

# Living on the Regs

How this time of transition will shape 2022  
Medicare Advantage and Part D bids

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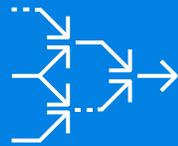


# Agenda

2022 Advance  
Notice and Rate  
Announcement



Potential Biden  
administration  
changes



COVID-19  
policies



November 2020  
drug pricing rules



# Presenters



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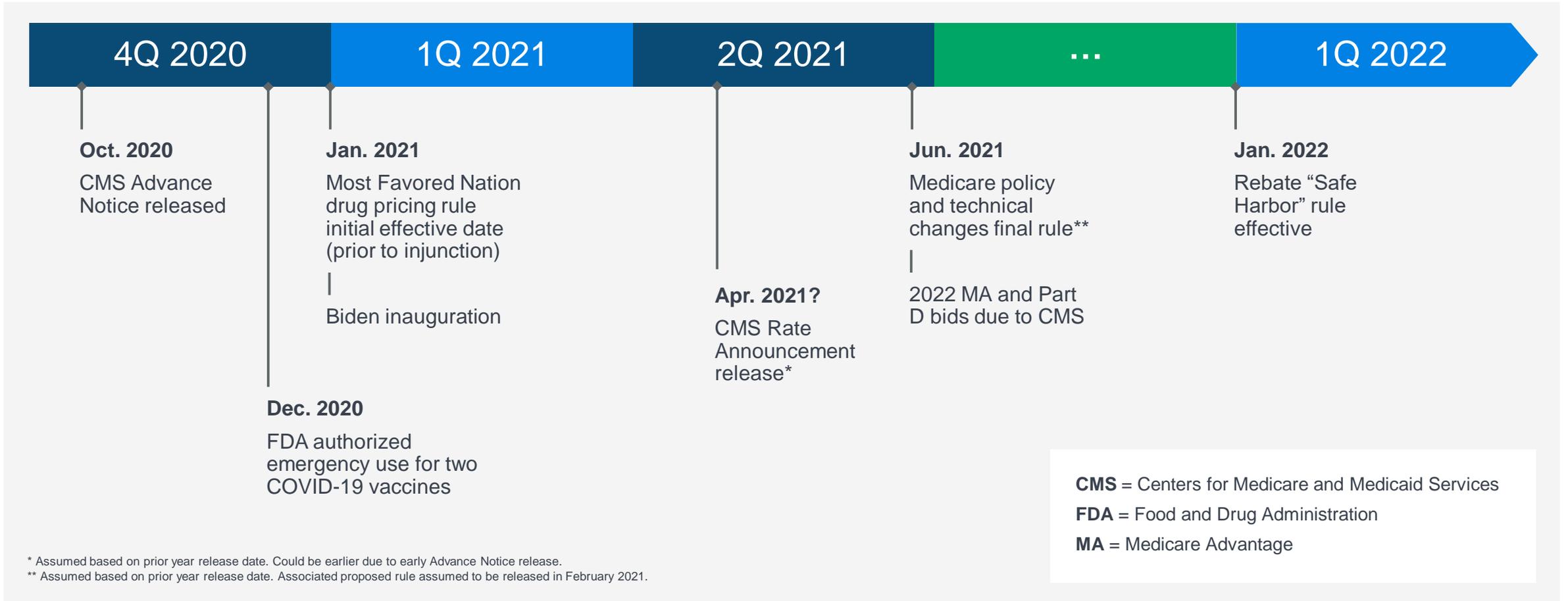
**Tracy Margiott**

**FSA, MAAA**

Principal & Consulting Actuary

# Times are changing

Timeline of key events

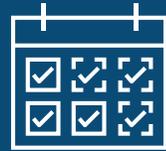


# 2022 Advance Notice and Rate Announcement

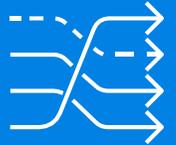


# 2022 Advance Notice and Rate Announcement

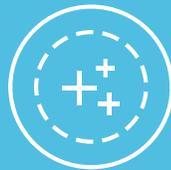
Changes to  
bid timelines



Complete RAPS  
to EDS transition



Little change  
to star ratings



New proposed  
RxHCC model



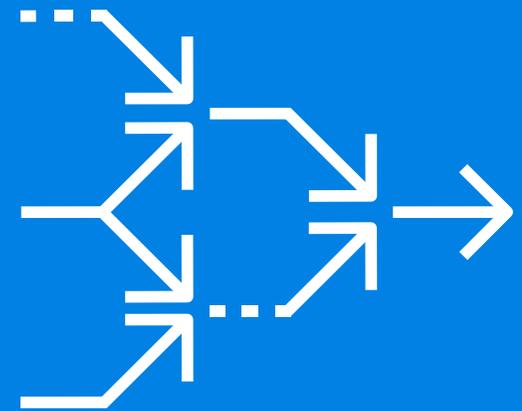
# 2022 Advance Notice and Rate Announcement

