

United States Senate
COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

March 11, 2010

Via Electronic Transmission

George Paz
Chairman, President, and Chief Executive Officer
Express Scripts, Inc.
One Express Way
St. Louis, MO 63121

Dear Mr. Paz:

As Ranking Member of the United States Senate Committee on Finance (Committee), which has jurisdiction over the Medicare and Medicaid programs, I have a special responsibility to protect the health of the programs' more than 100 million beneficiaries and safeguard congressionally authorized tax dollars used to fund these programs. In carrying out this duty, I have been examining various operations and activities of the pharmaceutical industry, including payments made to physicians for consulting activities, presentations and speeches, participation in Continuing Medical Education and conferences, and research.

Senator Herb Kohl and I re-introduced the Physician Payments Sunshine Act last year, which requires drug and device manufacturers to disclose to the Secretary of Health and Human Services (HHS) anything of value given to physicians, such as payments, gifts, honoraria, or travel above certain minimum thresholds. Companies would also be required to report the name of the physician, the value and date of the payment or gift, and its purpose, among other information. The Secretary of HHS would then make this information available to the public on a searchable website.

Another important aspect of my oversight concerns the financial relationships that pharmaceutical companies have with medical organizations. Over the last year, several companies have taken important steps to meet the public's demand for transparency by voluntarily disclosing their payments to organizations such as patient groups and medical societies. In December, I wrote to over 30 nonprofit organizations requesting an accounting of funding they received from pharmaceutical and device companies and the foundations established by these companies.

The legislation and pharmaceutical companies' voluntary initiatives would provide greater transparency for the industry's financial relationships with health care providers and medical organizations. However, these efforts do not include all individuals and entities in the health care community that receive industry funding. The Medicare Payment Advisory Commission (MedPAC) recommended in a report to Congress in March 2009, that Congress also require that pharmaceutical companies

report their financial relationships with pharmacy benefit managers, such as Express Scripts, Inc., pharmacies, health plans, and others. More specifically MedPAC said the following: **“Given the potential benefits of public reporting, we recommend that the Congress mandate the reporting of comprehensive information on industry relationships with physicians and other health care entities and that the Secretary post this information on a public searchable website.”** (emphasis added) MedPAC then went on to say in Recommendation 5-1 that: **“the Congress should require all manufacturers and distributors of drugs, biologicals, medical devices, and medical supplies (and their subsidiaries) to report to the Secretary their financial relationship with:...pharmacy benefit managers....”** (emphasis added) Both the Physician Payments Sunshine Act and MedPAC’s proposal cover payments or transfers of value, such as gifts, travel, honoraria, consulting fees, and investment or ownership interests, but they exclude the reporting of rebates and discounts.

In accordance with MedPAC’s recommendation and my continuing efforts to bring more transparency regarding the payments made by pharmaceutical companies to pharmacy benefit managers, I would appreciate knowing the following:

- 1) Please provide to me your comments and position with regard to MedPAC’s recommendation.
- 2) In the event your company does not fully support MedPAC’s recommendation, please explain your position in detail.
- 3) Please describe in detail any and all activities your company has initiated for enhancing the transparency of financial benefits, if any, that your company receives from pharmaceutical companies.

I look forward to your cooperation and assistance on this important matter. I would appreciate your response to this letter by no later than March 25, 2010. Should you have any questions regarding this letter, please contact my Committee staff, Angela Choy or Christopher Armstrong, at (202) 224-4515. Any formal correspondence should be sent electronically in PDF format to Brian_Downey@finance-rep.senate.gov or via facsimile to (202) 228-2131.

Sincerely,



Charles E. Grassley
Ranking Member