

Fact Sheet - PBMs

Background

Pharmacy benefit managers (PBMs) are the largely unregulated drug middlemen that administer the prescription drug benefit portion of health insurance plans for private companies, unions, and governments.

Each of the giant PBMs owns a mail order drug company and attempts to drive its customers away from community pharmacy and into the mail order firm it owns. PBMs argue that this saves consumers and plan sponsors money when, in fact, their motivation is higher profits. As the facts below illustrate, patients overwhelmingly prefer filling their prescriptions at a local pharmacy and it is community pharmacy, not mail order, which saves patients and payers money.

The National Community Pharmacists Association strongly opposes efforts by the PBMs to commoditize the prescription benefit and eliminate the important face-to-face relationship between patients and their local community pharmacist by coercing patients into mail order delivery of their prescription medications.

Given the choice, patients prefer their local pharmacy over mail order.

- Given equal copays and days supply, 83% of consumers prefer filling a prescription at their community pharmacy over mail order.¹
- 72% of consumers oppose mandatory mail order.¹
- Almost half (46%) of consumers disagree that mail order is more convenient.¹
- Half of all consumers feel they would be more likely to make mistakes taking medications obtained through mail order.¹
- 71% of consumers indicated they would be concerned about not having the advice and personal attention of their local community pharmacist if they had to obtain medications through mail order.¹
- In a May 24, 2004, press release, Mark B. McClellan, MD, PhD, administrator of the Centers for Medicare & Medicaid Services said, "Four out of five seniors and people with disabilities prefer to buy their drugs from their neighborhood pharmacies, where they can get face-to-face advice and quick access to their medicines from a pharmacist who knows them."
- A *Consumer Reports* survey recommends the use of independent pharmacies, saying "independents are usually far more attuned to your personal needs and total health picture."²
- Congress, which represents the interests of the American people, rejected mandatory mail order provisions for the Medicare Modernization Act of 2003.

Consumers, payers, and the government pay more and get less when it comes to mail order.

- Based on the top 10 brand drugs and top 10 generic drugs, mail order costs the plan sponsor more than using community pharmacies.³
- Mail order dispenses cost-saving generic drugs only 30% of the time, while community pharmacies dispense generics at least 46% of the time.⁴

PBMs have a financial incentive to push patients to mail order.

- PBMs make an average \$3.50 for every mail order prescription they fill compared to \$1.40 for a prescription filled at their community pharmacy network.⁵

PBMs steer consumers to their own wholly owned mail order facilities by preventing competitors from being able to effectively compete.

- PBMs usually prevent patients from receiving more than a 30-day supply at the pharmacy, while incentivizing 90-day supplies by their own wholly owned mail order firm.

- Community pharmacies are forced into take-it-or-leave-it contracts with the PBMs because they are not legally able to negotiate contracts as a group with PBMs.

PBMs have an incentive to dispense more expensive brand name drugs over cost-saving generics.

- PBMs earn revenues from their own wholly owned mail order operations and two general sources: administrative fees—including spread pricing—paid by managed care clients and rebates, discounts, and other monies that pharmaceutical manufacturers pay to PBMs to favor the manufacturers' drugs.⁵
- Rebates are typically paid for single-source branded drugs, but not for most generic drugs. PBMs usually retain a portion and in some cases all of the rebate dollars that they collect from branded manufacturers, giving PBMs an incentive to sell more single-source branded drugs, even when cheaper and therapeutically similar or identical drugs are available.⁵
- The giant PBM Medco Health Solutions received more than \$3 billion in rebates in 2004 and kept 44% of the rebates instead of passing them along to their clients. The company also received nearly \$180 million in "service" revenues from pharmaceutical manufacturers, which also were not shared with their clients.³
- 38% of Medco Health Solutions revenue comes from its own mail order operations.³
- PBMs with mail order houses profit by repackaging prescription drugs and selling the repackaged goods at higher per unit AWP (average wholesale price) than the manufacturer originally charged. A study found 15 instances when a branded drug was repackaged and sold at a higher per unit price, sometimes by as much as 176%.⁵
- PBM-owned mail order facilities switch to higher-priced drugs more frequently than nonaffiliated mail order facilities.⁵

Mail order can jeopardize a patient's quality of care.

- A United States Pharmacopeia study found that about one quarter of packages delivered through the mail were exposed to "excessive heat"—above 104 degrees, which can diminish some medications' effectiveness. In addition, calculations showed that almost one third of the packages were exposed to mean kinetic temperatures above 170 degrees for as long as 21 days in transit through the system.⁶
- Pharmacists employed by PBMs do not have to be licensed in the individual consumer's state. Therefore, if patients have a problem with a medication they received from a PBM, they have no recourse with the state board of pharmacy or other regulatory bodies that help protect consumers.

Independent pharmacies are not making huge profits.

