

# Pharmacy Benefit Managers

## Legislative and Regulatory Position Statement

In our efforts to foster greater access and affordability to health care across America, AMCP supports a wide range of measures that strike a balance between market-oriented principles and prudent regulations. Pharmacy benefit managers (PBMs) help facilitate patient access to medication at an affordable price. As of January 2023, approximately 275 million Americans received pharmacy benefits administered by PBMs.<sup>1</sup> PBMs contract with a variety of payers, including benefit plan sponsors, insurers, employers, labor unions, and government programs, to oversee the prescription drug portion of health care benefits. They may also engage in a variety of support functions, such as creating formularies, negotiating manufacturer rebates, processing prescription drug claims, managing pharmacy networks, and reviewing drug utilization.

Policymakers frequently target PBMs in a well-meaning attempt to contain rising drug prices, but some proposed changes could have the opposite effect. These include prohibitions and restrictions on many of the utilization management tools that PBMs use to ensure quality and manage costs as well as the contractual payment relationships between PBMs and the plan sponsor. We are concerned that the impact of these changes could ultimately raise overall plan costs because it limits the ability to drive utilization to more cost-effective products and services.

These changes could result in higher plan premiums and member cost-sharing. AMCP encourages reform efforts to focus on common-sense requirements for transparency reporting by PBMs. AMCP believes that these requirements can demonstrate the benefits of PBM efforts to control costs through a variety of utilization management strategies as well as by negotiating drug rebates and other price concessions from drug manufacturers.

## Supporting a Competitive Marketplace for Pharmacy Benefits

Legislative and regulatory attempts to limit PBMs often focus on compensation. Common provisions of PBM-focused legislation include increased prohibitions against spread pricing, counting manufacturer assistance program payments towards deductibles, rebate pass-through requirements, and restrictions on reimbursement rates for affiliated pharmacies. While many of these provisions are well-intentioned, AMCP believes a competitive marketplace should determine compensation for services rather than artificially regulated constructs. Contract negotiations between corporate entities with similar bargaining power indicate a

healthy and competitive marketplace where a PBM's value is reflected by the agreed-upon pricing mechanisms for the use of their services. Preventing the market from operating as intended will likely result in higher premiums rather than savings for patients.

PBMs negotiate rebates with drug manufacturers to lower the price that health plans pay for prescription drugs. With their collective purchasing power, PBMs are typically able to obtain greater rebates and price reductions than a single health plan or healthcare entity would be able to negotiate on its own. PBMs pass through portions of the rebates to the health plans and retain the difference as a part of their compensation.<sup>2</sup> Limiting or eliminating this compensation violates free market principles and would disincentivize PBMs from negotiating the largest possible discounts on drug prices.

Attempts to ban spread pricing would similarly reduce the ability of PBMs to help contain rising drug costs. Spread pricing is an optional payment model, used by a minority of payers, which occurs when a payer reimburses a PBM for a drug in an amount greater than the PBM's reimbursement of the pharmacy for that drug. This difference or "spread" is retained by the PBM as profit. The spread is the result of contractual agreements between the PBM and the payer, as well as contractual agreements between the PBM and the pharmacy. Many drugs either have very little or no difference between what a PBM pays a pharmacy and what a payer pays a PBM; in fact, many drugs have a "negative spread" where the PBM loses money on the reimbursement rates.<sup>3</sup> Eliminating spread pricing could limit flexibility for payers to pay for services within their pharmacy benefits.

Payment recoupments and withholds are often characterized as a practice to "claw back" a portion of what a PBM pays a pharmacy. These strategies are contractually agreed-upon financial incentives designed to improve the pharmacy's quality of care. These standards may relate to the timeliness of filling prescriptions or minimizing dispensing errors. AMCP's published Pay-for-Performance Principles describe our vision for fair, quality-based reimbursement.<sup>4</sup> Policy proposals that remove the mechanism through which quality standards are enforced could ultimately weaken the quality of care administered as well as worsen the experience patients have when utilizing the pharmacy.

### **Developing a Sound Transparency and Reporting Framework**

AMCP supports efforts to bring greater transparency to the marketplace and believes that straightforward, consistent requirements would help to demonstrate that PBMs are part of the solution to rising drug costs. In this context, PBMs should

not have to disclose proprietary information but should provide patients with accurate information on patient cost-sharing and utilization management strategies they employ.

AMCP also supports reasonable reporting requirements for PBMs. This could include requiring PBMs to report information to the relevant regulatory agency about aggregate rebates and other aggregate, non-proprietary pricing information.

*Approved by the AMCP Board of Directors, December 2023*

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1. <https://www.statista.com/statistics/1172652/pbms-number-of-served-us-persons/>
  2. <https://www.drugchannels.net/2023/08/surprising-data-on-employer-pbm-rebate.html#:~:text=Most%E2%80%94but%20not%20all%E2%80%94employers,of%20rebates%20for%20traditional%20drugs>
  3. [https://www.pcmanet.org/wp-content/uploads/2019/05/FINAL\\_Visante-46brooklyn-MCO-Spread-Analysis.pdf](https://www.pcmanet.org/wp-content/uploads/2019/05/FINAL_Visante-46brooklyn-MCO-Spread-Analysis.pdf)
  4. <https://www.amcp.org/policy-advocacy/policy-resource-center/amcp-pharmacy-pay-performance-principles>