# Bargaining Drug Plans

**BARGAINING EXTENDED HEALTH AND DENTAL BENEFITS KIT**

## 1. INTRODUCTION

Prescription drug coverage is a critical component of benefits plans that must be defended. It is the most used part of benefit plans.[I] It is also critical to CUPE members' health. The more drug costs are passed on to individuals, the more people will face difficult choices about whether to fill prescriptions. Recent polling found that 22% of Canadians have split pills, skipped doses, or decided not to fill or renew a prescription due to cost.[II]

Employers often target prescription drugs for cost-saving schemes. This is because drugs are the greatest source of benefit plan cost increases. These cost increases are driven in large part by the high cost of specialty drugs. The number of drugs that cost over $10,000/year has more than tripled since 2006.[III] Some of these drugs are biologics, gene-based therapies or treatments for rare diseases, which are expensive to produce or serve small communities while others are "me too" drugs that are extremely similar to existing, lower-cost medications.

In a recent survey, 29% of employers indicated they planned to reduce or remove drug benefits.[IV] When employers demand cuts, our job is to make sure that cost alone is not the sole criteria. Our goal is to prevent the erosion of benefits to members, minimize any negative effects, and ensure all members have access to the medications they need.

## 2. EMPLOYER TACTICS

The employer will likely come to the table with proposals that attempt to pass on drug costs to plan members. The employer may also distract you from inadequate drug coverage by adding or increasing health spending accounts. Here is a list of other common employer tactics.

### Refusing to provide benefit information

Employers often refuse to provide the detailed data necessary for the union to understand drug benefit usage. In order to challenge the employer's cost estimates, bargaining committees need access to plan information such as the number of employees covered, how many full-time/part-time, costs to date, etc. A clause in the collective agreement can make the employer disclose plan statistics and how cost calculations are made. (See Collective Agreement Language Section of this Bargaining Benefits Series for sample language.)

### Increasing costs for workers

- **Increasing deductibles—**The deductible is a lump sum payment payable up front every year, before the carrier will reimburse eligible drug expenses. It is similar to the amount that auto insurance policy holders must pay before they are reimbursed for a claim.
- **Increasing co-payments—**Co-payment refers to the amount a member has to pay for prescription drugs at the pharmacy. Some plans will require a percentage of the medication to be paid up front. Some may indicate a percentage must be paid up to a certain dollar amount. The employer may suggest increasing either the percentage or the maximum dollar amount. Note: the percentage the member has to co-pay may differ from the cost-share of the plan premium between the employee and the employer.
- **Maintaining an outdated fee guide—**If the fee guide is out of date, plan members must pay the difference between what the professional charges and what their plan reimburses, resulting in more costs that eat into their take-home pay.

### Changing drug coverage

- **Restrictive formularies—**Limits the drugs available so that some expensive drugs and/or generics are excluded. Until recently, any drug formulary restrictions tended to be "rules-based". For example, drugs that require a doctor's prescription are covered while "over-the-counter" (OTC) drugs are not. However, employers are now manipulating formularies to reduce costs. "Managed formularies" is a trend imported from the U.S., which imposes rules that limit access to drugs, or guidelines that encourage certain prescribing practices. Managed formularies exist to save money. Formularies are usually developed by a benefits management company for the health insurance company.
- **Controlling how drugs are prescribed:**
  - > Pre-approvals—For certain medications, the physician must submit information to an independent reviewer, justifying the "medical necessity" of the medication.
  - > Trial Prescriptions—Under a trial prescription program, pharmacists dispense small amounts of a drug the first time it is prescribed. If the treatment is successful, the remainder of the prescription is dispensed.
  - > Step Therapy—In this case the plan only covers drugs when they are used in accordance with a standard treatment protocol, i.e. a specific drug must be used first, and if it is not successful then another (more expensive) drug may be used.
  - > Generic and biosimilar first: jump through hoops to get the name brand. The use of generics is not in itself an issue, but the physician may have a health-related reason to use the brand name.

### Reducing retiree benefits

Employers are gutting retiree plans because they now show up as a liability on their financial books. If retiree plans still exist in your bargaining unit, they may be 100% funded by your retired members and the employer may try to remove them entirely at every round of bargaining. Your bargaining team's focus should be on protecting existing coverage, but there are some actions you can consider taking to improve retiree plans' drug costs:

- **Review your provincial drug plans—**most provinces have drug plans for their residents aged 65 and up. Some of these plans may offer the same or superior benefits as your extended health plan for drug costs. If this is the case for you, attempt to negotiate a "bridge" benefit for your retired members who are 65 years and younger and the other retirees can slot under the provincial drug plan.
- **Increase the cost share of the premium for employers—**if you can get the employer to cover even 5% of the extended health plan premium, that will be an important improvement for those retiree members who have to cover the full cost of the plan.

## 3. OPTIONS TO CONTAIN DRUG COSTS

Here are some options for the locals to consider in order to improve prescription drug coverage or protect existing drug coverage.

