

Time to Act: Understanding PBM Practices Enables Employers to Ignite Change

Investigations, Legislation, Lawsuits, and Employer Impact Possibilities

THE CHALLENGE: For the past three decades, the management of pharmacy benefits has become increasingly opaque, convoluted and misaligned.

What do we mean by misalignment? Rather than improving drug value and creating an efficient marketplace, the industry has fueled a flawed contracting model and unprecedented market consolidation, both horizontally and vertically.

That market consolidation—three PBMs (CVS Caremark, Express Scripts, and OptumRx) control nearly 80% of the market—has emerged despite the presence of apparent barriers, as evidenced by the more than 100 PBMs in the US today.

Consolidation has also led to power concentration—inhibiting competition, reinforcing practices of self-dealing, rewarding conflicts of interest, and allowing “middlemen” to confiscate economic benefits that would otherwise go to employers and other healthcare purchasers and consumers.

“The nation’s leading employer/purchaser groups are calling on Congress to make fundamental reforms to this broken market. Together with other prominent national employer/purchaser organizations, the National Alliance has steadfastly supported H.R. 5378, the Lower Costs, More Transparency Act, and S. 1339, the Pharmacy Benefit Manager Reform Act. Together, we represent nearly every major employer in the US.”

— Shawn Gremminger, President & CEO
National Alliance of Healthcare Purchaser Coalitions

High-level Recommendations for Employers/Purchasers

Work with partners who work for you



- ▶ Choose **independent** and qualified advisor(s) with deep pharmacy benefit operations experience.
- ▶ Require fiduciary alignment.
- ▶ Expect total transparency of pass-through prices and all manufacturer payments to PBMs, along with a commitment to value (to plan and plan members).
- ▶ Eliminate undisclosed incentives to consultants and brokers.
- ▶ Avoid PBM coalitions that are not independent or transparent or part of a consulting firm.

Evaluate and manage with a balanced scorecard



- ▶ Demand net price by drug.
- ▶ Manage fraud, waste, abuse, and drug appropriateness.
- ▶ Focus on value, outcomes, and total cost of care.
- ▶ Prioritize member affordability, adherence, equity, and patient experience.
- ▶ Eliminate indirect revenue streams that protect the PBM over the plan sponsor and its members (i.e., convert buyer’s agent to seller’s agent).

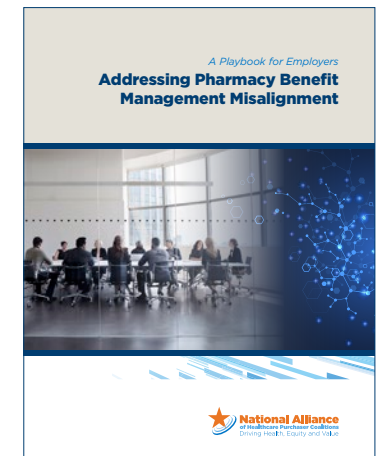
Own the relationship



- ▶ Demand timely, free and total access to data, especially claims data ownership, any data collected as part of the plan administration, or adjudication.
- ▶ Include broad rights to audit PBM records, practices, and third-party payments made on behalf of the plan.
- ▶ Define clearly the contract terms to drive transparency (e.g., generic drugs, average wholesale price or AWP, specialty drugs) and requirements.
- ▶ Expect to have ownership of formulary and utilization management, including customization that may be necessary or appropriate.

PBM Playbook: Turning Recommendations into Action

- ▶ The role of fiduciary in pharmacy benefit management
- ▶ Landscape overview
- ▶ Economics and conflicts of interest in PBM practices
- ▶ Guiding principles for contracting and governance
- ▶ Strategic recommendations for purchasers
- ▶ Resources for action
- ▶ PBM terms and models
- ▶ Sample questionnaire for PBMs



(Click on the image to access the playbook.)

▶ TURN THE PAGE FOR MORE PBM INSIGHTS.

