A PRESCRIPTION FOR THE DRUG PRICE EPIDEMIC

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Pharmacy Supply Chain

How Drug Distribution Works
A complex supply chain determines how prescription drugs are paid for in the U.S.

Wholesaler or drugmaker negotiates price with pharmacy

Pharmacy dispenses to consumer and collects copay

Individuals pay premiums to their health insurer or employer

Drugmaker sells to wholesaler at small discount to list price

The PBM negotiates with the pharmacy over reimbursement for drugs and dispensing fees

Health insurer or employer

Insurer or employer pays PBM to manage drug costs, and the PBM passes back some or all of the rebates to the health insurer or employer

PBM negotiates to receive rebates from drugmaker

Sources: Avalere Health

THE WALL STREET JOURNAL

Matt M. Rosendale
Commissioner of Securities & Insurance
PBM Regulation Roadblocks

- Gobielle v. Liberty Mutual, 2016
  - Section 514(a) of ERISA broadly preempts “any and all State laws insofar as they may now or hereafter relate to any employee benefit plan.”

- PCMA v. Gerhart, 2017
  - 8th Circuit Court of Appeals concluded Iowa law regulating PBMs was preempted by ERISA.

- PCMA v. Rutledge, 2018
  - 8th Circuit Court of Appeals concluded Arkansas law intended to regulate PBMs was preempted by ERISA and Medicare Part D.
How Drug Distribution Works
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Sources: Avalere Health
2019 Proposed Legislation

Best Practices for Administering Pharmacy Benefit:
- Applies to health insurance issuers in the individual market
- Prohibits Spread Pricing
- Insurer receives all Compensation (Rebates)
- Insurer uses savings to lower premiums
- Insurer prohibited from “requiring” Mail Order Pharmacy
- Insurer owns Data and has Audit Access
- Eliminates Conflicts of Interest with formulary design
- Includes Pricing Transparency for Generic and Brand Drugs
- Holds insurer accountable to regulator
- Penalties for Non-Compliance

Fairness and Transparency
State of Montana Employee Group Benefit Plan implemented Transparent, Pass-Through Pharmacy Benefit in January 2017:

• Directly contracted with PBM
• Eliminated Spread Pricing
• Achieved 100% pass-through of Manufacturer Rebates
• Paid Lower Administrative Fee
• Data is accessible with full audit ability

What was the result?

• Plan saved $7.4 million the first year – 28% savings
How does this benefit everyone?

Pharmacies
- Competitive Playing Field with PBM owned Pharmacies
- Price Transparency

Drug Manufacturers
- Price stability, as “rebate game” removed

Insurer
- Cost savings passed on to consumers in premium reductions and out of pocket savings
- Price Transparency and Fiduciary Role enhanced
- Montana State Employee Plan example

PBM
- Competition based on service and admin fees

Consumers
- Affordability
- Access

Fairness and Transparency