	2021 Final Announcement*	2022 Advance Notice**
Effective Growth Rate	4.07%	4.55%
Rebasing/Re-pricing (Incl. Kidney acquisition impact in 2021)	-0.35%	TBD
Change in Star Ratings	0.23%	-0.34%
MA Coding Pattern Adjustment	0%	0%
Risk Model Revision	0.25%	0.25%
Encounter Data Transitions	0%	0%
Normalization	-2.54%	-1.64%
<b>Expected Average Change in Revenue</b>	<b>1.66%</b>	<b>2.82%</b>

\* <https://www.cms.gov/newsroom/fact-sheets/2021-medicare-advantage-and-part-d-rate-announcement-fact-sheet>

\*\* <https://www.cms.gov/newsroom/fact-sheets/2022-medicare-advantage-and-part-d-advance-notice-part-ii>

# Welcome, folks, to the Biden administration

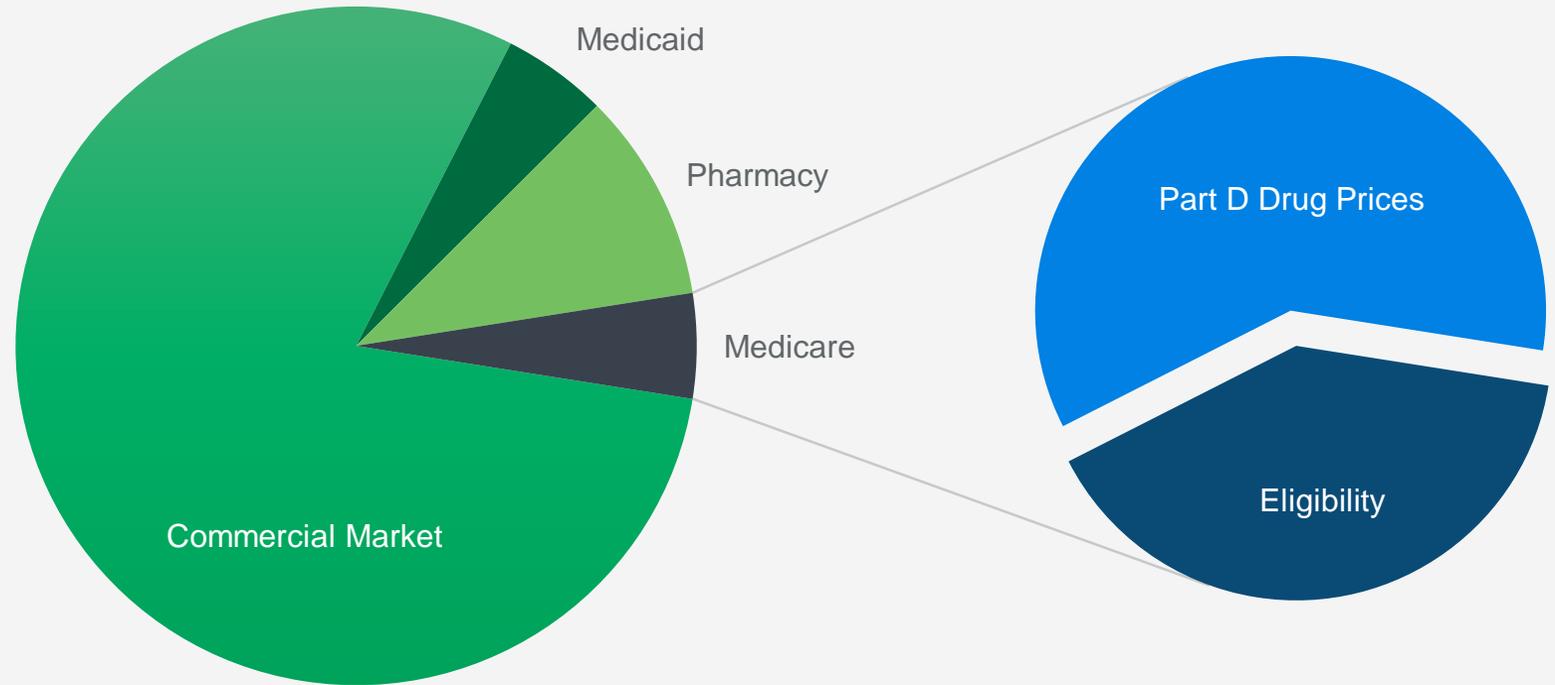


# Policies of the campaign

## Campaign was not Medicare-focused

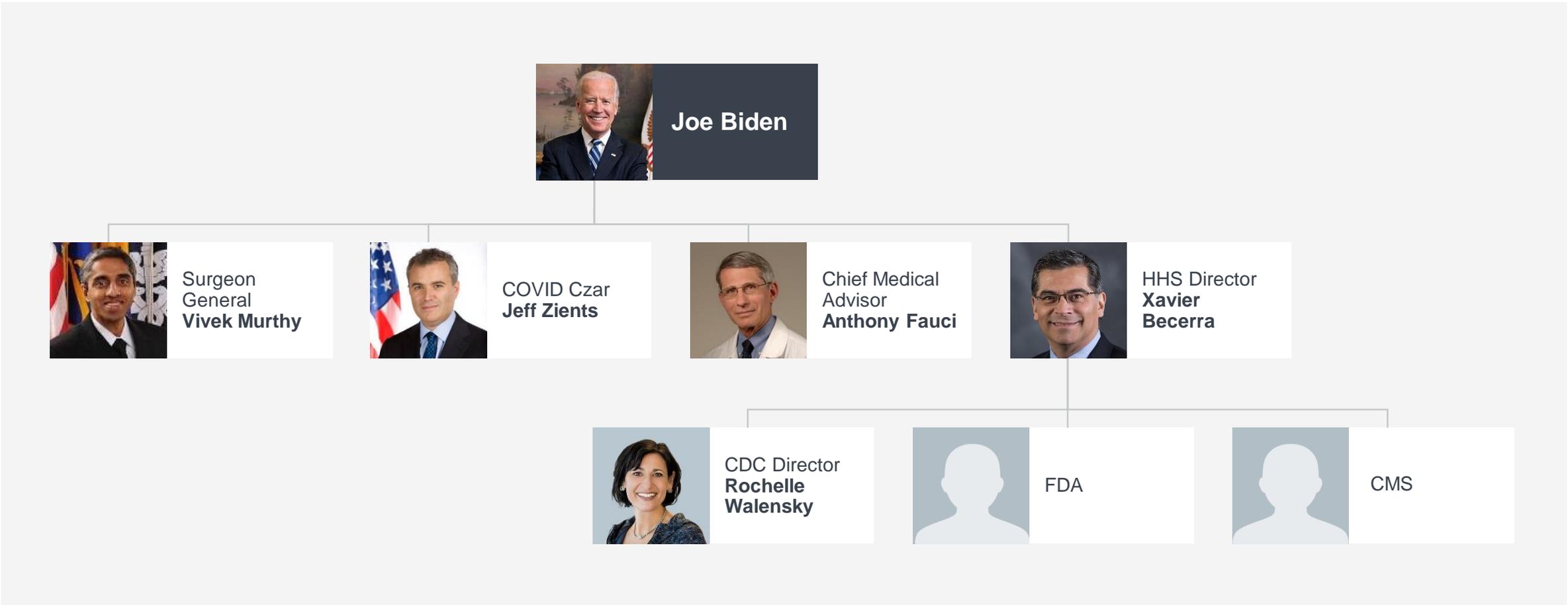
- Eligibility at 60 – if we can pay for it
- Let Part D negotiate prices

## The Biden Platform



# Personnel is policy

Reply hazy, try again later



# The opposite of progress?

If pro is the opposite of con...

## Potential pathways past partisan pitfalls?

- Drug pricing reform
- Benefit redesign

## Reconciliation or bust?

- With 50-50, more may be less
- Remember budget reconciliation?

