

July 28, 2011

The Honorable Jon Leibowitz, Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue N.W.  
Washington, D.C. 20580

***Subject: Opposition to Proposed Merger of ExpressScripts and Medco***

Dear Chairman Leibowitz:

I am writing to express my grave concerns regarding the proposed merger of PBM giants, Express Scripts and Medco. The proposed merger of these two corporations would result in unparalleled market concentration in an already extremely limited PBM marketplace. The resulting limited PBM marketplace would most likely result in reduced choices for all third party payers, including the federal government particularly with respect to the TRICARE program, Medicare Part D as well as the Federal employees health benefit program.

The combined "synergies" of the merged entity may not lower drug costs. It may simply create greater negotiating leverage to enable this new mega PBM to extract additional savings from other market participants which may not be passed on to plan sponsors and consumers. Given the fact that the PBM industry is virtually unregulated at either the federal or state level and the long list of substantial enforcement actions taken against each of the major PBMs in the past few years alleging fraudulent and deceptive conduct, I am extremely skeptical that American taxpayers can trust this "super PBM" to look out for their best interests.

I am also concerned that this proposed merger would have an extremely devastating effect on independent community pharmacies. Community pharmacists are the most accessible healthcare providers to consumers today and serve as a valuable resource to patients in promoting optimal medication usage and adherence as well as working with other healthcare providers to coordinate patient care. Even today, independent community pharmacies in particular have extremely limited leverage when negotiating contracts with PBMs. This proposed merger would most likely result in even more onerous contract provisions for independent pharmacies which may drive a significant number of them out of business. This will cost jobs and revenues in my community. Given the fact that independent community pharmacies typically serve patients in rural and very urban areas, this is of great concern. At that point, the merged "super PBM" would then simply step in and force patients to use its own mail-order pharmacy.

The proposed merger raises significant anti-trust concerns but also would most likely have negative effects on third-party and federal payers, limit consumer choice and would be unlikely to result in cost savings for patients. These concerns are compounded by the fact that the PBM industry as a whole is virtually unregulated. Given the totality of the circumstances, I feel it would be prudent for the FTC to block the proposed merger of Express Scripts and Medco.

Sincerely,