

U.S. Senator Maria Cantwell

Senate Floor Speech on Pharmacy Benefit Managers

June 20, 2024

[\[AUDIO\]](#) [\[VIDEO\]](#)

Sen. Cantwell: Madam president, I thank my colleague from Rhode Island for his dedication and perseverance on these important issues, and also appreciate him mentioning the dividend concept, because obviously we want consumers to be kept whole here and to make a transformation that they too want to make. So I thank him for his leadership.

Madam President, I come to the floor today to call attention to the high prices Americans are paying for their prescription medication, and the urgent need to pass what is called the Pharmacy Benefit Manager Transparency Act in the Senate, that I have cosponsored along with my colleague from Iowa, Senator Grassley.

At the beginning of this decade, the United States spent more on prescription drugs than any other country in the world, reaching an average of \$1,432 per person per year.

So, six out of every ten adults are currently taking at least one prescription drug, more than a quarter of us take four or more prescriptions. So when drug prices go up, it really does stretch the family budget, cuts into our savings, and it puts us into health challenges if we can't afford those prescriptions.

About one in four residents in my state, The State of Washington, have either rationed or stopped taking prescription drugs because of costs. Families should not have to make this choice.

One of the factors driving up the price of prescription drugs are pharmacy benefit managers, and their profit-driven business model that is not transparent as to the price-setting, and is causing pharmacies great harm.

Pharmacy benefit managers operate behind the scenes, have a stake in just about every part of the drug distribution chain, and exert extraordinary influence in the prices that Americans are paying for their medication.

PBMs decide which life-saving medications most Americans will have access to through their insurance plans, they decide how much copay will be for prescriptions, they decide how much a pharmacy will be reimbursed for distributing these drugs, and whether the pharmacy will lose money when they fill a prescription.

PBMs don't actually handle or distribute the drugs, but they siphon off the profit at every step in the process, from the drug manufacturers all the way up to the pharmacy counter. That is because the PBM market, these pharmacy benefit manager middlemen, think of them almost as like the insurance company that is setting the price, is extremely consolidated, giving consumers no choice in which PBM they use.

Just three PBMs control 80% of the market. Can you imagine anybody controlling 80% of the market? But just three of these companies control 80% of the market, and effectively, they have unchecked power on their ability to distort the market, and engage in unfair and abusive practices.

So what are we trying to do, Senator Grassley and myself? We're trying to stop those unfair and manipulative practices.

Not only is the PBM market consolidated, the vertical integration of PBMs, pharmacies, and insurers are worrisome. The three largest PBMs are each part of companies that include insurers and large pharmacies, so this gives them the opportunity to increase their profits by steering patients to pharmacies they own and then lowering the reimbursement rate to competing pharmacies.

Americans are feeling this pinch. They are seeing that they have higher drug costs, and they are seeing that PBMs are thriving. The three biggest PBMs are astonishingly profitable. Last year, OptumRX raked in \$116 billion for its owner, United Healthcare Group, contributing about 30% of the company's total revenue.

PBMs have leveraged their market power and lack of transparency to benefit themselves at the expense of patients, and certainly, certainly, Madam President, at the expense of independent pharmacies. They're happy to try to help the pharmacies in their vertical integration, but certainly not the independent pharmacies, if you will, trying to put them out of business.

PBMs enrich themselves by manipulating the market for prescription drugs at every turn. We cannot be fooled when the PBM claims to reduce the cost of drugs by negotiating rebates from the drug makers in charge in exchange for favorable insurance coverage through an insurance company they probably own.

I have been so frustrated by this in the past. Madam president, it's like our organization, take for example King County. Someone comes to them and says, we will negotiate for King County employees a drug benefit, and we'll give you a discount. But then they pocket two thirds of the discount themselves, the PBM. That's what's going on here.

These rebates are part of their manipulative scheme to inflate and extract the value from the prescription drug market. In a market that's free of this kind of manipulation, you would have drugmakers, they would be setting the formulary cost, they would help drive down price by having competition.

But we know the market isn't working right when the least expensive version of a drug is the least dispensed. That's right. You can tell how a market functions, or if it is a great functioning market, because why? When prices are too high and there is supply, people put more supply in the market.

