

Open Meeting of the Federal Trade Commission

February 17, 2022

Public Submissions - Batch 4

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34. Teri Welter-Knoke
35. Tiffany Barber
36. Tulika Hijli
37. William Nielsen
38. Zdenek Zapletal

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:47:13 PM

Submitted on Tuesday, February 15, 2022 - 19:47

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Amir

Last Name: Tabatabai

Affiliation: Pharmacist in charge

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Competition

Register to speak during meeting: Yes

Link to web video statement:

Submit written comment:

02/15/2022

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission

600 Pennsylvania Ave., N.W.

Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am Amir Tabatbai, pharmacist in charge at Torrance pharmacy & Compounding Center. we have been impacted by take-it-or-leave-it contracts, DIR/GER/BER, and unattainable performance metrics. I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling. I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices. As I am sure the information will show you, my claw backs have risen drastically over the years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs. Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory

reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients. Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement. Thank you,

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/2035>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:53:12 PM

Submitted on Tuesday, February 15, 2022 - 19:52

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Angela

Last Name: Brittle

Affiliation: Independent Pharmacist

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

February 15, 2022

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission

600 Pennsylvania Ave., N.W.

Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am Angela Brittle, an Independent pharmacist practicing in a rural area of Virginia. I and my patients are routinely negatively impacted by PBM's who are completely out of control and have no oversight to their bullying. I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling.

I encourage you to ask PBMs for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule.

The FTC is our only hope to bring transparency to the PBMs manipulative and market foreclosing practices.

As I am sure the information will show you, my claw backs have risen drastically over the years.

These staggering increases in claw backs have created an uneven playing field for community

pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs. We routinely have to “give back” tens of thousands of dollars each quarter even when we meet their 5 star metrics. Just imagine how much more patient care we could provide if we were not being extorted to give money back to the PBMs who often do not pay enough to cover our drug costs. Independent pharmacies are closing by the hundreds every year, leaving pharmacy deserts in rural areas. This requires patients to travel longer distance just to reach a pharmacy.

Finally, I would also encourage the FTC’s study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I’m paid less than what it costs to acquire the drug from a wholesaler), PBMs control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients. Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you,
Angela Brittle, BSPHarm

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/2059>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:10:30 PM

Submitted on Tuesday, February 15, 2022 - 19:10

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: April

Last Name: Segal

Affiliation: Remedy Holistic Pharmacy

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Competition

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am a small independent pharmacy owner in San Diego CA. I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling.

I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices.

As I am sure the information will show you, my claw backs have risen drastically over the years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs. Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients.

Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/1955>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:53:08 PM

Submitted on Tuesday, February 15, 2022 - 19:52

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Brian

Last Name: Caswell

Affiliation: Wolkar Drug

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection
- FTC Operations

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

February 15, 2022

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission 600 Pennsylvania Ave., N.W.

Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson,
I am Brian Caswell, Pharmacist/Pharmacy Owner in SE Kansas. I have had the distinction of addressing your group before and I am honored to come before you again addressing the abusive practices of the Pharmacy Benefit Manager role within the healthcare delivery space. I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three largest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter their networks and the associated fees are appalling. In fact, they are patient harmful and threaten my ability to deliver healthcare and the business that I need to deliver that much needed asset to my community. My community has utilized our services for nearly 50 years and would love to continue that. Our patients have told us the same but are being coerced and halted from using us as their pharmacy. I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices. As I am sure the information will show you, my claw backs have risen drastically over the years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like

mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs. Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients. Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you,

Brian Caswell, RPh.



The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/2055>

From: [REDACTED]
To: [OpenMeeting](#)
Subject: Save Independent Pharmacy and Help Us Serve Our Community!
Date: Tuesday, February 15, 2022 7:48:17 PM
Attachments: [REDACTED]

Dear Federal Trade Commission Representative,

Please see attached letter regarding PBM DIR fees and other unfair practices.

Thank you.

Bryan Piskadlo

Sent from [REDACTED] for Windows

Plymouth Park Pharmacy, Inc

[REDACTED], Fair Lawn, [REDACTED]

February 15, 2022

Chair Lina Khan
Commissioner Rebecca Slaughter
Commissioner Noah Phillips
Commissioner Christine Wilson

Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am the owner of an independent family pharmacy. Plymouth Park Pharmacy, Inc. has been serving the community of Fair Lawn, New Jersey since 1950, and under the ownership of my family since 1974 when my father purchased the pharmacy from the original owner. With the untimely passing of my father in 2018, Plymouth Park Pharmacy began a new era with the next generation Piskadlo pharmacist, myself, at the helm. It was a "baptism by fire" as my father had not shared any of the details of actually running a business. It was an eye opening experience to say the least... I never realized how many parties were involved in taking their "piece of the pie". My father and I were able to work together for DECADES and both support separate households and a moderate lifestyle. My first clue into the unfair practices of the PBMs was when Express Scripts refused to agree with our PSAO and as a result, made me thoroughly read and sign my first legal contract. I had to take Express Scripts, right? I agreed, even though I had no ability to negotiate, however, I refused to accept the 90 day contract because it was absolutely ludicrous. Delving into reimbursements, I learned of the EXORBITANT DIR fees that were being clawed back from these already underpaid claims... averaging \$60 - \$80 thousand per year! The following years, I learned of all sorts of new smoke and mirror tactics (BER & GER calculations) for these PBMs to fleece independent pharmacy, increase costs for their insured, and pad their own pockets. I have, unfortunately, had to whittle down employee hours, severely limit some of the core services that built our business, and drastically cut my own salary several times. My business will not survive if drastic measures are not taken to reign in the unfair and reckless practices of these PBMs. For these reasons, I am writing to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling.

I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices.

As I am sure the information will show you, my claw backs have risen drastically over the years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs.

Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case

Plymouth Park Pharmacy, Inc

[REDACTED] Fair Lawn, NJ [REDACTED]



of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients.

Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you for your time and your consideration

Sincerely,

Bryan S. Piskadlo, RPh.

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:14:31 PM

Submitted on Tuesday, February 15, 2022 - 19:14

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Donna

Last Name: Camp

Affiliation: Camp's Medical Pharmacy

Full Email Address: [REDACTED]

Confirm [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Competition

Register to speak during meeting: No

Link to web video statement:

Submit written comment: Please investigate the unfair PBM practices!!! They are putting independent pharmacies like myself out of business quickly! CVS owns the PBM and steers all the patients they can toward themselves. They make our contracts which are non-negotiable.....take it or leave it! Pharmacies get no input on their rates whatsoever. In [REDACTED] CVS paid independent pharmacies an average of \$ [REDACTED] PER PRESCRIPTION lower than they paid their own retail pharmacies.I get letters at least once every month or two months offering to buy my store during this very difficult time of increasing drug prices and low reimbursement from insurance companies!! How nice of them to offer!! DIR/GER/BER fees that are held out weeks and months AFTER the medicines are filled are a disgrace and slap in the face! NO ONE in this country operates their business like this! Why would you ever buy something from someone without knowing your final price for it? YOU WOULDN'T but that's what we are doing.This has got to STOP!!! Please help us!

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/1967>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:39:29 PM

Submitted on Tuesday, February 15, 2022 - 19:39

Submitted by anonymous user: [REDACTED]

[REDACTED] are:

First Name: Elizabeth

Last Name: Morrison

Affiliation: Langston Drug Store

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection
- FTC Operations

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am a pharmacist and owner of an independent, community pharmacy in Van Buren, Arkansas. I have been a pharmacist since 1991 and store owner since 1999 and would like to let you know how the take it or leave antics of the Pharmacy Benefit Managers have negatively impacted us and the customers we serve, or used to serve before they were stolen away from us. Please study the Pharmacy Benefit Managers, and specifically, the 3 biggest, Aetna, Cigna, and UnitedHealth Group's vertically intergrated PBMs that control so much of the marketplace. When I explain, or even try to explain the current pharmacy business model, people do not believe that it is legal. We are dealing with someone who owns the insurance company, the PBM, the store up the street from us, and the mail order pharmacy that their patients are encouraged to use. Please ask them about how their claw backs work, PBMs will not even allow me to send you claw back information. It is vital that the FTC bring transparency to the PBMs manipulative practices. I have had patients whose medication was filled early by the mail order pharmacy.....owned by the insurance company, in order to steal them away from us. CVS paid independent pharmacies on average \$ [REDACTED] less per prescription than they paid itself. It breaks my heart that people we have faithfully served are just taken from us because they are promised no copays or even told they really have no choice but to leave our pharmacy, the one they have chosen to use for years, and would never leave if it was a fair playing field. You can imagine how hard it is for a small business to pay their own bills when they are suddenly hit by dir fees that are impossible to understand and predict. The economic troubles my independent pharmacy is facing are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and hopefully this study will lead to such enforcement. How can truth and transparency be anything but good? Thank you for listening, Elizabeth Morrison, PD

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/2019>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:00:42 PM

Submitted on Tuesday, February 15, 2022 - 19:00

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Hilary

Last Name: Mcjunkins

Affiliation: Consumer

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection
- FTC Operations

Register to speak during meeting: No

Link to web video statement:

Submit written comment: These businesses should not be allowed to dictate where I fill my prescriptions, especially when it's a self serving deal.

They also shouldn't be dictating market prices and what I can and cannot take. My doctor and pharmacist are the ones who know what is best for my health and that should not be decided by some greedy corporation. If you really care about the American people and their well being then will fix the system and let the medical professionals who know what they are doing treat their patients effectively and fairly.

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/1935>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:22:00 PM

Submitted on Tuesday, February 15, 2022 - 19:21

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Holley

Last Name: Whited

Affiliation: Pharmacist

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Competition

Register to speak during meeting: No

Link to web video statement:

Submit written comment: Please look at fair pricing. As an Arkansas Pharmacist, I would like for everyone to be reimbursed fairly. Thank you.

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/1991>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:19:55 PM

Submitted on Tuesday, February 15, 2022 - 19:19

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Jignesh

Last Name: Patel

Affiliation: Sellersville Pharmacy

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection

Register to speak during meeting: Yes

Link to web video statement:

Submit written comment:

2/15/2022

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission

600 Pennsylvania Ave., N.W.

Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am Jignesh Patel, Owner and Pharmacist at Sellersville Pharmacy. We are a small independent pharmacy that serves our local community to care for our patients and provide the best service. Unfortunately, we have been struggling to stay afloat due to unfair practices of PBMs. The PBMs make 100 page contracts that we have no way of modifying. They provide little wiggle room and are take it or leave it contracts. If we do not accept their terms then we are unable to fill prescriptions for those patients which ultimately hinders patient care. Furthermore, the PBMs integrate DIR/GER/BER fees to such pharmacies without any clarity on how fees are charged or assessed. Many times PBMs will collect these going back years from the date that the prescriptions have been filled. Additionally, PBM networks have performance metrics for pharmacy reimbursements, however these metrics are so far fetched and unreal to hit leading to lower reimbursements for independent pharmacies.

I write to express my support

of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling.

I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices. As I am sure the information will show you, my claw backs have risen drastically over the years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs. Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients. Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

I thank you very much for looking into this matter and you will see the little oversight that PBMs have.

Thank you,
Jignesh Patel

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/1987>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:30:40 PM

Submitted on Tuesday, February 15, 2022 - 19:30

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Joseph

Last Name: Isaakidis

Affiliation: Harpell chemists

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection

Register to speak during meeting: Yes

Link to web video statement: [REDACTED]

Submit written comment: I ask the FTC to probe in the monopolistic behavior of Pharmacy Benefit Managers and their anticompetitive practices.

