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Trade, Tariffs, and Onshoring in the Trump Administration

October 27, 2025

Panelists

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Tariffs

Trump's Tariff Toolbox

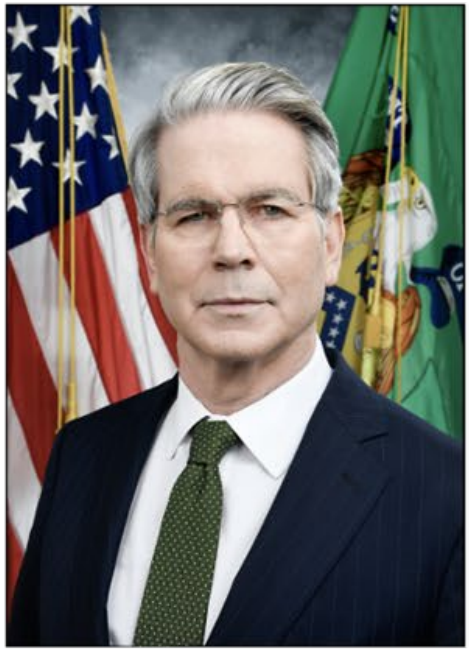
- **Section 201 of the Trade Act of 1974:** This provision permits the President to impose temporary duties to address a substantial cause or threat of serious injury to a U.S. industry—President Trump invoked this authority to target imports of solar panels and washing machines in his first-term.
- **Section 232 of the Trade Expansion Act of 1962:** This provision empowers the President to act if certain imports threaten to impair U.S. national security— Used for sector-specific tariffs on steel and aluminum, autos, copper, lumber and timber. Additional investigations are ongoing.
- **Section 301 of the Trade Act of 1974:** This provision allows the President to restrict imports if a foreign country violates … any trade agreement or … burdens or restricts U.S. companies—This authority was used in the first Trump Administration to impose tariffs on China.
- **IEEPA:** Used for worldwide reciprocal tariffs, as well as 25% tariffs on Mexico, 35% on Canada; 20% on China; 40% on Brazil; and 25% on India.
- **Other Trade Authorities:** Trump Administration officials have indicated that they would consider other little-used trade tools if current tariffs are invalidated by courts, including Section 122 of the Trade Act of 1974 and Section 338 of the Tariff Act of 1930