- Independent pharmacies are among the most efficient health care providers with a 23.6% gross margin and a 3.7% net operating income, before taxes.⁷
- Two studies confirm the average cost for a community pharmacy to dispense a prescription, not including any profit, is in excess of \$9. A University of Texas study estimates the cost at \$9.62⁸ while NCPA estimates the cost at \$10.53⁷. In contrast, the average dispensing fee actually paid to community pharmacies to dispense a brand-name prescription medication is \$1.95.⁹

PBMs are under fire for their deceptive business practices.

- Several PBMs are facing litigation relating to the federal False Claims Act, antitrust and unfair competition, deceptive practices, and their roles as fiduciaries. PBMs also are under fire for switching patients to different medications without prescriber authority.
 - Some of the parties that have sued the PBMs include 20 state attorneys general (Arizona, California, Connecticut, Delaware, Florida, Illinois, Iowa, Louisiana, Maine, Maryland, Massachusetts, Nevada, New York, North Carolina, Oregon, Pennsylvania, Texas, Vermont, Virginia, and Washington); the American Federation of State, County & Municipal Employees; the National Community Pharmacists Association and the Pharmacy Freedom Fund; the Peabody Energy Corporation; Northwest Airlines Health

Plans; the United States Attorney, Eastern District, Pennsylvania; the State Teachers Retirement System of Ohio; the Chicago District Council of Carpenters Welfare Plan; and the California Public Employees' Retirement System (CalPERS).

- Eight states (Georgia, Kansas, Maine, Maryland, Mississippi, North Dakota, Rhode Island and South Dakota) and the District of Columbia have enacted laws regulating certain aspects of PBM operations.
- In June 2006, the U.S. Supreme Court refused a request by the Pharmaceutical Care Management Association (the lobby group for the giant PBMs) to review a 1st Circuit Court of Appeals decision that upheld a comprehensive state law in Maine regulating the business practices of PBMs.
- Settlements against the PBMs have included:
 - **October 2006:** Medco Health Solutions agreed to a \$155 million, plus interest, fraud settlement with the Justice Department. The charges included inappropriately canceling government employees' prescriptions, falsely claiming it had called physicians to warn them of potential bad-drug interactions, changing prescriptions without a doctor's consent, taking longer to fill prescriptions than it claimed, and underfilling pill bottles.
 - **December 2005:** An Ohio court in a jury trial ordered Medco Health Solutions to pay \$7.8 million for defrauding the State Teachers Retirement System of Ohio ("STRS Ohio"). The jury found that Medco owed a fiduciary duty to STRS Ohio and breached that duty. The court is still hearing arguments on punitive damages in the case.
 - **September 2005:** Caremark/AdvancePCS agreed with the U.S. Attorney's Office in Philadelphia to pay \$137.5 million to resolve civil fraud and kickback allegations involving the Federal Employee Health Benefits Program and Medicare+Choice program. The company also signed an extensive consent order as part of the agreement.
 - **May 2004:** Medco Health Solutions agreed to a \$42.5 million settlement in a class-action suit that alleged Medco violated its fiduciary duty by promoting more expensive drugs made by Merck and other manufacturers over less costly alternatives.
 - **April 2004:** Medco Health Solutions agreed to pay \$29 million and signed an extensive consent order to settle charges of deceptive trade practices filed by 20 state attorneys general.
 - **June 2003:** The New York attorney general subpoenaed the records of Express Scripts after an audit by the state comptroller found repeated overcharges to a state employees' drug plan. Express Scripts said it repaid \$613,000.
 - **June 1995:** Caremark pled guilty and agreed to pay \$161 million in criminal fines, civil restitution, and damages for kickbacks, fraud, and the harm it caused to government medical insurance programs, including Medicaid.

¹ "Attitudes About Mandatory Mail Order Pharmacy." NACDS Foundation Public Opinion Research. Wirthlin Worldwide (2003)

² "Relief for the Rx Blues." *Consumer Reports* (October 1999)

³ Winkelman Management Consulting (2005)

⁴ NDCHealth data (2003)

⁵ "The Cost of PBM 'Self-Dealing' Under a Medicare Prescription Drug Benefit." James Langenfeld and Robert Maness (2003)

⁶ "Temperature Fluctuations During Mail Order Shipment of Pharmaceutical Articles Using Mean Kinetic Temperature Approach." Claudia C. Okeke, Leonard C. Bailey, Thomas Medwick, Lee T. Grady (1997)

⁷ 2006 *NCPA-Pfizer Digest*. National Community Pharmacists Association (2006)

⁸ "Estimating the Costs of Dispensing Prescription Drugs Within a Chain Pharmacy." Michael Johnsrud, PhD, and Kenneth Lawson, PhD. The Center for Pharmacoeconomic Studies, University of Texas at Austin (2005)

⁹ "Takeda Prescription Drug Benefit Cost and Plan Design Survey Report." Pharmacy Benefit Management Institute (2005)