But if the least expensive drug isn't being dispensed, that means somebody is trying to artificially keep those costs high. This happens because PBMs control which drugs are included on a formulary, they get a bigger cut through a larger rebate, higher copays, and more expensive drugs are put on the list. This incentivizes drug makers to inflate the price of their drugs to appeal to the PBMs.

Who bears the brunt of all these inflated costs? The American consumer.

Another way PBMs manipulate the market is through abusive practices like spread pricing, or clawbacks. Spread pricing is when a PBM reimburses a pharmacy one amount for filling a prescription, and then charges the health plan a higher price, and keeps the difference. That's the scheme. That's the scheme, how they're making money. They basically say, oh, this is the price. And they then charge the plan a higher amount.

This creates two problems. One, neither the pharmacy nor the plan knows what the other paid or was charged, so both parties lack the data on what a true price for the drug is. Second, this practice allows PBMs to squeeze more money out of the supply chain without anyone knowing how much.

They also claw back reimbursements from pharmacies after a claim is settled through direct and indirect fees, or what I call DIR fees, which have generic effect rates or GER.

So, for example, independent pharmacy in Seattle, they actually had to close, Madam President, because the PBM said that they were owed, this independent pharmacy was owed \$538,000 in reimbursements in a single year from these PBMs. They just came up with the number and said, this is how much you owe us.

So, not surprising that independent pharmacies can't stay open with these kind of tactics. In just the last 18 months, 83 pharmacies in the state of Washington have closed. These practices have contributed to a creation of pharmacy deserts. In fact, Fortune Magazine just wrote a story about this particular problem in the State of Washington.

There are now 86 towns in my state that are more than ten miles from the nearest pharmacy. That means that roughly 450,000 people in my state live in an area where they have to drive ten miles just to go to a pharmacy. And we now rank sixth among all states for poor access to pharmacies. According to the Washington State Pharmacy Association, there are no more 24-hour pharmacies left in the city of Seattle.

So, Madam President, I'm very concerned about the number of independent and community pharmacy closures in my state. I'm also concerned about how insurance company middlemen and their unfair business practices have contributed to these closures.

Some may ask, why hasn't anyone discovered these schemes or done something about it? Well, that's because PBMs shield their practices and profits by claiming that their data that they have is considered proprietary information.

But we must have laws on the books that make sure that illegal, manipulative schemes can help stop these players in the marketplace who have too much of a concentrated power. PBMs cannot continue to operate in the dark while Americans see their prescription drugs rise and rise year after year.

And that is why Senator Grassley and I introduced the Pharmacy Benefit Manager Transparency Act to shine light on these harmful practices, increase the transparency, and increase the accountability for pharmacy benefit managers.

The Pharmacy Benefit Manager Transparency Act directs the Federal Trade Commission to crack down on unfair and abusive schemes, such as the spread pricing or reimbursement clawbacks. It also mandates that transparency for these PBMs, submit a report about these activities so that we can understand how they are basically moving other products, that are not on the formulary placement. That is exactly how some of these schemes have operated.

It is important to have this help from the Federal Trade Commission. It is their job to stop these unfair practices. It's their job to hold PBMs accountable for manipulation of practices or prices, and give the agency more insight into this marketplace.

We cannot wait any longer to get this legislation passed. My bill has come out of the Commerce Committee with good bipartisan support, and it [PBM reform] has bicameral support as well. So we must keep the momentum going.

I hope my colleagues here in the Senate will bring this Benefit Manager Transparency Act to the Senate floor when we return. Americans are hurting, and so are our pharmacists. Our pharmacies themselves are places where information about our prescriptions are held to a high standard.

I would hate to see Americans in such a concentrated market, that all of our prescription drugs are bought online from 1 or 2 big suppliers, and that somehow is our delivery system.

I think pharmacists are a key part of our delivery system. Pharmacies are a key part of communities, and we shouldn't have big, concentrated players manipulating the prices of drugs and putting pharmacies out of business, and raising these unbelievable prices on our consumers.

So I thank the President, and I ask that I hope our colleagues will consider getting this legislation in front of the Senate when we return.