Key Players: Trump's Trade World

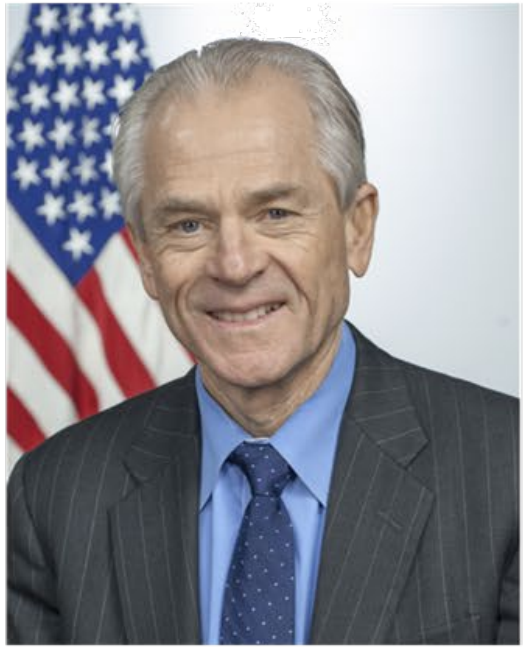
Howard Lutnick
Secretary of Commerce

Jamieson Greer
U.S. Trade Representative

Scott Bessent
Secretary of the Treasury



Peter Navarro
Senior Advisor



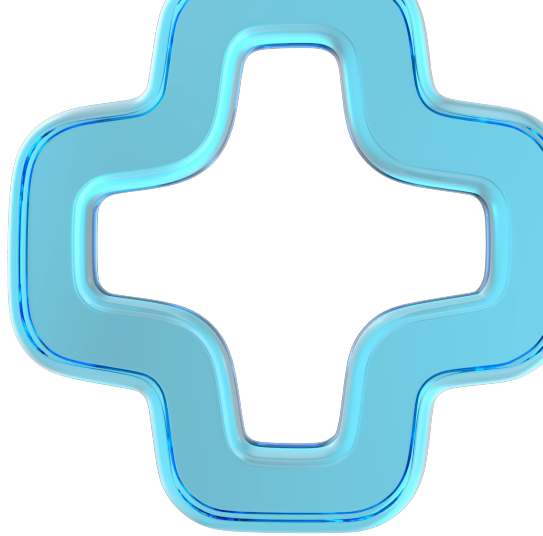
Tariff Actions Taken To Date

Tariff	Status
Universal Reciprocal Tariffs International Emergency Economic Powers Act	10% global reciprocal tariff effective as of 4/5/25; New country-specific rates took effect on 7/31/25, ranging from 10% to 41%. Mexico and Canada not subject to reciprocal.
25% Tariff on Mexico, 35% Tariff on Canada re: Border Security International Emergency Economic Powers Act	25% tariff on Mexico and Canada effective as of 3/4/25; Canada rate increased to 35% as of 8/1/25. USMCA compliant goods exempted. Goods subject to 232 auto or steel/aluminum tariffs exempt.
20% Tariff on China re: Border Security International Emergency Economic Powers Act	10% tariff effective as of 2/4/25; rate increased to 20% as of 3/4/25.
50% Aluminum/Steel Tariffs Section 232 (modified 2018 action)	25% tariff on steel and aluminum effective as of 3/12/25; rate increased to 50% as of 6/4/25.
25% Auto/Auto Part Tariffs Section 232	25% tariff on automobiles effective as of 4/3/25; 25% tariff on auto parts effective as of 5/3/25. Tariff only applicable to non-US content for USMCA-eligible auto/auto parts.
50% Copper Tariffs Section 232	50% tariff on semi-finished copper products and copper derivative products. Goods subject to auto tariffs exempt. Duty assessed only on copper-content of covered product; non-copper content remains subject to all other applicable duties.
10% to 25% Timber and Lumber Tariffs Section 232	10% tariff on softwood timber and lumber as of 10/14/25, 25% tariff on upholstered wooden products as of 10/14/25 (increasing to 30% on 1/1/26), 25% tariff on kitchen cabinets and vanities as of 10/14/25 (increasing to 50% on 1/1/2026). Goods subject to this tariff are not subject to reciprocal, Brazil-specific, India-specific, or Mexico/Canada-specific tariffs.
25% Tariff on India re: Purchase of Russian Oil International Emergency Economic Powers Act	25% tariff on India effective as of 8/27/25. Stacks with reciprocal rate; limited exceptions for certain products, including goods exempted from the reciprocal framework or that are or will be subject to Section 232 duties.
40% Tariff on Brazil re: Human Rights and Political Concerns International Emergency Economic Powers Act	40% tariff on Brazil effective as of 8/6/25. Stacks with reciprocal rate; limited exceptions for certain products, including goods exempted from the reciprocal framework or that are or will be subject to Section 232 duties.

International Emergency Economic Powers Act

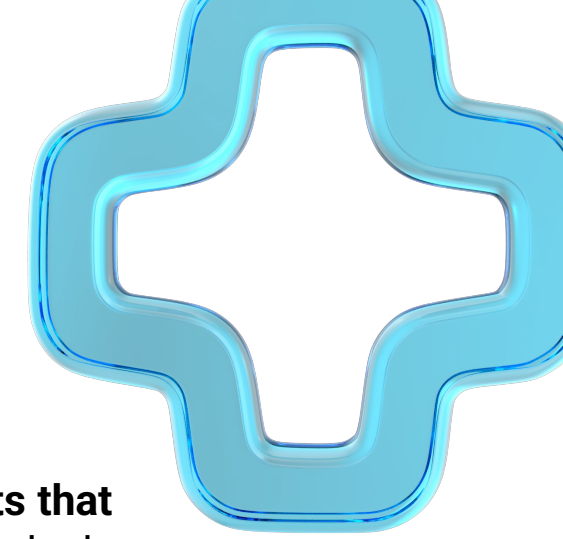
- The *International Emergency Economic Powers Act* (IEEPA) grants the President wide-ranging authority to declare national emergencies and respond through economic means, including through import regulation.
- Presidents have invoked IEEPA dozens of times since its enactment, though no president has previously used IEEPA to impose tariffs on imported products from a specific country or on products imported to the United States in general.
- President Trump has invoked IEEPA to impose his reciprocal tariff framework, as well as country-specific tariffs on Mexico, Canada, China, India, and Brazil.

