

House Energy and Commerce Subcommittee on Health

“An Examination of How Reining in PBMs Will Drive Competition and Lower Costs for Patients”

February 26, 2025

Questions for the Record

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- 1. Over the past few years, we have seen pharmacy benefit managers (PBMs) and their affiliated group purchasing organizations (GPOs) increase the use of service fees, for instance requiring manufacturers to pay for access to necessary information or data. The rapid rise in these so-called service fees is just an example of the onerous challenges PBMs and GPOs are inflicting on manufacturers. These fees are designed for profits, they are not designed to reduce costs for patients. How should we ensure that these fees are truly bona fide?**

We agree with the concern that Pharmacy Benefit Managers (PBMs) may be charging increased and inflated fees to maximize their profits while not fulfilling their role of lowering drug costs for families. While drug companies are the primary drivers of high and increasing drug costs, PBM’s payment structures also incentivize the prioritization of high cost drugs.¹ Families USA sees an urgent need for increased transparency and better insight into PBM business models to understand what prices they are negotiating versus what plans and families are paying. We may find some fees for payers to access their own data to be problematic but also may prefer fees to other payment structures that incentivize higher list prices and higher cost drug utilization. This further underlines the need to see the whole financial picture. Such information is key to determining what fees and practices are actually onerous and unjustified and what is just another attempt from drug companies to deflect responsibility for the high cost of prescription drugs onto PBMs. Once we have a greater understanding of the data, we can provide targeted solutions to ensure PBMs are not furthering drug companies’ incentives to drive up drug costs and that families across the country have access to lower medication costs.

¹ https://familiesusa.org/wp-content/uploads/2023/11/Rx-Premium-paper_for-publishing.pdf; See also, <https://familiesusa.org/wp-content/uploads/2024/06/Families-USA-Tri-Agency-Consolidation-RFI-6.5.24-final.pdf>.

a. What do you predict PBMs and their affiliated GPOs will do next in their efforts to maximize profits at the expense of patients and taxpayers?

Financial structures as they are now allow PBMs to prioritize higher cost drugs that drive up costs for families and employers. Given this business model, Families USA believes that transparency is a key tool in being able to target both existing loopholes and predict future ones that PBMs may use to pursue increases in their profits at the expense of this nation's families. Employers, researchers, policymakers, and those that advocate for patients and families need to have visibility into the contracting, negotiating, and other business practices of PBMs in order to fully understand what abuses exist and what drives costs in the market. Requiring that the purchasers receive key information about PBM negotiations, costs, and spending would help to reduce drug benefit costs by increasing competition between PBMs and empowering the clients of PBMs to negotiate better contract terms.²

Importantly, policymakers must not forget the driving force behind high drug prices that gave rise to middlemen like PBMs in the first place: price gouging and anticompetitive behavior by big drug companies. Congress should consider additional reforms to take on the systemic abuse that leads to high prices and that could end the devastating effects of drug companies' greed. Those reforms include efforts to end patent abuses, extend the Inflation Reduction Act's Medicare inflation rebate into the commercial market, expand the number of drugs subject to Medicare negotiation, and allow commercial insurance to voluntarily adopt the negotiated rates.

² Mark Miller, "Response to FTC RFI: Business Practices of Pharmacy Benefit Managers and Their Impact on Independent Pharmacies and Consumers," Arnold Ventures, May 2022, <https://craftmediabucket.s3.amazonaws.com/uploads/AV-FTC-PBM-Comment-Letter.pdf>; Ge Bai, Mariana Socal, Gerard Anderson, "Policy Options to Help Self-Insured Employers Improve PBM Contracting Efficiency," Health Affairs, May 2019, <https://www.healthaffairs.org/doi/10.1377/forefront.20190529.43197/full/>