



Secretive Pharmacy Benefit Manager Pricing Schemes Face Growing, Bipartisan Capitol Hill Scrutiny

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When the notorious former Turing Pharmaceuticals CEO, Martin Shkreli, made a recent appearance on Capitol Hill to “invoke [his] fifth amendment rights” at a House Oversight and Government Reform Committee hearing on prescription drug pricing abuses, focus on his alleged misdeeds served a useful purpose: he put a face on the need for more competition and pricing transparency in America’s increasingly complex and tumultuous pharmaceutical marketplace.

This is especially true when it comes to the controversial pricing and administrative practices of so-called Pharmacy Benefit Managers (PBMs) – the third party entities that oversee the administration of seniors’ Medicare Part D prescription drug benefits. Due to substantial marketplace consolidation, three PBMs now control 80 percent of the market. Each PBM is owned by, or has a shared parent with an insurer, large pharmacy chain or mail-order pharmacy – creating an obvious and glaring conflict of interest in what has become an oligopolistic market.

Under Medicare Part D, PBMs use a Maximum Allowable Cost (MAC) pricing formula to set reimbursement rates for most generic drugs long term care (LTC) pharmacies dispense to Medicare beneficiaries. Due to veiled pricing practices, it remains a mystery to both consumers and different pharmacies how PBMs determine prices and covered pharmaceutical product lists under this MAC pricing formula – despite the recent regulatory change designed to make these pricing practices more transparent.

To the credit of U.S. Congressmen Doug Collins (R-GA) and Dave Loebsack (D-IA) – who have introduced the MAC Transparency Act (H.R. 244) – a light has been shined on how PBMs change prices in a shell game fashion for generic drugs without advance notice to LTC pharmacies and others, and devoid of any disclosure about how and why prices are established and changed.

LTC pharmacies, different from retail pharmacies, are an increasingly important part of our broader healthcare continuum. Medically compromised seniors and patients facing rehabilitation in skilled nursing, assisted living and other settings significantly benefit from the clinical oversight and medication management provided by LTC pharmacies. Unfortunately, these PBM pricing abuses undermine LTC pharmacies’ financial stability, ultimately threaten quality patient care, and negatively affect taxpayers as added costs accrue to Medicare.

We are now arguing before Congress that independent Avalere Health pricing [data](#) between PBMs and LTC pharmacies find increasing reimbursement inequities driven by these non-

transparent MAC pricing methodologies. This unique data clearly show MAC prices paid for the same generic drugs, on the same day, by different payers, can vary considerably.

We believe this raises questions about PBMs' claim that market conditions determine reimbursement rates. In effect, we maintain MAC pricing is not really market pricing at all – and is inconsistent with the free market principles underlying the Part D program. PBMs must answer for this. The good news: Congress is on to this game.

Indeed, at a November 2015 investigative hearing, Congressman Collins specifically pointed to the *Avalare Health* data and aggressively questioned the veracity of PBM industry witnesses who insisted LTC pharmacy reimbursement practices adhered to market forces. In fact, the PBM officials finally [admitted they keep multiple sets of MAC lists for the same drugs](#), prompting Collins to suggest a “disconnect” between what PBMs claim about pricing transparency and the marketplace reality.

Just last month at a Committee on Oversight and Government Reform hearing entitled “Developments in the Prescription Drug Market,” U.S. Congressman Buddy Carter (R-Ga.), a local pharmacist himself, said: “I’m really concerned about the current marketplace because it creates perverse incentives for PBMs to shut out independent pharmacies at the expense of the American public... we have to have transparency in the PBM world.”

We were also encouraged that U.S. Congressman Elijah Cummings (D-Md.), Ranking Member of the Oversight and Government Reform Committee, also expressed an interest in seeing more PBM accountability, and commend the rising level of bipartisan congressional scrutiny of this industry whose activities remain shrouded in secrecy.

The pricing abuses of PBMs are rightly attracting attention – and reform should continue to gain momentum for the right reason: it is good public policy.