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/2007>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:51:54 PM

Submitted on Tuesday, February 15, 2022 - 19:51

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Joseph

Last Name: Rogers

Affiliation: Orchards Drug

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

2/15/22

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission

600 Pennsylvania Ave., N.W.

Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am an independent pharmacist, working at a "mom and pop" drugstore. I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on small pharmacies to enter the marketplace and get into their networks, and the associated fees are appalling.

I encourage you to ask PBMs for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices.

As I am sure the information will show you, claw-backs have risen drastically over the years. These staggering increases in claw-backs have created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics that I could be the most perfect pharmacy in the land and still be subject crippling penalties from the PBMs.

Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where we are paid less than what it costs

to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients.

Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you,

Joseph Rogers
Pharmacist
Orchards Drug
Lawrence, KS

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/2051>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:49:52 PM

Submitted on Tuesday, February 15, 2022 - 19:49

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Joshua

Last Name: Dahlenburg

Affiliation: Owner of a retail Pharmacy

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Consumer Protection

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

Chair Lina Khan

Commissioner Rebecca Slaughter Commissioner Noah Phillips Commissioner

Christine Wilson

Federal Trade Commission 600 Pennsylvania Ave., N.W. Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am an independent owner of a retail Pharmacy. I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling.

With increased workloads and decreased reimbursements not only up front but then blindly taking more back retrospective. It will eventually kill retail pharmacy as we know it. People will suffer from getting their prescriptions late or not at all due to the low contracts and losses we take. We have done what we can to cut back staff and buy drugs at a lower cost but the money is no longer returning in a rate to support the patient care.

I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices.

As I am sure the information will show you, my claw backs have risen drastically over the years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect

pharmacy in the land and still face crippling claw backs from the PBMs.

Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients.

Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you, Joshua Dahlenburg, Valley Drugs

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/2039>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:12:28 PM

Submitted on Tuesday, February 15, 2022 - 19:12

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Kathleen

Last Name: Benson

Affiliation: Unlocked Nutrition

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Consumer Protection

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

As a military spouse, I've had many income and health-related claims, related to multilevel marketing, presented to me.

I create videos on YouTube where I discuss the harmful impacts that MLMs have on consumers. I've even received a cease and desist letter, from Black Oxygen Organics (in October 2021) because of the videos I published, before they dissolved as a company.

I am grateful for the letters that the FTC has sent to MLMs, especially within the last few years, but there are so many claims that go unnoticed and without disciplinary action.

I am calling for increased people from the FTC to protect the public against deceptive earnings claims and other wrongful practices by MLM companies.

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/1959>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:23:19 PM

Submitted on Tuesday, February 15, 2022 - 19:23

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: KERRY

Last Name: CAMPBELL

Affiliation: Pharmacy Owner

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Consumer Protection

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

- CVS owns the insurance company (Aetna), the PBM that makes your contract, the competing store on the corner, and the mail-order pharmacy your patients are forced to use.
- CVS paid Arkansas independent pharmacies an average of \$ [REDACTED] per prescription lower than CVS paid it's own retail pharmacies in early 2018 in commercial plans leading to a special legislative session called by the Governor to license PBMs and provide increased enforcement of existing deceptive trade practice laws. The Arkansas Attorney General still has an active investigation on this bad act by this PBM. At the same time CVS also sent letters to local pharmacies offering to buy them during "hard times" of aggressive low reimbursement. This was a deliberate attempt to pay low and force local pharmacies out of business and help CVS to expand its footprint with anticompetitive business practices.
- Contracts are non-negotiable. Pharmacies do not get a say in rates or fees.
- PBM clawbacks that occur weeks after the medication is out the door.
- Unconscionable metrics such as DIR/GER/BER that are anything but transparent and leave the pharmacy GUESSING what they will get paid.
- Patient steering - retail, mail-order, & specialty.
- Chain pharmacies being paid more than independents for the same medication, for the same patient, on the same day.
- Negative reimbursements on purpose with the goal of closing pharmacies - from the PBM that also owns/ is affiliated with a competitor.
- Increased fees and charges for transmitting claims, recredentialing, whatever else they can think of.
- Early refills not allowed by local pharmacies, but happens at the mail order pharmacy owned by the PBM in order to steal patients and self deal.
- Provider manual updates and requirements are take it or leave it.
- Anticompetitive (OptumRx and others) 6 month to 1 year seasoning requirements where brand new pharmacies can't get in network until in business for many months. This is designed to keep competition from having a chance as the PBM owns pharmacies and this requirement increases the chances the patients are forced to pharmacies owned by the PBM.

Because of these issues there have been many individual family owned

pharmacies that have had to close their doors and there will continue to be more to join them. We ourselves had to close one of our locations in May 2020 due to these matters.

Kerry Campbell
Lowery Drug
Searcy Arkansas

Previous owner of Kens Sav-On Drug
Searcy Arkansas

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/1995>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:17:59 PM

Submitted on Tuesday, February 15, 2022 - 19:17

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Kristen

Last Name: Riddle

Affiliation: Pharmacy Owner-NCPA

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Competition

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

Feb 14, 2022

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission

600 Pennsylvania Ave., N.W.

Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am an independent community pharmacy owner. My pharmacy has served our community for over 30 years. We are in a rural town in Arkansas with a high underserved population. The take-it-or-leave-it contract from the PBM has been debilitating to our ability to serve our patients. Many of our patients have been forced to mail order using the mail order pharmacy owned by their PBM and no longer have the local services provided by our pharmacy. DIR fees, GER, and BER are devastating to our business and will eventually lead to more business closures if not changed. I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling.

I encourage you to ask PBMs for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices.

As I am sure the information will show you, my claw backs have risen

drastically over the years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs.

Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients.

Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you,
Kristen Riddle, PharmD

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/1975>

From: [REDACTED]
To: [OpenMeeting](#)
Subject: FTC PBM Study
Date: Tuesday, February 15, 2022 7:22:49 PM
Attachments: [REDACTED]

Hi,
I have attached my letter for the FTC open meeting to be held on February 17, 2022.

Thanks,
Laurie Larson
Ye Olde Medicine Center

[REDACTED]
Park River, ND [REDACTED]
[REDACTED]

Ye Olde Medicine Center, Inc.

Ye Olde Medicine Center

[REDACTED]
Park River, ND [REDACTED]
[REDACTED]

Drayton Drug

[REDACTED]
Drayton, ND [REDACTED]
[REDACTED]

February 15, 2022

Chair Lina Khan
Commissioner Rebecca Slaughter
Commissioner Noah Phillips
Commissioner Christine Wilson
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I would like to express my support of the Federal Trade Commissions study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Groups vertically integrated PBMs that control so much of the marketplace. I do NOT feel it is in any members best interest to have a PBM own a pharmacy. I live in a rural farming community, and I would never leave a fox to watch my hen house. It only benefits the fox and not the hens; hence the PBMs gain large profits and everyone else around them loses.

I am the owner of 2 rural independent pharmacies in North Dakota. I have been in business since 1976 and since that time I have seen pharmacy change in many ways both good and bad. I became a pharmacist to help with the health of my friends and neighbors and the deceitful business practices of PMBs are harming my patients and my business. Blue Cross Blue Shield of Minnesota and Humana just to name a few pay us less than the cost of our medications from the wholesaler and even insult us more by paying us no dispensing fee. These negative reimbursements have led to hard decisions as a business owner whether it be shortened business hours or to cut staff hours. Pharmacist information and pharmacist counseling are important to the patients' health and without adequate reimbursement we won't be able to keep our pharmacies open and continue to be here to help our patients.

Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. We are not able to compete when the PBMs are using audits, discriminatory reimbursement practices and control of access to the market through their preferred networks. The PBMs force take-it-or-leave-it contracts; I am being pushed out by mail order pharmacies and PBM practices. This is detrimental to the health and wellbeing of my patients.

Hopefully this FTCs study will show how PBMs negatively impact the market by hurting independent pharmacies and the patients we help every day. We just want a fair playing field for everyone.

Thank you,
Laurie Larson, R.Ph.
Ye Olde Medicine Center
[REDACTED]
Park River, ND [REDACTED]

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:51:12 PM

Submitted on Tuesday, February 15, 2022 - 19:51

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Mark

Last Name: Smith

Affiliation: Orchards Drug

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Competition

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

02/15/2022

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission

600 Pennsylvania Ave., N.W.

Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am Mark Smith, former owner of the independent pharmacy, Orchards Drug. DIR fees turned our pharmacy from a modestly profitable business to one that lost money annually, even after I cut my salary in half and terminated my only part time pharmacist. DIR fees and Claw Backs occurring months after the original transaction are unfair and make business planning a nightmare. I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling.

I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices.

As I am sure the information will show you, my claw backs have risen drastically over the years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs.

Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs

(especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients.

Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you,

Mark J Smith

Pharmacist

Former Owner of Orchards Drug (1991-2020)

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/2043>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:43:37 PM

Submitted on Tuesday, February 15, 2022 - 19:43

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Melinda

Last Name: Travis

Affiliation: pharmacist, member of the public

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

February 14, 2022

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson,

I am Melinda Travis, a second-generation pharmacist in Newton, NC. I own a small independent pharmacy in my town. I have been in business for 22 years and worked with my father at his pharmacy before that. I love being a part of my community, and feel it is a privilege to serve my patients and help them navigate their medication and healthcare needs. I am writing to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The Take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling.

I encourage you to ask PBMs for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs manipulative and market foreclosing practices.

As I am sure the information will show you, my claw backs have risen drastically over the years. These staggering increases in claw backs have

created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs.

Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements, (where I am paid less than what it costs me to purchase the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients.

Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you,

A large black rectangular redaction box covering the signature area.

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/2031>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:37:22 PM

Submitted on Tuesday, February 15, 2022 - 19:37

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: MICHAEL

Last Name: MATOVICH

Affiliation: Montana Family Pharmacies

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection
- FTC Operations

Register to speak during meeting: No

Link to web video statement:

Submit written comment: My name is Michael Matovich. I am a pharmacist in rural Montana, and over the last several years, I have witnessed PBMs use unfair and anticompetitive business practices to put more and more independent pharmacies out of business. I'd like to stress that it's not because we can't compete. We CAN compete in this space. By taking care of patients locally, we can meet the needs of patients and health plans more effectively and efficiently, for lower costs. But we cannot compete in a situation that is completely rigged against us. So much vertical integration and horizontal merging has been allowed that we are now in a situation where just a few mega-PBMs completely control our reimbursements while at the same time directly compete against us. They reimburse us lower than anybody else, force our customers to use PBM-owned pharmacies, artificially drive-up patient and plan costs with rebates and clawbacks, and directly benefit when we are driven out of business. It's wrong, it hurts our patients, it drives up costs, and it cheats patients and employers out of their hard-earned money.

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/2011>

From: noreply@web1.ftc.gov <noreply@web1.ftc.gov>
Sent: Tuesday, February 15, 2022 4:20 PM
To: OpenMeeting <openmeetings@ftc.gov>
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022
Open Commission Meeting

Submitted on Tuesday, February 15, 2022 - 16:20
Submitted by anonymous user: 96.239.54.225
Submitted values are:

First Name: Peter
Last Name: Marinello
Affiliation: BBB National Programs Direct Selling Self-Regulatory Council
Full Email Address: pmarinello@bbbnp.org
Confirm Email: pmarinello@bbbnp.org
Telephone: +1 2127050126
FTC-Related Topic: Consumer Protection
Register to speak during meeting: No
Link to web video statement: NY
Submit written comment:
Submitted Electronically

February 15, 2022

Federal Trade Commission
Office of the Secretary - April Tabor
600 Pennsylvania Avenue, NW
Suite CC-5610
Washington, DC 20580

RE: Advanced Notice of Proposed Rulemaking Concerning Earnings Claims

Dear Secretary Tabor:

The Direct Selling Self-Regulatory Council (DSSRC) of BBB National Programs is pleased to have an opportunity to comment on the announcement of the Federal Trade Commission's (FTC) Advanced Notice of Proposed Rulemaking to address deceptive earnings claims for business ventures, gig or other work opportunities, or educational, coaching, or training offerings.

