

## **Solicitation for Public Comments on the Business Practices of Pharmacy Benefit Managers and Their Impact on Independent Pharmacies and Consumers**

The staff of the Federal Trade Commission is inviting public comments about the practices of Pharmacy Benefit Managers (PBMs) and their impact on patients, physicians, employers, independent and chain pharmacies, and other businesses across the pharmaceutical distribution system. FTC staff is studying a wide array of PBM business practices and issues, including but not limited to the following:

- The impact of PBM rebates and fees on net drug prices to patients, employers, and other payers.
- The impact of PBM rebates and fees on formulary design and patients' ability to access prescribed medications without endangering their health, creating unnecessary delay, or imposing administrative burdens for patients or prescribers.
- Whether patients are being forced to substitute different prescription drugs to maximize PBM rebates and fees.
- PBMs' use of potentially unfair, deceptive, or anticompetitive contract terms and all related practices when calculating pharmacy reimbursements and disbursements, including the use of Average Wholesale Price, Wholesale Acquisition Cost, Maximum Allowable Cost, and Usual and Customary Pricing as well all types of claw backs, fees, discounts, and performance metrics, such as Direct and Indirect Remuneration, Generic Effective Rate, Brand Effective Rate, Dispense Fee Effective Rate and all other similar provisions.
- PBMs' use of other potentially unfair, deceptive, or anticompetitive practices, including audit provisions; pharmacy network design and exclusions; use of gag clauses, confidentiality clauses, and non-disparagement clauses; and other potentially unfair provisions.
- PBMs' use of methods to steer patients away from unaffiliated pharmacies and methods of distribution and toward PBM-affiliated specialty, mail-order, and retail pharmacies.
- PBMs' policies and practices related to specialty drugs and pharmacies, including criteria for designating specialty drugs, reimbursements to specialty pharmacies, practices for encouraging the use of PBM-affiliated specialty pharmacies, and practices relating to dispensing high-cost specialty drugs over alternatives.
- Potential conflicts of interest and anticompetitive effects arising from horizontal and vertical consolidation of PBMs with insurance companies, specialty pharmacies, and providers.

Staff encourages members of the public to comment on any issues or concerns they believe are relevant or appropriate for our consideration and to submit written data, views, facts, and opinions addressing this subject, including but not limited to the issues posed above. Comments are published on the [regulations.gov](https://www.regulations.gov) website. Please do not include any sensitive or confidential information.