

**Statement for the Record by
The ERISA Industry Committee (ERIC) to the
U.S. House of Representatives
Committee on Energy and Commerce, Subcommittee on Health Hearing:**

"An Examination of How Reining in PBMs Will Drive Competition and Lower Costs for Patients"

February 26, 2025

Introduction and About The ERISA Industry Committee

Subcommittee Chairman Carter, Ranking Member DeGette, and members of the Subcommittee, thank you for the opportunity to submit a statement for the record on behalf of The ERISA Industry Committee (ERIC) for the hearing, *"An Examination of How Reining in PBMs Will Drive Competition and Lower Costs for Patients."* We appreciate the subcommittee's interest in commonsense, pro-competition reforms that will lower costs for patients and employers, while providing better access to affordable prescription drugs for workers and their families.

ERIC is a national nonprofit organization exclusively representing the largest employers in the United States in their capacity as sponsors of employee benefit plans for their nationwide workforces. ERIC's member companies voluntarily provide benefits that cover millions of active and retired workers and their families across the country. With member companies that are leaders in every sector of the economy, ERIC is the voice of large employer plan sponsors on federal, state, and local public policies impacting their ability to sponsor benefit plans and to lawfully operate under ERISA's protection from a patchwork of different and conflicting state and local laws, in addition to federal law.

You are likely to engage with an ERIC member company when you drive a car or fill it with gas, use a cell phone or a computer, watch TV, dine out or at home, enjoy a beverage, fly on an airplane, visit a bank or hotel, benefit from our national defense, receive or send a package, go shopping, or use cosmetics.

Contrary to some claims, employers are not satisfied with the current state of their relationships with PBMs. Spiraling drug costs are a large part of America's health care affordability problem. Because of misaligned incentives under current law, the largest PBMs reportedly engage in business practices that drive up prescription drug costs, rather than lowering costs and passing the savings on to those feeling the pressure of rising costs. Three PBMs process more than 80 percent of prescription drug claims in the U.S., giving them immense market power, often making it very challenging for employers to negotiate contract terms for affordably priced medications for workers and families. This skewed market dynamic drives up drug costs for employers, patients, and taxpayers, with real-life consequences for those relying on medications to manage their health conditions.

We urge Congress to take decisive action to finish the job begun in the last Congress, and implement transparency, accountability, and reform in the pharmacy benefit manager (PBM) industry. Since 2018, ERIC has been advocating for policies to reorient PBM practices to lower drug costs and drive value for our workers, their families, and retirees. We strongly support comprehensive transparency and accountability for PBMs, including the following policies that were nearly included in the 2024 end-of-the-year funding legislation:

- **Requiring complete and unrestricted transparency into the PBM “black box.”** It is not practical for employers to reduce drug costs if we don’t know what those drug costs are. Clear information on pricing, rebates, fees, and discounts is essential for employers and patients to make informed decisions and to build a functioning free market for prescription drugs. Specifically, we need to know how the PBM is making money, where it is deriving fees or other profits from, what arrangements the PBM has with drug manufacturers or other third parties, including more transparency into PBM-owned pharmacies and other entities in the supply chain under common ownership and/or control as a PBM. We must be able to rely on independent outside experts of our choosing to help us audit our PBMs, any related entities, and their contracts. While transparency is of great importance, transparency alone is not enough.
- **Banning so-called “spread pricing.”** The bill included a ban on spread pricing in Medicaid, which is a good start – Congress should start there, and later consider banning all spread pricing in the PBM industry. Spread pricing arrangements allow a PBM to charge an employer-sponsored plan (or patient) more than the PBM actually pays for a drug, usually with no disclosure of how much the price has been inflated. We are not aware of any large employers who wish to maintain this type of arrangement. Most small and medium-sized employers are not familiar with PBM practices and are not aware that they have been enrolled in spread-pricing plans. This practice is especially pernicious when intertwined with PBM-owned mail-order and specialty pharmacies, with patients usually steered to these dispensing channels. Certainly, no one expects PBMs to perform their services without remuneration. However, employers engage the services of PBMs for the explicit purpose of obtaining essential, and even lifesaving, medicines at the best price possible. Yet, due to the opaqueness of the arrangement and other business practices, payors are completely unaware of the extent of the “spread.”
- **Requiring 100% pass-through of rebates, discounts, fees, and other payments from drug manufacturers.** When a drug manufacturer remits these kinds of payments to a PBM, they should be considered plan assets, and should be spent only in the interests of plan beneficiaries. Instead, often times these payments are given creative names or purposes, are channeled through new intermediaries (such as “aggregators” or offshore “group purchasing organizations”), and never accrue to the benefit of patients. These reforms will effectively de-link PBM profits from high list prices for drugs so that PBMs can be profitable while helping to ensure that employers and consumers are the primary beneficiaries of the savings negotiated by PBMs.

ERIC values the work of the 118th Congress, including the Energy and Commerce Committee, and six other committees across both chambers, who voted overwhelmingly and with little opposition in favor of PBM transparency and reforms, which culminated in the bipartisan health care package that was under consideration for the Continuing Resolution in December 2024. The foundation for this crucial change has been laid, and the subcommittee deserves praise for highlighting the need to reform the PBM system once and for all.

Now is the time to finish the work and include these reforms in a March spending deal. When taken together, these measures complement and build upon important policy principles that Congress enacted under the Consolidated Appropriations Act of 2020 – commonsense solutions to reorient PBM practices and drive better access to lower-cost prescription drugs for millions of Americans. Congress must finish what it started – doing so will have a meaningful impact on the tens of millions of Americans who these commonsense, pro-competition reforms will impact. By acting now, Congress will ensure that the health care market functions as intended, preventing companies from steering patients toward higher-priced medications and away from more affordable alternatives.

We strongly urge you to continue the fight and build even more congressional support for the bipartisan PBM transparency and accountability reforms agreed upon by leadership in December. Employers, working families, patients, and taxpayers across America are counting on Congress this March to help mitigate their ever-growing health care costs.