior citizens (percent)
Ticlid	Hoffman-LaRoche	Stroke	\$33.57	\$120.02	258
Zocor	Merck	Cholesterol	42.95	111.05	159
Prilosec	Astra/Merck	Ulcers	58.38	118.97	104
Norvasc	Pfizer Inc.	High Blood Pressure	58.83	118.02	101
Procardia XL	Pfizer Inc.	Heart Problems	67.35	133.07	98
Relafen	Smithkline Beecham	Arthritis	62.58	122.76	96
Vasotec	Merck	High Blood Pressure	56.08	109.32	95
Fosamax	Merck	Osteoporosis	31.86	58.28	83
Zolof	Pfizer, Inc.	Depression	123.88	220.10	78
Cardizem CD	Hoechst Marriou Roussel	Angina/Hypertension	99.36	175.02	76
Average price differential					115

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 treat-

ment manufactured by Knoll Pharmaceuticals. For this drug, the price differential for senior citizens in Tennessee was 1,512%. An equivalent dose of this drug would cost the manufacturer's favored customers only \$1.78, but would cost the average senior citizen in Tennessee \$28.69. For Micronase, a

diabetes treatment manufactured by Upjohn, an equivalent dose would cost the favored customers \$6.89, while seniors in Tennessee are charged \$48.33. The price differential was 601%.

TABLE 2: PRICE DIFFERENTIALS FOR SOME DRUGS ARE MORE THAN 1,500%

Prescription drug	Manufacturer	Use	Prices for favored customers	Retail prices for Tennessee senior citizens	Price differential for Tennessee senior citizens (percent)
Synthroid	Knoll Pharmaceuticals	Hormone treatment	\$1.78	\$28.69	1512
Micronase	Upjohn	Diabetes	6.89	48.33	601

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 and HMOs. Because these customers typically buy in bulk, some difference between retail prices and "favored customer" prices would be expected. 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 ten prescription drugs was 115%, while the price dif-

ferential 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 prices being paid by seniors in Mr. Ford'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 Ten-

nessee pharmacies 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 Tennessee are 8% above the published national Average Wholesale Price. The differential between retail prices and a second indicator of pharmacy costs, the prices from one wholesaler, is only 27%. 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 disease which disproportionately affect older Americans include depression and neurodegenerative diseases such as Alzheimer’s disease, Lou Gehrig’s disease, and Parkinson’s disease.*

According to the American Association of Retired Persons, older Americans spend almost three times as much of their income (21%) on health care than do those under the age of 65 (8%), and more than three-quarters of Americans aged 65 and over are taking prescription drugs.²

The average older American takes 2.4 prescription drugs.³ More importantly, older Americans take significantly more drugs on average than the under-65 population.⁴ It is estimated that the elderly in the United States, who make up 12% of the population, use one-third of all prescription drugs.⁵

Although the elderly have the greatest need for prescription drugs, they often have the most inadequate insurance coverage for the cost of these drugs. A 1996 AARP survey indicated that 37% of older Americans do not have insurance coverage for prescription drugs.⁶ 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.

The primary reason for this burden is that, with the exception of drugs administered during in-patient hospital stays, Medicare generally does not cover prescription drugs. While Medicare managed care plans may offer optional prescription drug coverage, they are available only as an option subject to the discretion and fiscal priorities of the health plans. Moreover, these Medicare managed plans currently serve only a small portion of the Medicare population.

Although Medicare beneficiaries can purchase supplemental “Medigap” insurance privately, these policies are often prohibitively expensive or inadequate. For example, one of the standardized Medigap policies available 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 cost.⁷

Medicare beneficiaries without public or private prescription drug coverage are the group most at risk of 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.”⁸

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 sur-

veyed reported that they were forced to choose between buying food and buying medicine.⁹ By another estimate, five million older Americans are forced to make this difficult choice.¹⁰

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

Rep. Harold E. Ford, Jr. of Tennessee asked the minority staff of the Committee on Government Reform and Oversight 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 analysis 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.’”¹¹ 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.”¹²

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

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. Drug manufacturers’ profitability is discussed in part V.

III. METHODOLOGY

A. Selection of Drugs for this Survey

This survey is based primarily on a selection of the ten 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 out-patient 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.¹³

B. Determination of Average Retail Drug Prices for Seniors in Tennessee

In order to determine the prices that the elderly are paying for prescription drugs in Tennessee, the minority staff and the staff of Mr. Ford’s congressional office conducted a survey of ten pharmacies in Mr. Ford’s congressional district. Mr. Ford represents Tennessee’s 9th Congressional District, located in Memphis.

