



Pharmacy Benefit Managers: Finding the Formula for Drug Savings

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Unique Role of PBMs

Only entities in the drug supply chain dedicated to *lowering cost* and *increasing quality*

- Advise plan sponsors on benefit design options
- Pool purchasing ability of millions of consumers to negotiate lower drug prices
- Link networks of pharmacies nationwide
- Use cost and quality management tools to make drug benefits safer and more affordable



What is a PBM?

PBM Tools & Techniques

- ▶ Functional definition, rather than entity-based:
 - Discount and Rebate Negotiations with Manufacturers
 - Formulary Management
 - Drug Utilization Review
 - Mail-service Pharmacies
 - Disease Management
 - E-prescribing
 - Pharmacy Network



PBMs Nationally

- ▶ 200 million Americans receive pharmacy benefit through PBMs
- ▶ PBMs manage \$220 billion in drug expenditures in 2006
- ▶ PBMs estimated to save approximately 25 percent vs. unmanaged drug costs

Source: The Value of Pharmacy Benefit Management and the National Cost Impact of Proposed PBM Legislation, PricewaterhouseCoopers, June 2004.



What is a PBM?

- ▶ Stand alone for-profit companies
 - e.g., Express Scripts, Medco
- ▶ Local and regional PBMs “that are capable of competing with [the three] national PBMs”*
 - Includes some “non-traditional PBMs”
- ▶ Large insurers or managed care plans
 - e.g., Kaiser (not-for-profit), Aetna, Cigna and Wellpoint

**Source: Federal Trade Commission letter to Rep. Patrick T. McHenry, regarding NC HB 1374 (July 15, 2005), p. 8.*



What is a PBM? (cont'd)

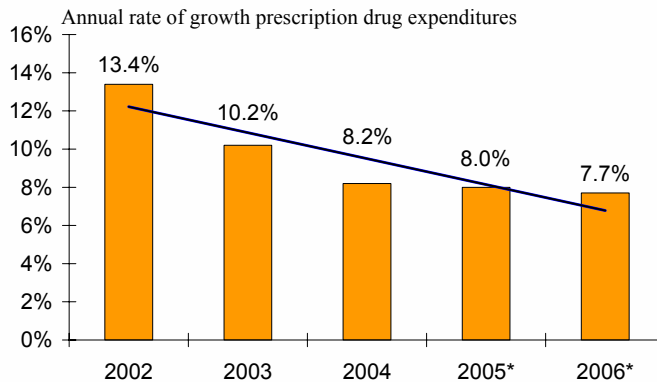
- ▶ Retail chain drug stores
 - e.g., CVS/Caremark, Longs, Walgreens, Rite Aid
- ▶ Buying groups of independent pharmacies
 - e.g., EPIC Pharmacies
 - ▶ “...recognized as one of the *premier* pharmacy purchasing cooperatives in the United States...”*
 - ▶ “EPIC Pharmacy Network is also a **full service pharmacy benefit management company** (PBM) which markets its network to *self-insured employers, third party administrators (TPAs) and others* in order to gain **exclusive business for EPN network providers**.”**

**Source: <http://www.epicrx.com/about/index.html>; accessed 9/14/05 (emphasis in original).*

***Source: <http://www.epicrx.com/network/index.html>; accessed 9/14/05 (emphasis in original).*



PBM Tools at Work: Historic Slowdown in Rate of Growth of Drug Expenditures



* projected

Source: Borger, C., et. al., CMS, "Health Spending Projections Through 2015: Changes on the Horizon," *Health Affairs*, February 22, 2006.

PHARMACEUTICAL CARE MANAGEMENT ASSOCIATION



PBMs Help Slow Prescription Drug Spending

Centers for Medicare and Medicaid Services:

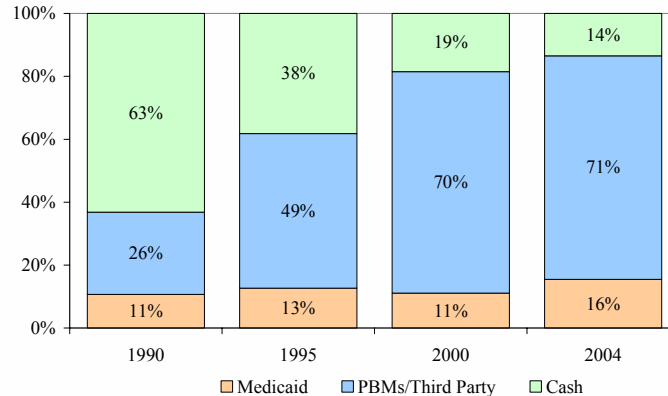
- ▶ Prescription drug spending in 2004 slowed to its lowest growth rate in the past 10 years, rising 8.2 percent.
- ▶ Among key reasons CMS cites for the slowdown:
 - **Rapid growth in generics**
 - **A shift toward mail-order dispensing**