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TOP 10 PBM CONCERNS

The top 10 PBM concerns identified by the National Alliance advisory committee, including employers and other healthcare purchasers, are:

1. Promotion of higher-price drugs when lower-price drugs are available.
2. Coverage and/or preference of a brand when a generic or biosimilar is available.
3. Coverage of specialty drugs for circumstances that clinical evidence does not support (e.g., "off-label use").
4. Automated approval process for prior authorizations causing rates to soar over 90%.
5. Redefining generics as brand drugs or vice-versa to influence (i.e., meet/reduce) guaranteed pricing discounts.
6. Systematic approaches to encourage waste (e.g., refill too soon, automatic 90-day refill).
7. Coverage of high-cost, low-value drugs (e.g., drugs that have less-expensive over-the-counter alternatives).
8. Replacing drugs eligible for rebates with 340B drugs not eligible for rebates, without passing through the substantially lower price of 340B drugs (continuing to charge plan sponsors and patients the same inflated list price).
9. Narrow definition of "rebates," which allow the PBM to "pocket" 50% or more of the manufacturer revenue because they have been recharacterized as something else.
10. Plan sponsors being "held hostage" on any and all PBM contract terms, financial guarantees, and provisions, regardless of magnitude or changes desired by the benefit plan (formulary changes, carve out of proprietary services, modifications to utilization management).

The Unintended Impact of 340B



The 340B Drug Pricing Program is a US federal government program that requires drug manufacturers to provide deeply discounted outpatient drugs to qualifying hospitals and clinics that treat low-income and uninsured patients.

The program designed to serve these patients instead enriches intermediaries across the supply chain, adding costs for purchasers and patients. In fact, hospitals charged commercial insurers and uninsured patients nearly **five times** what they paid to acquire oncology medicines through 340B. Plan sponsors have a role to play:

- ▶ Require that drugs purchased through 340B pricing are identified and treated separately.
- ▶ Request separate contract terms (with deeper discounts) on all 340B claims or insist that such drugs be passed through on a cost-plus basis.
- ▶ Influence policymakers to ban markups of 340B prices by all intermediaries, other than costs associated with dispensing these drugs.

Read the [June 4, 2024, 340B written statement for the hearing by Shawn Gremminger](#).

CHANGE IS IN THE WIND:

[Prescription Rebate Guarantees: Employer Insights \(AJMC, July 19, 2024\)](#)

[Vermont Latest State to Sue PBMs for Allegedly Driving up Prices \(Reuters, July 17, 2024\)](#)

[The Real Reason Drug Costs are so High in America \(The Hill, July 14, 2024\)](#)

[FTC Reportedly to Sue Three Largest Pharmacy Benefit Managers \(Healthcare Finance, July 11, 2024\)](#)

[FTC Releases Interim Staff Report on Prescription Drug Middlemen \(Federal Trade Commission, July 9, 2024\)](#)

[Explainer: Why are US Pharmacy Benefit Managers Under Fire? \(Reuters, July 9, 2024\)](#)

[The Hidden Costs of 340B to Employers \(National Pharmaceutical Council, May 8, 2024\)](#)

The Promise of Biosimilars in Jeopardy

Biosimilars cut drug prices and spending. Despite recent launches reducing Humira® costs, biosimilar use stayed low (<4%) for almost a year. Uptake soared only after a major PBM dropped the original from the formulary. This questions the sustainability of biosimilars in the US. Without employer and payer support, will manufacturers keep developing them? How can we ensure a competitive and sustainable biosimilar market?

Ignoring biosimilars could eliminate competition for specialty drugs as manufacturers go bankrupt. A tactic being used is to create monopolies by favoring certain drugs and temporarily slashing prices.



(Click on the image to access the playbook.)

[The Cost of the 340B Program Part 1: Self-Insured Employers \(IQVIA, March 12, 2024\)](#)

[Upended: Can PBM Transparency Succeed? \(Managed Healthcare Executive, March 6, 2024\)](#)

[Pharmacy Benefit Managers - Statistics and Facts \(Statista, February 28, 2024\)](#)

[Johnson & Johnson Case Signals Employee Drug Price Suits to Come \(Bloomberg Law, February 9, 2024\)](#)

[National Alliance President and CEO Shawn Gremminger Discusses 2024 Initiatives, PBMs, and Health Equity \(AJMC, February 2, 2024\)](#)

[It's Beyond Unethical: Opaque Conflicts of Interest Permeate Prescription Drug Benefits \(STAT, June 20, 2023\)](#)