DSSRC was created in January 2019, to provide an independent mechanism to monitor earnings claims (including lifestyle representations) and product claims communicated by direct selling companies and their salesforce members to ensure a high level of accuracy and adequate substantiation of those claims. DSSRC is administered by BBB National Programs, a non-profit organization dedicated to increasing marketplace trust through the

development and operation of independent industry self-regulation and accountability programs. DSSRC is supported by the Direct Selling Association (DSA), the national trade association for companies that market products and services directly to consumers through an independent salesforce.

As part of our mission, DSSRC independently monitors earnings claims disseminated by all members of the direct selling industry. DSSRC monitors and tracks such claims on social media platforms as well as on the various websites of companies in the direct selling industry. A third-party monitoring company provides DSSRC weekly reports that help us to identify potential claim infractions of pertinent FTC rules and guidance.

DSSRC is greatly supportive of the FTC's efforts to provide additional guidance to the direct selling industry regarding the dissemination of earnings claims as the number of consumers who engage with direct selling companies continues to grow. According to the DSA, the direct selling channel generated \$40.1 billion in retail sales in 2020 (up 13.9 percent from the previous year). The number of people selling products or services using the direct selling model grew 13.2 percent, with 7.7 million people in the United States participating in direct selling on either a part-time or full-time basis.

One of the most compelling ways that direct selling companies communicate the benefits of the direct selling business opportunity is through the engagement of independent salesforce members with potential customers. Some of the largest direct selling companies in the industry work with hundreds of thousands of independent salesforce members throughout the world. In addition, the advent of social media has provided salesforce members with a powerful mechanism for communicating the benefits of the direct selling business opportunity.

While keeping in mind that only a small percentage of participants in a direct selling business opportunity earn more than modest or supplemental income, DSSRC recognizes that one of the greatest challenges for direct selling companies is ensuring that the earnings claims communicated by their salesforce members comply with legal and regulatory standards. DSSRC believes it is imperative that salesforce members and direct selling compliance professionals have consistent and ongoing guidance that reinforces the fundamental principles of appropriate claim dissemination.

In 2020, DSSRC released its Guidance on Earnings Claims for the Direct Selling Industry (the "Guidance") that defines and identifies direct selling earnings claims to ensure all representations made by direct-selling companies or members of their salesforce comply with legal and self-regulatory standards. The Guidance originated from dialogue between DSSRC and thought leaders in the direct selling industry, including legal professionals and direct selling compliance teams.

Among other sources, the Guidance refers to fundamental claim substantiation principles articulated in the 2018 FTC Business Guidance Concerning Multi-Level Marketing, the FTC .com Disclosures Guide, the FTC Guides Concerning the Use of Endorsements and Testimonials in Advertising, and the DSA Code of Ethics. The Guidance is intended to provide companies in the direct-selling industry with additional clarity on issues such as:

- what qualifies as an earnings claim;
- a direct selling company's responsibility for claims made by members of

its salesforce;

- the importance of net impression in the evaluation of earnings claims;
- disclosures that may be necessary in connection with an otherwise truthful earnings claim or testimonial; and
- recommended best practices for direct-selling companies to help them avoid self-regulatory challenges.

The Guidance also includes over a dozen mock examples to help illustrate the principles articulated in the Guidance.

Following the release of the Guidance, DSSRC engaged in educational initiatives focused on the distribution of the Guidance throughout the direct selling industry, including participation in a webinar to industry professionals. DSSRC has found that direct selling companies have a considerable appetite for guidance regarding the appropriate and accurate communication of representations regarding their business opportunity.

In 2021, the FTC sent three different Notices of Penalty Offenses to almost 2,000 companies (including several direct selling companies) cautioning them against engaging in deceptive and unfair practices in connection with the educational marketplace; endorsements, testimonials, and customer reviews; and money-making ventures. DSSRC agreed that the FTC's action to address egregious income claims communicated by these companies was warranted and utilized this FTC endeavor as an opportunity to further educate the direct selling industry on the consequences of making misleading product and income claims.

As the FTC contemplates its rulemaking to address deceptive earnings claims for business ventures, gig, or other work opportunities, DSSRC respectfully recommends that the FTC consider several factors that have contributed to the proliferation of unsupported and inaccurate earnings claims in the United States:

- 1) Problematic earnings claims often originate from salesforce members located outside of the United States. While many countries have general regulations and rules of conduct regarding claim dissemination, these regulations may be more permissive than those that must be adhered to in the United States.
- 2) Social media platforms have historically been unreceptive to the requests of direct selling companies to remove deceptive social media posts that were disseminated by inactive salesforce members. Although some social media platforms do provide a mechanism for reporting trademark or copyright violations, successful utilization of such a mechanism often depends on the cooperation of the platform representative to assist in the process.
- 3) DSSRC agrees with recent comments from FTC staff that direct selling companies and their salesforce members should not disseminate career-level income claims and that even a well-phrased disclosure of generally expected results would be ineffective to qualify such a claim. Conversely, section 13 of the 2018 FTC Business Guidance Concerning Multi-Level Marketing states that "Even truthful testimonials from the very small minority of participants who do earn career-level income or more will likely be misleading unless the advertising or presentation also makes clear the amount earned or lost by most participants." (italics added) Thus, the FTC's 2018 Business Guidance appears to be in contravention with the current position of the FTC staff. Accordingly, DSSRC is hopeful that the FTC will provide clarity on this issue in its anticipated rulemaking.

The more information and guidance that the FTC can provide to the direct selling industry, the more likely we are to achieve a compliant marketplace. DSSRC greatly appreciates the opportunity to submit these comments and welcomes further discourse, including answering any questions from the FTC.

Sincerely,

Peter C. Marinello
Vice President
Direct Selling Self-Regulatory Council (DSSRC)
BBB National Programs

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/1519>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:13:54 PM

Submitted on Tuesday, February 15, 2022 - 19:13

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Peter

Last Name: Michaelson

Affiliation: Navis Pack & Ship

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Consumer Protection

Register to speak during meeting: Yes

Link to web video statement:

Submit written comment:

This complaint is vs. Annex Brands, Inc., [REDACTED], San Diego, CA [REDACTED]

Annex Brands administers the following commercial and retail brands: Postal Annex, PakMail, AIM Mail Centers, Navis Pack & Ship, The Handle with Care Packaging Stores, Parcel Plus and Sunshine Pack & Ship. Of these, Navis Pack & Ship, The Handle with Care Packaging Stores and certain PakMail locations operate as warehouse-based commercial locations under the terms, operational requirements and fee structures defined in the various Annex Brands Franchise Disclosure Documents (FDDs).

Annex Brands has for years condoned and supported an inequitable and undisclosed business environment within its commercial franchise system. The company has, since as long ago as 2017, conducted a franchisor/franchisee relationship in which the franchisor has been willfully, and without disclosure, disregarding the rules and requirements of its FDDs. This violation of the rules set up an inequitable and unfair business relationship among the commercial franchisees, advantaging some while disadvantaging others. By sanctioning, but not disclosing, satellite locations for some of its commercial locations, but not all, Annex Brands set up an inequitable and noncompliant franchise environment.

Certain commercial franchisees have been allowed to operate as commercial locations without meeting the operational requirements described in detail throughout the Annex Brands FDDs, and paying associated fees for a commercial location. Annex Brands management has established the label for these new entities as being "virtual." The new entities do not fit under one of the existing categories of sanctioned Annex Brands entities, i.e., a commercial center, standard retail center, flex retail center, express retail center, and/or copy retail center. As such, they are a new and different type of entity, which has never been disclosed by the franchisor.

Annex Brands has allowed these satellite locations under the false flag of being "virtual" locations. Annex Brands' management claims that "utilization of virtual offices have been a marketing practice for several

years, by Navis Franchisees, competitors, and referral sources in the marketplace,” and that “Virtual Offices, Virtual Mailboxes, Private Mailboxes at retail locations (like Postal Annex), etc. have long been accepted for marketing purposes in most industries... without being physically present. Just like you can spend money on brand specific PPC campaigns that show up in zip codes that you are not physically present in.”

In “computereeze,” virtual means: not physically existing as such, but made by software to appear to do so. However, these satellite locations are not virtual. They are physical: they have actual addresses for which rent is paid, operating hours are posted, and customers are allowed to drop off items to be shipped. There is nothing virtual about them.

All physical locations must be listed in the FDD and must comply with the fees, rules, and regulations outlined in the FDD. Disclosure is under federal jurisdiction and must be adhered to. The discriminatory practices of Annex Brands have, and still do, allow supposed “virtual” locations (which in reality are not virtual) to operate contrary to the descriptions, provisions and covenants in the FDDs which have been published, provided to prospective franchise buyers and filed with the Federal Trade Commission since as long ago as 2017.

These new entities are not operating under the rules, obligations and fees of anything that exists in the Annex Brands firmament. They are out of compliance, not operating as a Handle with Care Packaging Store nor a Navis Pack & Ship, as defined in detail in the FDDs. The virtual locations cited here, and perhaps others, have never been listed anywhere as a Handle with Care Packaging Store or as a Navis Pack & Ship. There is no explanation or documentation of any type pertaining to virtual locations in the Annex Brands FDDs or otherwise. They have not been announced to the system as an option available to all; fees and regulations have not been established; and the existing “virtual” locations have been listed nowhere. There is no language anywhere in any of the Annex Brands FDDs which covers the operational requirements and purchase fees associated with such entities.

The violations by Annex Brands of the rules established by the FTC for franchise operations established an unbalanced, unethical and inequitable business environment for the commercial franchisees, advantaging some while disadvantaging others. By sanctioning, but not disclosing, satellite locations for some of its commercial locations, but not all, Annex Brands set up an inequitable and noncompliant franchise environment. These improper arrangements disadvantaged certain commercial locations who were not offered the same opportunity to establish a “virtual” satellite location – outside the bounds, operational requirements and purchase fees for commercial locations – and may have also been injured due to sales stolen by a nearby “virtual” location(s).

I was the owner-operator of Navis Pack & Ship PA1104 from July 2008 until October 2021, having purchased two territories in the City of Philadelphia. My company was negatively impacted by both aspects of the improper arrangements established by Annex Brands: not being offered an opportunity to establish a “virtual” satellite location and having sales stolen by a nearby Annex Brands commercial location over a period of many years. By allowing The Handle with Care Packaging Store of Harleysville PA to operate a location in Philadelphia, immediately adjacent to the territories I purchased, outside the terms of the Annex Brands FDDs, Annex Brands deceived

me and, in turn, benefitted The Handle with Care Packaging Store of Harleysville PA.

In addition, Annex Brands failed to include the Harleysville Handle with Care Packaging Store franchisee in its FDD documents, and claimed, to my buyer, that the location had “only recently” become a commercial location. This is demonstrably false, as this location has been in the Top-10 of Annex Brands Commercial Locations and listed on the Freight Service Center Directory since 2017. This intentional omission materially and harmfully affected the conditions under which my franchise was sold.

Analysis of the sales for my franchise and for The Handle with Care Packaging Store of Harleysville PA prove that the result of these actions by Annex Brands has resulted in lost sales of [REDACTED] per year for five years, 2017-2021. At my franchise’s historic gross profit rate of 47.9%, this has resulted in lost income for me of [REDACTED]. Less royalties of 9% which would have been paid to Annex Brands on the lost sales, the net income loss has been [REDACTED]. In addition, the loss of [REDACTED] in revenues from 2017-2021, resulted in the sale of my business for [REDACTED] less, as estimated by my business broker. The deceptive and dishonest actions of Annex Brands have cost me a total of [REDACTED].