IEEPA Reciprocal Tariff Structure



- On April 2, President Trump issued an EO declaring a national emergency pursuant to IEEPA in response to “large and persistent annual US trade deficits” caused by “the domestic economic policies of key trading partners and structural imbalances in the global trading system.”
- Effective April 5, the EO imposed an additional 10% tariff on all imports—with limited exceptions—from all trading partners. These rates were set to increase to higher individual rates for certain countries on April 9. However, President Trump ultimately suspended those increases, and individual rates did not take effect until August 1.
- Individual rates vary between 10% and 41% and were developed based on partner country progress in bilateral trade negotiations, investment commitments, tariff and non-tariff barrier adjustments, and alignment on economic and national security.

Annex II and Annex III



- **Annex II** of the Reciprocal Tariff EO includes a **list of product exemptions**, largely covering items that are or will be subject to Section 232 tariffs, as well as those critical to strategic sectors such as pharmaceuticals, semiconductors, and energy-related products. This list was last updated on September 5.
- On September 5, President Trump issued an EO creating a new **Annex III** containing **list of products that may be eligible to be exempted** from tariffs upon the conclusion of a reciprocal trade and security deal.
    - Annex III contains "scope limitations," meaning that for certain HTSUS provisions only a portion of imports under the listed code would be eligible for such exclusion (e.g. HTS codes marked with "Pharma" would be limited to **non-patented articles for pharmaceutical applications**).
    - The EO authorizes the Secretary of Commerce or the US Trade Representative to make tariff adjustments for items listed in Annex III for countries with which the US has reached an agreement on reciprocal trade. Further action will need to be taken to effectuate any eligible changes.
    - The EO states it is generally the President's preference for any bilateral tariff relief to be contingent on a final agreement and stipulates that only in rare circumstances will the tariff relief be part of a framework agreement.
- Companies should continue to monitor on-going framework and final agreement negotiations carefully and be prepared to advocate for exclusion of any products of interest in Annex III during the negotiations.

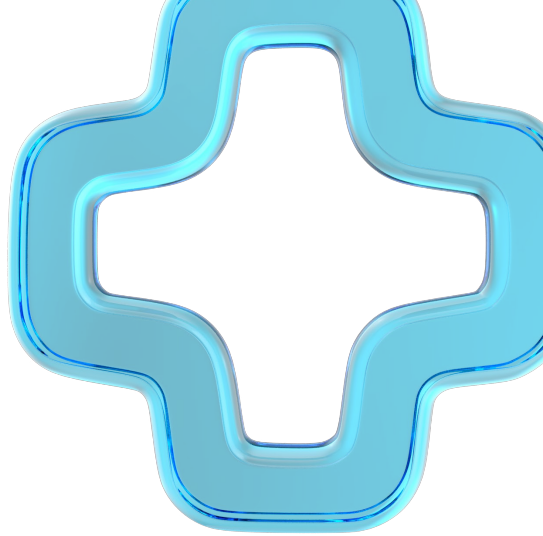
IEEPA Litigation

- On May 28, the Court of International Trade (CIT) struck down President Trump's reciprocal tariffs and "trafficking tariffs" (tariffs imposed on Mexico/Canada/China due to border security/drug trafficking concerns) on grounds that the actions exceeded the president's authority under IEEPA. This decision was stayed pending an appeal before the Court of Appeals for the Federal Circuit (Federal Circuit).
- On August 29, the Federal Circuit issued a decision agreeing with the CIT, finding the tariffs to be unlawful. The Court stayed the effectiveness of its decision pending the government's petition for certiorari. Thus, the tariffs remain in place and will remain in place until the Supreme Court issues an ultimate decision on the case.
    - The Federal Circuit vacated the CIT's universal injunction and remanded the case for reconsideration in light of *CASA v. Trump*, where the Supreme Court held that universal injunctions are generally unlawful. CIT will address this issue after the Supreme Court's decision.
- On September 9, the Supreme Court agreed to the Trump Administration's request for an expedited review of the decision.
- Oral arguments will be held on November 5, potentially allowing for a decision by the end of the year.

