

February 16, 2023

The Honorable Maria Cantwell  
511 Hart Senate Office Building  
Washington, DC 20510

The Honorable Charles Grassley  
135 Hart Senate Office Building  
Washington, DC 20510

Dear Chair Cantwell and Senator Grassley,

The PBM Accountability Project is working to ensure that patients, employers and unions are not overpaying for prescription medicines. Meanwhile, middlemen pharmacy benefit managers (PBMs) continue to find new ways to rake in profits at the expense of patients and plan sponsors. This is why we are so thankful for your leadership in taking on predatory PBM pricing behavior that is harming American consumers and employers.

We write in support of the recently introduced Pharmacy Benefit Manager Transparency Act (S.127) that aims to curtail harmful PBM practices. We appreciate that the bill aims to prohibit exploitation of independent pharmacists through a number of harmful practices, including spread pricing and reimbursement clawbacks.

Stated simply, there is an undisputed need to rein in predatory PBM practices evident in the millions of prescription drug claims processed every day. Only three, vertically integrated PBMs control more than 80% of drug purchasing for private and public sector health programs. Such market domination enables PBMs to engage in anti-competitive practices throughout the prescription drug supply chain. The vertical integration of PBMs has allowed them to profit at the expense of patients and plan sponsors. We therefore also welcome the Prescription Pricing for the People Act (S. 113) that directs the Federal Trade Commission (FTC) to issue a report within one year addressing the legal and regulatory obstacles to FTC enforcement of antitrust and consumer protection laws pertaining to PBMs. It is time for improved transparency and tackling of anti-competitive PBM behavior.

The Pharmacy Benefit Manager Transparency Act is a major first step in the right direction. The Act's requirements will shed critical light on two of many arbitrage tactics deployed by PBMs to divert value extracted from supply chain participants, and ultimately consumers, into outsized PBM gross profit margins. These tactics include PBM reporting on prohibited clawbacks from pharmacist compensation and PBM-retained spread pricing revenues. Research conducted by the PBM Accountability Project reveals that more than 42% of PBM gross profit margins are derived from unreported pricing practices like these that will finally be made transparent by the Act.

The Act will also highlight differentials in reimbursement rates, pricing concessions and other remuneration that PBMs provide independent pharmacies compared to those they offer to PBM-owned, controlled or affiliated pharmacies. Required reporting will provide legislators and regulators valuable insight into how vertically integrated PBM giants are able to weaponize market domination to expand market share through anti-competitive tactics. Such information



will be critical for restoring competitive conditions in the prescription drug marketplace and protecting consumers, as well as independent pharmacists, from predatory pricing behavior.

This is the beginning of an important process of uncovering PBM arbitrage in prescription drug markets that has too long festered in a “black box,” where obscure PBM pricing schemes have enabled PBMs to divert value from consumers, putting costs of prescription medicines increasingly out of reach of patients who need them. Transparency of PBM-intermediated transactions is needed throughout the prescription drug supply chain. S.127 will shine an important light on PBM manipulation of pharmacy pricing and reimbursements. Similar light will need to be shined, as well, on PBM strategies for extracting manufacturer-derived revenues, for example, and on the drug price-increasing impact of Group Purchasing Organizations (GPOs) owned by each of the dominant three PBMs. Of note, two of the GPOs are headquartered off-shore and beyond easy scrutiny by federal regulators.

The Act will help pull back the shroud of opacity that obscures a broad range of unregulated and largely unreported predatory PBM pricing behavior. We applaud your leadership in taking on anti-competitive PBM practices that are ultimately paid for by America’s patients and health plan sponsors. The PBM Accountability Project stands ready to support you in taking this important step and additional steps that must follow to restore sustainable affordability of prescription drugs for all Americans.

Sincerely,



Doug Dority  
Chairman  
PBM Accountability Project

