



December 8, 2017

Maureen K. Ohlhausen
Acting Chairwoman
Federal Trade Commission
400 7th St., SW
Washington, DC 20024

Re: Federal Trade Commission Workshop on “Understanding Competition in Prescription Drug Markets: Entry and Supply Chain Dynamics”

Dear Acting Chairwoman Ohlhausen:

Michigan Pharmacists Association (MPA) applauds the Federal Trade Commission’s dedication to examining the barriers to keeping drug prices at reasonable levels. Thank you for the opportunity to provide our comments on this matter.

High drug prices is an ongoing issue, and it is important to discuss methods that may lead to improving patient access to essential pharmaceutical care. The following comments will focus on the need for increased pharmacy benefit manager (PBM) transparency as a method for improving patient access to pharmaceutical care:

PBMs should be licensed in order to operate. Because PBMs remain unregulated, they continue to share and utilize health information without direct patient consent. There must be PBM regulation that prevents them from wording their contracts in a way that stops a pharmacist from informing patients that their prescription may be cheaper by paying cash. Contracts with that wording should be prohibited, and patients should be informed of potential opportunities for cost savings on their prescription drugs.

PBMs are primarily involved in negotiating discounts and rebates with drug manufacturers to regulate formulary decisions with insurance plans. The result of these negotiations leads to constant formulary changes that affect the continuum of patient care. Although PBMs are likely successful at gaining discounts and rebates, they are also the ones that are mainly benefiting from the entire process—not the insurance plans, not the pharmacies and certainly not the patients. If properly regulated, that extra money could be used to help reduce drug and healthcare costs. Furthermore, PBMs should be required to provide appropriate notice of formulary changes during the contract period to patients, prescribers and pharmacies. When claims are rejected due to formulary changes, a medication rejection notice should be sent to the pharmacist that also provides an alternative medication that is covered. Addressing these concerns allows healthcare providers the opportunity to increase the ease of access to appropriate medications for patients.

Direct and indirect remuneration (DIR) fees and maximum allowable cost (MAC) pricing are constant issues that community pharmacies face every day. DIR fees cause retail pharmacies to be reimbursed less than the amount that was established at the point of sale. In an attempt to ensure

fair business practices, PBMs should be prohibited from collecting DIR fees or at the minimum should be required to disclose these fees at the time of dispensing. DIR fees have become a tool for the PBM/health plan to take away additional monies from pharmacies. As for MAC pricing, the cost that PBMs determine that they are reimbursing pharmacies are frequently below the pharmacy's acquisition cost. Therefore, PBMs should be required to update MAC pricing every seven days (consistent with CMS policy) and the MAC prices must be based on the prices of medications available to pharmacies in the geographic region where the PBM is operating. Additionally, a standardized MAC appeals process should be implemented. This will provide fair reimbursement to pharmacies while holding PBMs accountable for their updated prices.

Due to the lack of PBM transparency, networks are created that limit and discriminate against stakeholders including both pharmacies and patients. PBMs are continuously excluding pharmacies from their networks for non-quality related reasons. Because of their decisions of excluding pharmacies, patients are forced to either commute a substantial distance in order for them to utilize a pharmacy within their PBM network or to participate in mail order delivery, limiting their access to affordable, necessary care. Even when pharmacies become part of a PBM's network, the PBMs have established preferred and non-preferred pharmacies. To address these concerns, there must be standardized criteria for network exclusions. Pharmacies need to be aware of exclusion criteria for the purposes of preparing for an audit that will determine their participation in the network. Some PBMs have a conflict of interest because they own both retail and mail order pharmacies. PBMs should be prohibited from paying their own pharmacies more than another pharmacy in the network for the same prescription. Not only should mandating patients to use a PBM owned pharmacy be prohibited, PBMs should not be using economic coercion for patients to use their mail order. For example, PBMs are limiting patients who want a 90-day supply to only fill it at their mail order. Patients should have the ability to choose a pharmacy that is geographically close to them, even if the pharmacy is out of network. This will preserve face-to-face pharmacist-patient interactions.

This non-consistent manner is also seen during the pharmacy audit process carried out by PBMs.

In summary, PBMs are negatively impacting patient access to care within the pharmaceutical supply chain. Increasing PBM regulations, transparency, standardization and prohibiting their unfair business practices will improve patient access. We understand that these comments are not all-encompassing; however, they highlight major problems that are affecting patient care and need to be addressed. Again, we want to thank the Federal Trade Commission for taking these comments into consideration as this subject is addressed.

MPA was established Nov. 14, 1883. MPA is the state professional society serving Michigan's pharmacists, pharmacy technicians and student pharmacists in all settings of practices. For more than 130 years, MPA has strived to provide its members with the tools, resources and support needed to advance the profession of pharmacy and provide quality patient care.

Sincerely,

Larry Wagenknecht, Pharmacist
Chief Executive Officer
Michigan Pharmacists Association