



## KENTUCKY INDEPENDENT PHARMACIST ALLIANCE

September 15, 2023

The Honorable James Comer, Chairman  
Committee on Oversight and Accountability  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Comer,

My name is Rosemary Smith. My husband Luther and I are both pharmacists and the co-founders of KIPA (Kentucky Independent Pharmacist Alliance). We own Jordan Drug, Inc., an independent pharmacy chain that has been serving patients in rural eastern Kentucky for over 50 years. I am writing you ahead of your September 19, 2023 Oversight Committee Hearing on PBMs.

At the beginning of this month, our organization sent out a request to our members for data on the amount of DIR fees paid by their independent pharmacy for the years of 2021, 2022 and through August 31<sup>st</sup> of 2023. We had 117 pharmacies respond in the short time we had to gather and compile our data ahead of your Oversight Committee Hearing date. We wanted to provide you and your staff with concrete DIR data from the independent pharmacies in your home state. The results have been astonishing.

DIR fees were originally intended to incentivize pharmacies to provide high-quality care but quickly evolved into an enormous source of revenue for the big three PBMs who control 85% of the prescription market. Between 2010 and 2020, CMS reported that retroactive DIR fees increased an astonishing 107,400%. Our study for just our Kentucky independent pharmacies shows another 82.22% increase in those same DIR fees from 2021 through August of 2023.

In a survey conducted by NCPA, 84% of independent pharmacies reported that DIR fees have a severe impact on their businesses. Furthermore, 54% reported that DIR fees have caused them to delay or reduce hiring and 52% reported that they have reduced hours of operation. In our study of which 117 of the 615 independent pharmacies in Kentucky responded, the impact of DIR fees has gone far beyond this NCPA study.

PBMs claim they are taking back money months after prescriptions are filled due to a pharmacy's performance or so-called quality measures. In fact, nothing any pharmacy does has been shown to tie back to the vast amounts being clawed back. Compliance issues are being met but as I am being told by our members, DIR fees only increase month after month.

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Pharmacies are making every effort to be compliant but never receive an explanation for what else we must do to stop the blood bath of DIR fees. We all know the real reason that no explanation or way to tie back prescriptions to individual DIR fees ever is provided. There are no pharmacy performance issues. DIR fees have evolved into an astronomical cash flow cow for PBM stakeholders at the expense of Medicare patients and the independent pharmacy providers who care for them.

A May 2023 NCPA survey asked independent pharmacy owners/managers for insight related to the "DIR hangover." This is the term NCPA used for the period starting January 1, 2024 when bills for DIR fees for the end of 2023 will come due just as those DIR fees for the beginning of 2024 will be moved to the point of sale. Ninety-eight percent of survey respondents say they are concerned about the upcoming DIR hangover and how it will affect their pharmacy. With PBMs offering 2024 contracts with significantly lower reimbursement rates, the majority of pharmacies worry about being able to stay open. Kentucky has already had 57 independent pharmacies either be forced to close or sell to a chain and this figure no doubt will rise significantly rise if PBM DIR reform is not accomplished.

As I mentioned earlier, our KIPA study had responses from 117 of the 615 independent pharmacies in KY. The data collected is displayed on the graph accompanying this letter. Using the viral UNC Student newspaper front page format, I have included a file with unsolicited quotes from some of the independent pharmacists who responded to my survey request. These powerful quotes show the frustration and the story of what is actually going on in the independent pharmacy world.

Our KIPA survey showed the 117 Kentucky independent pharmacies who responded had an actual \$21,213,736 million dollars clawed back in 2021 from their local businesses, often months after filling prescriptions and with no explanation as to why the money was being taken back. The 2021 data showed an average DIR fee per pharmacy of \$181,311.98. That projected a total of \$111,508,098 million dollars in total 2021 DIR fees for the 615 Kentucky independent pharmacies.

The 2022 DIR data rose to a total of \$31,466,252 million dollars being clawed back by PBMs for the 117 respondent pharmacies for an average of \$278,462.41 per pharmacy. That projects a total of \$171,254,382 million dollars in DIR fees for the 615 Kentucky independent pharmacies for 2022.

The data we collected was for a period of January 1, 2023 through August 31, 2023 which totaled \$38,655,772 million dollars being clawed back by PBMs by the 117 respondents pharmacies for an average of \$330,391.22 per pharmacy, Our actual data was used to project a total of a whopping \$203,190,600 million dollars for all 615 of the independent pharmacies in Kentucky for 2023 DIR fees, a 82.22% increase in just two years.

Chairman Comer, the situation here in Kentucky and across the country is unsustainable with respect to PBM DIR fees and often below actual cost contracts being offered. We hope this data we have provided might shed a light on what is really happening. Pharmacists are the most accessible health care professionals in any community. Here in Kentucky, independent pharmacies serve patients in all 120 counties. We do not have performance issues. We have PBM issues. Our Medicare patients are not benefiting from these millions of dollars clawed back each year by the PBMs. PBM reform

needs to be passed this session and DIR fees stopped immediately or thousands of independent pharmacies will be forced to close. Once an independent pharmacy closes, it is lost forever.

Chairman Comer, every independent pharmacist in Kentucky is thankful for the work you have done and continue to do for PBM reform. Your leadership is invaluable. Please know your efforts have not gone unnoticed here in your home state. We will be watching the hearing on September 29<sup>th</sup>. If we can ever help you in any way, please let us know.

