

October 9, 2009

VIA ELECTRONIC MAIL

Senator Tom Harkin
Chairman, Senate Committee on Health,
Education, Labor and Pensions

Re: Support for PBM Transparency Provision

Dear Chairman Harkin:

The undersigned organizations urge that the Pharmacy Benefits Manager (PBM) transparency provision introduced by Senator Cantwell be included in the Senate's final health care reform proposal.

Annual spending on prescription drugs is one of the fastest growing costs in our health care system. Currently, many health plans have little access to accurate information on the actual costs of the prescription drug coverage they provide, due to the growing influence of Pharmacy Benefit Managers (PBMs), the middlemen hired by health plans to manage drug benefits and formularies.

Recent lawsuits have revealed that widespread fraud around drug prices has cost billions of dollars in unnecessary drug costs, and lawsuits by State Attorney-Generals have revealed 'drug-switching' and other tactics by PBMs that promote the sale of more expensive drugs, driving up health plan costs.

The PBM industry remains heavily concentrated, with three PBMs – CVSCaremark, Medco, and Express Scripts – dominating over 80% of the market. This means that most health plans cannot negotiate fairly with these entities, and are offered contracts on a take-it-or-leave-it basis.

This transparency provision would help lower the prescription drug costs of the health plans operating in the exchange or subsidized under Medicare Part-D, by requiring PBMs to make a confidential disclosure of both rebates received from drug manufacturers, and of the PBM's actual costs for drug coverage by the health plan.

This information would help these plans lower their drug costs, by ensuring that they are not over-paying for drugs, and that all possible savings from discounts or rebates are passed on to the plan.

While the Congressional Budget Office has scored this transparency provision as cost-neutral, the overwhelming experience from state transparency requirements shows that such transparency will help health plans lower their costs. For instance:

- The state of New Jersey’s health plan for state employees projected a savings of \$540 million over five years due to greater transparency.
- The state of Texas enacted PBM transparency legislation after an audit of state employee drug plans showed significant differences on drug costs per enrollee. Texas projects a savings of \$265 million on future drug costs through greater transparency.
- Illinois saved \$10 million per year for their state employee plan by recovering excess costs that were previously absorbed by their PBM.

Many other states have found millions of dollars in annual savings on drug costs for state employees or beneficiaries of state programs through transparency on costs and rebates. These examples illustrate that greater transparency in the PBM industry will help provide significant future savings on drug costs.

Sincerely,

AFSCME

AFSCME – District Council 37 Health & Security Plan (NY)

American Antitrust Institute

California Alliance of Retired Americans (CA)

CALPIRG (CA)

Campaign for Better Health Care (IL)

Center for Medical Consumers (NY)

Central New York Citizens in Action (NY)

Coalition of Wisconsin Aging Groups (WI)

Community Catalyst

Connecticut Citizens Action Group (CT)

Consumers for Affordable Health Care (ME)

Consumers Union

Illinois PIRG (IL)

Labor Health Alliance (NY)

Long Island Health Access Monitoring Project (NY)

Maine Chapter, National Multiple Sclerosis Society (ME)

Maine Parent Federation (ME)

Maine People’s Alliance (ME)

Maine State Employees Association/SEIU (ME)

Maryland Citizens' Health Initiative (MD)

Medicare Rights Center

Metro New York Health Care for All Campaign (NY)

National Health Law Program

New York State Alliance For Retired Americans (NY)

Progressive Research and Action Center, Inc (NY)

Public Citizen

Sergeants Benevolent Association Health and Welfare Fund (NY)

Teamsters Union 25 Health Services & Insurance Plan (MA)

Tennessee Health Care Campaign (TN)

The Annie Appleseed Project (FL)

The Maine Center for Economic Policy (ME)

US PIRG

USAction

Washington Community Action Network (WA)