Annex Brands has been, for years, in violation of the most essential role of a franchisor, i.e., to establish and maintain a regulated, equitable, and fully disclosed business environment for its franchisees. Their actions have restricted competition by favoring some franchisees over others. I hereby request that the Federal Trade Commission investigate and pursue these violations by Annex Brands and take appropriate remedial actions.

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/1963>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:02:00 PM

Submitted on Tuesday, February 15, 2022 - 19:01

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Poch

Last Name: Blanco

Affiliation: NCPA, MedQuickRx

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection
- FTC Operations

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am Poch Blanco of Med Quick Pharmacy. We are a pharmacy that services the most marginalized of patients (Medicare and Medicaid) suffering from HIV, Hep C, Diabetes, Mental Health issues, and many more.

I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force pharmacies like us to enter the marketplace and get into one of their networks and the associated fees simply not sustainable.

I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow us to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices.

As I am sure the information will show you, claw backs have risen drastically over the years. These staggering increases in claw backs have created an unfair/uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy (we are ACHC Accredited with excellent public reviews from our patients via Google to prove it) and still face crippling claw backs from the PBMs.

Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges,

negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients.

Many of my colleagues have given up. They have either sold or closed their pharmacies because these clawbacks are simply not sustainable.

Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/1943>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:19:54 PM

Submitted on Tuesday, February 15, 2022 - 19:19

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Priyal

Last Name: Patel

Affiliation: Broadway Pharmacy

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: FTC Operations

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/1983>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:42:41 PM

Submitted on Tuesday, February 15, 2022 - 19:42

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Richard

Last Name: Owensby

Affiliation: Community Pharmacy

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Consumer Protection

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

February 15, 2021

Chair Lina Khan Commissioner

Rebecca Slaughter Commissioner

Noah Phillips Commissioner

Christine Wilson Federal Trade Commission

600 Pennsylvania Ave., N.W. Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

We are Richard and Shara Owensby, pharmacists, and former pharmacy owners of Table Rock Pharmacy. We opened the pharmacy 32 years ago and it has been a staple in our community ever since. Our patients are grateful for the services we have provided, and are not offered by chain pharmacies or by mail-order pharmacies (adherence packing, medication synchronization, custom medication compounding, free delivery, free medication reviews and much more). These enhanced services have been proven to keep patients adherent to their medication regimens and out of the hospital, which not only saves lives, but also significantly reduces healthcare expenditures. When our daughter and her husband took over the business in 2019, we had serious concerns whether it would remain a sustainable business in the future, due to the increasingly unfair business practices of the Pharmacy Benefit Managers. Therefore, we are writing to express our support of the Federal Trade Commission's study of the PBMs, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace.

To begin with, the take-it-or-leave-it contracts that the PBMs force on the pharmacies in order to enter the marketplace, and, therefore, be included in one of their networks, leave the pharmacies at an unfair advantage from the get-go. Add the PBM's direct and indirect remuneration (DIR) fees, and the GER and BER fees to the mix that allow the 'claw back' of reimbursements several months after the point of sale, which further cripples independent pharmacies' ability to run a profitable business. These fees have risen exponentially over the past few years, and they unfairly target independent

pharmacies as opposed to chains, as many PBMs own chain pharmacies. These staggering increases have created an uneven playing field for independent pharmacies. Patients and the ultimate payers, the US taxpayer, are penalized as the PBMs put the DIR fees into their already bloated coffers. Patients are forced into their coverage gap sooner, as the DIR fees count towards the out-of-pocket expense for their medications, which means the government (i.e. taxpayers) are further lining the nests of the PBMs on what appears to be drug cost but is instead a rebate the PBMs pay to themselves.

It is not uncommon for us to lose \$█ on a single prescription due to these outrageous and unfair fees that the PBMs pocket themselves (mind you, we do not know we will lose this money at the time of dispensing). Approximately 30% of our patients are Medicare patients, meaning a huge percentage of our business is negatively impacted by DIR fees. Because of DIR fees, we do not know how much we may lose until 3 or more months after we have filled a prescription, as PBMs retroactively charge us back at a rate they set themselves and do not fully disclose. Unless this practice is stopped, independent pharmacies will continue to close their doors and patients will be forced into busy chain stores or mail order where the staffs do not have the time to address their needs. Medication adherence will decline, hospitalizations will rise and costs to the healthcare system overall will rise. We encourage you to ask PBMs for a sample of individual pharmacy claw backs since the PBMs will not allow the business owner to send you claw back information.

These fees are also loosely tied to performance metrics, and, often, outcomes are largely affected by the demographics of the community. Even though Table Rock Pharmacy's performance metric scores continue to be scored at the highest level, it still faces crippling claw backs from the PBMs.

Finally, I would also encourage the FTC's study to pay close attention to the PBM's practice of steering patients to both retail and mail order pharmacies, owned by the big three PBMs, negative reimbursements (where the pharmacy is paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, and the malicious use of and associated costs of audits. And since PBMs have already been using veiled threats against pharmacies that have submitted comments to CMS on its proposed rule, the FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices.

Due to the many economic challenges Table Rock Pharmacy faces, most of which are the result of the anticompetitive nature of the PBMs, the cash flow is unpredictable and very tight, even though it is busier and filling more prescriptions than ever. We implore the FTC to hold PBMs accountable and put a stop to their unethical practices. If not, Table Rock Pharmacy, like so many other independent pharmacies before them, will be forced to close its doors, leaving countless people in our community without access to the essential healthcare services that allow for healthy outcomes. Some of these services include: prompt delivery of their medications, adherence packaging to ensure they are taking their medications as prescribed, custom compounded medications they cannot get anywhere else in our county, easy access to lifesaving vaccinations, and free medication advice they get by calling or stopping by the store at any time.

Richard Owensby, RPh and Shara Owensby, RPh.
Table Rock Pharmacy



The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/2027>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:00:49 PM

Submitted on Tuesday, February 15, 2022 - 19:00

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: RONNIE

Last Name: NORRIS

Affiliation: retired pharmacist

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection

Register to speak during meeting: No

Link to web video statement: AR

Submit written comment:

02-15-2022

Chair Lina Khan

Commissioner Rebecca Slaughter Commissioner Noah Phillips Commissioner
Christine Wilson

Federal Trade Commission 600 Pennsylvania Ave., N.W. Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am Ronnie Norris PD, a retired pharmacist after 33 years in pharmacy practice in the Mississippi Delta of Southeast Arkansas, McGehee, Arkansas. Rural retail pharmacy practices are in serious jeopardy of being out of business as a result of the DIR/GER/BER take it or leave it contracts from the PBMs. I write to express my support of the Federal Trade Commission's study of Pharmacy Benefits Managers, and specifically the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace.

I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices.

As I am sure the information will show you, claw backs have risen drastically over the years. These staggering increases in claw backs have created an uneven playing field for rural community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs.

Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on rural retail pharmacies, patient

steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to rural patients.

Rural Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Rural retail pharmacies have played a major role in the Covid pandemic. Increasing access to vaccinations by rural retail pharmacies are a significant part of our overcoming this virus. Who is going to be there in rural America to combat the next pandemic when the PMB's force more and more rural pharmacies out of practice?

It is now time to develop a system that will not limit pharmaceutical health care access in rural America. Continued DIR/GER/BER fees will harm patients in rural America by forcing more and more rural pharmacies out of business. They need help, soon.

Thank you,

Ronnie Norris PD
Retired Pharmacist

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/1939>

From: [REDACTED]
To: [OpenMeeting](#)
Subject: Written Statement regarding deceptive and anticompetitive practices of Pharmacy Benefit Managers for February 2022 Open Meeting
Date: Tuesday, February 15, 2022 7:33:36 PM
Attachments: [REDACTED]

02/15/0222

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission

600 Pennsylvania Ave., N.W.

Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

My name is Ross Holst and I am a Pharm D. I am the Pharmacist in Charge of The Medicine Store Pharmacy in Tonganoxie, Kansas. I am deeply concerned about the current market conditions controlled by the PBMs, specifically Aetna, Cigna, United Healthcare, and Express Scripts. I find it difficult to even know where to begin, but here it goes.

The PBMs which are supposed to pay pharmacies to process claims are direct competitors of the parties they are supposed to be paying. They all own their own mail order pharmacies. They steer patients to use their pharmacy, regardless of whether they can provide improved care. They steer patients into using mail order through direct mailings to patients often providing misleading information about being able to use the local pharmacy. They also provide patients lower out of pocket costs to use the pharmacy they own. This steering of patients to use mail order pharmacies is done to help the PBM's make larger profits not to help improve patient's overall health. I often find myself educating people about medications that were filled by a mail order pharmacy as it is very difficult to get ahold of anyone at those locations to answer questions. I know they provide a number to a "pharmacy help desk," however it is rare that they are capable of providing any help. It is just a waste of time to call the help desk, especially given the low reimbursements that are adjudicated in the rare event that they are able to help. I am often calling the help desk, waiting on hold for 20-30 minutes and when I am able to successfully process a claim to receive minimal payments above medication acquisition cost. About 10% of all claims processed are adjudicated below acquisition cost, meaning the pharmacy is paying to help this patient. Having any member of the pharmacy staff call a help desk will cost the pharmacy more to make the call than can be made with a successfully processed claim. It is just a further waste of the pharmacies resources to call the help desk regarding any processing issue! Additionally, there is no maximum amount that the claim can be paid under cost. I have processed claims that are paying 10% of the cost of the medication. Yes, that is including the patient responsible portion and the portion paid by the PBM. I have called the help desk asking for help finding a lower cost alternative that their reimbursement suggests is available. It is a waste of time as they cannot tell me how or why things are priced they way they are. I am left with the option of appealing the pricing, which might take 7 to 10 days. However, in the event that I transfer the prescription out to another pharmacy, they will not finish my appeal. Meaning if I want the appeal to be completed, I must hold that patient's prescription

hostage. I cannot reverse or void the claim until the appeal is done or the PBM will not provide a determination on my request. Instead, they will respond saying claim not found. Well, it is not found because I had to send the patient somewhere else, however I will keep having the same issue every time if they do not address my request.

The PBMs also use the pharmacies to communicate information that will make the patient unhappy for them when the pharmacy has no control over the issue. This is done so that the Pharmacy looks like they are the party responsible for the undesirable information. The PBM is the party requiring the information and they should be the one communicating the information to the member. They should be the party educating the member regarding their rights and what must be done. If they expect the pharmacy to do this then it should be a service that they pay for. However, the only way the pharmacy gets paid is if a patient picks up a prescription or if medication therapy management services are provided. I have provided this information to the patient for years without being paid by the plans to provide this. I feel like I am being put in charge of explaining what the member signed when they signed their health insurance paperwork, but I do it free of charge. What is fantastic is when a patient gets angry at me for telling them what the PBM is telling me, I do all the work, get the doctor to jump through the hoops required, get the approval, for the patient to take the prescription somewhere else. Once again, I only get paid if the patient picks up a prescription at my pharmacy. Otherwise, I get paid nothing. However, I still am responsible for paying all transmission fees I make attempting to get this claim paid for. Not only do I not get paid to provide information on claims that do not pay, but if I require assistance to help, I must pay staff members to call the PBMs. The time spent on the phone waiting for assistance has been increasing at the same time my reimbursements have been decreasing. The PBM should call the pharmacy to adjudicate rejected claims and the patient when the claim does not process, after all I am trying to help their member.

