



2023

INDEPENDENT COMMUNITY PHARMACY LEGISLATIVE PRIORITIES

S. 127

PBM Transparency Act of 2023

Background:

Pharmacy benefit managers are middlemen that negotiate and manage prescription drug benefits on behalf of health insurance companies, self-insured employers, and government programs. As a result of consolidation, the three largest PBMs are now vertically integrated upstream with the three largest insurance providers, and downstream with mail order, specialty, and retail pharmacies that compete directly with independent pharmacies. PBMs are unknown to most consumers (patients) and misunderstood by many employers and payers, but they profoundly influence U.S. health care decisions and drug pricing. PBM-insurers use this influence to increase profits at the expense of patient care, employer/plan costs, local pharmacy access, and pharmaceutical innovation. Currently, three PBMs control nearly 80 percent of the prescription drug market and operate with little transparency or accountability to payers or consumers.

Solution: Transparency for employers and consumers and greater enforcement authorities

The *Pharmacy Benefit Manager Transparency Act of 2023* (S. 127), introduced by Sens. Maria Cantwell (D-Wash.) and Chuck Grassley (R-Iowa), would increase drug pricing transparency for employers and plan sponsors and hold PBMs accountable for unfair and deceptive practices in the commercial market that drive up the costs of prescription drugs at the expense of consumers. The bill:

- Prohibits deceptive, unfair pricing schemes, including spread pricing and arbitrary clawbacks of payments made to pharmacies.
- Incentivizes transparent PBM practices by making clear that a PBM would not be in violation of the law if it:
 - Passes along 100 percent of rebates to health plan sponsor; AND
 - Provides full disclosure of cost, price, reimbursement and all charged fees, markups, and discounts to plan sponsor and pharmacy; OR
 - Provides the aggregate remuneration fees it receives from drug makers to health plans, payers, and any federal agency
- Mandates transparency by requiring PBMs to file an annual report with the Federal Trade Commission, including the total amount they pocket through spread pricing and pharmacy fees.
- Clarifies the enforcement authority of the FTC and state attorneys general to prohibit unfair or deceptive business practices PBM-insurers use in commercial health insurance.