

IP Law

May 10, 2023, 5:15 AM EDT

# Drugmakers, Insurers Spend Millions on Drug-Pricing Blame Game

By Alex Ruoff and Kate Ackley

---

- Benefit manager industry seen at risk of 'existential threat'
- Ad wars rope in insurers, pharmacists, drugmakers, PBMs

Congressional criticism of pharmaceutical industry middlemen has created a rush of spending on lobbying and advertising as insurers and drugmakers battle over blame for the price of medicine in the US.

The fight over drug spending will be on display Wednesday when executives from three major drug companies that make insulin — Novo Nordisk Inc., Eli Lilly & Co., and Sanofi — and those from the three largest pharmaceutical benefit managers — CVS Health Corp., Express Scripts, and OptumRx — testify before a Senate committee. These six companies dominate their markets by a wide margin.

Committee leaders in the GOP-led House have also vowed to take on PBMs, making it a rare bicameral health policy issue that could make its way into law.

Senate Health, Education, Labor, and Pensions Committee Chairman Bernie Sanders (I-Vt.) said he hopes the hearing will highlight why more needs to be done to empower the government to lower drug prices. Sanders has long complained the prices in the US are higher than in countries such as Canada and France, where the government provides health coverage for its residents.

"What we need in my view is major legislation to address the cost of prescription drugs," said Sanders, who advocates a single-payer health system for the US.

That PBMs have increased their lobbying on Capitol Hill is understandable, said Steven Knievel, an access to medicines advocate at the liberal group Public Citizen. "They're under the microscope more than ever before," Knievel said in an interview. "This could be a precursor of an existential threat for the industry."



Signage is displayed in an aisle of a CVS Health Corp. store in downtown Los Angeles, Calif., in 2017. Photographer: Christopher Lee/Bloomberg via Getty Images

The main PBM trade group, the Pharmaceutical Care Management Association, has deployed representatives of smaller members of its group, hoping to convince lawmakers the industry is competitive and pending legislation would hurt the little companies more, JC Scott, the group's president and CEO, said in an interview.

Their main selling point: their members help employers manage high drug costs created by pharmaceutical companies.

"We say to a lawmaker: first it's important to have a foundational understanding of where the pricing power rests," Scott said. "It starts and ends with a drug company and their ability to set, raise, and lower prices."

Sanders's HELP Committee is set to consider a slate of health bills with bipartisan backing Thursday that includes a significant loss for PBMs: one measure (S. 1339) would prohibit charging a health plan more than what's paid at the pharmacy and capturing the difference, a practice known as spread pricing. It also includes several bills (S. 1067; S. 1114) meant to promote the creation of more generic drugs, something PBMs have lobbied for.

Earlier: Bipartisan Drug Price Bills Paused Amid Criticism of Sanders

## Pointing Fingers

PBMs, insurers, and drugmakers are all trying to turn lawmakers' spotlight on each other — in hopes Congress will leave their slice of the health industry alone.

The three insurance companies that own PBMs—CVS, Cigna Corp., and UnitedHealth Group Inc.—each almost doubled their lobbying spending at the beginning of 2023 compared with the same time in 2022, federal lobbying disclosures show.

The fight helped catapult CVS Health and Cigna into the fourth and seventh largest spenders, respectively, on federal lobbying in the first quarter of the year, rare top spots for both companies.

That spending is coming as drugmakers put pressure on Congress to crack down on PBMs.

The Pharmaceutical Research and Manufacturers of America, the largest lobbying arm for drugmakers, has spent more than \$9 million on digital and TV ads so far this year mentioning PBMs, according to data from AdImpact, which analyzes ad spending. These ads blame both PBMs and insurers for restricting access to medicines and adding to the cost of medicine with fees, and urge Congress to “hold PBMs accountable.”

Knievel said Public Citizen generally supports the PBM overhaul efforts but warned that they not come at the expense of additional measures targeting drugmakers. Pharmaceutical companies last year faced one of the industry's biggest legislative losses, empowering the government to demand lower prices from drugmakers. Focusing on PBMs now may be part of an effort “to avoid further measures being taken that affect them more directly,” he said.

Read More: [Pharma Decries Drug Selection Plans in Medicare Pricing Policy](#)

## New Groups

Other health industry groups are also getting in the act: the PBM Accountability Project, a coalition that includes pharmacy lobbies like the National Community Pharmacists Association, has spent more than \$1 million on ads this year urging action on pharmaceutical middlemen.

Groups that have long complained to lawmakers about how PBMs collect fees — some of them out of the pockets of pharmacies — and design benefit plans to steer patients to certain medicines are forming advocacy groups in hopes of getting changes across the finish line the Congress, said James Bowers, who heads the Coalition for PBM Reform, which includes the NCPA and the AIDS Healthcare Foundation.

“There's been these piecemeal actions for awhile, but clearly Congress is paying attention now and they realize this is a big area for reform,” he said.

The PCMA has spent about \$250,000 on ads trying to showcase how they negotiate savings for employers and health plans, according to AdImpact. The group in February promised to spend at least \$1 million on such ads.

The health insurance lobby, AHIP, which includes CVS and Cigna but not UnitedHealth, hasn't increased its lobbying amid criticism of PBMs and hasn't lobbied against a ban on spread pricing, according to federal lobbying disclosures.

The group, however, has launched its own seven-figure ad campaign to lay the blame for rising drug prices solely on drugmakers and paint insurers as the ones fighting for savings. The ads were launched out of concern that PhRMA's PBM ads were laying too much blame on insurers broadly.

The campaign has a similar message to PCMA's: drugmakers set prices and insurers try to negotiate for better deals.

"Health insurers are Americans' buying power," Kristine Grow, a spokeswoman for AHIP, said of the campaign.

### **Market Tensions**

Not all pharmacy benefits managers say they oppose the legislative efforts.

Robyn Crosson, vice president of government relations for Navitus Health Solutions, which isn't a member of PCMA, said the company was "quite supportive" of the bipartisan efforts. Crosson said Navitus had a different model than many of the biggest companies and already offered transparency that lawmakers say is needed across the industry.

"It's a thoughtful bill," Crosson said in an interview.

PCMA is girding for a long fight after this week's hearing, and hoping to shift focus to other legislation that's moving through the Senate, Scott said.

The group has pointed to five drug patent bills approved by the Senate Judiciary Committee earlier this year, including one (S. 148) to end sham citizen petitions meant to delay generic competition to pricey medicines.

Earlier: Drug Industry Middlemen Fees Targeted for Savings in Senate Plan

Scott, from the PBM trade group, said this messaging battle between his group and PhRMA mirrors the industry itself, where pharmacy benefit managers are supposed to get discounts on drugs and drugmakers want to maximize their own profits.

"There's a friction and tension in the markets, and we see that play out on the political level," Scott said. "They're coming after pharmacy benefit companies because we're the one checking the system that's putting downward pressure on their costs."

Celine Castronuovo also contributed to this story.

To contact the reporters on this story: Alex Ruoff in Washington at [aruoff@bgov.com](mailto:aruoff@bgov.com); Kate Ackley at [kackley@bloombergindustry.com](mailto:kackley@bloombergindustry.com)

To contact the editors responsible for this story: Robin Meszoly at [rmezoly@bgov.com](mailto:rmezoly@bgov.com); Anna Yukhananov at [ayukhananov@bloombergindustry.com](mailto:ayukhananov@bloombergindustry.com)

© 2023 Bloomberg Industry Group, Inc. All Rights Reserved