

## Medicaid Managed Care Reform

**States must reform their Medicaid managed care prescription drug benefits to protect Medicaid beneficiaries, taxpayers, and local community pharmacy businesses.** Too much control over the Medicaid drug benefit has been ceded to managed care organizations (MCOs) and their pharmacy benefit managers (PBMs), who have been [found](#) to “employ controversial utilization and management tools to generate revenue for themselves in a way that is detrimental to health plan sponsors, patients, and pharmacies.”

MCOs and PBMs work for their own best interests, instead of the beneficiaries’ or taxpayers’ best interests. They engage in spread pricing, [which](#) “is inflating prescription drug costs that are borne by beneficiaries and by taxpayers.” In [Ohio](#) and [Kentucky](#), spread pricing allowed PBMs to pocket \$224.8 million and \$123.5 million respectively in one year. They create drug formularies and negotiate rebates that lead to the greatest value for themselves, instead of the state, leading [New York](#) to unnecessarily pay \$605 million to its MCOs and PBMs over a four-year period. State investigations into MCO and PBM practices have led one MCO to set aside [\\$1.1 billion](#) to settle lawsuits alleging mismanagement of public funds paid to administer the Medicaid managed care prescription drug benefit.

### **The solution: Increase PBM Transparency/Accountability and Ensure State Oversight of Medicaid prescription drug benefits**

#### **1. Carve pharmacy benefits out of the Medicaid managed care program and administer the benefits through the fee-for-service program**

California, Missouri, North Dakota, Tennessee, West Virginia, and Wisconsin have [carved their pharmacy benefits out](#) of the Medicaid managed care program, and Nevada and New York plan to do the same for fiscal year 2023. This move helped [West Virginia](#) save over \$54.4 million and [North Dakota](#) save \$17 million in Medicaid spending in one year by carving its Medicaid pharmacy benefits out of the managed care program. [California](#) estimates that the carve out will save at least \$150 million a year.

#### **2. Require MCOs and PBMs to reimburse at the transparent fee-for-service rates**

Fee-for-service Medicaid programs reimbursement rates are transparent and evidence-based. Recognizing the value to taxpayers of requiring transparent reimbursements in their Medicaid managed care programs, **Arkansas, Georgia, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, North Carolina, and Ohio** (dispensing fees vary based on volume) require MCOs and PBMs to reimburse pharmacies at the same rates established under the fee-for-service program. If such transparent reimbursement methodologies were adopted nationwide, federal Medicaid spending would [drop](#) by almost \$1 billion over 10 years.

#### **3. Increase regulatory oversight over PBMs in the Medicaid managed care program**

Some states have passed legislation giving Medicaid officials greater oversight over the PBM Medicaid managed care contracts.

- Single PBM: Kentucky and Ohio have decided to contract with a single PBM to administer their Medicaid managed care prescription drug benefits, giving the states greater authority to oversee the administration of those benefits.
- Single PDL: adopting a single preferred drug list (PDL) would ensure that MCOs and their PBMs establish formularies that create the most value for taxpayers.
- Pass-through pricing model: Arkansas, Georgia, Kentucky, Louisiana, Maryland, New Hampshire, New York, Ohio, Pennsylvania, and Virginia do not allow MCOs or PBMs to engage in the costly practice of spread pricing

**States have found that an excessive amount of taxpayer dollars remain with pharmacy benefit managers (PBMs).** The Centers for Medicare and Medicaid Services is concerned that PBMs' use of "spread pricing is inflating prescription drug costs that are borne by beneficiaries and by taxpayers," and CBO estimates that moving to transparent pharmacy reimbursements will save \$1 billion over 10 years.

- Pennsylvania: Between 2013 and 2017, the amount that taxpayers paid to PBMs for Medicaid enrollees more than doubled from \$1.41 billion to \$2.86 billion.
- Ohio: the state Auditor found that, of the \$2.5 billion that's spent annually through PBMs on Medicaid prescription drugs, PBMs pocketed \$224.8 million through the spread alone during a one-year period.
- Kentucky: In response to a state report that found state PBMs keep \$123.5 million in spread annually, the Attorney General has launched an investigation into allegations that the PBMs have overcharged the state and discriminated against independent pharmacies.
- Louisiana: PBMs retained \$42 million that was incorrectly listed as "medical costs."
- New York: An audit found the state unnecessarily paid \$605 million to Medicaid managed care organizations and their PBMs over a four-year period, because "MCOs typically work with their PBMs to conduct their own clinical reviews to identify drugs that provide the greatest value to THEM and therefore should be placed on the drug formulary."
- Michigan: Drug price manipulation allowed PBMs to overcharge Michigan Medicaid by at least \$64 million.
- Virginia: A state-commissioned report on Medicaid found PBMs pocket \$29 million in spread pricing alone.
- Maryland: A state Medicaid report found PBMs pocket \$72 million annually in spread pricing alone.
- Florida: A report found PBMs steer patients to PBM-affiliated pharmacies, and "when it comes to dispensing brand name drugs, MCO/PBM-affiliated pharmacies are making 18x to 109x more profit over the cost of the drugs than the typical community pharmacy."
- Arkansas: A state-commissioned report found that PBMs in the Medicaid program reimbursed national chain pharmacies more (defined as greater than 5% difference) than regional chain and independent pharmacies for the same drug.<sup>1</sup>

