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AARP's Stop Rx Greed Campaign Should Focus on AARP's Rx Greed

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Introduction

AARP (formerly the **American Association of Retired Persons**) states that it is “a nonprofit, nonpartisan membership organization that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole.”

In fulfilling that mission, AARP offers movie theater, travel and cell phone discounts. While most of AARP's 38 million members enrolled for such goodies, much of the organization's public standing is derived from its years of lobbying. In particular, AARP has perennially criticized drug prices as being too high and have constantly called for government action to reduce them.

Most recently, AARP launched the [Stop Rx Greed](#) campaign, a combination of advertising and lobbying for reforms to “crackdown on price gouging and the greedy practices that keep prices artificially high.”

AARP wants the government to set the price of new drugs, allow drugs to be imported from Europe and Canada, breaking biotech patents if prices are deemed too high. Yet it opposes giving patients the cash rebates pharmaceutical companies now being pocketed by pharmacy benefit management companies who collect them on behalf of health plans or employers whose drug benefit plans they run. These rebates total \$170 billion of the nearly \$450 billion Americans spend on medicines.¹

Moreover, many patients, mostly seniors, have to pay a percentage of up to 50 percent of the list price of medicines, vs the net price. When the rebates and percentage paid of a drug's list price are added together, it turns out that Medicare patients produce over \$50 billion in rebates and cost sharing for Medicare Part D plans and other Medicare insurance products.²

AARP says passing Medicare rebates on to seniors is a bad idea. The StopRx Greed campaign it is running claims that giving rebates to seniors would raise the price of health insurance and Medicare Part D.

What the AARP campaign doesn't tell you is that is because rebates generated by seniors are used to make AARP very, very profitable. Nor does the campaign post a disclaimer that should read: “AARP, as one the largest health insurers and prescription drug middlemen in the United States, opposes using rebates to drug costs because it's bad for their business. “

¹ <https://www.drugchannels.net/2019/01/drug-prices-are-not-skyrocketingtheyre.html>

² https://structurecms-staging-psyclone.netdna-ssl.com/client_assets/compiorg/media/attachments/59c1/ca75/6970/2d1e/661c/2100/59c1ca7569702d1e661c2100.pdf?1505872501

The fact is, AARP is a for-profit financial juggernaut with \$4 billion in assets (including \$365 million in cash) that generates nearly \$1 billion a year in rebates and royalties from marketing Medicare prescription drug and health plans for big insurance companies.³

Most health insurers who sell Medicare part D, Medigap and Medicare Advantage plans oppose reforms that would require rebates to reduce the out of pocket cost of their customers. AARP never mentions that such reforms could also reduce their revenue. This is a potentially serious conflict of interest.

Indeed, in 2012 Senator Jim DeMint conducted a [study](#) that AARP functions as an insurance conglomerate with a ...lobbying arm on the side. The study interviewed “independent experts and former AARP executives (who) admit that the organization’s billions of dollars raised from its business enterprises – most notably the sale of health insurance plans – have compromised the organization’s mission and independence.”

Some may dismiss the DeMint study as a partisan attack on AARP. Yet in 1996, the *New York Times* said the AARP’s credibility would be at stake if it proceeded with efforts to license its name to managed care plans for a fee because [“the policies that might be best for the elderly are not always the policies that are best for the bank account of the A.A.R.P.”](#)

AARP has profited by letting United Health Care sell Medicare Advantage health benefits, Medicare Part D drug benefits and Medigap insurance under the AARP brand since 1997, according to [Forbes](#). According to a [2011 Congressional report](#), “United is AARP’s largest business partner. As part of the United and AARP business agreement all three of the Medicare insurance product lines are marketed under the AARP brand name.”

All three would be hurt by consumer-centered rebate reforms AARP’s StopRx Greed campaign is attacking. All three businesses would benefit from the StopRx Greed proposals to let government set drug prices and break drug patents. Let’s take a look at each.

AARP® Medicare Supplement Insurance Plans insured by UnitedHealthcare Insurance Company

- UnitedHealthcare Medicare & Retirement is currently serving 4.9 million seniors nationwide through various Medicare Supplement products in association with AARP. That makes UnitedHealth the largest Medigap insurer in the country. UnitedHealth holds over 34% of the market share nationwide, which is more three times that of its closest competitor Mutual of Omaha.
- Nearly 60 percent of AARP’s total revenues— \$940 million - come from a 4.95% rebate paid to them by United Health Care and other insurance companies who license the AARP name to sell Medicare supplemental plans and other insurance products.⁴ AARP

³ AARP Audited Financial Statements <https://www.aarp.org/about-aarp/company/annual-reports/>

⁴ See [Dane v. Unitedhealthcare Insurance Company et al](#) District of Connecticut, ctd-3:2018-cv-00792 AMENDED COMPLAINT against All Defendants, filed by Mark Dane.

claims these payments are royalties does not have to pay taxes on the income if it is a royalty payment, whereas rebates are illegal, and sales commissions would require licensure and the payment of taxes.