C. Determination of Prices for Drug Companies’ Most Favored customers

Drug pricing is complicated and drug companies closely guard their pricing strategies. The best publicly available indicator of the prices companies charge their most favored customers, such as large insurance companies and HMOs, is the Federal Supply Schedule (FSS).

The FSS is a price catalog containing goods available for purchase by federal agencies. Drug prices on the FSS are negotiated by the Department of Veterans Affairs. The Prices on the FSS closely approximate the prices that the drug companies charge their most favored nonfederal customers. According to the U.S. General Accounting Office (GAO), “[u]nder [General Services Administration] 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 offers its most-favored nonfederal customer under comparable terms and conditions.”¹⁴ Thus, in this study, FSS prices are used to represent the prices drug companies charge their most favored customers.

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 prices charged pharmacies by a large drug wholesaler. 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 is an average of prices charged by the drug wholesalers to retail pharmacies. The AWP prices were obtained from the 1997 Drug Topics Red Book.¹⁵ As another measure of wholesale prices, the study used the wholesale prices charged pharmacies by McKesson, the world’s largest wholesaler.

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 1994 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.

F. Comparison of Price Differentials for Other Retail Items

In order to determine whether the differential between FSS 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.¹⁶

IV. DRUG COMPANIES CHARGE OLDER AMERICANS DISCRIMINATORY PRICES

A. Discrimination in Drug Pricing

For the ten patented, nongeneric drugs most commonly used by seniors, the average differential between the price that would be paid by a senior citizen in Mr. Ford’s congressional district and the price that would be paid by the drug companies’ most favored customers was 115% (Table 1). The study thus showed that the average price that older Americans and other individual consumers in Mr. Ford’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 ten best selling drugs, the highest price differential was 258% for Ticlid, a stroke treatment manufactured by Hoffman-LaRoche. Zocor, a cholesterol-reducing drug manufactured by Hoffman-LaRoche, had a price differential of 159%.

For other popular drugs, the study found even greater price differentials. The drug with the highest price differential was

*Footnotes appear at end of article.

Synthroid, a commonly used hormone treatment manufactured by Knoll Pharmaceuticals. For this drug, the price differential for senior citizens in Tennessee was 1,512%. An equivalent dose of this drug would cost the most favored customers only \$1.78 but would cost the average senior citizen in Tennessee \$28.69. For Micronase, a diabetes treatment manufactured by Upjohn, the price differential was 604%.

Every drug looked at in this study had a large price differential. Eight of the ten best-selling drugs had price differentials of over 80%. Four of the ten drugs had price differentials over 100%. Cardizem CD, the drug with the lowest markup, still had a differential of 76%.

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 differential 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 five larger than the average price dif-

ferential for other consumer goods. This indicates that a volume effect is unlikely to explain the large differential in prescription drug pricing.

C. Drug Company Versus Pharmacy Responsibility

Finally, the study sought to determine whether drug companies or retail pharmacies were 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 sell them. The study found that the average retail price for the ten most common drugs was only 8% higher than the published national Average Wholesale Price, and only 27% higher than the price available directly from one large wholesaler. 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.¹⁷

Moreover, the study found few differences between retail prices at pharmacies in different parts of Mr. Ford's district. Further, although there were variations in prices between chain and independent pharmacies, these differences were small and not systematic.¹⁸

V. DRUG MANUFACTURER PROFITABILITY

Drug industry pricing strategies have boosted the industry's profitability to extraordinary levels. The annual profits of the top 10 drug companies is nearly \$20 billion.¹⁹ 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.²⁰

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 increased profits were due in large part to sales of Zocor and Fosamax.²¹ Both of these drugs are sold at large price differentials to seniors and other individual consumers in Mr. Ford's district. Zocor, which is sold in Mr. Ford's district at a price differential of 159%, itself accounts for 6% of Merck's revenue.²²

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 1999.²³ According to one analyst, "the prospects for the pharmaceutical industry are as bright as they've even been."²⁴