### Formularies

A formulary is the list of drugs covered by the plan. Formularies have an impact on costs AND patient care. It is critical to ensure any formulary is designed in a way that preserves members' access to needed medication.

- Normally, formularies are developed by an independent, highly qualified group of health care professionals. We advocate for formularies based on drug safety, clinical effectiveness, and cost effectiveness, that is independent of drug manufacturers' influence.
- Negotiating what is included in the formulary may best be left to health professionals. However, locals may want to consider negotiating some criteria to ensure the formulary meets members' needs. For example, the formulary should be as open as possible, include generic substitution, and include minimal (if any) tiers, co-payments, "me too" drugs.

### Use of generic drugs

Generic drugs should be used whenever possible to save costs. Substituting them for the higher-priced patent drugs is a very efficient cost saver. It is important to remember; however, they cannot be substituted in all cases and that physicians will sometimes insist on the patent brand of drugs.

### Preferred Provider Networks (PPNs)

These require a pharmacy or group of pharmacies to provide service at a fixed, lower fee for both ingredients and dispensing. The pharmacies will also dispense up to 90 days of a medication for one dispensing fee. The arrangement with the PPNs is negotiated between the insurer and the pharmacy or pharmacies. The pharmacies must be easily accessible to employees, geographically and in terms of hours of business.

PPNs can provide cost savings, but it can be a problem if the plan makes this scheme mandatory.

*Note: the PPNs are not permitted in Quebec

### Direct Delivery (Mail Order) Pharmacies

For long-term medications, direct delivery or mail order pharmacies offer low dispensing fees and controlled drug cost markup. Their costs are lower because they are warehouse operations selling larger quantities of product than retail outlets.

It is important that the wording for the use of mail order pharmacies is clear in Master Policies. For example, if there are delays in receiving mail order drugs, employees should be allowed to buy their drugs locally at no extra cost.

### Risk-Pooling

Wherever possible, locals should look for opportunities to join with other CUPE locals and other unions to bargain group insurance agreements.

Larger plans reduce costs by increasing the scale of plan participation and reducing administration costs.

### Alternative medicine

In some cases, access to alternative medicines can reduce the need for prescription medication. Alternative medicine includes services like massage therapy, acupuncture as well as homeopathic or naturopathic medicines. Despite a growing acceptance by physicians and the general population of alternative forms of medicine, they are not always covered in group benefit plans. For example, massage and chiropractic services may replace medications for back pain and offer substantial savings to the drug benefit plan.

## 4. OTHER OPTIONS TO CONSIDER

### Joint benefits committee

Some locals may choose to negotiate a joint benefits committee, rather than trying to work out the plan details at the bargaining table. (See Collective Agreement Language Section of this Bargaining Benefits Series for sample language.)

## 5. HOW DOES PHARMACARE IMPACT DRUG COSTS?

The best way to lower drug costs for members is a national, universal pharmacare plan. At the insistence of labour unions and activists, steps have been taken by provincial governments and the federal government to move on this issue, but the plans currently in place are not comprehensive. They either only cover certain segments of the population or certain drugs.

The latest update on federal Pharmacare is that a law was passed in October 2024 that offered a framework for potential national universal pharmacare[V] and funding for provinces to roll out the start of this program. It also provided initial universal access to contraception and diabetes medications. Provincial and territorial governments now must strike bilateral agreements to roll out this program, but with Justin Trudeau stepping down and a looming federal election, the implementation of this limited universal pharmacare may yet be delayed or abolished entirely.

It is important for locals not to drop their current drug coverage and to keep advocating for improvements. The current uncertain federal program and provincial programs are not universal and leave big gaps that extended health benefit plans can cover.

[I] "A Perfect Storm: Frontline Perspective to Help Navigate New Waters for Health Benefits and Wellness Initiatives," 2024 Benefits Canada Health care Survey (Benefits Canada), accessed November 7, 2024, https://www.benefitscanada.com/microsite/benefits-canada-healthcare-survey-2023/report/

[II] "National Poll Finds Nearly 1 in 4 People in Canada Report Measures Such as Skipping Doses, Splitting Pills, Not Filling Prescriptions Due to Cost," Heart and Stroke Foundation of Canada, accessed November 7, 2024, https://www.heartandstroke.ca/en/what-we-do/media-centre/news-releases/one-in-four-canadians-not-filling-prescriptions-due-to-cost/

[III] Health Canada, "A Prescription for Canada: Achieving Pharmacare for All - Final Report of the Advisory Council on the Implementation of National Pharmacare," transparency - other, July 20, 2020, https://www.canada.ca/en/health-canada/corporate/about-health-canada/public-engagement/external-advisory-bodies/implementation-national-pharmacare/final-report.html

[IV] "A Perfect Storm: Frontline Perspective to Help Navigate New Waters for Health Benefits and Wellness Initiatives."

[V] Pharmacare Act (S.C. 2024, c. 24), https://laws.justice.gc.ca/eng/AnnualStatutes/2024_24/FullText.html