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<sup>1</sup> CMS Issues New Guidance Addressing Spread Pricing in Medicaid, Ensures Pharmacy Benefit Managers are not Up-Charging Taxpayers, (May 15, 2019), available at <https://www.cms.gov/newsroom/press-releases/cms-issues-new-guidance-addressing-spread-pricing-medicaid-ensures-pharmacy-benefit-managers-are-not>. Pennsylvania Auditor General, *Bringing Transparency & Accountability to Drug Pricing 6* (Dec. 11, 2018), available at [https://www.paauditor.gov/Media/Default/Reports/RPT\\_PBMs\\_FINAL.pdf](https://www.paauditor.gov/Media/Default/Reports/RPT_PBMs_FINAL.pdf). Auditor of State of Ohio, *Auditor's Report: Pharmacy Benefit Managers Take Fees of 31% on Generic Drugs Worth \$208M in One-Year Period*, (Aug. 16, 2018) <https://ohioauditor.gov/news/pressreleases/Details/5042>. Kentucky Department for Medicaid Services, *Medicaid Pharmacy Pricing: Opening the Black Box 5, 8* (Feb. 19, 2019), available [here](https://kentucky.gov/Pages/Activity-stream.aspx?n=AttorneyGeneral&prid=739). Kentucky Attorney General, *Beshear Launches Investigation into Inflated Prescription Drug Prices*, (Mar. 21, 2019), <https://kentucky.gov/Pages/Activity-stream.aspx?n=AttorneyGeneral&prid=739>. Melinda Deslatte, *Task Force: Is Louisiana Medicaid Drug Spending Inflated?*, U.S. NEWS & WORLD REPORT (Oct. 26, 2017), available at <https://www.usnews.com/news/best-states/louisiana/articles/2017-10-26/louisiana-spending-on-medicaid-prescription-drugs-questioned>. <https://www.osc.state.ny.us/state-agencies/audits/2020/09/17/medicaid-program-cost-pharmacy-services-under-managed-care>. New York Senate Committee on Investigations and Government Operations, *Final Investigative Report: Pharmacy Benefit Managers in New York*, (May 31, 2019), available at [https://www.nysenate.gov/sites/default/files/article/attachment/final\\_investigatory\\_report\\_pharmacy\\_benefit\\_managers\\_in\\_new\\_york.pdf](https://www.nysenate.gov/sites/default/files/article/attachment/final_investigatory_report_pharmacy_benefit_managers_in_new_york.pdf). Michigan Pharmacists Association, *New Report Highlights Role of Pharmacy Benefit Managers in Manipulating Drug Costs for Michigan Patients, Pharmacists, and Taxpayers*, (April 29, 2019), available at <http://www.michiganpharmacists.org/Portals/0/news/releases/FINAL%20MI%20Report%20Press%20Release.pdf?ver=2019-05-01-110013-603>. Virginia Department of Medical Assistance Services, *Managed Care Pharmacy Benefit Manager (PBM) Transparency Report 3* (Oct. 1, 2019), available at <https://rga.lis.virginia.gov/Published/2019/RD593/PDF>. Maryland Department of Health, *Maryland's 2019 Report on the Maryland Medical Assistance Program and Managed Care Organization that Use Pharmacy Benefits Managers – Audit and Professional Dispensing Fees 3* (Jan. 3, 2020), available at <https://cdn.ymaws.com/www.marylandpharmacist.org/resource/resmgr/legislative/mcoauditreport.pdf>. 3 Axis Advisors, *Sunshine in the Black Box of Pharmacy Benefits Management: Florida Medicaid Pharmacy Claims Analysis 126* (Jan. 27, 2020). <https://ncpa.org/sites/default/files/2020-10/ark-doi-pbm-mmc-examination.pdf>.