

HOLD PHARMACY BENEFIT MANAGERS ACCOUNTABLE UNDER STATE LAW

Health insurance companies use middlemen called pharmacy benefit managers, or PBMs, to negotiate prescription drug prices and develop formularies that determine what medicines people can get and how much they must pay. PBMs are supposed to help lower costs for medicines, but they often enrich themselves over the interests of patients and their health plan clients.



The Problem

Just three PBMs control 80% of the entire U.S. PBM market. This market concentration allows PBMs to exercise enormous influence over patients' access to medicines. PBMs develop formularies and use the threat of formulary exclusion to extract huge sums of money from manufacturers in the form of rebates and discounts,¹ **but they are not required to use those savings to help patients afford their medicines.** In some cases, PBMs have even excluded lower-priced medicines from their formularies that could save patients money at the pharmacy counter in order to profit from the discounts and fees accompanying higher-priced medicines.² PBMs also create policies that require patients to get pre-approval before receiving a medicine or failing first on one medicine before getting the one their doctor prescribed. **These practices create barriers and can prevent or delay patients from getting the therapies they need.**

Because PBMs operate almost entirely in a black box and with little regulation, most of their clients, and most patients, are **completely unaware of these conflicts of interest.** For example, the three largest PBMs also operate mail-order, specialty and retail pharmacies and often require patients to use a pharmacy that the PBM owns or in which the PBM has a financial stake even if there may be another pharmacy that the patients prefer to use.

¹ Senate Finance Committee. "Insulin: Examining the Factors Driving the Rising Cost of a Century Old Drug," 2021. [https://www.finance.senate.gov/imo/media/doc/Grassley-Wyden%20Insulin%20Report%20\(FINAL%201\).pdf](https://www.finance.senate.gov/imo/media/doc/Grassley-Wyden%20Insulin%20Report%20(FINAL%201).pdf); Fein A.J. "The 2022 Economic Report on U.S. Pharmacies and Pharmacy Benefit Managers." Drug Channels Institute

² March 2022. Senate Finance Committee. "Insulin: Examining the Factors Driving the Rising Cost of a Century Old Drug," 2021. [https://www.finance.senate.gov/imo/media/doc/Grassley-Wyden%20Insulin%20Report%20\(FINAL%201\).pdf](https://www.finance.senate.gov/imo/media/doc/Grassley-Wyden%20Insulin%20Report%20(FINAL%201).pdf)



The Solution: Hold PBMs Accountable

PBMs claim to be a vital part of the supply chain for lowering drug costs and negotiating on behalf of patients, **but there are currently no protections in place to hold PBMs accountable** when their financial interests conflict with the interests of patients or other entities the PBMs claim to serve.

State policymakers can take an important step by **requiring PBMs to act in the best interest of their patients and health insurance clients.** Providing this clarity in state law would be a vital step to ensure that PBMs act in the best interests of those they should serve, not their own bottom line — **protecting patients over PBM financial interests.**