- The royalty payments have been the focus of several class-action lawsuits [alleging the advocacy group for older Americans duped Medicare patients into paying an undisclosed commission when they enrolled in AARP-branded supplemental health insurance plans.](#)
- These lawsuits note that UnitedHealth's insurance rate filing with the State of Rhode Island noting that 4.9% is charged to consumers as a "royalty" each month, resulting in a "PMPM" (i.e., per member per month) cost to consumers of \$9.01. As a recent class-action lawsuit filed against AARP states: "Shockingly, the 4.9% is the single largest expense of the insurance program -- it is more than double the 1.85% profit that UnitedHealthcare makes on the insurance program."⁵
- AARP also collects premium payments and holds onto the money long enough to invest the cash in hedge funds, real estate, bonds, and a stock portfolio. AARP invests enrollees' monthly premium payments in securities to earn money during a 31-day grace period before it pays the premiums to UnitedHealth.
- In other words, rather than having the payment to United Healthcare bind coverage immediately, nearly 5 percent is kicked back to AARP while the full amount is diverted into AARP accounts where it is invested in securities for the sole and exclusive benefit of AARP.
- All told, AARP collected \$11.8 billion in premium dollars in 2018 and has used that money to build a portfolio of about \$4 billion in net assets. Each year AARP generates about \$300 million a year in cash, tax-free.⁶

AARP Part D and Medicare Advantage Plans

There is another possible reason AARP opposes passing rebates and price controls. AARP Part D plans have 4.2 million members, which is the second largest share of the stand-alone Part D plan market. AARP offers three Part D plans administered by United HealthCare. The AARP Medicare Advantage Plan offered with United has 5.7 million members and has the largest share

[As noted in the lawsuit:](#) "This agreement to pay AARP a 4.9% rebate is documented in a side arrangement between AARP and UnitedHealthcare, in a confidential private contract, outside of the actual group policy of insurance. In this confidential private side contract, Defendants attempt to classify the 4.9% rebate as an "allowance," which they later renamed a "royalty." The original version of this confidential private side contract explains that the "royalty" is for AARP's "sponsorship" of the group plan and, allegedly, for the use of AARP's "intellectual property." "

⁵ [Dane v. Unitedhealthcare Insurance Company et al](#)

District of Connecticut, ctd-3:2018-cv-00792

AMENDED COMPLAINT against All Defendants, filed by Mark Dane.

⁶ <https://www.aarp.org/about-aarp/company/annual-reports/>

of any Medicare Advantage products.⁷ (Medicare drug benefits are included in Medicare Advantage offerings.). And Optum, the pharmacy benefit management company AARP plans use to generate rebates, is controlled by United Health.

AARP could use its buying power to market drug plans that reduce out of pocket costs of seniors or insure people can afford the medicine best for them. **Instead, between 2015-2020 the AARP Medicare Part D plans have increased premiums by 68 percent as net brand drug prices declined by 52 percent.**

- **AARP plans maximize rebates by covering drugs that offer the biggest rebates and these drugs typically have high list prices.**

[As a recent Health Affairs article points out:](#) Medicare Part D beneficiaries' cost sharing is based on the list price of the drug. The list price, however, usually is higher than the transaction price actually paid by prescription drugs plans (PDPs) and their pharmacy benefit managers (PBMs). The difference between the list price and the transaction price reflects various payments made by drug companies and pharmacies to PDPs and PBMs after the sale. These payments include drug companies' rebates, pharmacies' fees, and other forms of price concessions. The Medicare program defines these payments as direct and indirect remuneration ([DIR](#)).

The more the DIR increases from year to year, the higher the PDP and PBM profit.

- Like most other Part D plans, the AARP Part D plans give these drugs [more favorable formulary placement](#) than drugs with lower list prices and lower DIR, resulting in high use of the expensive drugs and wasteful spending by beneficiaries and Medicare.⁸
- AARP Part D have excluded more medicines from coverage than any other Part D offering. Since 2018, OptumRx, which manages the part D plans for AARP, has been the most aggressive in excluding medicines. Compared to other drug plans, [OptumRx leads the way with 246 new formulary exclusions. Of those 246 exclusions, 169 \(69%\) were for brands that have covered generic equivalents.](#)
- These exclusions are in part designed to generate the most rebates and cost sharing dollars. Often that means excluding lower cost generic versions of biologic drugs or biosimilars.