I find the practice of paying fees for electronic claim transmissions to also be egregious. I would be happy to pay a fee for a successful transmission. However, the PBM is the one that puts barriers in place to make sure that a claim will not successfully transmit. Why should anyone be paying a fee to the PBM when the PBM will not adjudicate the claim? This allows for the PBM to put more barriers in place to generate additional revenues from pharmacy's attempts to unsuccessfully process claims. Given their slow, time consuming, and overall lousy help service, while combining with low reimbursements, it encourages a pharmacy to not call the help desk and keep attempting to solve the problem on their own. With each attempt costing an additional electronic claim processing fee. I have also run into patient insurance cards that were mailed directly to the patient containing incorrect processing information. Additionally, if a patient fails to pick up a medication, the insurance expects me to refund them. To do this I am charged an additional electronic processing fee. Essentially, I am paying to give them money back. Meanwhile all the work that went into getting the medication ready has already been done. I do not get to keep my dispensing fee, which is supposed to cover the intangibles costs that go into getting a medication ready to pick up. However, most of the plans pay virtually nothing for a dispensing fee. Not a single PBM pays a dispensing fee that covers the cost of a prescription label or bottle to contain the product. Basically, independent pharmacies are paid solely based off the cost of the medication.

I find it to be a conflict of interest when the responsible payer of parties is a direct competitor of the parties they are paying. I can not think of any industry which relies on competition to pay "fair market value" to parties they are directly competing against.

Now I always hear that we do not have to accept the contract. However, this is unrealistic. The major PMBs account for over 90% of our customers. And the PBMs will not allow you to just opt out of a single bad plan. They bundle all the plans together and it is a take it or leave it for all of them. There is no counter proposal. They know that they have all the leverage compared to a single independent pharmacy. I need to take their plan more than they need for me to take their plan. Meaning they can low ball an offer knowing I will be forced to take it or risk having no customers. In any other industry a small business with little buying power will likely have to charge increased costs because of the higher base costs that go into providing the service. This is reversed in healthcare. While I may be paying more for my products because of lower volume, I also am forced to agree to lower reimbursements from the PBMs, further squeezing the margins. I often think I should be

considered a charity for doing the work that I do, because there is no profit to be made, but I continue to do it to help the people in my community get the most cost-effective treatments. I know the people in my community, I care about the health of my community. Can the mail order pharmacists at the PBM owned pharmacy say the same thing?

The lack of transparency is one of the most frustrating practices of the PBMs. Judging by the publicly available quarterly financial information of the PBMs it appears that they are offering themselves and the pharmacies owned by the PBM's significantly better contracts than what they offer their competitors. I do not believe they are operating in good faith when attempting to contract with independent pharmacies to pay a fair market value to provide healthcare services. What is worse is they turn around and bill the insurance provider a different amount vs what they pay an independent pharmacy. So, the insurance provider has no way of knowing that individual pharmacies may be getting significantly overpaid or underpaid for the service that is being provided. The insurance provider has no power of oversight to make sure that the PBM is acting in good faith or fairly with the providers they are contracting with. If the PBMs are abusing that power, it will likely result in lower quality healthcare being provided overall.

The PBMs also incorporate into their contracts, that I am not to release information regarding how much they are paying for the services to the patient. They consider this "proprietary information." However, in cases like Medicare Part-D and the "coverage gap," that dollar number is very relevant to a patient to know how quickly they are approaching the coverage gap. I believe it is of utmost importance to making an educated consumer to have an idea of what something might cost.

The PBMs by owning their own pharmacy are also privy to a pharmacy's proprietary information. By owning a pharmacy, they know what the drug wholesalers are selling their products for. They then use this information to squeeze the margins that they are reimbursing to their competitors. It is a conflict of interest to allow the PBM's to have proprietary information of a pharmacy. In many cases they have a better idea of actual product cost than I do because of the nature of rebates. This information is weaponized when they offer contracts to the pharmacies they are competing with. Having a good idea of what actual prices are they can then offer lower contracts to their competition. PBM's should not be allowed to participate in the market as pharmacies and the payers of pharmacies at the same time. It is not a fair market when they act as both entities.

Most of these issues are problems involving the upfront prices to patients and pharmacies. Now we get into the problems that occur when the PBMs retroactively change those numbers. The fees they are recouping on the back end are just as if not more problematic. Changing the reimbursements after the sale is made should not be allowed. I cannot retroactively go back and not make a sale based off those changes. In many cases, the pharmacy will give amounts back per claim that are larger than most of the claims. Often the amounts clawed back are based off metrics that are not only unobtainable, but they are also outside of the control of a pharmacy. Also, the method they use to count the data is flawed in the favor of the PBMs to maximize the amounts they can claw back. For example, they might count a 30 day prescription as 1 claim, however they will also count a 90 day prescription as a single claim. So, filling the 30 prescription 3 times to make 90 days will count as 3 claims vs the single claim for 90 days counting as a single claim. An example of how this might be used is the plan might require the pharmacy to dispense 90 days of a generic product and then require only 30 days of dispensing a brand name product. This results in 4 claims for the generic prescription vs 12 claims for the brand name product. Using those counting metrics my generic vs brand name product ratio would be 1 to 4 even though I dispensed an equal 12 months of the prescription items. They use brand to generic dispensing ratios to grade pharmacies. Using methods like this, they can skew metrics in their favor. There is also no process to fight or contest those amounts. It is unilateral. They also just withhold those fees from future payments, rather than sending a pharmacy a bill. This process makes it even more difficult to contest any disagreements. I have yet to see any detailed statement explaining the dollar amounts that are being recouped or a why or how they determined those amounts. I do not know how it is possible to make a good, educated decision about whether to provide a service when the final payment amount will not be known until months after the service is already provided. If they had to provide that information up front when the sale was made, I think many of those services would have been refused. They

manipulate providers into providing services by misleading them into believing they will be paid inflated amounts and then lowering those amounts after the service has been provided, knowing that the service cannot be taken back once it is already done.

Another of the ways the PBMs claw back money is through the auditing process. Now, I am given 7 days to dispute reimbursement on a claim when I don't find out the final claim price for months. Depending on the plan I may have three months to reprocess a claim if it needs correcting. However, the insurance has up to 2 years to audit a claim. Instead of auditing a claim while the pharmacy could make a correction to the claim they wait until the period for correcting the claim has closed. The auditing process is once again a unilateral process. This last year, I had a patient on an insulin pen. At the start of the year the plan changed the product that they covered under the formulary. I did my job, called the doctor, and got the provider to write for the new insulin. However, the provider did not specify the insulin pen on the new prescription. Upon audit they determined that they were going to recoup the [REDACTED] because I dispensed the wrong product. They recouped the initial fill along with the additional 2 months of refills. What the auditor could not see was that we were changing from one pen to the next due to change in insurance formulary. They were happy to pay for the supplies for the pens because I had "good" prescriptions for them, even though they would not have worked with the product they thought that I should have dispensed. I appealed the claims, and my appeal was denied. This is where any practicing pharmacist would have used their reasonable clinical judgement to provide the patient with the correct and intended product. I spent an additional 24 pharmacist hours providing the documentation and my justification for it to be denied. The patient still received and used the [REDACTED] of insulin. Now normally when someone takes an item they do not paying for, we call it theft. They should be collecting that money from the patient if it was not something they should have been covering. After all the patient used it, and in my professional opinion they used it correctly according to the providers intentions. I even appealed that they should be responsible for paying the slightly lower amount for the corresponding vial of insulin they thought I should have dispensed according to the prescription, this request was also denied because it was not what the patient received. This is one of my more egregious experiences with the auditing process. However, the PBMs contract with auditors to generate revenue, not to provide any healthcare service. They target pharmacies not to detect fraud, waste, or abuse, but to maliciously punish honest providers. What was most egregious in this example was that the initial claims had been paid under the acquisition cost. Meaning I already did not make any money on the claim. How am I supposed to assume the cost of potential punitive audits, when they are paying below cost on claims to start. I also asked the auditor to investigate why I was paid below cost on a brand name product. If we are going to audit a claim, why are they only looking at the pharmacy side of the claim? The auditing process needs to be done by a party independent of the PBM. It cannot be a party paid by the PBM if it is going to be done fairly or impartially. The auditing process should not be used as a way for the PBMs to generate revenue. It should be done looking for Fraud, Waste, and Abuse. Why is the PBM is the only party immune to oversight?

These PBMs operate as a monopoly. There is no real competition between PBMs to provide better services. The help desk is financially incentivized to not provide any meaningful help. The PBMs do not negotiate and the contracts they offer are not made in good faith. The contracts that they offer themselves are significantly better than the ones they offer to their competitors. If the entire market was paid based off what they offer their competitors healthcare would be cheaper. However, those savings via the terrible contracts given to their competition are offset by the inflated contracts they give themselves. There is no transparency and no oversight. There is no fair, impartial party to settle any disputes. They operate unilaterally vs a partnership with their contracted providers. If they are allowed to continue to operate in this manner, they will continue to drive healthcare prices up, stuffing much of those excesses in their corporate coffers. Patients will get worse and worse service and health information while these few companies consolidate the pharmacy market more than they already have. The PBM industry needs to be split from the pharmacy industry. PBMs should not be allowed to operate a pharmacy.

I encourage you ask PBM's for claim information comparing what the PBMs pay themselves compared to pharmacy's owned by their competition. I would also encourage you to look more closely at data from individual states where there are no laws protecting pharmacies from being paid below cost. I believe this would show how the companies pay themselves better than they pay their

competition. I would also encourage you to compare that to what they bill the actual insurance plan. The PBM's are getting paid by the insurance plans for service that I provide. They are profiting by reselling the service I am providing to patients to the insurance company at amounts greater than I received. While I may provide the service, I am just a middleman. The provider is the PBM now, except they do not have the liability, nor do they have to carry the inventory. When I bill one amount and report a different amount it is generally considered fraud.

I also encourage you to ask PBMs for a sample of individual pharmacy claw backs. I believe the request to be vitally important because the PBMs will not allow us to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTS is our only hope to bring fairness brought by bringing transparency to the PBMs manipulative and anticompetitive market practices.

As I am sure the information will show you, my claw backs have risen drastically over then years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like mine. The claw backs have no relationship to the quality of care being provided. The nature of the claw backs means that you are making financial decisions based on misleading transaction information. This information is not only inaccurate at the point of sale, but it is not received in a timely manner to file any pricing appeals. While given 7 days to appeal claim reimbursements it can take months to find out the final claim amounts. The delayed response makes it impossible to challenge or seek additional reimbursement. I believe it was designed and implemented specifically to avoid challenges. It would also be nice if an independent party handled those appeals as I do not think a competitor can be impartial when determining if a fair reimbursement was received.

Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the corresponding PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I am selling a product for less than I purchased it for), PBMs control of market access, the malicious and punitive cost of audits, discriminatory reimbursements where the PBM pays its own pharmacy more, and how all of this results in poorer quality of service to patients and increases the overall cost of healthcare.

Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs and their abuse of their accumulated market power and lack of regulatory oversight. I want enforcement that will level the playing field, improve quality of care, and decrease the cost of healthcare for the quality that is being provided. In my opinion we are providing deteriorating quality for increased cost to patients, so that these PBMs can profit while draining the hard-earned wealth of American citizens.

I would also encourage a study into how the three largest PSAOs (Pharmacy Services Administrative Organizations) are operated by the three biggest drug wholesale companies in Cardinal Health, Mckessen, and AmerisourceBergen. These companies negotiate contracts with the PBM's by grouping many individual pharmacies together to attempt to gain more market share to be able to negotiate better reimbursements. However, these wholesalers also supply medications to the mail order pharmacies owned by the PBMs that they are contracting with. I would also support an investigation into this process as it once again has room for abuse and obvious conflicts of interests between the negotiating parties to operate in the interests of their individual independent pharmacy members. Here both parties, the PBMs and the Wholesalers, know what the independent pharmacies are buying the products for and what they are agreeing to sell them for without giving any say to the individual pharmacies when those numbers do not add up.

