

May 25, 2022

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The Honorable Lina Kahn, Chair
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, D.C. 20580

Re: Public Comments on the Business Practices of Pharmacy Benefit Managers and Their Impact on Independent Pharmacies and Consumers

Dear Chair Kahn:

On behalf of the members of the Public Sector HealthCare Roundtable (the Roundtable) and the public sector employees, retirees, and their dependents they serve, we thank you for the invitation to provide comments about the practices of Pharmacy Benefit Managers (PBMs) and how they are affecting drug affordability and access.

The Roundtable is a non-profit, non-partisan coalition of public sector purchasers from across the U.S. including states, counties, and municipalities working together to bring a voice to the tens of millions of public sector employees, retirees, and their dependents they serve. Over 15 percent of the American workforce is employed by public sector entities, and collectively they spend \$43 billion annually on health care benefits, including prescription drug benefits, which serve as a critical component of state compensation programs.

Background

Our members have a fiduciary duty to the public sector consumers that we serve to offer high-quality benefits at a cost that is affordable. The rapidly increasing cost of prescription drugs in the U.S. threatens our ability to accomplish this goal. Currently, the vast majority of our members work with PBMs and self-funded Employer Group Waiver Plans (EGWPs) to cover the prescription drug benefits of public sector employees, retirees, and their dependents. It should be noted, that when the drug plan is self-funded, then the employer or retirement system make the final decisions on who keeps rebates or who is incentivized to use mail order because we are the true payer of claims and not the PBM.

As you know, a PBM functions like a health insurer for prescription drugs. It contracts with local and national pharmacies to ensure our members' retirees have access to needed prescriptions and contracts with drug manufacturers to achieve discounted prices for our members' retirees. Our members have navigated the complex world of pharmacy pricing by engaging with PBMs who have been successful at lowering costs for both our members' retirees and U.S. taxpayers alike.

PBMs play an important structural role in maintaining affordable drug costs for our members' retirees. Specifically, our members rely on PBMs to negotiate with all the parties in the prescription drug supply chain for the best possible price. Contracting for volume pricing with manufacturers and pharmacies is not something our members, public sector retirement systems and other public sector health plans, are able to achieve without PBM assistance. As a result, our members have access to a wide and diverse range of brand and generic drugs through a formulary established by the PBM, at an affordable copay.

Response to Select FTC Questions

The impact of PBM rebates and fees on net drug prices to patients, employers, and other payers. Self-funded Medicare Part D EGWPs use all formulary rebates to reduce the

Administration

Tom Lussier
Administrator
P.O. Box 26368
Alexandria, VA 22313
978.835.5424
Tom@healthcareroundtable.org

Andrew MacPherson
Senior Policy Advisor
600 H Street, NE, #627
Washington, DC 20002
202.420.8505
Andrew@healthcareroundtable.org

Website

www.HealthCareRoundtable.org



premiums charged to the retirees on a dollar-for-dollar basis. In practice, the rebates received feed directly into the premiums charged to our retirees. For our retirees and plans, drug manufacturer list prices have the largest impact on cost. That is, manufacturer list prices have consistently risen at faster rates than inflation. The way our Medicare Part D EGWP plans manage this fast rise in cost is through rebates. Further, to verify the rebates contribute to the value of the plans, our members complete consistent Requests for Proposals every few years to ensure that market pressures are acting to keep PBM administrative fees at a competitive rate. In other words, our members – particularly given their substantial purchasing power -- are able to consistently force our PBM partners to compete for the best benefits possible for our members. It is critical that we maintain this ability to contract with PBMs and have the flexibility to design benefits that work best for our members.

The impact of PBM rebates and fees on formulary design and patients' ability to access prescribed medications without endangering their health, creating unnecessary delay, or imposing administrative burdens for patients or prescribers. To keep costs low for our retirees enrolled in a Medicare Part D EGWP, our members use formulary designs that are 100% approved by Medicare with at least one drug available in the lower copayment tiers in every therapeutic category. These formularies, based on both clinical and economic value have allowed our members to maintain this drug benefit for their retirees. Our members remain dedicated to producing the lowest net annual price per member per month to the plan, and thus, the retirees themselves because our plans are fully self-funded. Our members must balance the reality of covering the necessary drugs for their retirees while also keeping premiums low. To balance this, our members utilize widely accepted care management techniques like prior authorization and step therapy. Due to the significantly high costs of prescription drugs, EGWPs, our members, are forced to utilize these tools offered by PBMs to drive the overall costs down and lower net costs PMPM, allowing our members to keep premiums low.

Conclusion

PBMs provide public sector retirees with necessary services to lower costs and navigate the complex world of prescription drug pricing, including providing our members with robust formularies of prescription drugs to meet their retirees' needs. In the current environment, no other solution serves our members and their retiree's needs. Without PBMs our members do not have the individual capacity to negotiate with all the parties in the pharmacy supply chain, nor do they have the resources to develop such capacity. The Roundtable remains focused on the issue of high drug costs and believes a large contributor is the exorbitant prices prescription drug manufacturers charge. To address the issue of high-cost drugs, the FTC must also examine the likely anticompetitive practices of large prescription drug manufacturers and consider how best to address the original list price they set, particularly as it relates to specialty.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas R. Lussier".

Thomas R. Lussier, *Administrator*
Public Sector Healthcare Roundtable

cc: The Honorable Noah Joshua Phillips
The Honorable Rebecca Kelly Slaughter
The Honorable Christine S. Wilson
The Honorable Alvaro Bedoya