

## **Economist Warns PBM Disclosure will Increase Drug Costs**

Pharmacy benefit managers (PBMs) work with health plans, employers, unions and government programs to make prescription medicines safer and more affordable for nearly 200 million Americans nationwide by offering programs and services that assist employers, plans, and insurers in managing the cost of providing prescription drug benefits to covered individuals.

Critics of PBMs contend that there is a need for greater levels of “disclosure” about the contracts PBMs have with drug companies and retail pharmacies, but most economists would disagree.

Adam B. Jaffe, the Dean of Arts and Sciences at Brandeis University and the Fred C. Hecht Professor in Economics, discussed the issue of PBM disclosure in a declaration prepared for PCMA v. Rowe, the lawsuit filed by PCMA which sought to enjoin Maine from enforcing a law that would require PBM transparency, among other provisions. The U.S. District Court in Maine has granted PCMA’s request for an injunction.

## **Disclosure Does Not Make Consumer Better Off**

“It may seem intuitively plausible that compelling disclosure of information contained in [PBM] contracts will work to the benefit of drug consumers in Maine. Economists have, however, studied extensively the provision and dissemination of information about prices and other contractual terms. It is simply not the case that wide availability of information about process and related terms necessarily makes consumers better off. Secrecy about contractual terms can frustrate or inhibit attempts at collusion, by creating uncertainty for firms regarding the prices that their competitors are charging.

“PBMs compete with each other to gain contracts with health care providers and managers. This competition constantly pushes them to offer the best possible prices and terms. Any government intervention in this marketplace that restricts or inhibits this process of competition will result, in the long run, in marketplace outcomes that are less favorable for the entities that compose the PBMs customer, hence will likely harm the ultimate consumers of pharmaceuticals.”

## **Disclosure Would Short-Circuit Competition**

“The provisions relating to transparency of PBM contractual terms will not foster competition in the market. Indeed, accepted economic analysis suggests strongly that the disclosure of these terms will actually inhibit competition, thereby reducing the ability of this competition to provide maximum benefits to consumers in Maine. Thus the statutory requirement that breaches contract confidentiality will likely injure the very Maine consumers it is intended to benefit.

“Disclosure of commercially sensitive contract terms will tend to short-circuit this competitive dynamic. Sellers will know exactly what their competitors are offering, and will also know that the granting of any concession will likely lead to pressure for its widespread adoption. The effect will be to handicap competition, thereby inhibiting its ability to ensure that consumers get the best possible prices and service.”

*Source: Declaration of Adam B. Jaffe, Ph.D. In Support of Plaintiff’s Motion for Preliminary Injunction, Pharmaceutical Care Management Association v. G. Steven Rowe, Attorney General of the State of Maine.*