APPENDIX A.—INFORMATION ON PRESCRIPTION DRUGS ANALYZED IN THIS STUDY

Brand name drug	Dosage and form	Indication	Prices (dollars)				Price differential (percent)
			FSS	Major wholesaler	AWP	Average retail price	
Ticlid	250 mg, 60 tablets	Stroke	\$33.57	\$99.44	\$108.90	\$120.02	258
Zocor	5 mg, 60 tablets	Cholesterol reducer	42.95	85.47	106.84	111.05	159
Norvasc	5 mg, 90 tablets	Blood pressure	58.83	97.92	125.66	118.02	101
Relafen	500 mg, 100 tablets	Arthritis	62.58	88.88	111.10	122.76	96
Prilosec	20 mg, 30 capsules	Ulcer	58.38	99.20	108.90	118.97	104
Procardia XL	30 mg, 100 tablets	Heart	67.35	105.05	131.31	133.07	98
Fosamax	10 mg, 30 tablets	Osteoporosis	31.86	50.91	51.88	58.28	83
Vasotec	10 mg, 100 tablets	Blood pressure	56.08	85.56	102.94	109.32	95
Cardizem CD	240 mg, 90 tablets	Angina	99.36	154.10	165.42	175.02	76
Zoloft	50 mg, 100 tablets	Depression	123.88	172.44	215.55	220.10	78
Average price differential							115

APPENDIX B.—THE 10 TOP SELLING PATENTED, NON-GENERIC DRUGS FOR SENIORS RANKED BY 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.
6	Vasotec	Merck	High Blood Pressure.
7	Cardizem CD	Hoechst Marion Roussel.	Angina.
8	Ticlid	Hoffman-LaRoche	Stroke.
9	Fosamax	Astra/Merck	Osteoporosis.
10	Relafen	Smithkline Beecham	Arthritis.

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

APPENDIX C.—PRICE COMPARISONS FOR NON-PRESCRIPTION DRUG ITEMS—Continued

Item	FSS price	Retail price	Differential (percent)
Scissors	10.88	12.99	19
Pencils, #2, 20-pack	1.03	1.26	22
Paper Towels	22.94	29.98	31
Post-It Notes	2.08	2.89	39
Envelopes, 500, White, 20 lb. weight	6.45	9.49	47
Correction Fluid, 18 ml., dozen	6.66	9.99	50
Average price differential			22

FOOTNOTES

- ¹National Institute on Aging (NIA), NIA Age Page (www.nih.gov/nia/health/pub/medicine.htm).
- ²AARP Public Policy Institute and the Lewin Group, Out of Pocket Health Spending By Medicare Beneficiaries Age 65 and Older: 1997 Projections (February 1997).
- ³AUS/ICR for the American Association of Retired Persons, National Pharmaceutical Council, and Pharmaceutical Executive Magazine, Survey on Prescription Drug Issues and Usage Among Americans Aged 50 and Older, I (May 1996).
- ⁴Senate Special Committee on Aging, Developments in Aging: 1996, 1 S. Rep. 36, 105th Cong., 1st Sess. 121 (1997).
- ⁵Senate Special Committee on Aging, Developments in Aging: 1993, 1 S. Rep. 403, 103d Cong., 2d Sess. 35 (1994).
- ⁶AARP Public Policy Institute and the Lewin Group, supra note 1.
- ⁷Families USA Foundation, Worthless Promises: Drug Companies Keep Boosting Prices, 6 (March 1995).
- ⁸Senate Report 36, supra note 4, at 122.
- ⁹Families USA Foundation, supra note 7, at 6.
- ¹⁰Senate Special Committee on Aging, A Status Report—Accessibility and Affordability of Prescription Drugs For Older Americans, S. Rep. 100, 102d Cong., 2d Sess. 2 (1992).
- ¹¹Herman Saftlas, Standard & Poor's, Healthcare: Pharmaceuticals, Industry Surveys, 19–20 (December 18, 1997).
- ¹²Id., at 19.
- ¹³Pharmaceutical Assistance Contract for the Elderly ("PACE"), Pennsylvania Department of Aging, Annual Report to the Pennsylvania General Assembly (January 1–December 31, 1997).
- ¹⁴U.S. General Accounting Office, Drug Prices: Effects of Opening Federal Supply Schedule for Pharmaceuticals Are Uncertain (June 1997) (emphasis added).
- ¹⁵Medical Economics Company, Inc., 1997 Drug Topics Red Book.
- ¹⁶The items were binder clips, rubber bands, toilet paper, rolodexes, tape dispensers, wastebaskets, scissors, pencils, paper towels, post-it notes, envelopes, and correction fluid.
- ¹⁷National Association of Chain Drug Stores, Did You Know ... (pamphlet) [citing financial data assembled by Keller Bruner & Company, P.C., Certified Public Accountants (1995)].
- ¹⁸In 1993, independent pharmacies sued 19 drug manufacturers, alleging that the differential between the prices charged most favored customers and the prices charged pharmacies violated anti-trust laws. In 1996, 11 of these drug manufacturers agreed to settle with the pharmacies. Under this

