

PBM Transparency Does *Not* Increase Drug Costs

In 2003, Senator Cantwell proposed an amendment to the Prescription Drug and Medicare Improvement Act to require some level of transparency by PBMs involved in Medicare Part D. The amendment would have required a PBM that provides prescription drug coverage under a Medicare Prescription Drug plan or a Medicare Advantage plan to disclose the following on an annual basis to the Assistant Attorney General for Antitrust of the Department of Justice as well as the Inspector General of HHS:

- The aggregate amount of any and all rebates, discounts, administrative fees, promotional allowances, and other payments received or recovered from each pharmaceutical manufacturer.
- The amount of payments received or recovered from each pharmaceutical manufacturer for each of the top 50 drugs as measured by volume (as determined by the secretary).
- The percentage differential between the price the PBM pays pharmacies for a drug... and the price the PBM charges a Medicare Prescription Drug Plan or a Medicare Advantage organization for such drug.

The Amendment did not pass after the Congressional Budget Office released a report stating that it would cost an additional \$40 billion over ten years. The report states: “Private firms would perceive a significant risk of public disclosure of the detailed information on drug pricing that this provision would require them to compile and provide to the federal government.... Consequently, PBMs operating as part of the Medicare prescription drug plan would find it more difficult to obtain significant price concessions and rebates from drug manufacturers, who would be concerned that the terms of those favorable deals could be determined by competitors or other purchasers. Consequently, CBO estimates that, with this amendment, the degree of drug-cost management under S. 1 would decline and would no longer exceed the levels of cost management seen in the current employer market.”¹

This letter’s projections were based on the theoretical outcomes of transparency, *not* on any factual evidence that transparency leads to higher prices. At that time, there were very few examples of transparent PBM contracts. Notably absent were large plans sponsored by major corporations or state governments. Over six years later, however, we now have various examples of PBM contracts where cost and rebate information is made transparent. These include large plans which might cover a significant portion of a given market’s population, include plans covering state employees and retirees or university plans. **In none of these cases has transparency led to collusion or hurt the PBM’s ability to negotiate lower costs. In all cases that we have seen, transparency has fact led to savings.**

In fact, Congressman Weiner’s amendment to HR 3200, America’s Affordable Health choices Act, mainly requires disclosure of aggregate information—individual drug prices

¹ Congressional Budget Office. Cost Estimate. H.R. 1 and S.1. July 22, 2003.
<http://www.cbo.gov/doc.cfm?index=4438&type=0>

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.

Gerard F. Henderson, Ph.D., professor of health policy and management at Johns Hopkins University, spoke highly of a proposal that PBMs report drug prices to the secretary of HHS and to the Department of Justice: "Because the report will show relative prices, it will show where the Part D plans are paying a high price. As I said earlier, **I believe in markets. But as Ronald Reagan said, "Trust, but verify."**"²

Transparency allows plan sponsors and payers, from small business to large corporations to governments, to confirm that a PBM is in fact providing the service it was hired to do: secure low drug costs. Without transparency, a plan sponsor has no way to verify that their PBM is not retaining their manufacturer rebates or that the PBM is negotiating the lowest possible costs for specific drugs. In the examples below and countless others, **transparency has led to lower costs:**

- 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 mandating transparency in their contracts with all PBMs. Prior to implementing transparency the state of Texas was paying over three times too much with their CVS Caremark 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 after mandating transparency in its contractual agreement with one of the top 3 PBMs. Prior to mandating transparency, the state realized that CVS Caremark was artificially inflating prescription drug prices through spread pricing and other tactics commonly utilized by PBMs.
- The State of Wisconsin saved over \$30 million by switching to Navitus, a transparent PBM.
- Successful transparency legislation saved over \$800,000 in a single year in South Dakota.
- Maryland switched to a transparent PBM after finding it had overpaid \$10 million to CVS Caremark.
- 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.

² Senate Hearing 110-264. "Prescription Drug Pricing and Negotiation: Overview and Economic Perspectives for the Medicare Prescription Drug Benefit." January 11, 2007.
<http://finance.senate.gov/hearings/39938.pdf>

- Local Funds of the Sheet Metal Workers' International Association saved up to 30% in their first year after switching to a transparent PBM.
- The HR Policy Association estimates that use of a transparent PBM contract saves employers up to 9% annually.