



Adopt Transparency Measures that Promote Patient Care and Preserve Competition

Pharmacy Benefit Companies (also known as Pharmacy Benefit Managers or PBMs) support and practice actionable transparency that enables patients, their providers, and health plan sponsors (i.e., employers, government programs, and labor unions) to make informed decisions on how to best manage prescription drug costs. Transparency should empower policymakers with the information they need to make the right decisions to lower drug costs for all Americans. As policymakers consider ways to address high drug costs, more attention should be given to why drug prices continue to rise and why cheaper alternatives are not able to evolve at the same pace.

Transparency is beneficial when it reduces drug costs for plan sponsors and patients and should include all entities in the drug supply chain, such as pharmacies, pharmacy services administrative organizations (PSAOs), pharmaceutical manufacturers, PBMs, and providers.

Transparency should be actionable and meaningful to patients, providers, and plan sponsors.

- » PBMs provide transparency through multiple services to reduce drug costs:
 - Information for **patients**, such as real-time information on cost sharing, out-of-pocket maximums, formularies, pharmacy networks, and safety information;
 - Information to **providers**, such as real-time information on formularies, prior authorization override processes, and utilization management requirements; and
 - Information to **plan sponsors**, such as financial data around utilization, rebates, and pharmacy reimbursements related to their plans.
- » Transparency should help patients, providers, and payers make informed health care decisions.

Transparency will not magically lower high drug prices set by drug companies, who often work to keep competition out of the market.

Transparency measures shouldn't duplicate existing requirements.

- » Plan sponsors have the ability, pursuant to the terms of their PBM contracts, to audit rebate payments and ensure that the plan's contracted PBM is complying with all terms and conditions.
- » Drug rebates are accounted for in the federally required (and some state-required) medical loss ratio filings that plans submit. The federal government also requires PBMs to supply plans with detailed reports on drug spending, rebates, fees, and patient out-of-pocket spending, which in turn allows plans to report to the government. CMS requires additional PBM and plan reporting for Medicare and Exchange plans. Additional rebate reporting is duplicative and unnecessary.

Public disclosure of rebates may encourage drug companies to reduce these price concessions.

- » The Federal Trade Commission and Congressional Budget Office have long noted that there could be disadvantages to transparency in certain aspects of health care. Specifically, when companies learn their competitors' privately negotiated price concessions, they may discount less deeply.¹
- » In February 2023, the U.S. Department of Justice (DOJ) announced the withdrawal of three policy statements that provided guidance and safe harbors for health care information exchanges. These statements were withdrawn because the DOJ believes they facilitate tacit collusion amongst drug manufacturers. DOJ worries that rebate transparency allows manufacturers to determine algorithms that soften competition and potentially result in higher prices.²
- » Mandatory disclosure of contract terms would:
 - Reduce savings from both manufacturer rebates and pharmacy networks.
 - Result in publicly exposing drug-specific rebate amounts and would likely cause manufacturers to offer lower rebates.
 - Negatively impact pharmacy network discounts, likely compressing the range of network discounts toward the low end of the current marketplace range.
 - Combined, these negative effects on rebates and network discounts would **increase projected drug expenditures by \$206.8B for all insured markets** over the next 10 years.³



Transparency measures should apply to the entire supply chain.

- » Manufacturers, wholesalers, PSAOs, PBMs, hospitals, pharmacies, providers, and plans all provide different services in the drug supply chain. To understand the reasons for increased drug costs, all services should be evaluated.
 - **Wholesalers and PSAOs** are not subject to transparency requirements at the state or federal level. PSAOs that represent independent pharmacies by negotiating contracts and management reimbursements, have little to no transparency across the country. These PSAOs are owned by the largest wholesalers responsible for distributing 90% of drugs on the market. Wholesalers and PSAOs need further scrutiny and transparency to ensure they are upholding their obligations to independent pharmacies.

1 Letter from FTC to Assemblyman Greg Aghazarian, California State Assembly, Sept. 3, 2004. https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-comment-hon.greg-aghazarian-concerning-ca.b.1960-requiring-pharmacy-benefit-managers-make-disclosures-purchasers-and-prospective-purchasers/v040027.pdf. See also "Increasing Transparency in the Pricing of Health Care Services and Pharmaceuticals." <https://www.cbo.gov/sites/default/files/110th-congress-2007-2008/reports/06-05-ricetransparency.pdf>.

2 DOJ, Justice Department Withdraws Outdated Enforcement Policy Statements, February 3, 2023, <https://www.justice.gov/opa/pr/justice-department-withdraws-outdated-enforcement-policy-statements>.

3 Visante, prepared for PCMA. "Increased Costs Associated with Proposed State Legislation Impacting PBM Tools." January 2023.

ABOUT PCMA

PCMA is the national association representing America's pharmacy benefit companies. Pharmacy benefit companies are working every day to secure savings, enable better health outcomes, and support access to quality prescription drug coverage for more than 275 million patients. Learn more at www.pcmanet.org.