APPENDIX C.—PRICE COMPARISONS FOR NON-PRESCRIPTION DRUG ITEMS

Item	FSS price	Retail price	Differential (percent)
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 cards	13.24	14.29	8
Tape Dispenser	1.44	1.69	17
Wastebasket, Plastic, 13 qt	2.95	3.49	18

agreement, these pharmaceutical companies promised to offer pharmacies the same price discounts as favored customers like large HMOs if the pharmacies could show the same ability to move market share as the favored customers. On July 13, 1998, four additional drug manufacturers agreed to a settlement under similar terms.

Unfortunately, the results of this study cast doubt on whether these agreements are likely to end the price discrimination practices of the large pharmaceutical companies. Eight of the ten most popular prescription drugs in this survey—Zocor, Norvasc, Prilosec, Procardia XL, Relafen, Vasotec, Fosamax, and Zolof—are covered by the agreement reached in 1996, and there is still large price discrimination for all of these drugs. Synthroid is also covered under the agreement, and this drug has a price differential of 1,512%.

The reason for the continued high price differentials may be that, unlike hospitals or HMOs, pharmacies cannot control decisions made by doctors about what drugs to prescribe, and thus are unable to demonstrate to the drug manufacturers that they can influence market share. The doubts raised by this study are consistent with the observations of other industry analysts, who note that "there is already intense skepticism among retail buying groups for independent drugstores about whether the smaller independents will have the ability to qualify for the potential windfall and pass the savings on to customers." *Wall Street Journal*, Drug Makers Agree To Offer Discounts For Pharmacies, July 15, 1998, p. B4, column 3.

¹⁹See 1998 Fortune 500 Industry List (www.pathfinder.com/fortune500/indlist.html).

²⁰Paul J. Much, Houlihan Lokey Howard & Zukin, Expert Analysis of Profitability (February 1988).

²¹USA Today, Drugmakers Have Healthy Outlook (July 20, 1998).

²²IMS America, Top 200 Drugs of 1997 (1998).

²³USA Today, supra note 22.

²⁴Id., D1.

PRESCRIPTION DRUG PRICING

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1998

Mr. SANDERS. Mr. Speaker, I want to bring attention to a crisis in our nation. Our seniors are dying because they cannot afford the medication prescribed to them by their doctors. Either they don't take their medicine, or they stop eating in order to save money to fill their prescriptions. This is a travesty.

I am pleased to join my colleagues in supporting the Prescription Drug Fairness for Seniors Act, which will allow elderly Americans to purchase their prescriptions at a lower and fairer price. Currently, many large groups, such as HMOs, insurance companies, and hospitals, purchase drugs at a reduced price from the pharmaceutical companies. These are known as most favored customers. However, one group that makes up about one-third of the drug-buying market is left out of this discount—Medicare beneficiaries.

The Prescription Drug Fairness for Seniors Act will give Medicare beneficiaries a drug benefit card that they can use to purchase prescription drugs at reduced prices from participating pharmacies. The Government Reform and Oversight Committee estimates that seniors will be able to receive more than a 40-percent discount. This will be a much-needed, in fact, lifesaving, change for our nation's elderly citizens.

The average income for all seniors was \$17,000 in 1996. However, that number plummets to only \$13,000 per year for elderly women, or just over \$1,000 per month. Many seniors pay at least one-half that amount for prescription drugs. It is absurd to charge those individuals who can least afford it the highest

prices for their needed medication. I've heard from seniors in my state that they not only are paying a huge amount of their monthly income for prescriptions, but that they don't know how they can deal with the prices that continue to rise.

And our seniors are somewhat lucky in Vermont. There are two programs run by the state that give low-income seniors help with paying for their prescription drugs. One program, V-HAP, is for very low-income seniors who earn too much for Medicaid. This program allows seniors to pay just a few dollars a month for their drugs. The other program, VScript, has a higher income threshold and gives seniors with chronic illnesses a 50-percent discount on their prescriptions. And still, many seniors either do not know about these state programs, or they take advantage of them and still find it difficult to pay for their drugs, even with the 50-percent discount!

