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June 17, 2022

The Honorable Gene L. Dodaro
U.S. Comptroller General
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Dodaro:

We request that the Government Accountability Office (GAO) conduct a study on pharmacy benefit managers (PBMs) and their role in the pharmaceutical supply chain. According to the Congressional Budget Office, prescription drug spending accounted for 10 percent of health care spending in the United States in 2018.¹ While the increased use of generic drugs moderated the overall growth of drug spending in recent years, spending for higher-cost, brand-name specialty and biologic drugs has increased. Rising costs for these drugs put greater financial pressure on health care payers and consumers. Payers, including commercial health plans, state Medicaid agencies, and private Medicare Part D plans, contract with PBMs to help manage their drug coverage by negotiating payment rates with pharmacies and rebates as well as other discounts from pharmaceutical manufacturers. PBMs often play a central role in the market price of prescriptions.

Policymakers have raised concerns about the way PBMs are reimbursed for their services and the extent to which PBM practices decrease drug spending. For example, PBMs may be compensated by retaining a percentage of rebates, which may create an incentive for PBMs to favor higher rebates instead of lower list prices for drugs. Furthermore, employer-sponsored commercial health plans are governed by the *Employment Retirement Income Security Act's* (ERISA) fiduciary requirements to act solely in the interest of plan participants and beneficiaries. The extent to which these requirements apply to PBMs is less clear.

¹ CONG. BUDGET OFF., *PRESCRIPTION DRUGS: SPENDING, USE, AND PRICES* (Jan. 2022), <https://www.cbo.gov/publication/57050>.

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We are also aware of concerns about PBMs and their effect on competition. Currently, three PBMs, CVS, Express Scripts, and OptumRx, control 79 percent of the PBM market.² Each of these PBMs is also financially associated with a major health plan and specialty pharmacy, giving them potential financial incentives to steer patients to use their affiliated services.

In 2019, GAO published a report that provided valuable information to policymakers on the role of PBMs in the Medicare Part D market.³ Congress could similarly benefit from a better understanding of the role of PBMs in the commercial drug market. We therefore ask that GAO conduct a study building on its previous work by addressing the following questions:

1. To what extent do PBMs provide pharmacy benefit management services to commercial health plans and how are they reimbursed for these services?
2. What is known about the use and effect of PBM formularies and rebating arrangements on commercial drug spending for payers and beneficiaries?
3. What role do ERISA fiduciary requirements have in the services PBMs provide to commercial plans?

Thank you for your attention to this matter. If you have any questions or would like to discuss our request further, please contact Joe Wheeler of the Committee on Education and Labor at 202-225-7101.

Sincerely,



Virginia Foxx
Ranking Member
Committee on Education and Labor



Rick Allen
Ranking Member
Subcommittee on Health, Employment,
Labor, and Pensions



Diana Harshbarger
Member of Congress

² HEALTH INDUS. RES., PHARMACY BENEFIT MANAGERS: MARKET LANDSCAPE AND STRATEGIC IMPERATIVES (Mar. 2022), https://www.hirc.com/system/files/public/MM_PBM%20Landscape_2022.pdf.

³ GAO, MEDICARE PART D: USE OF PHARMACY BENEFIT MANAGERS AND EFFORTS TO MANAGE DRUG EXPENDITURES AND UTILIZATION (July 15, 2019), <https://www.gao.gov/products/gao-19-498>.