Thank you,

Ross Holst Pharm D

I have also sent this as an attachment.

02/15/0222

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trad Commission

600 Pennsylvania Ave., N.W.

Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

My name is Ross Holst and I am a Pharm D. I am the Pharmacist in Charge of The Medicine Store Pharmacy in Tonganoxie, Kansas. I am deeply concerned about the current market conditions controlled by the PBMs, specifically Aetna, Cigna, United Healthcare, and Express Scripts. I find it difficult to even know where to begin, but here it goes.

The PBMs which are supposed to pay pharmacies to process claims are direct competitors of the parties they are supposed to be paying. They all own their own mail order pharmacies. They steer patients to use their pharmacy, regardless of whether they can provide improved care. They steer patients into using mail order through direct mailings to patients often providing misleading information about being able to use the local pharmacy. They also provide patients lower out of pocket costs to use the pharmacy they own. This steering of patients to use mail order pharmacies is done to help the PBM's make larger profits not to help improve patient's overall health. I often find myself educating people about medications that were filled by a mail order pharmacy as it is very difficult to get ahold of anyone at those locations to answer questions. I know they provide a number to a "pharmacy help desk," however it is rare that they are capable of providing any help. It is just a waste of time to call the help desk, especially given the low reimbursements that are adjudicated in the rare event that they are able to help. I am often calling the help desk, waiting on hold for 20-30 minutes and when I am able to successfully process a claim to receive minimal payments above medication acquisition cost. About 10% of all claims processed are adjudicated below acquisition cost, meaning the pharmacy is paying to help this patient. Having any member of the pharmacy staff call a help desk will cost the pharmacy more to make the call than can be made with a successfully processed claim. It is just a further waste of the pharmacies resources to call the help desk regarding any processing issue! Additionally, there is no maximum amount that the claim can be paid under cost. I have processed claims that are paying 10% of the cost of the medication. Yes, that is including the patient responsible portion and the portion paid by the PBM. I have called the help desk asking for help for help finding a lower cost alternative that their reimbursement suggests is available. It is a waste of time as they cannot tell me how or why things are

priced they way they are. I am left with the option of appealing the pricing, which might take 7 to 10 days. However, in the event that I transfer the prescription out to another pharmacy, they will not finish my appeal. Meaning if I want the appeal to be completed, I must hold that patient's prescription hostage. I cannot reverse or void the claim until the appeal is done or the PBM will not provide a determination on my request. Instead, they will respond saying claim not found. Well, it is not found because I had to send the patient somewhere else, however I will keep having the same issue every time if they do not address my request.

The PBMs also use the pharmacies to communicate information that will make the patient unhappy for them when the pharmacy has no control over the issue. This is done so that the Pharmacy looks like they are the party responsible for the undesirable information. The PBM is the party requiring the information and they should be the one communicating the information to the member. They should be the party educating the member regarding their rights and what must be done. If they expect the pharmacy to do this then it should be a service that they pay for. However, the only way the pharmacy gets paid is if a patient picks up a prescription or if medication therapy management services are provided. I have provided this information to the patient for years without being paid by the plans to provide this. I feel like I am being put in charge of explaining what the member signed when they signed their health insurance paperwork, but I do it free of charge. What is fantastic is when a patient gets angry at me for telling them what the PBM is telling me, I do all the work, get the doctor to jump through the hoops required, get the approval, for the patient to take the prescription somewhere else. Once again, I only get paid if the patient picks up a prescription at my pharmacy. Otherwise, I get paid nothing. However, I still am responsible for paying all transmission fees I make attempting to get this claim paid for. Not only do I not get paid to provide information on claims that do not pay, but if I require assistance to help, I must pay staff members to call the PBMs. The time spent on the phone waiting for assistance has been increasing at the same time my reimbursements have been decreasing. The PBM should call the pharmacy to adjudicate rejected claims and the patient when the claim does not process, after all I am trying to help their member.

I find the practice of paying fees for electronic claim transmissions to also be egregious. I would be happy to pay a fee for a successful transmission. However, the PBM is the one that puts barriers in place to make sure that a claim will not successfully transmit. Why should anyone be paying a fee to the PBM when the PBM will not adjudicate the claim? This allows for the PBM to put more barriers in place to generate additional revenues from pharmacy's attempts to unsuccessfully process claims. Given their slow, time consuming, and overall lousy help service, while combining with low reimbursements, it encourages a pharmacy to not call the help desk and keep attempting to solve the problem on their own. With each attempt costing an additional electronic claim processing fee. I have also run into patient insurance cards that were mailed directly to the patient containing incorrect processing information. Additionally, if a patient fails to pick up a medication, the insurance expects me to refund them. To do this I am charged an additional electronic processing fee. Essentially, I am paying to give them money back. Meanwhile all the work that went into getting the medication ready has already been done. I do not get to keep my dispensing fee, which is supposed to cover the intangibles costs that go into getting a medication ready to pick up. However, most of the plans pay virtually nothing for a dispensing fee. Not a single PBM pays a dispensing fee that covers the cost of a prescription label or bottle to contain the product. Basically, independent pharmacies are paid solely based off the cost of the medication.

I find it to be a conflict of interest when the responsible payer of parties is a direct competitor of the parties they are paying. I can not think of any industry which relies on competition to pay “fair market value” to parties they are directly competing against.

Now I always hear that we do not have to accept the contract. However, this is unrealistic. The major PMBs account for over 90% of our customers. And the PBMs will not allow you to just opt out of a single bad plan. They bundle all the plans together and it is a take it or leave it for all of them. There is no counter proposal. They know that they have all the leverage compared to a single independent pharmacy. I need to take their plan more than they need for me to take their plan. Meaning they can low ball an offer knowing I will be forced to take it or risk having no customers. In any other industry a small business with little buying power will likely have to charge increased costs because of the higher base costs that go into providing the service. This is reversed in healthcare. While I may be paying more for my products because of lower volume, I also am forced to agree to lower reimbursements from the PBMs, further squeezing the margins. I often think I should be considered a charity for doing the work that I do, because there is no profit to be made, but I continue to do it to help the people in my community get the most cost-effective treatments. I know the people in my community, I care about the health of my community. Can the mail order pharmacists at the PBM owned pharmacy say the same thing?

The lack of transparency is one of the most frustrating practices of the PBMs. Judging by the publicly available quarterly financial information of the PBMs it appears that they are offering themselves and the pharmacies owned by the PBM’s significantly better contracts than what they offer their competitors. I do not believe they are operating in good faith when attempting to contract with independent pharmacies to pay a fair market value to provide healthcare services. What is worse is they turn around and bill the insurance provider a different amount vs what they pay an independent pharmacy. So, the insurance provider has no way of knowing that individual pharmacies may be getting significantly overpaid or underpaid for the service that is being provided. The insurance provider has no power of oversight to make sure that the PBM is acting in good faith or fairly with the providers they are contracting with. If the PBMs are abusing that power, it will likely result in lower quality healthcare being provided overall.

The PBMs also incorporate into their contracts, that I am not to release information regarding how much they are paying for the services to the patient. They consider this “proprietary information.” However, in cases like Medicare Part-D and the “coverage gap,” that dollar number is very relevant to a patient to know how quickly they are approaching the coverage gap. I believe it is of utmost importance to making an educated consumer to have an idea of what something might cost.

The PBMs by owning their own pharmacy are also privy to a pharmacy’s proprietary information. By owning a pharmacy, they know what the drug wholesalers are selling their products for. They then use this information to squeeze the margins that they are reimbursing to their competitors. It is a conflict of interest to allow the PBM’s to have proprietary information of a pharmacy. In many cases they have a better idea of actual product cost than I do because of the nature of rebates. This information is weaponized when they offer contracts to the pharmacies they are competing with. Having a good idea of what actual prices are they can then offer lower contracts to their competition. PBM’s should not be allowed to participate in the market as pharmacies and the payers of pharmacies at the same time. It is not a fair market when they act as both entities.

Most of these issues are problems involving the upfront prices to patients and pharmacies. Now we get into the problems that occur when the PBMs retroactively change those numbers. The fees they are recouping on the back end are just as if not more problematic. Changing the reimbursements after the sale is made should not be allowed. I cannot retroactively go back and not make a sale based off those changes. In many cases, the pharmacy will give amounts back per claim that are larger than most of the claims. Often the amounts clawed back are based off metrics that are not only unobtainable, but they are also outside of the control of a pharmacy. Also, the method they use to count the data is flawed in the favor of the PBMs to maximize the amounts they can claw back. For example, they might count a 30 day prescription as 1 claim, however they will also count a 90 day prescription as a single claim. So, filling the 30 prescription 3 times to make 90 days will count as 3 claims vs the single claim for 90 days counting as a single claim. An example of how this might be used is the plan might require the pharmacy to dispense 90 days of a generic product and then require only 30 days of dispensing a brand name product. This results in 4 claims for the generic prescription vs 12 claims for the brand name product. Using those counting metrics my generic vs brand name product ratio would be 1 to 4 even though I dispensed an equal 12 months of the prescription items. They use brand to generic dispensing ratios to grade pharmacies. Using methods like this, they can skew metrics in their favor. There is also no process to fight or contest those amounts. It is unilateral. They also just withhold those fees from future payments, rather than sending a pharmacy a bill. This process makes it even more difficult to contest any disagreements. I have yet to see any detailed statement explaining the dollar amounts that are being recouped or a why or how they determined those amounts. I do not know how it is possible to make a good, educated decision about whether to provide a service when the final payment amount will not be known until months after the service is already provided. If they had to provide that information up front when the sale was made, I think many of those services would have been refused. They manipulate providers into providing services by misleading them into believing they will be paid inflated amounts and then lowering those amounts after the service has been provided, knowing that the service cannot be taken back once it is already done.

Another of the ways the PBMs claw back money is through the auditing process. Now, I am given 7 days to dispute reimbursement on a claim when I don't find out the final claim price for months. Depending on the plan I may have three months to reprocess a claim if it needs correcting. However, the insurance has up to 2 years to audit a claim. Instead of auditing a claim while the pharmacy could make a correction to the claim they wait until the period for correcting the claim has closed. The auditing process is once again a unilateral process. This last year, I had a patient on an insulin pen. At the start of the year the plan changed the product that they covered under the formulary. I did my job, called the doctor, and got the provider to write for the new insulin. However, the provider did not specify the insulin pen on the new prescription. Upon audit they determined that they were going to recoup the [REDACTED] because I dispensed the wrong product. They recouped the initial fill along with the additional 2 months of refills. What the auditor could not see was that we were changing from one pen to the next due to change in insurance formulary. They were happy to pay for the supplies for the pens because I had "good" prescriptions for them, even though they would not have worked with the product they thought that I should have dispensed. I appealed the claims, and my appeal was denied. This is where any practicing pharmacist would have used their reasonable clinical judgement to provide the patient with the correct and intended product. I spent an additional 24 pharmacist hours providing the documentation and my justification for it to be denied. The patient still received and used the [REDACTED] of insulin. Now normally when someone takes an item they do not paying for, we call it theft. They should

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on its proposed rule. The FTS is our only hope to bring fairness brought by bringing transparency to the PBMs manipulative and anticompetitive market practices.

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Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the corresponding PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I am selling a product for less than I purchased it for), PBMs control of market access, the malicious and punitive cost of audits, discriminatory reimbursements where the PBM pays its own pharmacy more, and how all of this results in poorer quality of service to patients and increases the overall cost of healthcare.