In two recent cases in Vermont, my constituents went to have their prescriptions refilled and found that the price had more than doubled in less than 2 months with no notice to them. This is ridiculous! One of the pharmacists even had the audacity to ridicule one of my constituents when she became upset at the huge increase in price and wondered how to pay for it.

Another of my constituents, Katherine Bentley, whose story is mentioned in my Vermont report on seniors' drug prices, was unable to pay her electric bill because she was paying almost \$600 per month—more than half her income—for her prescription drugs. This forced her out of her home and she still cannot afford all of her medication. Our seniors deserve to be treated much, much better than this.

In recent years, many Members of Congress, including myself, have advocated having Medicare cover prescription drugs. I still believe that this is a fair, solid proposal. However, why should the Federal Government take up the cost of this plan when the pharmaceutical companies, with annual profits in the billions of dollars, which put them on the Forbes 50 list annually, could and should offer the same discount to Medicare beneficiaries as they offer to HMOs and insurance companies? Who do we side with here? The multi-billion dollar pharmaceutical companies or poor, sick, elderly Americans who need prescription drugs? It is only fair to allow Medicare beneficiaries with their considerable buying power, to get the same discount on their drugs as large corporations.

In addition to allowing seniors to purchase drugs at this reduced rate, another solution to providing lower-cost drugs for all Americans, including the elderly, is to reinstate the reasonable pricing clause at NIH. This provision was repealed in 1995. It directed NIH to take into account the cost that a pharmaceutical company would charge future customers for a drug before agreeing to issue a cooperative research and development agreement (CRADA). I have introduced bipartisan legislation, along with Representatives ROHRBACHER, CAMPBELL, and PATRICK KENNEDY, to reinstate this provision. The bill is H.R. 3758, the Health Care Research and Development and Taxpayer Protection Act.

Let me detail how important the reasonable pricing clause is. Today, drug companies charge whatever they want for drugs. Taxpayers get hit twice—once when their tax dol-

lars go to develop these drugs at NIH and again when they have to buy the medication.

Here are some examples of how the taxpayers are gouged by the pharmaceutical companies: Taxol, a breast cancer treatment drug, costs its manufacturer, Bristol Myers Squibb, \$500. Bristol Myers Squibb turns around and charges \$10,000 for that drug. This drug makes the pharmaceutical company \$1 million every day. In this decade, two million women will be diagnosed with breast cancer—1/2 million of them will die. They are dying because they do not have \$10,000 for Taxol, which would save thousands of lives. Levamisole, which was sold by Johnson&Johnson as an anti-worm drug for sheep at six cents a pill, was found to treat colon cancer. With this discovery, Johnson&Johnson began charging \$6 a pill, a 100-percent markup. Colorectal cancer killed over 50,000 Americans in 1995. Again, seniors are dying because they cannot afford these ridiculously expensive drugs to treat their cancer.

I hope that we can pass both pieces of legislation quickly—both the seniors drug pricing legislation and the NIH reasonable pricing clause legislation—as many of my constituents have urged, so that no more seniors are forced out of their homes, or are forced to choose between food or medicine. This is disgraceful and we need to give seniors access to their medication at a fair price.

PRESCRIPTION DRUG PRICING

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1998

Mr. TIERNEY. Mr. Speaker, and I would first like to thank my good friend from Maine, Tom Allen, for his work to end the gouging of prices for prescription drugs by pharmaceutical companies.

We have heard horror stories about seniors forgoing food, electricity or other necessities in order to pay for their monthly medications. In some instances, seniors will choose one medication of the other, alternating each month, because they simply cannot afford to be buying everything they need. We have seen the profits of pharmaceutical companies skyrocket to nearly \$20 billion a year. And there profits will continue to grow, at the expense of our nation's seniors. It is time to end this cycle of discrimination.

In Massachusetts, we are fortunate to have a number of safety nets in place to help seniors with their prescription drug needs. Our state Medicaid system, MassHealth, protects the poorest of the poor. Our State Pharmacy Program provides up to \$750 a year in prescription drug coverage. The State Legislature even passed a law in 1994 to require all Medicare HMO's to provide an optional prescription drug benefit. Approximately 75 percent of the 211,000 beneficiaries in the state enrolled in Medicare HMO's benefit from this option.

However, there are many who fall through the cracks and for reasons beyond their control, are not eligible for any federal or state assistance.

For example, Georgia LaPine from North Andover, MA is a 74 year old retiree who is completely dependant on her monthly Social Security check. She is on numerous medications, including three different asthma inhalers,