



The Our American States podcast—produced by the National Conference of State Legislatures—is where you hear compelling conversations that tell the story of America’s state legislatures, the people in them, and the policies, process and politics that shape them.

You can subscribe through iTunes, Google Play, Stitcher or Spotify.

Tackling Prescription Drugs Costs | June 19, 2022 | OAS Episode 160

Ed: Hello and welcome to “Our American States.” A podcast from the National Conference of State Legislatures. This podcast is all about legislatures, the people in them, the policies, process, and politics that shape them. I am your host, Ed Smith.

SL: *Well, I’ll never forget when I first ran for office in 2014 and I was knocking on doors and asking folks what were their big concerns. And even back then, folks were telling me that the cost for their prescriptions were really expensive. Especially the folks who had some sort of chronic disease.*

Ed: That was Representative Susan Lontine, a Democrat from Colorado. She is one of my guests on the podcast. Our focus is the prescription drug market and the role of pharmacy benefit managers or PBMs. PBMs play a major role in the drug supply chain. They are third party administrators of prescription drug benefits for health plans, large employers and other payors including state Medicaid programs. They process claims, review drug utilization, develop pharmacy networks and create lists of covered drugs called formularies. They also negotiate rebates from manufacturers for placement on those formularies.

To reduce the costs for prescription drugs in their states, some legislators are considering strategies related to pharmacy benefit management. Legislatures have pursued a number of strategies including reverse auctions. On this podcast, we will get the perspective from two states. Representative Lontine talks about efforts to establish a reverse auction in Colorado and the ongoing effort to implement that legislation.

My second guest is Senator Fred Mills, a Republican, from Louisiana who discusses why his state opted for a reverse auction and other efforts to control prescription drug costs. Here is our discussion starting with Representative Lontine.

Representative Lontine, welcome to the podcast.

SL: Yeah great to be here. Thanks.

Ed: Thanks for joining me today to talk about prescription drug costs and more specifically pharmacy benefit managers. To start, I wonder if you could briefly explain how you became interested in this area and why it is important to you?

SL: Well, I'll never forget when I first ran for office in 2014 and I was knocking on doors and asking folks what were their big concerns. And even back then, folks were telling me that the cost for their prescriptions were really expensive. Especially the folks who had some sort of chronic disease like folks with diabetes. Insulin, for example. So even then it's been a problem. And so I think tackling prescription drugs is something that we all need to figure out a path to do a better job of controlling the costs because it is pretty outrageous and folks are having to decide between paying rent, paying their mortgage, putting food on the table and paying for their prescription drugs. And that's just a terrible choice to have to make.

Ed: I understand Colorado has pursued a reverse auction to increase competition among PBMs for the contract to manage prescription drug benefits for the state employee health plan. Can you tell me more about what a reverse auction is and why you chose to pursue that strategy?

SL: On a really basic level, if you think about an auction normally, the buyer is you know bidding for a product with a seller and that's when a price will probably go up. And then you know the sellers will try to drive up the prices. A reverse auction is when the seller. It's actually just the opposite. The sellers are bidding for you know who can deliver at the lowest cost. So at the most basic level, that's what a reverse auction is. Now we are talking about PBMs. They have multiple layers of complication and in my view obfuscation. I think with the intent of trying to find every way they can to basically nickel and dime folks. That's my personal opinion. And so it requires a software platform to run that process. In 2017, New Jersey implemented a state reverse auction for their PBM for their state employees. They saved I think what \$1.6 dollars in the first year. Colorado, we are not going to see those kinds of savings. We haven't implemented it yet. They are in a process of trying to procure the platform piece. We estimate about a \$6 [million] to \$9 million savings per year. You know New Jersey had not negotiated their PBM contract for a decade before they did so there was that. And then you know New Jersey has a higher population than Colorado so therefore more state employees. But we do expect to achieve some savings.

Colorado has two plans to offer to employees. One is Kaiser which and they manage all of their stuff internally. And the other is Cigna. For those who choose the Cigna plan, we have a PBM plan that it goes along with that that the state contract separately. It's not done through the insurance carrier. And that is what we are having to bid out for is who will be our next PBM.

Ed: What do you think the timeline is to implement that in your state?