⁷ Unlike the AARP Medigap percentage-based rebating scheme alleged herein, under the Medicare Advantage program, AARP is paid a flat fixed fee. The reason for the difference in the Medicare Advantage compensation arrangement is because the federal government, which has more input into Medicare Advantage HMO programs since the government is directly funding the HMO, viewed the "royalty" arrangement as a kickback: The American Association of Retired Persons said yesterday that it had revised a sharply criticized plan to endorse selected health maintenance organizations, dropping a proposal to collect royalty payments for each of its members who joined an H.M.O. The royalties proposal had drawn fire from Government officials and industry experts, who suggested that it might violate Medicare anti-kickback laws. Federal laws forbid payments in cash or otherwise for referrals of Medicare beneficiaries.

⁸ Reforming Direct And Indirect Remuneration In Medicare Part D
<https://www.healthaffairs.org/doi/10.1377/hblog20190215.708286/full/>

For example, AARP plans do not cover Basaglar a biosimilar version of insulin launched but does cover brand-name Lantus. It covers no bisimilars for Neulasta even through such products as Udenyca and Fiphila retail for \$5100 compared to \$8500 for Neupogen. Though Zarxio retails for \$1440 vs \$1750 for Neupogen Nor do they cover biosimilars for Humira though they are cheaper.

- At the same time, many AARP beneficiaries experienced increasingly [higher cost sharing](#) because the cost sharing is generally based on drugs' list price ([annual growth rate: 12 percent](#)) and does not take into account the increasing DIR.
- In 2017, AARP Part D plans changed cost sharing for Tier 4 (branded, non-preferred drugs) from \$80 a month to 40 percent of the retail cost of the drug. While in many cases out of pocket costs remained the same even as the net price of drugs declined. Cost sharing skyrocketed for several medicines. For example, cost sharing for Neulasta increased from \$80 a month in 2016 to nearly \$1300.
- Most rebates come from drugs used by the sickest and require the most out of pocket, dollars that flow to the AARP Part D plans forcing the sickest patients to pay the highest cost sharing, which is used to reduce premiums for all beneficiaries. AARP plans generate nearly 30 percent of their rebate and cost sharing revenue from the sickest 2-3 percent of Medicare patients.
- As former FDA commissioner Scott Gottlieb noted: there's a "perverse incentive" to spread the benefit of those rebates across plan members, rather than applying them directly to lower the costs of drugs for the sickest patients — thus, a system where the sick subsidize the healthy...Patients shouldn't face exorbitant out-of-pocket costs, and pay money where the primary purpose is to help subsidize rebates paid to a long list of supply chain intermediaries, or is used to buy down the premium costs for everyone else."

Indeed, AARP has profited by forcing seniors to pay more for generic drugs as well.

- A [new study by Avalere](#) found that decisions by Medicare Part D drug benefit plans to shift generic drugs to non-generic tiers cost beneficiaries \$15.7 billion in higher out-of-pocket payments from 2016 through 2019. AARP Part D plans were among those engaging in this practice.
- When CMS announced it was considering changing the Part D tier formulary guidelines to prohibit or limit plans' ability to put generic drugs on non-generic tiers AARP also opposed that reform.

Finally, when drug companies seek to cut list prices to reduce out of pocket costs AARP United plans demanded ["equivalent rebates whenever list prices are cut."](#)

- For example, when Sanofi announced that it is cutting its Praluent price by 60%, following Amgen's move to chop Repatha's list price by the same percentage. The

PCSK9 cholesterol drugs are among many that have a large “gross-to-net” price gap, or high list prices—and high rebates and discounts paid out to the supply chain.

- The PBM behind AARP Part D plans then demanded equivalent rebates — in absolute terms, not percentages — off those lower priced drugs, as compared to the prices before reductions.⁹

Conclusion

AARP’s Stop Rx Greed campaign is a self-serving exercise. It opposes reforms that threaten its bottom line and supports changes that would fatten it.

Even the rationale for the campaign is false. AARP has claimed that drug prices keep rising. Yet as we have seen, the net price of medicines has been falling for the past seven years. Meanwhile AARP plans pocket and profit from the spread and continue to expose the sickest patients to the cost sharing burden.

The combination of rebates and retail price-based cost sharing pocketed by AARP sponsored plans discourages people from taking medicines. That leads to higher health care costs and increased sickness.

Meanwhile, AARP is collecting royalties rather than discounting premiums. It uses its purchasing power to not to reduce out of pocket drug costs but to make millions investing premium dollars before passing them on to United.

In short, AARP’s Stop Rx Greed campaign camouflages this hypocrisy as well as the business practices that government regarded as kickback schemes. Perhaps AARP should focus how it enriches itself at the expense of seniors. If not, the public – and Congress – should do it for them.

⁹ <https://www.fiercepharma.com/pharma/letter-to-pharmas-unitedhealthcare-seeks-to-protect-drug-rebates-from-price-reductions>