



OHIO PHARMACISTS ASSOCIATION

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To: FTC Chair Lina M. Khan

From: David E. Burke

Re: Pharmacy Benefit Managers

Date: July 10, 2024

Dear Chair Khan,

Thank you for producing the Commission's July 2024 Interim Staff Report on Pharmacy Benefit Managers. My name is David Burke and I serve as the Executive Director of the Ohio Pharmacists Association. Prior to this, I owned a pharmacy from 1997-2020 and served in the Ohio House and Ohio Senate. A fair amount of my life has been spent living with and trying to identify and remedy the items within your report.

Today, PBMs have become both the price maker and the price taker within the pharmacy benefit. The drug manufacturer and pharmacy are casually related at best due to an ever-growing middleman. My only analogy would be if Visa or Mastercard dictated a seller's cost, a buyer's price and collected a rebate from the very product being sold and never revealed to either party what the final cost or charge was, even months or years later. The credit card industry is regulated for this very reason yet PBMs, who engage in this exact practice, are not.

The question of who protects payers and patients from PBM practices, or even basic oversight, is valid. States are limited due to ERISA arguments by the Pharmaceutical Care Management Association (PCMA). Medicare, likely the largest PBM user, seems unsure of its role in this area. Worse, the lack of an actuarial rate in the pharmacy benefit is leading to abuse by the PBMs and questionable calculations of the medical loss ratio under the Affordable Care Act.

Any competitive market allows participants tangible calculations or verification of value. The FTC could consider fiscal transparency with universal definitions and reporting through regulation within the PBM sector as a possible remedy to the abuses occurring today. Without prompt action, I fear patient pharmacy access will consolidate from an oligopoly to a monopoly. I am at your service should you find me useful in this matter.

Most respectfully,

David E. Burke, R.Ph, MBA  
Executive Director  
Ohio Pharmacists Association