Potential Refunds?

- Currently, decisions remain stayed. No refunds of duties are being paid and there is no pause on tariff collection.
  - If the Supreme Court invalidates IEEPA, the case will likely be remanded to the CIT to determine the scope of the remedy.
- Stakeholders should continue to watch litigation developments.
- Other actions that can be taken in preparation for potential refunds:
  - Prepare for post-summary corrections
  - Track liquidation deadlines
    - File requests to extend liquidation (before liquidation)
    - File protests within 180 days (after liquidation)

Section 232



- Section 232 of the Trade Expansion Act of 1962 (“Section 232”), authorizes the President to adjust imports if the Department of Commerce finds—pursuant to an investigation—that certain products are imported in such quantities or under such circumstances as to threaten to impair US national security.
- President Trump has used Section 232 to implement and expand tariffs on steel and aluminum products, automobiles and automotive parts, timber and lumber products, and copper products.
- 10 Section 232 investigations are pending on the following products:
  - Pharmaceuticals
  - Critical Minerals
  - Robotics and Industrial Machinery
  - PPE, Medical Consumables, and Medical Equipment
  - Semiconductors
  - Drones
  - Trucks
  - Aircrafts
  - Polysilicon
  - Wind Turbines

Section 232 Pharmaceutical Investigation: Status

- On April 14, the Department of Commerce announced it had launched a Section 232 investigation into the national security effects on the imports of pharmaceuticals and pharmaceutical ingredients, and their derivative products.
- On September 26, President Trump posted on social media that the United States would impose a 100% tariff on imports of any **branded or patented pharmaceutical products**. He said this tariff will not apply to products of companies that are in the process of building manufacturing facilities in the United States.
- However, after announcing a deal with Pfizer on drug pricing on September 29, Secretary of Commerce Howard Lutnick said that the Administration would delay action on the Section 232 investigation into pharmaceuticals while negotiations with other drugmakers continue.
  - Under the Pfizer deal, the company agreed to various drug pricing commitments. In return, Pfizer secured a three-year exemption from Section 232 pharmaceutical tariffs, contingent on further investment in US manufacturing. The company additionally pledged $70 billion toward US-based research, development, and capital projects over the next several years.
  - President Trump said he will continue meeting with other pharmaceutical companies and expects to announce similar agreements in the coming weeks.

Administration: Generics are Carved Out from 232

Trump Excludes Generics From Big Pharma Tariff Plan

The administration has been weighing duties for months on a range of products and ingredients in national-security tariff investigation

By Gavin Bade Follow

Oct. 8, 2025 6:00 pm ET

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President Trump said he expects to reach pricing deals with more drug companies following the Pfizer announcement. Photo: Win McNamee/Getty Images

WASHINGTON—The Trump administration said it isn't planning to impose tariffs on generic drugs from foreign countries, after months of wrangling over whether to impose levies on the vast majority of drugs that are dispensed in the U.S.

New Bilateral Trade Frameworks

- As an increasing share of products and nations become subject to U.S. tariffs, trading partners are anxious to reach deals that spare key industries and products from the harshest impacts of the President's trade agenda.
- The Secretaries of Commerce and of Homeland Security and the US Trade Representative are authorized to implement framework and final agreements with partner countries. Customs and Border Protection is authorized to issue tariff refunds as appropriate.
- Since April 2, new trade deals have been reached with major U.S. trading partners including the UK, the EU, Japan, and South Korea.
- The deals share general characteristics that reflect the President's economic priorities, including:
  - Commitments to **invest** in U.S. industry, particularly in critical sectors
  - **Tariff relief** for U.S. exports.
  - Foreign market liberalization to facilitate **increased U.S. exports**, including easing of regulatory restrictions
  - **Limited U.S. tariff reductions** on key products
  - Specific **purchase commitments** for certain U.S. goods, including agricultural commodities, energy products, defense articles, and aircraft.

