LONG-TERM CARE PHARMACIES HELP PATIENTS

SCPC
SENIOR CARE PHARMACY COALITION

Unregulated PBM consolidation across the health sector increases consumer costs, delays access to medications, and puts independent LTC pharmacies out of business.

DID YOU KNOW?

Just three Pharmacy Benefit Managers (PBMs) – Caremark, ExpressScripts and Optum – process nearly 75% of all prescriptions dispensed in the US, and more than 90% of all prescriptions for long term care (LTC) pharmacies. In other words, today's PBMs are oligopolies.

PBMs serve as middlemen, administering prescription drug plans (PDPs) and negotiating confidential contracts with pharmaceutical manufacturers, wholesalers, and pharmacies. But in recent years, corporate consolidation has expanded PBM power far beyond its intended function, transforming a free market into an oligopolistic market. In addition to consolidation among PBMs, a most PBMs also are integrated within health insurers, PDPs, health care providers, and pharmacies, incentivizing predatory behavior and providing outsized power over independent long-term care (LTC) pharmacies. For too long, PBMs have wreaked havoc on a system meant to provide better patient health outcomes and lower overall health care costs – without accountability.

PROBLEM: PBMs engage in opaque and predatory business practices and exploit oligopolistic market power to prefer affiliated pharmacies over independent LTC pharmacies.

In today's complex drug pricing debates, three PBM behaviors are particularly problematic:

1. **Predatory Pricing:** PBMs charge pharmacies a series of opaque and unjustified fees (effectively, "pay to play" demands). Often buried in lengthy contractual language, these fees punish independent LTC pharmacies, effectively coercing independent businesses to either operate in the red or sell to PBM affiliates at a loss.
2. **Market Manipulation:** PBMs exploit disproportionate market power to unfairly manipulate PDP drug formularies to maximize revenues for themselves and their affiliates to the detriment of LTC pharmacies and the patients they serve. PBMs also ignore binding contractual provisions to the detriment of LTC pharmacies, confident that the costs and administrative burdens of challenging predatory practices will prevent a day of reckoning. While Congress has acted to reduce drug prices and CMS has acted to limit the impact of DIR fees on consumers, neither step has protected pharmacies from bearing the brunt of the financial impact, since PBMs and PDPs undoubtedly will impose their revenue losses on LTC pharmacies.
3. **Consolidation and Integration:** PBMs are the tip of the iceberg in the pricing and payment debate. With ever-growing consolidation and integration across pharmacy, health insurance, distribution, and provider markets, the outsize market power of PBMs punish independent LTC pharmacies and damage consumers with higher prices and unwarranted limits on access to needed drugs.

SOLUTION: Restructure PBM oversight & incentives

REQUIRE TRANSPARENCY. Congress must ensure CMS has the power to regulate and monitor the industry and Congress must pass legislation that guarantees consumers and regulators have access to drug pricing information. LTC pharmacies administer and manage daily medications for millions of seniors and young people with disabilities who rely on prescriptions to manage their quality of life. Securing protection for these independent pharmacies is an essential component of drug pricing reform.

PREVENT PBM SELF-PREFERENCING. PBMs should treat affiliated pharmacies precisely as they treat independent pharmacies.

LIMIT PREDATORY PRICING AND BEHAVIORS. A growing number of PBM business practices violate antitrust laws, exploiting conglomerates that span multiple markets. These companies should be investigated thoroughly, and Congress and the Administration should eliminate predatory practices and encourage fair payments for the services LTC pharmacies provide.

CONSTRAIN UNFETTERED PAYMENT POLICIES. LTC pharmacies provide enhanced clinical and specialized services to patients who need long-term care. Federal payment programs do too little to assure that LTC pharmacies receive fair reimbursement for these services, allowing PBMs to reduce payments to the point of financial ruin for LTC pharmacies. Policymakers should limit the ability of PBMs to pay so little that pharmacies are forced out of business.

PBMs claim they drive efficiency but have a destructive force squelching competition, disserving consumers, and extracting excess profits for themselves and their affiliates at enormous unnecessary cost to public and private payers.

It is time for Congress to investigate PBMs, legislate to prevent abuses, and protect consumers, mall business, and LTC pharmacies from PBM predation. ■