Source: Smith, C., et. al., CMS, "National Health Spending in 2004: Recent Slowdown Led by Prescription Drug Spending," *Health Affairs*, Vol. 25 (1), pgs. 186-196, January, 2006.
<http://content.healthaffairs.org/cgi/content/abstract/25/1/186>

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PBMs Help Expand Access to Drug Coverage

Percentage of new prescriptions by payer



Note: The consumer category is defined as cash prescriptions. Totals may not add to 100 due to rounding.

Source: IMS Health National Prescription Audit

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PBM Clients

- ▶ Insurers and Health Plans
- ▶ Self-insured Large Employers
- ▶ Union Plans
- ▶ State Employee and Retiree Health Benefit Plans
- ▶ Government Plans
 - Medicare Part D
 - Medicaid



PBMs Cater to Client Needs

- ▶ PBMs do NOT contract directly with consumers
- ▶ Plan sponsors are sophisticated and knowledgeable and often use brokers/consultants to assist and advise on RFP development and evaluation of bids
- ▶ Plan sponsors request bids from many PBMs
- ▶ PBMs do NOT create benefit designs - plan sponsors do
- ▶ Sponsors can, and do, request alternative pricing structures (e.g. per claim administrative fee, rebate share, etc.)



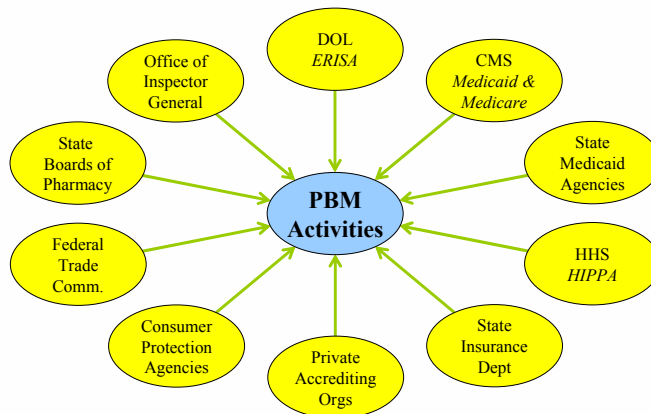
The Issues: State Legislation and Regulation

- ▶ PBMs do NOT contract directly with consumers
- ▶ PBMs do NOT create benefit designs - plan sponsors do
- ▶ PBM activities already regulated
- ▶ Since 2003: over 130 PBM state regulation bills introduced.
- ▶ In 2007 alone, 22 states considered and rejected legislation that would impose fiduciary and/or disclosure standards on PBMs.
 - IA, CT, and VT passed limited registration bills

Regulation of PBMs

- NO additional regulation is necessary
- PBMs are already regulated directly at the state level in their capacity as licensed, certified, or registered entities such as resident or non-resident pharmacies, TPAs, PPOs, and/or utilization review organizations.
- PBMs regulated indirectly through contractual compliance with state and federal requirements imposed on insurers, HMOs, and employer-sponsored ERISA plans.

PBM Activities Heavily Regulated





The Issues: Disclosure

- ▶ The marketplace is working
- ▶ “Vigorous” competition in the marketplace for PBM services (FTC)
- ▶ RFP process -- plan sponsors can and do request disclosure when they want
- ▶ Mandating one-size-fits-all approach is anti-competitive



The Issues: Disclosure (cont'd)

- ▶ What other industry is mandated to disclose its revenue streams and its cost structure to its customers?
- ▶ FTC: state legislation that would mandate such disclosure “holds PBMs to a standard that does not apply to other industries.” (*Source: FTC letter on AB 1960 to CA Assembly Member Greg Aghazarian, September 3, 2004*).
- ▶ “[V]igorous competition in the marketplace for PBMs is more likely to arrive at an economically efficient level of transparency than regulation of those terms.” (*Source: FTC letter to Assembly Member Greg Aghazarian on California’s AB 1960*).



The Issues: Retail Spread

- Not a four-letter word
- “Retail spread” = markup
- What industry discloses -- voluntarily or by statute -- its markup to its customers?



