

In The News – ‘Clawback’

The Great Big Prescription Drug Clawback

by John Norton | May 20, 2016

You're Overpaying for Drugs and Your Pharmacist Can't Tell You

By **Jared S Hopkins**

February 24, 2017, 4:00 AM CST *Corrected* February 27, 2017, 10:21 AM CST

MICHAEL HILTZIK

The 'clawback': Another hidden scam driving up your prescription prices

CVS, Walgreens and PBMs worked together to gouge consumers, lawsuits claim

by *Eric Sagonowsky* | Aug 9, 2017 12:18pm

Clawback: Consumer Viewpoint

Consumer Concern: To Use Insurance or To Not Use Insurance

- Example: Member in a plan with a \$10 flat copay for generics
 - Lisinopril 10mg tabs #30
 - Pharmacy Retail Price: \$15
 - Member Insurance Copay \$10 ✓
 - Metoprolol 25mg tabs #60
 - Pharmacy Retail Price: \$4
 - Member Insurance Copay: ???
 - Allegation – Member Insurance Copay: \$10 ❌

Clawback: Pharmacy Viewpoint

Pharmacy Concern: Member Overpayment Collected by Pharmacy and Returned to PBM, Pharmacy Prohibited from Telling Consumer

MEDICAL WASTE: THE CLAWBACK

** PAID CLAIM INFORMATION **

Patient: (redacted)
 ADDR: (redacted)

Drug: SPRINTEC 28 TAB 28 DAY Qty: 28 NDC: 00555-9016-58
 Cvg: DTP Phone: 877-889-6510 Ref#: (redacted)

Rx# (redacted) Date: 12- -15 Trans. Date: 12- -15 Time: 09:16

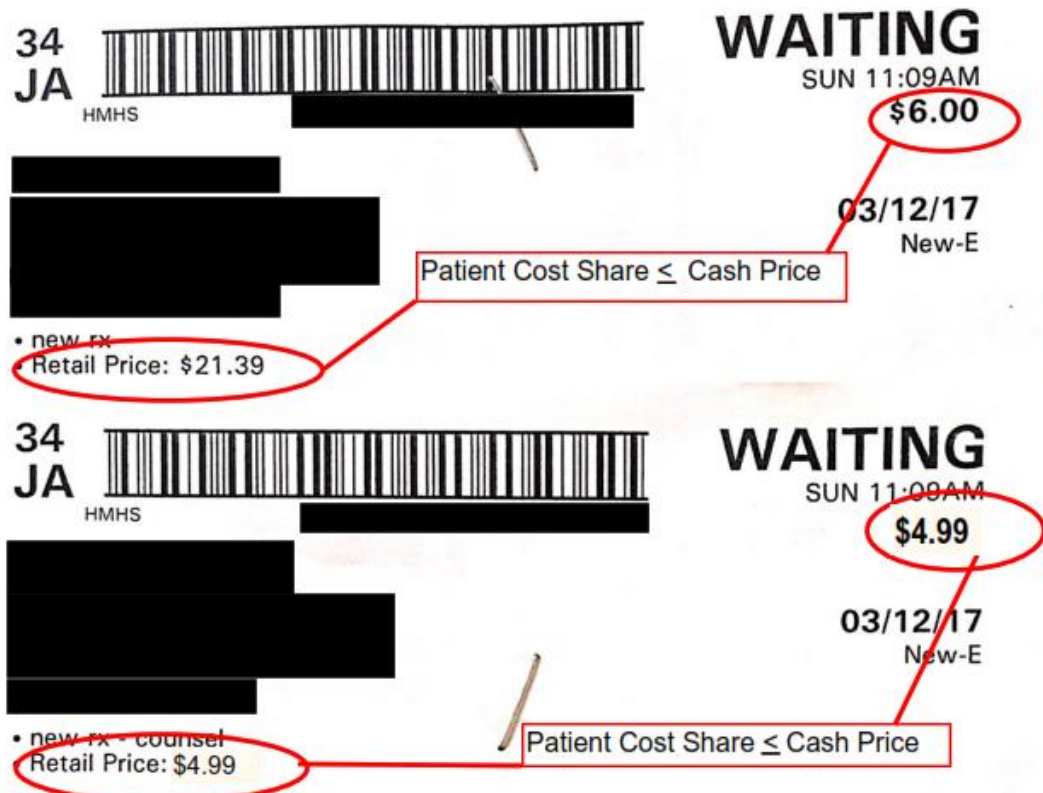
	Transmitted	Received	Difference	
Cost	32.23	10.04	22.19	(68.85%)
Fee	17.36	1.00		
Tax		0.65		
Cost+Fee+Tax	49.59	11.65	0.00	Acq Cost
Copay		50.00		
Amt. Paid		38.35		

The customer's drug costs just \$11.65. But the required co-pay is \$50.00. Who gets the extra \$38.35? The pharmacy benefits manager, Optum/UnitedHealth in this case.

- Cost of the drug
- Pharmacist fee/tax
- Total cost to customer
- Customer's co-pay
- The clawback: overpayment to insurer/PBM

Solving the Consumer Problem

- Ensure insured consumer is always better off using insurance and pays no more than a cash customer
- Example: Member with \$6 flat copay for generics



34 JA HMMS [Barcode] [Redacted]

WAITING
SUN 11:09AM
\$6.00
03/12/17
New-E

Patient Cost Share ≤ Cash Price

• new rx
Retail Price: \$21.39

34 JA HMMS [Barcode] [Redacted]

WAITING
SUN 11:09AM
\$4.99
03/12/17
New-E

Patient Cost Share ≤ Cash Price

• new rx - counsel
Retail Price: \$4.99

Solving the Consumer Problem: PCMA Policy

PCMA's approved "clawback" language: 'co-payments applied by a health carrier or plan for a prescription drug should not exceed the total submitted charges by the network pharmacy.'

- PCMA policy addresses consumer's problem only
- Pharmacies will attempt to solve *reimbursement* problems with consumer problems
 - Reimbursement is contractual
 - Reimbursement is not static, cannot be 'frozen' to member cost share at point of sale
 - Claims resubmissions to maximize reimbursement
 - MAC price appeals
 - Pharmacy audit findings
 - Performance contracts

Enacted Laws

The Good: North Carolina HB 466

A pharmacy benefits manager shall not charge, or attempt to collect from, an insured a co-payment that exceeds the total submitted charges by the network pharmacy.

The Bad: North Dakota SB 2258

A pharmacy benefits manager or third-party payer may not charge a patient a copayment that exceeds the cost of the medication. If a patient pays a copayment, the dispensing provider or pharmacy shall retain the adjudicated cost and the pharmacy benefits manager or third-party payer may not redact the adjudicated cost.

The Ugly: Montana HB 276

(4) A plan sponsor, health insurance issuer, or pharmacy benefit manager may not prohibit a pharmacist from discussing reimbursement criteria with a patient