
Written Testimony submitted for the Joint Public Hearing of the Majority Policy Committee to consider the role and impact of Pharmacy Benefit Managers in Pennsylvania

October 9, 2018

On behalf of the 2,937,000 adults with doctor-diagnosed arthritis living in Pennsylvania, we are writing to discuss the impact pharmacy benefit managers (PBMs) can have on a patient's access to care.

PBMs were created to control drug utilization and cost. Acting as intermediaries between insurers, manufacturers, and pharmacies, PBMs play a uniquely central role in the prescription drug market, handling everything from negotiating prices with drug manufacturers and setting patient copay amounts to determining which drugs are covered by which insurers. The Arthritis Foundation is particularly concerned with administrative barriers causing patients to pay more at the pharmacy counter.

For instance, currently, some pharmacists must sign "gag orders" that prohibit the disclosure of pricing options to patients. These gag orders often apply to generics and can prevent the patient from making the least expensive choice of paying out of pocket rather than paying a higher co-pay. In fact, in some cases if a patient were to pay the cash price, they would pay less for their medication than if they used their health insurance. However, a pharmacist that has signed a gag order would be prohibited from informing a patient of this option

In Pennsylvania, we support HB 2211 which would protect consumers from excess charges for prescription medications. This legislation seeks to address this issue by ensuring that a contract between a PBM and a pharmacist or pharmacy may not penalize a party for the disclosure of information to a consumer regarding the cost of the medication before purchase. This would include informing the patient that there is a more affordable therapeutically equivalent alternative.

This is a real issue impacting Pennsylvanians every day. A survey of the National Community Pharmacists Association found 83 percent of 640 independent pharmacists had at least 10 clawbacks per month.¹ Research published in the *Journal of the American Medical Association* found that overpayments affected 23 percent of prescriptions filled out of nearly 10 million claims that were evaluated. The study also calculated that these overpayments totaled \$135 million in 2013.²

¹ <https://www.ncpanet.org/newsroom/news-releases/2016/06/28/pharmacists-survey-prescription-drug-costs-skewed-by-fees-on-pharmacies-patients>

² <https://jamanetwork.com/journals/jama/fullarticle/2674655>

As of August 2018, at least 26 states had enacted laws that prohibited gag orders in contracts between PBMs and pharmacists or pharmacies.³

We hope that the information provided in this testimony has been helpful. Please do not hesitate to reach out should you have questions or if we can be of assistance.

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³ http://www.ncsl.org/Portals/1/Documents/Health/Pharmacist_Gag_clauses-2018-14523.pdf