

Committee on Energy and Commerce
Opening Statement as Prepared for Delivery
of
Subcommittee on Health Ranking Member Anna Eshoo

Markup of 21 Bills, Subcommittee on Health

November 15, 2023

Thank you, Mr. Chairman, and good morning, colleagues. Today we're marking up 21 bills. Four of them are policies that shed light on the disruptive role pharmacy benefit managers or PBMs hold in our healthcare industry, including the bipartisan Protecting Patients Against PBM Abuses Act (H.R. 2880) which changes how PBMs generate revenue from being based on the list price of drugs to a flat fee for their services.

I'm very pleased that our subcommittee is moving forward on that bill and others to lower drug costs for Americans by going after the middlemen who make money by taking advantage of our complex drug supply chain.

PBMs have existed since the 1960s when the U.S. spent approximately \$2.7 billion on prescription drugs over a decade. They were originally hired to process prescription drug claims. As prescription drug spending has grown to more than \$378 billion each year, the three PBMs which currently control a majority of the market made an estimated \$400 billion last year alone.

We're also voting on the bipartisan Ensuring Patient Access to Critical Breakthrough Products Act of 2023 (H.R. 1691) which I'm leading with several members of this subcommittee. Our bill would shorten what my constituent Dr. Josh Makower of the Stanford Byers Center for Biodesign has called the "valley of death" for medical innovators and patients, which is the time after medical innovations receive FDA approval but before they're covered by Medicare.

According to the Byers Center, nationwide Medicare coverage for breakthrough medical technologies can take on average five to six years following FDA authorization. Medicare beneficiaries deserve timely access to safe, effective, and affordable treatments.

While I acknowledge this bill comes at a cost, innovative medical devices are worthy investments for us to make if it means changing and saving lives. I'm committed to working with Ranking Member and my colleagues on the Subcommittee who are concerned about the cost of this bill and protecting patient safety.

I know that the Ranking Member asserts in the minority memo that this legislation is a giveaway to device manufacturers. I think this is a flawed argument. This bill only applies to breakthrough devices, which means they have to be a new diagnostic or a treatment for a life-threatening or a debilitating disease. They must be approved by the FDA of course. Since 2016, about 800 devices have tried to get this designation, and only 80 total have succeeded [in coming to market]. And it's not as if Medicare doesn't eventually cover these devices. They just do it after a five-to-six-year delay while beneficiaries are denied care or pay out of pocket costs.

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The Provider Reimbursement Stability Act of 2023 (H.R. 6371) shows promise, but it needs more work to comprehensively reform how Medicare pays physicians sustainably over the long-term. Medicare is required by law to offset increases in payments over a certain amount with reductions in payment elsewhere. The problems this policy creates bear our attention, not tinkering around the edges and I will work with colleagues to strengthen this proposal.

I'm disappointed Republicans have again refused to extend funding for State Health Insurance Programs despite this funding expiring. Programs like HICAP which is California's State Health Insurance Program helps Medicare beneficiaries enroll in Medicare and access benefits that lower their out-of-pocket costs. This program works and it works very well.

Republicans have also refused to consider legislation to extend funding for other programs including the Area Agencies on Aging, the Aging and Disability Resource Centers, and the National Center for Benefits and Outreach Enrollment.

Finally, we're considering two important bills (and I wish there were more) from Democratic Members Reps. Sarbanes and Schrier on supplemental benefits offered by Medicare Advantage plans and diabetes self-management education and support services.

Physicians and Medicare beneficiaries are counting on us to be the change they desperately need, and I hope we can find a way to do that today.

Thank you and I yield back.