SL: I feel like there is some bureaucratic feet dragging and I'm having to push on folks. I'm hoping that they can get his started next year. And we passed this bill last year so they've had some time to try to put all the pieces in place. We don't have a definitely timeline yet.

(TM): 6:23

Ed: How do you think the reverse auction will change the landscape long term in Colorado? And I know you are leaving the legislature, but what else needs to be done in this area?

SL: One of the things we did in our bill last year was to allow local governments, school districts to be able to buy into that for their own employees. When you have, I think, that much of a market share of folks who are using the PBM who has been negotiated through the state reverse auction plan, I would hope to see that that will apply some pressure overall to lower prescription drug prices for the private market.

The other piece in addition to just the you know contract and the initial bid for that, but what the state reverse auction will also put into place is an ongoing audit of every prescription filled to make sure that it meets the terms of the contract that was negotiated. And I think that's really important because oftentimes for whatever reason and I'm trying to not impugn motive, but those are the things that do fall through the cracks and we just want to make sure we keep everybody honest. I do think that that will help with pressure on the market.

Ed: As we get ready to wrap up, I always like to ask guests particularly legislators, what were the lessons learned in working on this issue? Are there a few key things you'd tell your colleagues around the country to keep in mind if they work on this topic?

SL: Well, I think it's important to listen to you know consumers. Find out what the pain points are and to make sure that we are holding plans and our PBMs accountable. They will scream it's going to raise rates. I hear that all the time with different things we've worked on in various factors. I think keeping the consumers in mind is where we need to be in healthcare costs. I've had great partners in working on a lot of the legislation that I've had. You know every state might have different partners, but one of the best sources and information on the state reverse auction is NASHIP and so if folks want to learn more about that, that would be a great place to go. And there are all kinds of other great policies that they work on as well which is a great resource.

Ed: Well thanks for walking us through this complicated area of the health care system and talking about how you've tackled it in your state. Take care.

SL: Thanks Ed.

Ed: I'll be right back after this with Senator Fred Mills of Louisiana.

(TM): 9:16 Music and Advertisements

Ed: Senator Mills, welcome to the podcast.

FM: Good to be here Ed. Hope you are doing well.

Ed: Well, thank you and thank you for joining me today to talk about the experience you've had down in Louisiana with trying to control prescription drug costs and more specifically how you approached the issue there of pharmacy benefit management. To start, I wonder if you could explain a little bit about your interest in this area and why it is important to you? And I do know you are a pharmacist so I'm sure that's some of the origin of your interest, but tell us a little bit about why this has become an important topic for you?

FM: I guess it evolves over the years probably from practicing pharmacy and owning a pharmacy for so long, I've seen the evolution of prescription benefit management companies. And at one time,

they were basically a transactional company sort of like you buy something with Visa. You transact it into money. Just exchanges from there. And they've evolved into from mail order pharmacy to formulary management to patient steering. A lot of different components and as a pharmacist in the Senate, I receive calls from pharmacy providers, medical providers, patients basically saying look I have a problem. I was on this medication for many years and now I can't get it anymore or get a pharmacist calling me up and saying listen this has been a customer of mine for the last ten years and all of a sudden they received a letter they can no longer do business with me. A pharmacist will call me up and say, Look I filled this prescription. My ingredients cost is \$100. I got reimbursed \$70. What do I do? So, over the years, I've done hopefully PBM legislation that brings the issue to the forefront. I've continued to work on the issue because I think PBM used to be an insurance carrier and now I think they've evolved into several different components. I think they should be regulated by different components as they evolve. It's always been an issue that I. Most of the calls I get it's not people thanking me for the services in a PBM.

Ed: Now I understand in Louisiana you pursued a reverse auction approach. And I spoke earlier on this podcast with Representative Lontine of Colorado where they also took that route. Why was that a good approach in your state?

FM: I had an opportunity to meet Mark Bloom and Mark Bloom worked with New Jersey and President Sweeney and also with Governor Christie. I had a chance to interview his staff and he told us that I think their office had group benefits say something like 2.5 billion dollars over five years. And what he had me understand was that a PBM in real time has to be micromanaged because if you try and look at their activity six months a year down the road, you have very stale data. And the information that you have should be at the time of adjudication and not at the time of a post audit. He said something that always intrigued me, and I think it is one of the components of making sure everybody is doing the right thing at the right time.

