



# In the Literature

Highlights from Commonwealth Fund-Supported Studies in Professional Journals

## International Best Practices for Negotiating ‘Reimbursement Contracts’ with Price Rebates from Pharmaceutical Companies

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**Access to full article:** <http://content.healthaffairs.org/content/32/4/771.abstract>

### Synopsis

In a growing number of countries, governments are negotiating rebate agreements with pharmaceutical firms so that health insurers can avoid paying the full list price for prescription drugs. These “reimbursement contracts” can present challenges, however. Policymakers should set clear and consistent processes for contract negotiations and monitor how this approach affects differences among drug prices within and across nations.

**“Policymakers should monitor the level and range of price rebates obtained in the United States to be sure that Americans do not end up paying excessive prices.”**

### The Issue

Reimbursement contracts have been common in the United States since 1980, and their prevalence is growing in other wealthy nations. The trend appears to be driven by pharmaceutical manufacturers, which prefer confidential rebate arrangements to making price discounts available to all payers globally. In a Commonwealth Fund–supported study, Steven Morgan, a 2001–02 Commonwealth Fund Canadian Associate Harkness Fellow, and colleagues sought to determine best practices for reimbursement contract negotiation based on the experiences of health care payers in the U.S. and in eight other industrialized countries.

### Key Findings

- Along with the U.S., New Zealand was an early adopter of reimbursement contracts, initiating them in 1993. For most of the other countries studied, reimbursement contracts have been in regular use only for the past five to 10 years. Only Austria and the Netherlands reported not yet using negotiated reimbursement contracts.
- Policymakers involved in drug coverage decisions shared similar motivations for using reimbursement contracts: a desire to lower prices, the need for budget predictability, and the goal of paying prices that are commensurate with a drug’s effectiveness.

- Challenges noted by policymakers relate to enforcement of the contracts, the lack of transparency around negotiation and outcomes, and resource requirements, including the need for legal, technical, and administrative personnel to participate in negotiations. Also cited as a concern was vulnerability of the process to gaming by drug makers, which might use the contracts to “buy their way onto a formulary,” as it can be politically difficult to withdraw a drug from coverage once a contract expires.
- Policymakers recommend that contracts be clear and simple, since complex schemes—for instance, those linking rebates to health outcomes—may be difficult to enforce. While some level of price secrecy can be justified during contract negotiations, not all aspects of reimbursement contracts should be kept confidential, they say. Disclosing the existence, purpose, and type of reimbursement contracts can aid in payer accountability and legitimacy.

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### **Addressing the Problem**

In the U.S., large insurers may have sufficient bargaining power to garner the best available rebates. Some small purchasers, however, are unable to secure large discounts, and patients without a drug benefit plan are often unable to obtain any discount at all. These issues could also replicate globally: specifically, countries with little buying power (like small U.S. insurance plans) or countries with major gaps in health insurance coverage (like uninsured Americans) may be left paying the highest drug prices under this new global pricing paradigm. In the U.S., policymakers should consider the impact of this price discrimination on the uninsured and underinsured, the authors say. At the same time, with more Americans eligible for health insurance coverage under the Affordable Care Act and with the gradual closing of Medicare’s “doughnut hole” in drug coverage, fewer patients will be exposed to the full list prices for drugs in the future.

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### **About the Study**

Researchers interviewed policymakers involved in health coverage decisions in nine countries: Australia, Austria, Canada, Germany, Italy, the Netherlands, New Zealand, the United Kingdom, and the United States. Questions explored the reimbursement contracts in use in each nation, policymakers’ motivations for or rationale against using them, challenges faced, and best practices.

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### **The Bottom Line**

Reimbursement contracts present opportunities and challenges to policymakers as they seek to negotiate prices that reflect the true value of new drugs to society.

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### **Citation**

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*This summary was prepared by Martha Hostetter.*