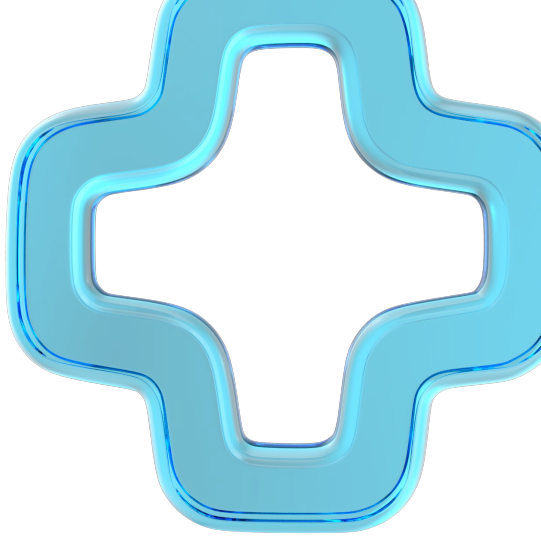
Japan and EU Deals

The Japan and EU deals include carveouts for pharmaceuticals.

- **Japan Deal:**
  - Generic pharmaceuticals no longer subject to reciprocal tariffs
  - Does not address future Section 232 duties.
- **EU Deal:**
  - Effective September 1, **the US applies only MFN rates to generic pharmaceuticals, their ingredients, and chemical precursors.**
  - Future Section 232 duties on brand pharmaceuticals capped at 15%.

The United States intends to promptly ensure that the tariff rate, comprised of the MFN tariff and the tariff imposed pursuant to Section 232 of the Trade Expansion Act of 1962, applied to originating goods of the European Union subject to Section 232 actions on pharmaceuticals, semiconductors, and lumber does not exceed 15%.

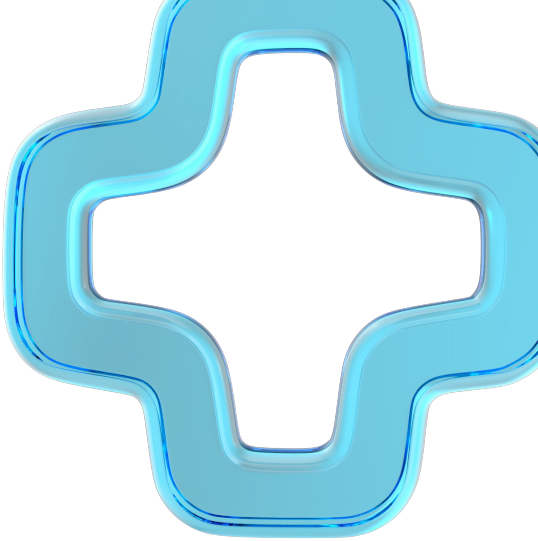
API Country of Origin Standard : Substantial Transformation



- For non-Free Trade Agreement (FTA) countries, the general standard for determining an API's country of origin is substantial transformation.
  - Substantial transformation means that the good underwent a fundamental change in form, appearance, nature, or character.
- For FTA-partner countries, the FTA will define the rules of origin. For example, under USMCA, a product will satisfy the rules of origin if:
  - the good is a good wholly obtained or produced entirely in the territory of one or more USMCA countries;
  - the good is a good produced entirely in the territory of one or more USMCA countries, exclusively from originating materials; or
  - the good is a good produced entirely in the territory of one or more USMCA countries using nonoriginating materials, if the good satisfies other applicable requirements.

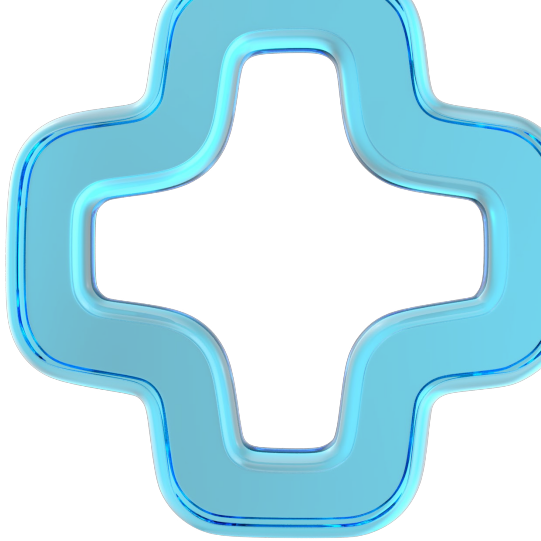
Onshoring

What is Sustainability?



