

Senator Blumenthal Opening Statement 5/5/2022

Subcommittee on Consumer Protection, Product Safety, and Data Security - Hearings to examine ensuring fairness and transparency in the market for prescription drugs.

Welcome to our very distinguished panel and to the senators who will be joining us. I want to thank particularly Senator Blackburn for her collaboration on this topic and welcome all of you to address the anti-consumer and anti-competitive practices that increase and drive-up health care costs for the American people.

Today, we're specifically focused on pharmacy benefit managers or PBMs and how the tactics they use impact drug costs and consumer choice. This hearing is really part of a more general discussion on how to lower costs and remove barriers to care for patients and we will continue to have hearings on that topic.

If you ask the average American to tell you what a pharmacy benefit manager does or even what it is, you're probably met with a blank stare, which is understandable. PBMs have long operated in relative obscurity with little transparency, acting as middle men between insurer, drug companies, and pharmacies.

PBMs exist to manage the drug prescription benefits for 266 million Americans. So even if you've never heard of a PBM, you have almost certainly been impacted by one. They're hired by health plans, by managing the health plans, prescription drug benefit lower costs to the health plan by exacting rebates from drug companies and managing what drugs will be covered for patients and at what cost. Then they act as the intermediary between the health plan and the pharmacy reimbursing the pharmacy for the prescription drugs they dispense.

PBMs stated goal is to lower health care costs for consumers through this complex system. The problem is that patients rarely see or feel the benefits. Drug prices continue to rise, insurance costs continue to eat into incomes, and more and more often, the drugs patients need are not covered by their health care plan at all. In this way, PBMs are part of a broken drug supply chain that leads to increasing profits for drug companies, increasing profits for PBMs, and increasing drug costs for patients.

PBMs benefit from high prices. They receive rebates and administrative fees from drug companies that are often based on the initial price. It's called the list price of a drug. This means the higher the initial cost of a drug, the higher the profits for the PBM.

PBMs will argue that these rates lower the cost of your insurance, that they largely pass these rebates along to the insurers who use them to lower your health care costs, but truly we have no idea whether this is accurate because PBMs shroud this information in secrecy. If these rebates are lowering the costs of health care, that's news to patients. Insurance premiums and deductibles have not gone down, instead increasingly they are eating into Americans hard earned dollars and savings. PBMs are a significant part of the drug pricing problem, but drug companies shouldn't get a pass.

As Professor Feldman, one of our witnesses here today wrote in her aptly titled article, and I'm quoting here, "Driving up prices is a win-win for PBMs and drug companies. Drug companies can charge more for their products while PBMs increase their slice of the pie."

One who loses out is the patient because even though that initial price isn't what anyone else in the drug supply chain pays, it often times directly impacts what you pay. That's because for nearly half of people with commercial insurance and nearly all Medicare beneficiaries, out of pocket payments are based on initial drug price, not the reduced rate. The higher the initial price, the more you pay and PBMs have a financial incentive to keep that initial price high.

PBMs also limit choice. PBMs are the ones that decide which prescription drugs your health plan will cover, and which they won't. They determine which drugs will be preferred by your insurance plan, meaning which drugs will cost you more out of pocket, and which will cost you less. Increasingly, PBMs have taken to excluding drugs entirely from health plans. More and more patients who receive a diagnosis are working with their doctors to find a prescription drug that works for them only to be denied access to it at the pharmacy counter.

This happened to April Flowers, a teenager from Texas whose family told their story to Consumer Reports. She had taken the same medication for her seizures for years when suddenly her family learned at the pharmacy counter that her out of pocket costs was now \$1,700. Her family made frantic calls to figure out the problem. What they learned was that her drug was suddenly dropped with no warning. Her drug was no longer covered. They scrambled, they enlisted her doctor, two days of medicine left, April got an exception. The stress threat to her health must have been infuriating.

April's situation is shocking and common. In fact, in recent years PBMS refusal to cover certain drugs has skyrocketed. Now, hundreds of drugs are excluded by the biggest PBMs every year. Certain types of insulin drugs to treat chronic conditions and in recent year's cancer drugs are all fair game. A poll cited in the same Consumer Reports article found that more than a third of people with prescription drug coverage said they or someone in their home had dealt with the same issue as April within the last twelve months.

Let's be clear, PBMs are just part of a broken system. It is massively broken, it has left millions of Americans without a way to afford life saving medicine like insulin. Drug prices have skyrocketed and drug companies have made record profits while engaging in anti-competitive tactics that keep cheaper drugs off the market.

I pushed for reform and so have many of my colleagues. The biggest and most important priority we have is to lower the cost of prescription drugs and that is a health care imperative. As people feel the weight of high health care costs, we cannot ignore the power of PBMs and their influence in drug pricing in eroding patient and provider choice. I hope that today's hearing will lead to action and I turn to the ranking member.