The Issues: Retail Spread (cont'd)

PBM Spreads for Prescriptions Dispensed through Not-Owned Retail, by PBM Category and Drug Type (\$ per Prescription)

PBM Category	2002			2003		
	SSB	MSB	Generic	SSB	MSB	Generic
Large PBM	1.78	0.33	-0.10	2.01	0.21	-0.01
Insurer PBM/Small PBM	2.83	0.08	2.47	2.47	-0.17	1.81
Retailer-PBM	2.42	0.69	2.40	2.83	0.30	2.13

Source: Federal Trade Commission, "Pharmacy Benefit Managers: Ownership of Mail-Order Pharmacies," August 2005.

The issues: Retail Spread (cont'd)

Stand-Alone Retail Pharmacy Spreads per Prescription by Payer Type and Drug Type (\$ per Prescription)

Company Category	Payer Type	2002			2003		
		SSB	MSB	Generic	SSB	MSB	Generic
Retailer	3 rd Party Insurance	7.52	6.47	12.48	8.26	6.92	12.93
Retailer	Cash	13.31	11.91	13.44	15.28	12.23	15.07

Source: Federal Trade Commission, "Pharmacy Benefit Managers: Ownership of Mail-Order Pharmacies," August 2005.

The Issues: Mail Service

- Mail vs Retail: a plan design decision for the client, not the PBM, to make
- General Motors estimated savings of \$80 million/year from mandatory mail program for certain chronic medications (*Wall Street Journal*, 2/15/05)
 - Look across the total number of transactions, not at individual transactions

The Issues: Mail Service (cont'd)

- Savings at mail service pharmacies:
 - GAO: at mail, PBM prices 27% and 53% lower for brands and generics, respectively, compared to retail cash prices*
 - FTC: for 30-day Rx managed by large PBMs, generic drug prices at retail were 23.9% higher than at a PBM-owned mail service pharmacy, and single-source brands were 13.9% higher at retail**
 - FTC: for 90-day Rx managed by large PBMs, generic drug prices at retail were 6.8% higher than at a PBM-owned mail service pharmacy, and single-source brands were 11.3% higher at retail***

**Source: "Federal Employees Health Benefits: Effects of Using Pharmacy Benefit Managers on Health Plans, Enrollees, and Pharmacies," GAO Report # GAO-03-196 (January 10, 2003).*

***Source: Federal Trade Commission, "Pharmacy Benefit Managers: Ownership of Mail-Order Pharmacies," August 2005, analyzing 147,000 mail and 14,873,000 retail prescriptions.*

****Ibid, analyzing 3,463,000 mail and 1,745,000 retail prescriptions.*

The Issues: Generic Substitution

- ▶ Harvard study
 - Peer-reviewed analysis of 670 million claims by Harvard economists
- ▶ Analysis adjusted for therapeutic mix
 - Different drugs at mail vs. retail
- ▶ Conclusion: Generic dispensing rates and generic substitution rates are essentially the same at PBM-owned mail service pharmacies as at retail.
- ▶ Debunks the myth that PBMs "steer" consumers to higher-priced brands at mail

Source: Health Affairs (7/28/04): Generic Dispensing and Substitution Rates in Mail and Retail Pharmacies (Wosinska et. al.).



The Issues: Generic Substitution (cont'd)

- FTC:
 - “(PBM-owned) mail order pharmacies were generally more, rather than less, aggressive in dispensing generic drugs than were other pharmacies, despite the payments PBMs receive from pharmaceutical manufactures for some brand drugs.”
 - “...generic dispensing at (PBM) owned mail-order pharmacies generally is more profitable than brand dispensing.”

Source: Federal Trade Commission, “Pharmacy Benefit Managers: Ownership of Mail-Order Pharmacies,” August, 2005.



The Issues: Rebates

- Federal Trade Commission:
 - Multiple models exist for sharing of rebates with plan sponsors
 - Specific dollar amount per branded prescription
 - Specific percentage of all formulary and market share payments that were attributable to the plan sponsor
 - Guaranteed amounts in addition to pass-through requirements

Source: Federal Trade Commission, “Pharmacy Benefit Managers: Ownership of Mail-Order Pharmacies,” August, 2005.



The Issues: Rebates (cont'd)

- FTC: “Recent contracts and amendments to older contracts generally have increased the pass-through percentages received by the plan sponsor above the percentage or level specified in the older contracts.”*
- Contractual audit rights
- “69% of benefit plan sponsors using a pharmacy benefit manager require their PBMs to pass through all manufacturer rebates, discounts, fees and other payments.”**

**Source: Federal Trade Commission, “Pharmacy Benefit Managers: Ownership of Mail-Order Pharmacies,” August, 2005.*

***Source: Business Insurance, September 15, 2006, available at*

<http://www.businessinsurance.com/cgi-bin/news.pl?newsId=8391> ; (accessed 9/18/06).