Sincerely,

Rosemary C. Smith

KIPA Co-founder

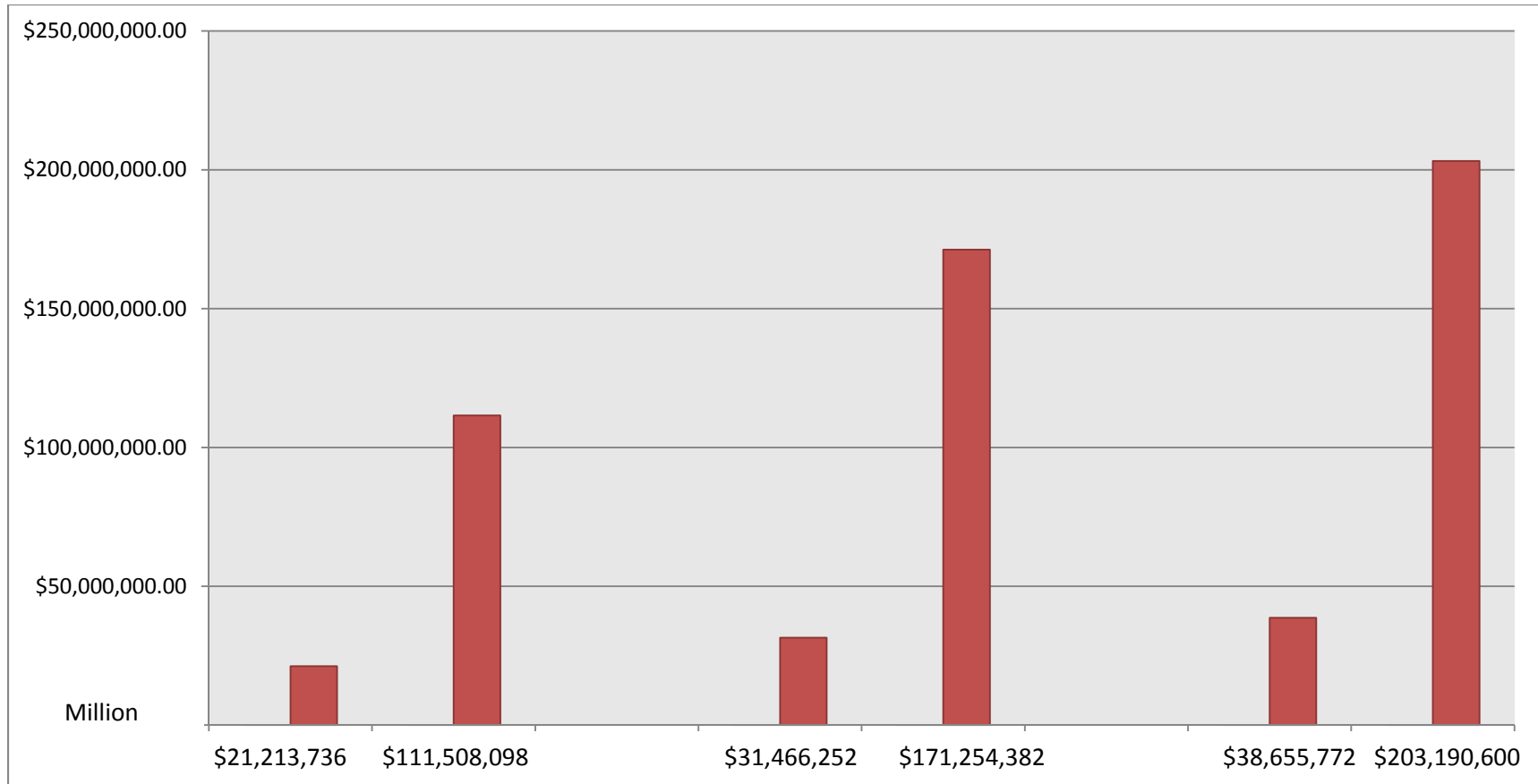


## KENTUCKY INDEPENDENT PHARMACIST ALLIANCE

Our DIR fees this month were absolutely the highest they have ever been and it isn't even close. These fees are killing independent pharmacy. **DIR fees are like a python slowly choking the life out of independent pharmacies.** I guess I am working for the PBMs. That is more than I make. Absolutely makes me sick to look at. And people wonder why independents keep closing. Our adherence scores are good. It's shocking for me to see. We have a small store. It is WAY out of control. Very discouraging to work this hard and barely able to pay bills and make payroll even after cutting my salary. I am the lowest paid pharmacist in my store. **Do you see why pharmacies are closing??** My pharmacy had a huge increase from Caremark in August. I didn't see the same huge increase in my other stores from Caremark in August in TN or MS. Seems like they picked on KY. **Share it with the world. I had to hit my line of credit the 1<sup>st</sup> time in 10 years to pay my wholesale bill.** My comment to CMS was that the patient doesn't see any of those clawbacks. By the end of the year there is no telling how much extra we will need to have put back to weather the DIR storm in 2024. I can't imagine what we will face in November and December and then the first quarter of next year if we can't hold the PBMs accountable. I am running very tight on just paying my wholesaler. We have never been in this situation in the past. I'm not sure how much longer I can hold on at this rate. **Makes me physically sick to look at this.** My retail stores are being taken to the woodshed. The difference between the month of August 2022 and August 2023 is a whopping \$25K alone with no increase in volume. **I guess I am working for the PBMs. That is more than I make.** Remember I said the reason I didn't look at the DIR fees was because it was depressing. I am now officially depressed. This is sickening. Is there a way for us to launch a social media campaign that won't void our contracts? **Patients are stuck in the cross hairs with pharmacies and PBMs.** Our pharmacies will have more than \$3 million clawed back in 2023!

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## DIR DATA 2023



Actual Data  
117 Pharmacies

Projected Data  
615 Pharmacies

Actual Data  
117 Pharmacies

Projected Data  
615 Pharmacies

Actual Data  
117 Pharmacies

Projected Data  
615 Pharmacies

# 2021

# 2022

# 2023