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COMMITTEE ON  
ENERGY AND COMMERCE

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-4501**

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COMMITTEE ON  
OVERSIGHT AND GOVERNMENT  
REFORM

COMMITTEE ON  
STANDARDS OF OFFICIAL  
CONDUCT

June 7, 2010

The Honorable Henry Waxman  
Chairman  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Frank Pallone Jr.  
Chairman  
Committee on Energy and Commerce  
Subcommittee on Health  
2125 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Bart Stupak  
Chairman  
Committee on Energy and Commerce  
Subcommittee on Oversight and Investigations  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Waxman, Pallone and Stupak,

We are writing to request a hearing on the lack of oversight of the Pharmacy Benefit Manager (PBM) industry in the United States. Since their creation by managed care organizations in the early 1980's, there has been no consistent regulatory structure or oversight for PBMs. Yet, these unregulated entities manage prescription drug benefits for tens of millions of patients in the United States, including Medicare Part D enrollees.

As you know, PBMs act as middlemen between the pharmacist, the physician, the plan sponsor (such as an employer) and the patient. As such, they play a key role in determining the medications to which patients will have access, the rates that pharmacists are paid for services rendered, and limiting the ability of patients to use their community pharmacy to obtain prescriptions.

PBMs have been subject to 27 federal state, and local lawsuits and enforcement actions because of behavior alleged to be harmful to patients and payers. In a 2009 hearing of the House Oversight Subcommittee on Federal Workforce, Postal Service and the District of Columbia, Susan A. Hayes of Pharmacy Outcome Specialists testified that PBMs engage in spread pricing, where, unbeknownst to the plan sponsor, they pay pharmacies one price for prescription drugs dispensed, but charge the plan sponsor a much higher price, thereby pocketing the difference.

To assure that the interests of plans, patients and pharmacists are served in reducing costs and assuring the most appropriate drug therapy is used, Congress should consider regulating PBMs to require that they have a fiduciary responsibility to plan sponsors and to allow and greater transparency of financial relationships.

We respectfully request that your committee or subcommittee examine this most important issue and believe a Congressional hearing is warranted at this time.

Sincerely,



Peter Welch  
Member of Congress



Bruce Braley  
Member of Congress