The Issues: Rebates (cont'd)

- ▶ The potential adverse economic impact of public disclosure and transparency
 - S. 1 & the “Cantwell Amendment”:
 - ▶ CBO: disclosure of manufacturer rebates and pricing concessions would make it more difficult for PBMs to obtain significant rebates and price concessions in the future.
 - ▶ “As a result, CBO estimates that [the Cantwell Amendment] would increase the estimated costs of S.1 over the 2004-2013 period by \$40 billion.”*
- ▶ The marketplace is working

**CBO Cost Estimate: H.R. 1 Medicare Prescription Drug and Modernization Act of 2003 and S.1 Prescription Drug and Medicare Improvement Act of 2003 (7/22/2003).*



The Issues: Fiduciary

- ▶ **Fiduciary Mandate Conflicts with Federal Law**
 - PBMs perform claims processing and other ministerial tasks that do not involve discretionary control of plan assets, an essential threshold requirement for fiduciary status under federal law.
 - ERISA preempts any state fiduciary mandates because federal law defines and regulates who qualifies as a fiduciary. States have no authority to legislate in an area that is completely occupied by federal law.



The Issues: Fiduciary

- ▶ **Federal Courts Dismiss Claims of Fiduciary Status**
 - In December 2004, a federal district court in Alabama concluded that a PBM was not an ERISA fiduciary because the PBM's contractual obligations were ministerial and did not grant discretion over benefits decisions.
 - In April 2005, a federal district court in Illinois found that "because the prices set in the contracts are negotiated between [the parties], [the PBM] cannot be held liable for breaching any fiduciary duty in this regard."



The Issues: Fiduciary

- ▶ Harmful to Consumers and Employers
 - According to a recent PricewaterhouseCoopers study, fiduciary mandates would increase prescription drugs costs by almost \$100 billion during the period of 2005-2014 if enacted on a national level.
 - Consumers currently have access to extensive grievance procedures outlined in ERISA to assure access to their prescription drug benefits. Allowing states to impose additional remedies through “fiduciary” laws would create duplicate procedures and balloon administrative costs.
 - Fiduciary legislation may create a private right of action for consumers to sue PBMs - a bonanza for trial lawyers. PBMs would need to adopt defensive business and operating strategies to avoid the threat of litigation.



The Issues: Therapeutic Interchange

- ▶ PBMs don't “switch” prescriptions, only a licensed prescriber can do that
- ▶ PBMs encourage use of the most cost-effective drugs -- including generics when available -- based on formulary choices made by the client and supported by recommendations of the P&T committee
- ▶ *Always* the client's choice whether to use interchange programs
- ▶ FTC: “PBMs' use of brand-to-brand interchange is limited”
 - “less than one-half of one percent (0.5%) of mail or retail prescriptions”
 - Clients have a variety of tools to ensure that these programs benefit the clients and their members*

*Source: Federal Trade Commission, “Pharmacy Benefit Managers: Ownership of Mail-Order Pharmacies,” August, 2005.



The Issues: Conflict of Interest

- ▶ Allegations of PBM conflict of interest and self-dealing are “*without merit.*”

Source: Federal Trade Commission, “Pharmacy Benefit Managers: Ownership of Mail-Order Pharmacies,” August, 2005.



Summary

- PBMs play a unique role in holding down costs and increasing quality.
- Growing body of evidence underscores PBMs’ proven ability to deliver savings for plan sponsors and consumers.
- Restrictions on PBMs would impact all payers, public and private, while providing no benefit to consumers.
- The marketplace is working.



Value of PBMs

Increasing Evidence



Value of PBMs - Increasing Evidence

Federal Trade Commission:

- Offer lower prices on prescription drugs than retail pharmacies and non-PBM owned mail pharmacies;
- Are very effective at capitalizing on opportunities to dispense generic medications; and
- Have incentives closely aligned with their customers: the third-party payors who fund prescription drug care.

Source: Federal Trade Commission, "Pharmacy Benefit Managers: Ownership of Mail-Order Pharmacies," August, 2005.



