

**VOTE YES! America’s Community Pharmacists Say-
Support Senator Cantwell’s PBM Transparency Amendment
Transparency Improves Cost Controls and Bends the Cost Curve**

September 21, 2009

Senator Cantwell will be offering an amendment to the Senate Finance mark this week that will require “transparency” for any PBM that contracts with a health plan in an exchange. This amendment is similar to language that was adopted by the House Energy and Commerce Committee in its markup of HR 3200. “Transparency” is a market-based approach that helps to assure competition in the delivery of prescription drug benefits and can lower costs for plans and consumers. **CBO has indicated to House staff that the language will actually save money!**

Transparency allows plan sponsors and payers, including large corporations and governments, to confirm that a PBM is in fact providing the service it was hired to do: to secure low drug costs. Without transparency, a plan sponsor has no way to verify that their PBM is sharing manufacturer rebates or that the PBM is negotiating the lowest possible costs for specific drugs.

Transparency will make the market work. Because of a lack of transparency PBMs are pocketing an increasing portion of the rebates. From 2003-07, the three largest PBMs saw their profits skyrocket from over \$900 million to over \$2.7 billion. In a competitive market with transparency no middleman could secure these types of skyrocketing profits.

- **PBMs Conveniently Mischaracterize the Cantwell Amendment**

When you don’t have the facts to stand on, it’s easy to mischaracterize what the Cantwell transparency amendment really does. It does NOT require PBMs to disclose proprietary pricing information or manufacturer rebate information. And, any information disclosed ONLY goes to the plan sponsor, not the public. Plans that pay for prescription drug benefits for their employees should not be stonewalled in getting some basic information from their PBM.

For example, the amendment mainly requires disclosure of aggregate information—individual drug prices are not made readily available. Further, the amendment provides for confidentiality between a plan sponsor and a PBM. There is little risk that the information on a PBM’s drug discounts and rebates would be made public and thus hurt the PBM’s future ability to bargain with drug manufacturers. Otherwise, large plan sponsors like Starbucks would never have opted for transparent PBM contracts.

- **Employers and Plan Sponsors to PBMs: Show Me the Money!**

Why should there be transparency in PBM contracts? For example, if the PBM is getting a million dollars in rebates from manufacturers for a plan sponsors’ employees, shouldn’t the plan sponsor know how much of that is being passed along in the aggregate to the plan sponsor? If the plan sponsor is paying the PBM a million dollars to pay pharmacies for prescriptions dispensed to its enrollees, shouldn’t the plan sponsor know how much the PBM is pocketing of this amount?

Should the plan sponsor know that the mail order component of the PBM is switching the plan sponsor's enrollees to higher cost brand name drugs because the PBMs are getting manufacturer rebates on those drugs?

- **Medicare Part D requires PBMs transparency – and that should that be the case for all PBMs supported in whole or part by Federal funds!**

PBMs say that disclosure hurts their ability to negotiate and would increase drug prices. But they also say that PBMs are helping to keep Medicare Part D drug costs low, even though they disclose EVEN MORE information to CMS than would be required under the Cantwell amendment. So, which is it PBMs?

CMS requires Part D plan PBMs to disclose for each and every calendar the quarter specific drug by drug information on the rebates, discounts and price concessions they are receiving from manufacturers. This is kept confidential. Yet, PBMs say that they are the reason that Part D drug costs are under control, even though they disclose this information.

- **Can we Trust them? PBMs Pay Millions in Fraudulent Enforcement Actions**

Substantial enforcement actions against each of the major PBMs, indicating fraudulent and deceptive conduct, have resulted in over \$370 million in damages. Between 2004 and 2008, these cases shed light on widespread practices in the PBM industry, including misuse of rebates, kickbacks, submission of false claims, taking secret rebates, and drug switching.

- **Part D transparency saving money for Medicare beneficiaries**

Beginning in 2010, PBMs will not be able to pocket the difference between the amount the plan pays the PBM to pay the pharmacy, and the actual (and usually lower amount) they pay the pharmacy. CMS is adopting “pass through” pricing – which more and more plan sponsors are requiring of their PBMs. This will help reduce the amount of cost sharing that Medicare beneficiaries pay and will reduce Part D costs because beneficiaries will burn through the donut hole slower! The Cantwell language would require that PBMs disclose in the aggregate whether they are pocketing any of this difference.

- **The only PBM cost savings studies that the PBMs can cite are – you guessed it – PBM-funded studies!**

PBM-cited “savings” studies have been done with the PBM's own data. And guess what – they find savings! What about a real, unbiased peer-reviewed study of PBM savings? How many exist? PBMs cite a 2003 GAO report that says that PBMs save the FEHBP program money. The GAO tried to dig into the PBMs books to look at whether PBMs actually did save money. But - they wouldn't let GAO do the work they needed to do – so the GAO had to rely on the PBMs own self reported unaudited data!

But this past June 2009, the Inspector General for the Office of Personnel Management said the following about the PBMs that administer the FEHBP prescription drug program: “There's a good chance we are not getting a good deal because the lack of transparency”.

- **The walls of transparency are closing in on the PBMs – and they don’t like it. Why? It leads to lower costs. Here’s some examples:**
 - TRICARE anticipates savings of \$1.67 billion by negotiating its own drug prices and rebates for its 9 million beneficiaries rather than going through a PBM.
 - Texas estimates savings of \$265 million by switching to a transparent PBM contract.
 - The University of Michigan has saved nearly \$55 million by administering its own plan for the past six years.
 - The State of New Jersey projects savings of \$558.9 million over six years from a new transparent PBM contract that it just signed with Medco for its 600,000 covered employees, dependents and retirees. The terms of the contract are even stronger than the Cantwell language.
 - The State of Wisconsin saved over \$30 million by switching to Navitus, a transparent PBM.
 - The California Health Care Coalition found that Catalyst Rx, a transparent PBM, could save members between \$3 and \$6 *per prescription*, and chose Catalyst Rx as its recommended PBM.
 - Privately-run Medicare Part D plans do not save as much on prescription drug costs as do Medicaid or VA plans.
 - The HR Policy Association estimates that use of a transparent PBM contract saves employers up to 9% annually.