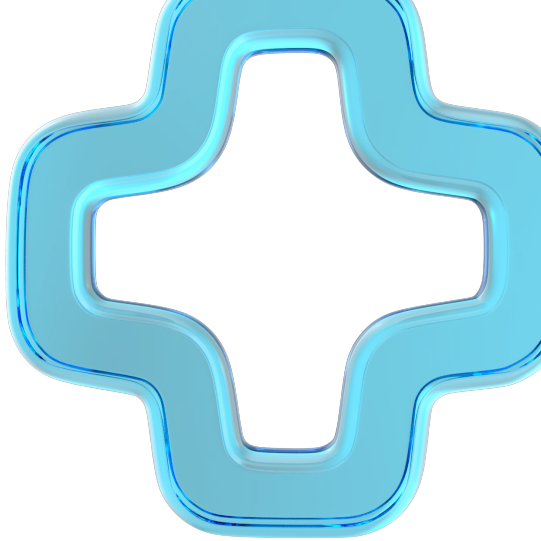
- Sustainability- refers to the ability for generic and biosimilar manufacturers to continue to sell generics and biosimilars at affordable prices without having to discontinue products or exit the U.S. market
- Vertical and horizontal industry consolidation has lead to more and more downward pressure on price which cannot be made up on volume
- Over a decade ago, Assistant Secretary for Planning and Evaluation October, 2011 “Economic Analysis of the Causes of Drug Shortages" found that, “[S]hortages have been concentrated in drugs where the volume of sales and drug prices were declining in the years preceding the shortage, suggesting that manufacturers are diverting capacity from shrinking lines of business to growing ones." https://aspe.hhs.gov/reports/economic-analysis-causes-drug-shortages

Why is Sustainability a Problem?



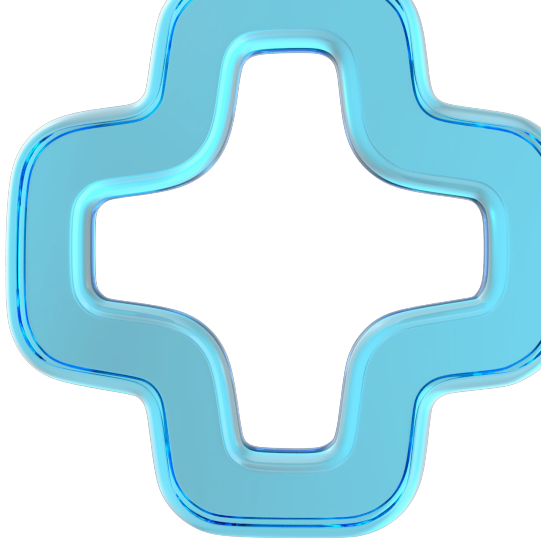
- When the continued production of generic and biosimilar products is unsustainable, manufacturers no longer can mark margin on sales volume and elect to discontinue products rather than sell at a loss
- This leads to drug shortages and ironically increased prices for existing supply
- Drug shortages can lead to use of more expensive but less effective alternative drug therapies
- Drug shortages and increased prices can result in non-adherence, resulting in more hospitals and costs to the health system as a whole

Causes of Poor or Unsustainability



1) **Horizontal and Vertical Integration among customers results in "monopsony" power**
   - Results in generic price deflation and market exits
2) **Pharmacy Benefit Manager/Health Plan practices blocking coverage of generics/biosimilars**
   - Contractually higher rebates on branded drugs conditioned on blocking generics/biosimilars on formularies, long rebate agreement terms or tying rebates on product A to product B being exclusively on formulary
3) **Supply Chain Pressures**
   - Inability to procure reasonable priced Active Pharmaceutical Ingredient and other key materials as well as labor particularly for drugs made in the U.S. compared to overseas (India and China)