Value of PBMs - Increasing Evidence (cont'd)

General Accounting Office (GAO)

(independent, nonpartisan “Congressional watchdog”):

- At retail, PBM prices 18% and 47% lower for brands and generics, respectively, compared to retail cash prices
- At mail, PBM prices 27% and 53% lower for brands and generics, respectively, compared to retail cash prices
- Rebates reduced total annual drug spend by 3% to 9%
 - ▶ 1% decrease in future premiums for *all* enrollees, not just those who used the Rx drug benefit

Source: GAO Report: “Effects of Using Pharmacy Benefit Managers on Health Plans, Enrollees, and Pharmacies,” GAO Report # GAO-03-196, January 2003.



Value of PBMs - Increasing Evidence (cont'd)

GAO (cont'd)

- Savings from use of other PBM tools ranged from 1% to 9%
- Wide access to retail pharmacies and coverage of most drugs
- GAO’s work “was conducted ...according to generally accepted government auditing standards.” (p. 3)
- OPM (the federal Office of Personnel and Management) “...generally concurred with GAO’s findings” and “...two independent reviewers stated that the report was fair and balanced,” despite objections from the pharmacies’ trade associations (p.6).

Source: “Effects of Using Pharmacy Benefit Managers on Health Plans, Enrollees, and Pharmacies,” GAO Report # GAO-03-196 January 2003.



Value of PBMs - Increasing Evidence (cont'd)

Congressional Budget Office

PBMs have the potential to save as much as **30 percent** in total drug spending relative to unmanaged purchases of prescription drugs where PBMs can use their full range of price discounts and rebates, utilization control tools, and other tools for encouraging appropriate utilization.

Source: Issues in Designing A Medicare Prescription Drug Benefit, October 2002.



Value of PBMs - Increasing Evidence (cont'd)

PricewaterhouseCoopers Study

- Pharmacy benefit management reduces prescription drug costs by 25 percent compared to retail purchases with no pharmacy benefit management.
- Pharmacy benefit management will save \$1.3 trillion in drug expenditures over the next 10 years.
- Pharmacy benefit management will reduce costs by \$268 per enrollee in private plans, or \$53 billion in total in 2005.

Source: The Value of Pharmacy Benefit Management and the National Cost Impact of Proposed PBM Legislation, PricewaterhouseCoopers, June 2004 (study funded by PCMA).



Here's what the payors are saying:

- ▶ “It cannot be doubted that employer-provided ERISA plans’ reliance on PBMs to provide and administer prescription drug benefits has reduced the cost of those benefits significantly.”
- ▶ “PBMs perform a variety of crucial functions that employers cannot perform themselves, virtually all of which result in substantial savings in the costs of providing prescription drug benefits.”

Source: Amicus brief filed on behalf of America's Health Insurance Plans, the U.S. Chamber of Commerce, the Business Roundtable, and the Americans Benefits Council in support of PCMA's petition to the U.S. Supreme Court in PCMA v. Rowe.



Here's what the payors are saying: (cont'd)

- ▶ “The Maine law assumes that employers lack sufficient bargaining power to negotiate adequate disclosures and pass-throughs themselves, and thus are inevitably victimized by PBMs in the bargaining process, causing plans to pay higher prescription drug benefit prices than they otherwise would.”

Source: Amicus brief filed on behalf of America's Health Insurance Plans, the U.S. Chamber of Commerce, the Business Roundtable, and the Americans Benefits Council in support of PCMA's petition to the U.S. Supreme Court in PCMA v. Rowe.



Here's what the payors are saying: (cont'd)

- ▶ “*Amici* and its members can attest, however, that the crucial empirical premise underlying the UPDPA is false: employers do not consider themselves powerless victims in the market for PBM services. To the contrary, as the FTC has pointed out, the market to provide PBM services to plans is exceedingly robust: between 40 and 50 PBMs compete vigorously for health plan business. ... Sponsors pay close attention to bidders’ price guarantees, treatment of rebates, claims-processing fees, customer service promises, and any prior experience with the PBM, including its market reputation.”

Source: Amicus brief filed on behalf of America’s Health Insurance Plans, the U.S. Chamber of Commerce, the Business Roundtable, and the Americans Benefits Council in support of PCMA’s petition to the U.S. Supreme Court in PCMA v. Rowe.



Here's what the payors are saying: (cont'd)

- ▶ “Benefit costs will be adversely affected by the law’s interference with the efficient market forces already governing PBM services. ... Government regulation of that highly competitive market thus can have only one effect – increased prices or reduced output, in terms of either the quantity or quality of the services provided.”

Source: Amicus brief filed on behalf of America’s Health Insurance Plans, the U.S. Chamber of Commerce, the Business Roundtable, and the Americans Benefits Council in support of PCMA’s petition to the U.S. Supreme Court in PCMA v. Rowe.