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I would also encourage a study into how the three largest PSAOs (Pharmacy Services Administrative Organizations) are operated by the three biggest drug wholesale companies in Cardinal Health, Mckessen, and AmerisourceBergen. These companies negotiate contracts with the PBM's by grouping many individual pharmacies together to attempt to gain more market share to be able to negotiate better reimbursements. However, these wholesalers also supply medications to the mail order pharmacies owned by the PBMs that they are contracting with. I would also support an investigation into this process as it once again has room for abuse and obvious conflicts of interests between the negotiating parties to operate in the interests of their individual independent pharmacy members. Here both parties, the PBMs and the Wholesalers, know what the independent pharmacies are buying the products for and what they are agreeing to sell them for without giving any say to the individual pharmacies when those numbers do not add up.

Thank you,

Ross Holst Pharm D

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:18:03 PM

Submitted on Tuesday, February 15, 2022 - 19:17

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Ryan

Last Name: Hansen

Affiliation: Kelley-Ross Pharmacy Group

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

02/15/2022

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am Ryan Hansen Chief Technology Officer and Pharmacist at Kelley-Ross Pharmacy Group in Seattle, WA. Kelley-Ross is an independent corporation with 2 retail locations as well as a long-term care pharmacy that services vulnerable patients that are either homeless or in some form of supported housing. Many of these patients are living with HIV and have many comorbidities including substance abuse disorders and mental illness.

Next month we are closing one of our retail locations that has a high percentage of Medicare Part D patients. We are the only pharmacy in the neighborhood, so people will be required to travel an extra distance to receive their medications. This pharmacy is actually growing and we are doing more prescriptions every year. The only reason we are closing this location is because of the unsustainable retroactive fees PBMs charge through the Medicare D loophole. In particular, the relatively new concept of generic effective rate has put us severely in a financial hole through clawbacks after the point of sale. To give you a scope of this for the pharmacy that is closing in 2018 we had \$ [REDACTED] clawed back from the PBMs in the form of retroactive fees. In 2021 we had over \$ [REDACTED] clawed back in the form of retroactive fees through PBMs in the Medicare D plans. As you can see the

speed of escalating retroactive fees is not reasonable or sustainable. This is hurting pharmacy and in particular community pharmacy very hard; however, there is an even worse side to this story. It is how much the patients are required to pay in fees/copays that they would not have to without the retroactive fees. This is how the PBMs have set the game up where the only winner is the PBM. Their "wins" are on the backs of the pharmacy, the healthcare system, and the patients themselves. Below is an example of how one of the largest PBM is operating its program.

1. It starts with creating a generic effective rate of AWP between 88-90% in the take it or leave it contracts with the PSAs and pharmacies.
2. It then creates multiple tiers of medications with varying copays (note that even many inexpensive generics are in the "brand" tier 3 out of 4).
3. The PBM then artificially manipulates the reimbursement rate higher so that the "reimbursement rate" to the pharmacy is right at the patient's full copay amount. (100% of cost-sharing is to the patient PBM picks up 0%).
4. The PBM then claws back 80-90% of the "reimbursement rate" (that the patient paid out of pocket) from the pharmacy to the PBM in the form of GER compliance.

The result of this is taking money from the patient's wallet and putting it right on the PBM's net profit. Below I will outline one example of how the system used to work and how it works today using a very popular cholesterol medication [REDACTED] for the example. While this is one example this is being done on hundreds of medications.

For a 90 day supply of rosuvastatin, the pharmacy pays approximately [REDACTED] to acquire from their drug wholesaler. The highly inflated and completely arbitrary Average Wholesale Price (AWP) for this drug is [REDACTED] tablets. In the past, we would submit the AWP to the insurance and they would reimburse us at a level they determined based on their proprietary software that determines the average actual acquisition cost of the drug. This is called Maximum Allowable Cost (MAC) and is written into all PBM/pharmacy contracts. The pharmacy would be paid right around [REDACTED] and the patient's copay would be [REDACTED]. Because this medication is an inexpensive generic it was found in the lowest copay tier 1 of 4 so the copays were nominal.

Today the medication has the same acquisition cost and same AWP; however, the cost to the patient has increased exponentially. The PBMs moved the [REDACTED] from Tier 1 with a nominal copay to Tier 3 which use to be reserved for brand-name medications only. This increased the copay from \$ [REDACTED] to \$ [REDACTED] [REDACTED] supply. With the new Generic Effective Rate set at AWP-90% they stopped putting a MAC on the medications. Instead, they over "paid" the pharmacy at a rate of AWP-83% which just happens to be [REDACTED] day supply. Because the copay for tier 3 medications is \$ [REDACTED] the PBM picks up none of the prescription cost and the copay for the patient is now \$ [REDACTED] instead of \$ [REDACTED]. A difference of [REDACTED] day supply or over \$500 more for the entire year. This is just one medication for one patient. The PBM then goes back and says to the pharmacy that we "paid" you (in the form of patient copays) over our guaranteed generic effective rate of AWP-90%, so we are going to charge the pharmacy the difference (AWP-83% versus AWP-90%). Just like that, the PBM has clawed back over \$ [REDACTED] that they never put into the

pharmacy. Multiply this over the Medicare population and the PBMs are profiting billions of dollars from patient copays alone. This is just one of the ways that PBMs are profiting off obscure and completely non-transparent pricing. To make the process even more convoluted and untraceable the GER is not based on a per prescription basis. It is based on an overall aggregate of all prescriptions across all pharmacies within a PSAO. That way there is no way to attach the clawback directly to an individual's copay. Most patients would be better off (paying less) without insurance and that is not right.

It is for the example above and many more on why I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers. The FTC needs to investigate the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling. I encourage you to ask PBM's for a sample of individual pharmacy clawbacks. I believe this request to be vitally important. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices. As I am sure the information will show you, my clawbacks have risen drastically over the years. These staggering increases in clawbacks have created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where we are 5 stars ranked and are in the highest 5% performance category and still face crippling clawbacks from the PBMs.

Independent pharmacies are facing many economic challenges, such as the ones I have outlined above, most of which are the result of the anti-competitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/1979>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:53:54 PM

Submitted on Tuesday, February 15, 2022 - 19:53

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Sarah

Last Name: Jorgenson

Affiliation: NCPA

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone [REDACTED]

FTC-Related Topic: Competition

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

02/15/22

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission

600 Pennsylvania Ave., N.W.

Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am part owner of a one location community pharmacy. I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling.

I would like to encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory

reimbursement practices where the PBM pays its own affiliated pharmacy more,
and how all of it
results in harm to my patients.

Independent pharmacies are facing many economic challenges, most of which are
the result of
the anticompetitive nature of the PBMs. I want enforcement that will level
the playing field and I
hope this study will lead to such enforcement.

Thank you for your time,
Sarah Jorgenson



The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/2067>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:02:19 PM

Submitted on Tuesday, February 15, 2022 - 19:02

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Sean

Last Name: Parsons

Affiliation: Lost and Found Pharmacy

Full Email Address: [REDACTED]

Confirm [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Competition

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

February 15, 2022

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am writing to you on behalf of a small non-profit pharmacy in the Eastern suburbs of Pittsburgh, Lost and Found Pharmacy. We strive to help people in our community afford their medications through various patient assistance programs we've set-up and our close ties to several clinics. I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on us to enter the marketplace and get into one of their networks and the associated fees are appalling.

I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices.

As I am sure the information will show you, my claw backs have risen drastically over the years. These staggering increases in claw backs have created an uneven playing field for community based pharmacies like ours. They are also so loosely tied to performance metrics where I could be the

most perfect pharmacy in the land and still face crippling claw backs from the PBMs. The difficult to predict nature of these fees makes it hard for us to determine how much we can actually afford to place in our assistance programs every month as we still need to pay for our amazing and loving staff.

Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like ours, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients.

Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you,
Sean Parsons, President

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/1947>

From: [REDACTED]
To: [OpenMeeting](#)
Subject: PBM ABUSE
Date: Tuesday, February 15, 2022 7:04:51 PM

02/15/2022

Chair Lina Khan
Commissioner Rebecca Slaughter
Commissioner Noah Phillips
Commissioner Christine Wilson

Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, Wilson:

My name is Shannon Bethel. My husband and I own Ivywild Pharmacy, an independent pharmacy that is trying to survive in these hard times. We have stayed open throughout the Pandemic, serving our customers. At the height of the pandemic we offered curbside service to our patients and anyone who needed medications, over the counter medications, hand sanitizer, gloves, ect. We offered curbside flu shots for our patients who were afraid to come in and be around others. We delivered to elderly that needed everyday things such as toilet paper, kleenex, and over the counter meds. We are a small family pharmacy that keeps our employees at the expense of my husband and my wages, we are both pharmacists. I am concerned that we can not survive under the current situation with the PBM's. We have been crippled by the monopolies created to end us. I am writing to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically , the three biggest, Aetna, Cigna, and UnitedHealth Groups vertically integrated PBM's that control the marketplace. The "Take it or Leave it" contracts that they force on me to get into their network, the associated fees they charge to stay in their network, and the DIR fees, or clawbacks after all of that is Crippling us. Their purpose is to rid themselves of any competition with their vertical alignment.

I encourage any one of you to ask the PBM's for a sample of an individual pharmacy's clawbacks, the formula for those clawbacks, and how they collect them. I believe this request to be vitally important because the PBMs have been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. I have personally

filed a complaint with you guys back on [REDACTED] trying to bring their shenanigans to light. I never heard anything, so now they have gotten away with it for 2 years, bilking millions of dollars from small businesses just like me. It is time for you to take a stand and protect small business, protect free trade, and save us from these huge monopolies.

As the information you ask them for will show you, my clawbacks have risen dramatically over the years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like mine. The clawbacks are tied loosely to performance metrics that leave a patient's responsibility for taking their meds on me. Short of following them home and pilling them like animals, I can not be held responsible for the patient's choices. Even if my patients were all responsible, and my scores were perfect, they would still claw back money for meds that I paid for and dispensed to my patients. This makes no sense to me.

Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to their own retail and mail order pharmacies, administrative fees and charges, negative reimbursements (where the pharmacy is paid less than the actual cost of the medications), PBM control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients.

Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBM's. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you for your time,

Shannon Bethel, Rph
Ivywild Pharmacy
[REDACTED]
Colorado Springs, Co
[REDACTED]

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:15:14 PM

Submitted on Tuesday, February 15, 2022 - 19:14

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Steve

Last Name: Pressman

Affiliation: Pill Box Pharmacy

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Competition

Register to speak during meeting: No

Link to web video statement: FL

Submit written comment:

February 15, 2022

Chair Lina Khan Commissioner Rebecca Slaughter Commissioner Noah Phillips
Commissioner Christine Wilson Federal Trade Commission 600 Pennsylvania Ave.,
N.W. Washington, D.C. 20580 Dear Chair Khan and Commissioners Slaughter,
Phillips, and Wilson:

My name is Steven Pressman and I am the owner of Pill Box Pharmacy. I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. I can show you black and white examples of what these PBM's are reimbursing my pharmacy from below cost to way below cost for many medications that people are in need of. When you call the PBM and ask "How can you reimburse below cost – they reply "it's proprietary and they can't tell me."

Their take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling. I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices. As I am sure the information will show you, my claw backs have risen drastically over the years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs. Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a

wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients. Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you'

Steven Pressman

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/1971>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:23:49 PM

Submitted on Tuesday, February 15, 2022 - 19:23

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Stuart

Last Name: Rabinowitz

Affiliation: Kings Pharmacy

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

I am a pharmacy owner and like others have been abused by PBMS for over a decade.

PBMs control every aspect of the drug distribution system including how much they pay pharmacies, what is covered, copays and where patients can go.

PBMs also pay themselves, and their pharmacies which include retail, mail specialty and others.

With all this power PBMS have been stealing my patients by steering them away from my pharmacy with higher copays phone calls and letters and demanding they use PBM owned pharmacies.