The Retail Buying Groups



- **WBAD (Walgreens Boots Alliance Development):** A joint venture between Walgreens, the European retailer Boots, and the major U.S. drug wholesaler AmerisourceBergen (now Cencora). Formed in 2012. **Controls 21% of the retail generic market**
- **ClarusONE Sourcing Services:** A joint venture between the major U.S. drug wholesaler McKesson and the retail giant Walmart. Formed in 2016. **Controls 19% of the retail generic market**
- **Red Oak Sourcing:** A 50/50 joint venture between CVS Health and the major U.S. drug wholesaler Cardinal Health. Formed in 2014. **Controls 38% of the retail generic market**

Fein, A. (2023). *The 2023-2024 Economic Report on Pharmaceutical Wholesalers and Specialty Distributors*. Drug Channels Institute.)

Hospital Group Purchasing Organizations

Organization Name	Hospitals and health systems	Total staffed beds	Alternate sites and other providers	Estimated total purchasing volume (billions)
Vizient[1]	3,500	450,000	145,000	$130
Premier[2]	4,400	340,000	250,000	$82
HealthTrust Purchasing Group	1,800	175,000	57,000	$50

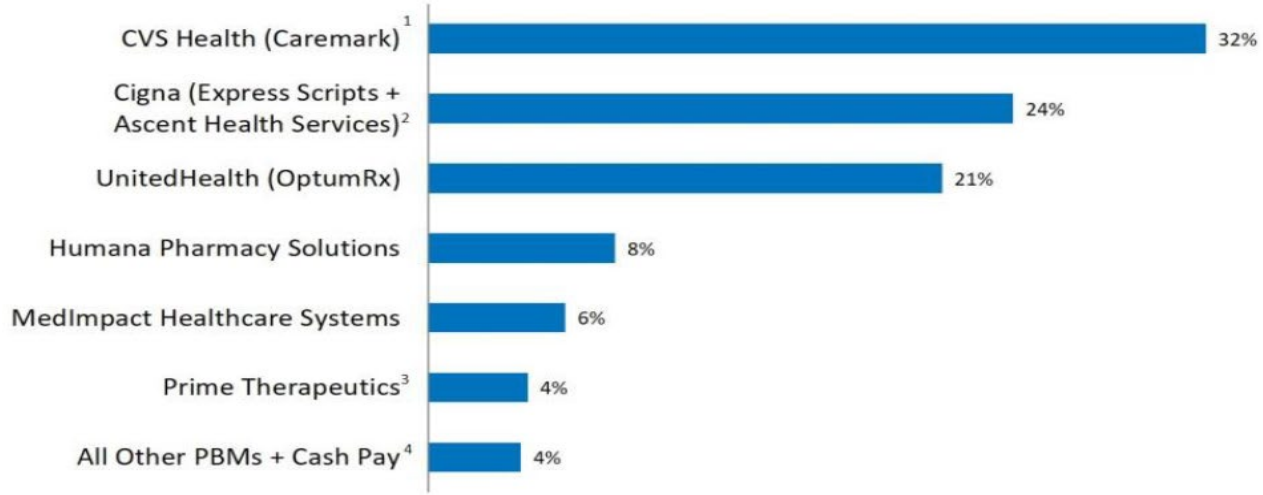
1. In 2015, Novation, University HealthSystem Consortium, and VHA formed Vizient. Vizient acquired MedAssets in 2016 and acquired Intalere (previously known as Amerinet) in 2021.

2. Includes Acurlty, which Premier acquired in 2020.

Source: Drug Channels Institute research and estimates; Definitive Healthcare. Note that membership counts may not be comparable between organlzalionsdue to differences in methodologies and definitions.

