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The Honorable Lina M. Khan  
Chair  
Federal Trade Commission (FTC)  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580

*Filed electronically via regulations.gov*

**RE: Role of PBMs on Patient Access and Affordability (FTC-2022-0015-0001)**

Dear Chair Kahn,

Thank you for the opportunity to submit comments to the Federal Trade Commission (FTC) to inform the FTC on the role of Pharmacy Benefit Managers (PBMs) on patient access and affordability.

The Global Healthy Living Foundation (GHLF) is a 20-year-old 501(c)(3) non-profit patient-centered organization representing people with chronic diseases. We work to improve the quality of life for people living with chronic illness through research, education, support, and advocating for improved access to care. The high costs for medications has many causes, and we do not absolve other parties such as insurers and pharmaceutical manufacturers for their roles, but with these comments we show that PBMs are a driver of costs where the FTC can play an important role in combating egregious practices to lower costs for patients. Greater regulation of the PBM industry could have the most immediate and direct impact on lowering costs and reducing access barriers. We thank the FTC for your commitment to studying this issue and improving our healthcare system to ensure that patients can benefit from fairer PBM practices.

Based on recent estimates, about 80 percent of retail prescriptions and over 60 percent of specialty medicine is dispensed through the three largest PBMs: CVS Caremark, Express Scripts, and OptumRx.<sup>1</sup> Currently, almost all rebate contracting is with specialty medications to incentivize PBMs to place these higher-cost medications on higher formulary tiers. By dispensing such a large percentage of specialty medicines, rebates are funneled into these PBMs to allow them to increase their profits. PBMs claim that these rebates lower the price for patients, but they continue to base patient cost-sharing on the higher list price of the medications, and not the steeply discounted post-rebate price. Rebate Pass-Through laws have slowly been gaining steam over the last few years and GHLF hopes that the FTC and other state and federal agencies continue to regulate rebate practices to ensure that patients are ultimately the ones to benefit from these deals.

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<sup>1</sup> <https://www.pssny.org/page/PBMBasics>

It can be argued that if the PBM rebate regulations were changed, it would have the largest impact on patient access and affordability. There are health plans across the country in which brand-name medications are placed on a more preferred tier than a generic alternative, and patients are forced to pay cost-sharing percentages based on the higher list price of these brand-name medications. On one side of the aisle, PBMs and insurers are implementing copay accumulator adjuster programs to force patients off their preferred brand medication onto one that is cheaper for the insurer though not always cheaper for the patient. And on the other side of the aisle, PBMs are continuing to force high-cost drugs onto patients and forcing them to pay higher cost-sharing because of it. Behind all of these decisions are rebates, which provide a motive for PBMs to choose profit over patients and give them an excuse to construct formularies in a way that negatively impacts patients. Additionally, this is to say nothing about the Rebate Wall, which manufacturers use to block out competition from newer and possibly cheaper medications like biosimilars. Reforming the entire practice of rebates would have a monumental impact on patient access and affordability and would force PBMs to start putting the patient ahead of profits.

A second way that the FTC can help patients is to add additional layers of transparency to rebate practices. It is currently unclear how much money biopharmaceutical companies pay in rebates and generally, patients are largely unaware of how rebates impact their ability to access medications. Patients hear from all sides that manufacturers are lowering “net prices” and that PBMs are working on behalf of patients. However, rebates are one of the main ways in which PBMs make money and have become the profit engines that they have turned into. And yet we know shockingly little about the terms behind rebate agreements. Additionally, reforms to the regulations regarding transparency would have a beneficial impact beyond rebates. Patients deserve to understand why PBMs are making the decisions they do if these decisions impact patient healthcare coverage, whether the decision is financially motivated, or one based on science. GHLF would like to see more state and federal regulations that increase transparency behind these decisions and begin to level the playing field.

We appreciate that the FTC is looking into this part of the healthcare industry and trying to find ways to help patients. We are thankful for the opportunity to give input to this process and we stand by ready to assist with further discussions into how we can help patients in the future.

Sincerely,



Steven Newmark  
Directory of Policy  
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