

US government formalises rebate ban proposal, but challenges await



[Jonathan Gardner](#)

Anybody expecting drug rebates in the Medicare programme to disappear at the beginning of 2020 might find themselves disappointed. The Centers for Medicare and Medicaid Services (CMS) yesterday published a [proposed rule](#) banning rebates from drugmakers to pharmacy benefit managers (PBMs) co-ordinating prescriptions for enrollees in Medicare part D plans. Still, the proposal looks likely to face a legal challenge from PBMs and insurers that could delay it past the proposed January 1, 2020 start date. And a long legal challenge could make the measures redundant by the time they come into force, as payment models are changing: PBMs have largely been absorbed into larger health insurers that are evolving their drug reimbursement contracts into “value-based” deals that seek to base payments on medical outcomes. Rebates have been permitted under the “safe harbour” provisions of anti-kickback laws, but now the [CMS is proposing that safe harbour be withdrawn](#) for rebate arrangements except for those given to beneficiaries at the point of sale. The CMS says it believes that the ban would also apply to commercial health plans.

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