PBMs lowered my margins to basically cost while billing their clients exorbitant prices and keeping the spreads for themselves. That includes your drug plan no matter who is reading this. PBMs now pay pharmacies below cost on brand name drugs to keep it competitive with their mail order. The unfair part is PBMs collect secret manufacturer rebates and fees averaging 40% that they can maneuver any way they like. PBMs took over Medicaid Managed Care with reimbursements at Pennies plus dispensing fee of 15 cents. PBMs overcharge every Medicare Rx at the register and then claw it back months later for their own coffers. PBMs have silently become the largest corporations in the world while strangling the local pharmacy.

Please dismantle them. How can you let PBMs own their own pharmacies with the power to pay themselves anything while electing to strangle the much needed local pharmacies.

There has never in the history of this nation been a more corrupt entity blindly stealing from every American for decades.

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/1999>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:05:47 PM

Submitted on Tuesday, February 15, 2022 - 19:05

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Teri

Last Name: Welter-Knoke

Affiliation: Lancaster Hometown Pharmacy

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection
- FTC Operations

Register to speak during meeting: No

Link to web video statement: Wisconsin

Submit written comment:

2.15.2022

Chair Lna Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission

600 Pennsylvania Ave., N.W.

Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

My name is Teri Welter-Knoke. I am a pharmacist/owner of Lancaster Hometown Pharmacy in Lancaster, WI. It is very encouraging to see the FTC initiate a study of the practices of PBMs in this country. The "big three" PBMs of Optum, Caremark and Express scripts control drug plans for roughly 80% of Americans. I chose to continue to support my local community by opening a pharmacy here to fill the void left after my previous employer, Shopko, a regional box store, filed bankruptcy and closed. Nearly daily I have to have a conversation with patients who want to use my pharmacy for services and care we provide but can not afford to because they are being forced to the PBM owned mail order pharmacy or preferred brick and mortar pharmacy which is usually a large chain pharmacy owned by the PBM because of copay incentives or out of network coverage. Even when a patient is allowed to opt out of the preferred network, they and their doctors are constantly called and/or sent mailings strongly suggesting they switch to the preferred pharmacy or mail order. They can do this because they see all of our claims data since they are controlling the reimbursements as the PBM. We have several hopeful patients with CVS/Caremark insurance that are required to use CVS pharmacy even though the closest CVS pharmacy is 40 minutes away. Even when a patient is allowed to opt out of the preferred network, they and their doctors are constantly called and/or sent mailings strongly suggesting they switch to the

preferred pharmacy or mail order.

Everyday, I see reimbursements below acquisition cost. This directly affects my ability to pay suppliers and employees. In addition to below cost reimbursements, I am forced to take take-it-or-leave-it contracts, DIR Fees, GER Fees, BER Fees, and unattainable performance metrics. These contracts and fees have only gotten worse since vertical integration has been allowed of health plans, PBM's, and pharmacies. I strongly encourage you to have PBMs make their pricing models transparent to you so you can see how they are reimbursing independent pharmacies versus their affiliates and themselves [mail-order] . This Transparency will also show how they are responsible for the high cost of prescription medications in this country. [PBMs exist nowhere else in the world]. These contracts and fees are not sustainable for business for Independent Pharmacy and many non-affiliated pharmacy chains. This is why you see many independent pharmacies leaving the market over the last several years. By looking into PBMs, you will truly see the wasted healthcare dollars going into the pockets of PBMs and out of the pockets of Taxpayers and hardworking Americans alike. Independent Pharmacies do not need an advantage, we just need a level playing field.

Sincerely,
Teri Welter-Knoke PharmD
Owner/Pharmacist
Lancaster Hometown Pharmacy

[REDACTED]
Lancaster WI, [REDACTED]
[REDACTED]

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/1951>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:41:53 PM

Submitted on Tuesday, February 15, 2022 - 19:41

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: Tiffany

Last Name: Barber

Affiliation: Hillsborough Pharmacy & Nutrition

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: Competition

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

2/15/22

Chair Lina Khan

Commissioner Rebecca Slaughter

Commissioner Noah Phillips

Commissioner Christine Wilson

Federal Trade Commission

600 Pennsylvania Ave., N.W.

Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am Tiffany Barber, an independent pharmacy owner in a small town in NC. I love my job, my community and every patient who I have been honored to have as a customer. I have owned a pharmacy for 10 years and been a pharmacist for almost 14 years. Never, in all of this time, have I been as stressed and burdened with taking care of my patients. Part of it is from the pandemic, as Covid has stretched us all thin. And there's always the usual issues with running a pharmacy and the stresses of owning your own business. However, the greatest fear independent pharmacy owners face are the insurmountable burdens placed on us by Pharmacy Benefit Managers (PBMs), which are corporate middlemen who, because of their size and market power, can set drug prices, use unfair contracts to push customers to pharmacies owned by the PBMs, overwhelm us with administrative burdens, enact arbitrary fees, and take money away from struggling pharmacies through "spread pricing." These practices threaten our business, take time away from giving our patients the attention they deserve, force people to other pharmacies where they are just a number, and ultimately makes independent pharmacy unsustainable.

I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling. The 3 largest PBMs control 77% of the health plan pharmacy benefit market, allowing them to control the contracts and the market. Each entity has the ability and incentive to engage

in anticompetitive, exclusionary contracting practices against competing pharmacies. Fees taken pharmacies by PBMs have grown over 107,000% over the past 15 years!!!

I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices.

As I am sure the information will show you, my claw backs have risen drastically over the years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs.

Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients.

Independent pharmacists are committed to providing the best care in our communities. The pandemic has shown how community pharmacy is vital to access to quality healthcare. However, we are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field. To survive, we need support from policymakers to ensure we are treated fairly in the

larger healthcare marketplace. That starts with studying the unfair contracts and pricing, gaining transparency on the anticompetitive practices, and ultimately reining in PBM's tactics that will soon shut down many independent pharmacies.

Thank you for reading this long plea and for everything you do!

Dr. Tiffany Graham Barber, PharmD, RPh

Pharmacy Manager/Owner Hillsborough Pharmacy & Nutrition

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/2023>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:37:23 PM

Submitted on Tuesday, February 15, 2022 - 19:37

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: TULIKA

Last Name: hijli

Affiliation: Sav-On Drugs

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic:

- Competition
- Consumer Protection
- FTC Operations

Register to speak during meeting: No

Link to web video statement: NJ

Submit written comment:

02/15/2022

I am an independent pharmacy owner, a small business, with 3 employees. We have been personally going to patient homes and administering vaccines and medicines. we serve people who have vision, transportation and language barriers. However the mergers of PBM and chain drug stores, steer patients towards their pharmacies with copay discounts, The take-it or leave it contracts, give us no choice to negotiate and the associated fees are appalling. I am unable to increase the services, hire more employees, which in turn impacts my patients. the claw backs are crippling and loosely tied to metrics, where I could be the most perfect pharmacy, but it is tied to the cost of the drug, causing me to be under by the pbms.

The negative reimbursements (where i am paid less than the prices of the drugs), patient steering to their preferred networks, malicious use of audits, discriminatory reimbursements, have resulted in harm to my patients. Independent pharmacies like me are facing severe economic challenges, most of which are due to anticompetitive practices by pbms. I want enforcement of a level playing field and I hope this study will lead to such enforcement, so that we can cater to the most vulnerable.

Thank you

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/2015>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
Date: Tuesday, February 15, 2022 7:53:12 PM

Submitted on Tuesday, February 15, 2022 - 19:52

Submitted by anonymous user: [REDACTED]

Submitted values are:

First Name: William

Last Name: Nielsen

Affiliation: Nielsen's Pharmacy and DME

Full Email Address: [REDACTED]

Confirm Email: [REDACTED]

Telephone: [REDACTED]

FTC-Related Topic: FTC Operations

Register to speak during meeting: No

Link to web video statement:

Submit written comment: PBMs cut into pharmacy reimbursement/profit, economy money, and create hardships on our patients. The effects on pharmacy come from things like spread pricing, rebates, and very different maximum allowable costs. By incentivizing that higher rebates from manufacturers equals a spot on the insurance formulary, this drives up drug costs (in order to bid more money to the PBMs), which then has a ripple effect on insurance premiums (increase), which is when the patient suffers. The PBM keeps a portion of reimbursement which is owed to the pharmacy, causing the pharmacy to either break even or be in the "hole" at the end of a year of work. Pharmacies are closing every day because they cannot afford to pay for the drug and then lose money with each fill. Patients are being forced to mail order (PBMs own every mail order) because they make them an offer they cannot refuse or even force them into mail order. But, NO mail order will ever take the place of a pharmacist who is easily accessible (phone call away), right down the road, opened during natural disasters, and a face-to-face contact. PBMs should be illegalized and furthermore are non vital part of the healthcare system.

The results of this submission may be viewed at:

<https://www.ftc.gov/node/1591350/submission/2063>

From: noreply@web1.ftc.gov on behalf of [Federal Trade Commission via Federal Trade Commission](#)
To: [OpenMeeting](#)
Subject: Form submission from: Speaker Registration and Public Comment Submission Form for February 17, 2022 Open Commission Meeting
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FTC-Related Topic:

- Competition
- Consumer Protection

Register to speak during meeting: No

Link to web video statement:

Submit written comment:

February 15, 2022

Chair Lina Khan

Commissioner Rebecca Slaughter Commissioner Noah Phillips Commissioner Christine Wilson

Federal Trade Commission 600 Pennsylvania Ave., N.W. Washington, D.C. 20580

Dear Chair Khan and Commissioners Slaughter, Phillips, and Wilson:

I am a pharmacist, retail HIV specialty, and nuclear pharmacy board certified. My immediate family's healthcare has been severely impacted by CVS and its affiliates. The inability to continue with their preferred pharmacy, as well as the inability to get the alzheimer's, and mental health medications (none brand name nor expensive) due to the CVS restrictive pharmacy choice and formularies, has resulted in unbelievable stress to both the patient, and the caregivers and family.

I write to express my support of the Federal Trade Commission's study of Pharmacy Benefit Managers, and specifically, the three biggest, Aetna, Cigna, and UnitedHealth Group's vertically integrated PBMs that control so much of the marketplace. The take-it-or-leave-it contracts that the PBMs force on me to enter the marketplace and get into one of their networks and the associated fees are appalling.

I encourage you to ask PBM's for a sample of individual pharmacy claw backs. I believe this request to be vitally important because the PBMs will not allow me to send you claw back information. PBMs have already been using veiled threats against pharmacies who have submitted comments to CMS on its proposed rule. The FTC is our only hope to bring transparency to the PBMs' manipulative and market foreclosing practices.

As I am sure the information will show you, my claw backs have risen drastically over the years. These staggering increases in claw backs have created an uneven playing field for community pharmacies like mine. They are also so loosely tied to performance metrics where I could be the most perfect pharmacy in the land and still face crippling claw backs from the PBMs. Finally, I would also encourage the FTC's study to pay close attention to specialty drug limitations placed on pharmacies like mine, patient steering

to both retail and mail order pharmacies owned by the big three PBMs (especially in the case of specialty drugs), administrative fees and charges, negative reimbursements (where I'm paid less than what it costs to acquire the drug from a wholesaler), PBM's control of access to the market through their preferred networks, malicious use of, and associated costs of audits, discriminatory reimbursement practices where the PBM pays its own affiliated pharmacy more, and how all of it results in harm to my patients. Independent pharmacies are facing many economic challenges, most of which are the result of the anticompetitive nature of the PBMs. I want enforcement that will level the playing field and I hope this study will lead to such enforcement.

Thank you,
Z Zapletal

The results of this submission may be viewed at:
<https://www.ftc.gov/node/1591350/submission/2003>