## Executive action or inaction?

- CMMI to Medicare's rescue
- So long and thanks for all the regulatory roadblocks

# COVID-19 policies



# COVID-19 policies



## Public Health Emergency

Issued January 2020,  
renewed January 2021

## Coronavirus Preparedness and Response Supplemental Appropriations Act

March 2020

## Families First Coronavirus Response Act

March 2020

## Coronavirus Aid, Relief, and Economic Security (CARES) Act

March 2020

## Centers for Medicare and Medicaid Services Waivers, Rules, Memos, and Guidance

Ongoing

# COVID-19 policies

COVID care



- **Testing** at no cost sharing
- **Treatment** cost sharing may be reduced
- **Vaccine** at no cost sharing

**“It’s clear Congress wants to make sure Medicare beneficiaries have this vaccine and that there isn’t any cost sharing.”**

-CMS Administrator Seema Verma

# COVID-19 policies

## Benefit flexibility

### Telehealth

- Annual Physician Fee Schedule final rule released 12/1/2020
- Permanent expansion of telehealth approved services
- Originating site requirements still remain

### Mid-Year Benefit Flexibility

- 12/28/2020 HPMS Memo
- Mid-year benefit enhancements allowed in CY 2021
- Includes cost sharing reductions
- Similar flexibility as allowed for CY 2020
- No guarantee for CY 2022

# COVID-19 policies

Other



## Sequestration

- Suspended through 3/31/2021

## Public Health Emergency (PHE)

- Set to expire on 4/20/2021

# COVID-19 policies

## Implications

**How do the pandemic and related policies affect ... ?**

<https://us.milliman.com/en/insight/covid19s-impact-on-ma-risk-scores-how-insurers-can-protect-themselves>

**Utilization and timing of treatment (avoided or deferred care)**

**Delivery of services (mail order drugs, telehealth)**

**Risk scores and health plan revenue**

**Medical expenses and medical loss ratio (MLR) payments**

**CY 2022 plan options and pricing**

**Plan operations that may lead to higher administrative cost**

**Provider incentive and risk sharing arrangements**

# Drug pricing rules

Point-of-sale rebates and Most Favored Nation pricing



# Part D – Point-of-sale (POS) rebates

What is the rule?

## Current Structure

Plan sponsors typically collect manufacturer rebates **after the POS**

- Allowed under rebate "safe harbors"
- Does not reduce the drug cost used to determine member cost sharing or manufacturer discount payments
- Does reduce plan liability and federal reinsurance payments

## Final Rule Effective 1/1/2022

Manufacturer rebates would be used to **reduce the POS drug price**

- Current post-POS safe harbor replaced with a new POS safe harbor
- Financially comparable to receiving additional POS discounts
- Shared with all stakeholders that pay an amount that is a function of POS price

## Part D – POS rebates

Who is affected?

**“My extensive experience in this field, coupled with the fifteen year history of the program, supports my projection that there will not be an increase in federal spending, patient out-of-pocket costs, or premiums for Part D beneficiaries under the Final Rule implementing the Executive Order.”**

-Alex Azar, Secretary of Health and Human Services

<https://www.hhs.gov/about/news/2020/11/20/secretary-azar-confirmation-in-response-to-executive-order-on-lowering-prices-for-patients.html>

- Beneficiaries
- Drug manufacturers
- Wholesalers
- Pharmacy benefit managers
- Pharmacies
- Plan sponsors



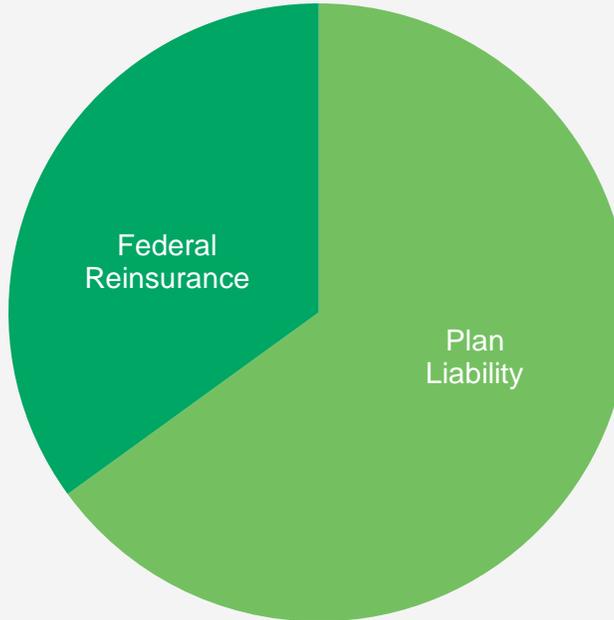
# Part D – POS rebates

Why are rebates important in Medicare Part D?