Pharmacy Benefit Managers

PBM Market Share, by Total Equivalent Prescription Claims Managed, 2020

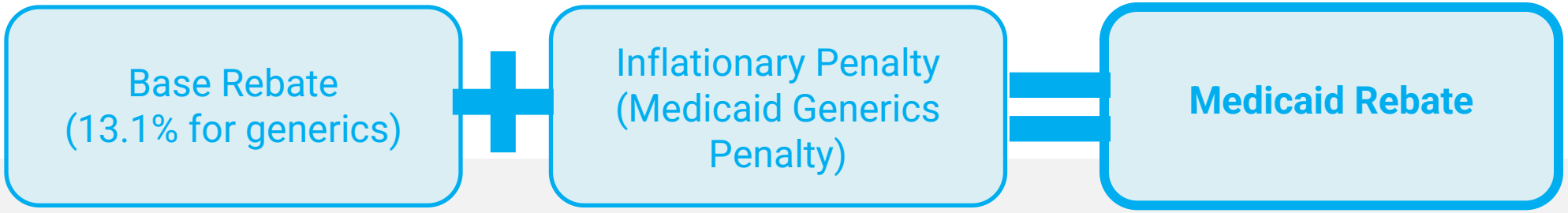


1. Excludes Drug Channels Institute estimates of double-counted network claims for mail choice claims filled at CVS retail pharmacies.
2. Includes Cigna claims, which fully transitioned to Express Scripts by the end of 2020. Includes Ascent Health Services, which includes Kroger Prescription Plans and a partial year of Prime Therapeutics.
3. Excludes Drug Channels Institute estimates of 2020 claims for which Ascent Health Services handled rebate negotiations and pharmacy network contracting.
4. Figure includes some cash pay prescriptions that use a discount card processed by one of the 6 PBMs shown on the chart.

Source: *The 2021 Economic Report on U.S. Pharmacies and Pharmacy Benefit Managers*, Drug Channels Institute, Exhibit 92. Total equivalent prescription claims includes claims at a PBM's network pharmacies plus prescriptions filled by a PBM's mail and specialty pharmacies. Includes discount card claims. Note that figures may not be comparable with those of previous reports due to changes in publicly reported figures of equivalent prescription claims. Total may not sum due to rounding.

DRUG CHANNELS INSTITUTE

Medicaid Generics Penalty



- Medicaid Generics Penalty is paid by generic drug manufacturers when the “Average Manufacturer Price” (AMP) of a generic drug sold to Medicaid rises faster than the Consumer Price Index (CPI) over a three-month period.

- Because of the unique way the generic industry works, the MGP may be triggered even if the price of the generic does not change. Instead, it could be triggered by:
  - Changes in customer mix
  - Spikes in raw ingredient costs

Medicaid Generics Penalty: Fix

- Align with Inflation Reduction Act inflationary rebates for Medicare, which are limited to sole-sourced generics
- Provide exceptions for drugs in shortage
- These changes are necessary for sustainability; should not be offset by increasing the base rebate

August 13 Executive Order

Within 30 days, ASPR must:

- Develop a list of approximately 26 critical drugs (classified)
- Provide the Office of Management and Budget (OMB) with an accounting of existing, available funds to:
  - Prepare and open the SAPIR repository, and
  - Obtain and maintain a six-month supply of active pharmaceutical ingredients (APIs) for the critical drugs.
- Within 12o days, ASPR must ready the existing SAPIR repository so that it can begin receiving and maintaining APIs. Within 30 days of the SAPIR being certified as operational, ASPR—subject to available funding—is to procure a six-month supply of APIs for the identified critical drugs, prioritizing domestically manufactured sources where possible, and place them in the SAPIR.
- The EO additionally directs ASPR, within 90 days, to update its 2022 list of 86 essential medicines and medical countermeasures. The update must include a plan to source and store APIs for these medicines—prioritizing domestic manufacturers where possible—and maintain a six-month API supply for any not already designated as critical. The plan must also provide a proposal and cost estimate for opening a second SAPIR within one year.

May 5 Executive Order

- Directs the Food and Drug Administration to reduce the amount of time it takes to approve pharmaceutical manufacturing plants in the U.S. as well as to increase fees for inspections at foreign manufacturing plants, improve enforcement of active-ingredient source reporting by foreign producers and “consider publicly displaying a list of facilities that do not comply

- The order also directs the Environmental Protection Agency to “accelerate the construction of facilities” related to manufacturing such drugs and their ingredients.

Questions?