

HB 326: Mandated PBM Disclosure Increases Prescription Drug Costs

Disclosing Drug Discounts Will Raise Costs for Consumers and Plan Sponsors

- The Federal Trade Commission (FTC) has stated that, "[i]f pharmaceutical manufacturers learn the exact amount of rebates offered by their competitors ... then tacit collusion among manufacturers is more feasible... Whenever competitors know the actual prices charged by other firms, tacit collusion—and thus higher prices—may be more likely."¹
- The FTC has also warned several states that legislation requiring PBM disclosure of negotiated terms could increase costs and “undermine the ability of some consumers to obtain the pharmaceuticals and health insurance they need at a price they can afford.”²

It is Always the Drug Manufacturer Who Sets the Drug Price

- PBMs do not set drug prices—rather, PBMs lower the cost of drug benefits by negotiating price concessions with manufacturers and pharmacies on behalf of plan sponsors.
- PBMs are hired by plan sponsors such as large employers, government programs, unions and insurers, to maximize the value of prescription drug benefits, helping patients and payers save \$941 per enrollee per year in prescription drug costs,³ and equaling \$654 billion over the next 10 years.⁴ Plan sponsors use these savings to benefit patients by lowering overall healthcare expenditures.

Plan Sponsors Decide the Level of Transparency They Want

- PBMs are transparent to their plan sponsors on the services they receive in accordance with contractual requirements. On average, 90 percent of negotiated rebates from drug manufacturers are passed on to the plan sponsor, which is then used to lower overall health spending.⁵ PBM contracts also have audit clauses that ensure a client receives what they are entitled to in their contract.

¹ U.S. Federal Trade Commission and the U.S. Department of Justice, *Improving Health Care: A Dose of Competition* (July 2004).

² Letter from FTC to Rep. Patrick T McHenry, U.S. Congress, (July 15, 2005); Letter from FTC to Assemblyman Greg Aghazarian, California State Assembly, (September 3, 2004).

³ Visante, Inc. “The Return on Investment (ROI) on PBM Services,” Prepared by Visante on behalf of PCMA, November 2016. <https://www.pcmagnet.org/wp-content/uploads/2016/11/ROI-on-PBM-Services-FINAL.pdf>

⁴ Visante Inc., “Pharmacy Benefit Managers (PBMs): Generating Savings for Plan Sponsors and Consumers,” Prepared for PCMA, February 2016. <https://www.pcmagnet.org/wp-content/uploads/2016/08/visante-pbm-savings-feb-2016.pdf>

⁵ Written Testimony of Joanna Shepherd, Ph.D, Emory University for the ERISA Advisory Council Hearing on PBM Compensation and Fee Disclosure, June 19, 2014, Citing J. P. Morgan, “Pharmacy Benefit Management, Takeaways from Our Proprietary PBM Survey,” May 21, 2014.