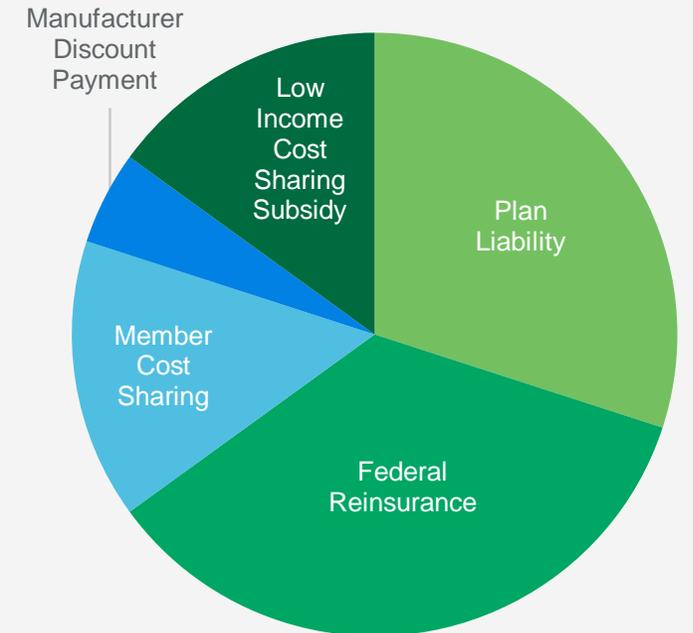
Rebates are shared with only the government to reduce reinsurance, while discounts are shared with all stakeholders involved in paying claims.

Values are illustrative estimates for the Part D program and will vary for specific plans.

## \$1 Rebate



## \$1 Discount



# Part D – POS rebates

An uncertain future



**Will the rule stay in effect?**

**How will it be implemented?**

**What are the operational and administrative requirements?**

**Will drug manufacturers continue to provide rebates?**

**Will remuneration between plan sponsors and pharmacies be affected?**

# Part B – Most Favored Nation (MFN) pricing

What is the rule?

## The basics

- Drug prices will be set at the lowest amount paid by other comparable countries
- Applies to 50 high-spend Part B drugs
- Applies to FFS Medicare, not MA
- Pricing phased in over multiple years

## Implications

- If FFS Medicare Part B costs decrease, will MA payment rates decrease?
- Resulting Part B premium decrease would affect both FFS and MA beneficiaries

**2021**                      **2022**                      **2023**                      **2024**                      **2025**                      **2026**                      **2027**

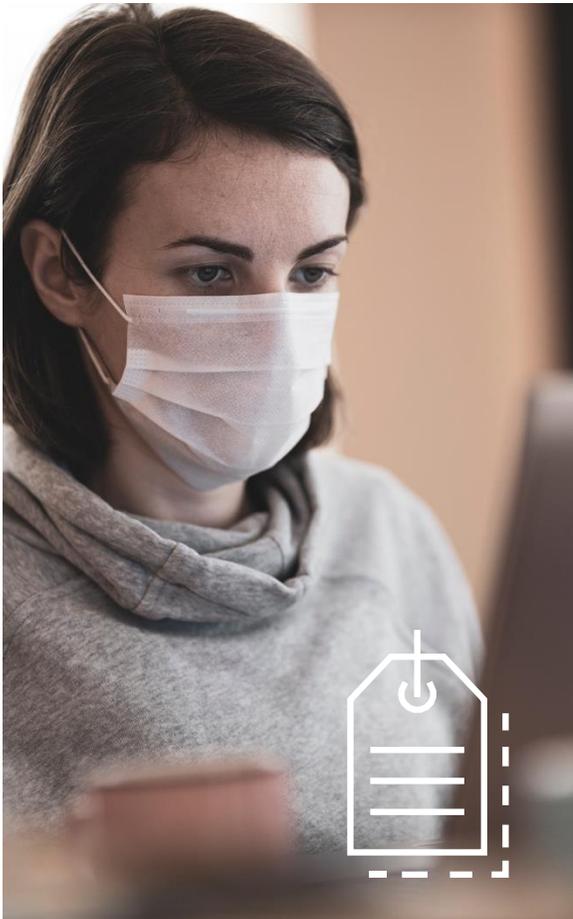
25% MFN 75% ASP	50% MFN 50% ASP	75% MFN 25% ASP	100% MFN			
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**FFS** = Fee for Service  
**ASP** = Average Sales Price  
**MA** = Medicare Advantage

<https://us.milliman.com/en/insight/november-2020-medicare-drug-pricing-rules-what-do-you-need-to-know>

# Part B – Most Favored Nation pricing

Current status



**Rule was set to be implemented 1/1/2021**

**Injunction issued in late December 2020**

- Judge ruled that CMS failed to follow required procedures for notice and comment

**Implementation currently on hold**

# Questions

# Caveats, limitations, and qualifications

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# Thank you!

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