Ed: And with the reverse auction, did that allow you to do that kind of work then? Is that the insight that that gives you?

FM: Well I passed the legislation last year and you know a lot of times when you have contractual obligations especially with office of group benefits and our department of health, they now have a tool that they can utilize if they so choose to do it. It was a challenge to pass the legislation because it looked like the PBMs from my vantage point kept saying that this was going to be an added burden cost to the State of Louisiana without a return of investment. So I passed the legislation basically permissive for these agencies to be able to use the reverse auction piece with all of the components involved. But I didn't make it mandated because the fiscal note probably would have killed the legislation. There is some rationale to make it more permissive than mandate it.

(TM): 13:23

Ed: I wonder if you could talk about any other efforts in Louisiana to address prescription drug cost in particularly as they relate to PBMs.

FM: Yeah just this past session which we just ended on Monday, I was able to successfully with the help of all of the legislators pass legislation that basically now has put together a Medicaid

coalition of pharmacy providers to be able to work within the department to talk about venues to save money. And in those venues, I think if you have a user group of practicing pharmacists that can basically talk about formulary management. They can talk about rebate issues. They can talk about prior authorization. They can talk about so many issues out there. You could save money when you talk to the people that are boots on the ground. And this commission that I put together is going to meet on a quarterly basis. And I think it is the first time we ever put together the providers that provide Medicaid services to our constituents to be able to interact with the department because I find that the PBMs and the managed care organizations have a front row seat with the departments, but the providers don't.

So my thought process is to give the providers some legislative authority to be able to meet with the department. So I think that's going to bring us some long term benefits.

Ed: So that's really where you see the future going with this in Louisiana as opposed to another series of legislative efforts or something like that. More of this idea of getting the providers in there to give some advice.

FM: I think it's a multi-prong approach. You know just this legislative session I was able to successfully pass legislation that all PBMs have to be licensed with the Board of Pharmacy. And so, I feel that the Board of Pharmacy is going to regulate portions of their practices that are pharmacy related. You know down the road, I think it's going to also take legislation if they are practicing medicine and they are doing certain types of medical acts that are within the practice act of the Board of Medical Examiners, I think they should be regulated. I think they are like any massive entity that they have to be regulated on several functions just like a hospital is. You know a hospital probably has five or six regulatory agencies that look at their work. One is the providers. The second I think is the regulators that understand it because I don't know about all the other states, but in our State, they are regulated by the insurance department and the insurance department doesn't understand what they are doing as far as pharmacy and medicine. So, I think by putting all of these agencies to be able to work together, I think it can have more of a long-term effect.

Ed: Now you mentioned talking with folks in New Jersey when you were trying to think about how to approach this in Louisiana. So, I wonder now what you would share with people in other states who are going to have to grapple with this issue or they may already be in the middle of grappling with it? What lessons learned did you come away with?

FM: I think the biggest advice is to reach out to the states and NCSL does a fabulous job of putting us together. I think the other thing is to actually talk to the providers that are providing services that are affected by the PBMs. I've had several focus group meetings and just meeting with physicians, they will tell me that if they are trying to get a prior authorization for certain drugs, it's not prior authorization. It's denial of the services. And I wouldn't never know that unless I talked to so many of those physicians that helped me. And every time I leave those meetings, I try and draft legislation that basically helps to protect the safety of the public. So, my advice would be to meet with pharmacy providers. Meet with physicians. Meet with nurse practitioners. Meet with businesses because I don't think everybody is talking to each other. And at the end of the day, I think so many people are affected by these PBMs that it is going to take a major, major group effort to be able to at least get a sense of what they are doing.

Ed: Well, it sounds like you are starting to move the needle a little bit down there in Louisiana. Thank you for sharing that experience with me and with the listeners around the country. Take care.

FM: Thank you for your time. I enjoyed our visit.

Ed: And that concludes this episode of our podcast. We encourage you to review and rate NCSL podcasts on Apple podcasts, Google Play, Pocket Casts, Stitcher or Spotify. We also encourage you to check out our other podcasts: *Legislatures: The Inside Story* and the special series *Building Democracy*. Thanks for listening.

(TM): 18:00