



April 6, 2023

The Honorable Donna Bailey
The Honorable Anne Perry
Members, Committee on Health Coverage, Insurance and Financial Services
Cross Building, Room 220
100 State House Station
Augusta, ME 04333

**RE: LD 1165 An Act to Enhance Cost Savings to Consumers of Prescription Drugs;
Opposed**

Chair Bailey, Chair Perry and Members of the Committee,

My name is Sam Hallemeier, Director of State Affairs, and I am writing on behalf of the Pharmaceutical Care Management Association (PCMA). PCMA is the national association representing America's pharmacy benefit managers (PBMs). PBMs administer prescription drug plans and operate mail-order and specialty pharmacies for more than 275 million Americans with health coverage through large employers, health insurers, labor unions, and federal and state-sponsored health programs.

PCMA opposes LD 1165, which requires that rebates negotiated by PBMs on behalf of health plan sponsors be applied to a patient's cost-sharing at the point of sale. While we appreciate the legislature's concern with the rising cost of prescription drugs, **LD 1165 is a one-size-fits-all mandate that will do little to address the increasing price of drugs and will only serve as a windfall to drug manufacturers.**

PBMs exist to make drug coverage more affordable by aggregating the buying power of millions of enrollees through their plan sponsor/payer clients. One fundamental way PBMs help consumers obtain lower prices for prescription drugs is by negotiating rebates (discounts) with drug manufacturers. Negotiations between PBMs and manufacturers are the only tool to leverage competition and drive lower drug costs. Rebates are typically used to keep costs down across the board as employers and other plan sponsors use the savings from rebates to lower premiums for everyone. While point-of-sale rebates are possible under specific plan designs, the decision to apply rebates at the point-of-sale or as a hedge against rising premiums is and should be determined by the plan sponsor.

When considering mandatory POS rebates, it is crucial to keep in mind that:

1. **Rebates have consistently been shown to save consumers money:** Recently, the Centers for Medicare & Medicaid Services (CMS) found that a federal proposal for POS rebates in Medicare Part D would **increase** premiums by up to **25%** and **increase** drug spending by **\$196 billion**.¹

¹ CMS Office of the Actuary, "Proposed Safe Harbor Regulation" (August 30, 2018).



2. Under the federal proposal, CMS actuaries predicted **manufacturers would keep at least 15%** of what they would have offered in rebates and also found that **drug spending would increase by \$137 billion as they would have little incentive to lower their list prices.**²
3. **Mandatory POS rebates under the federal proposal would provide drug manufacturers a \$40-\$100 billion windfall.**³ The fact that drug manufacturers applauded a federal proposal to restructure rebates should reinforce that manufacturers, not consumers, taxpayers, and employers, would be the real winners.

Additionally, mandatory POS rebates would require releasing confidential information that inadvertently discloses actual rebate amounts. Eliminating this type of confidentiality of rebate levels and undermining the negotiating power held by payers, including employers, would inhibit a PBMs' ability to negotiate a better price for consumers. **As CMS noted in their assessment of a federal proposal, rebates would be reduced by 15%**⁴, **meaning consumers pay more.** Finally, the FTC has long stated that "if manufacturers learn the exact amount of the rebates offered by their competitors...the required disclosures may lead to higher prices for PBM services and pharmaceuticals."⁵

By disrupting competition in the prescription drug market, mandatory rebates, whether at 100% of rebates or less, ultimately will increase the prices that all pay for health care and prescription drugs.

Please let me know if you have any questions or would like more information.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Hallemeier", written in a cursive style.

Sam Hallemeier
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² A recent study, *Reconsidering Drug Prices, Rebates, and PBMs*, shows manufacturers alone set prices—independent of rebates. The study highlights top-selling Medicare Part D brand-name drugs (with steady price increases and no change in rebate levels) and Medicare Part B drugs, which have no negotiated rebates but extraordinary price increases

³ CMS Office of the Actuary, "Proposed Safe Harbor Regulation" (August 30, 2018).

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⁵ FTC, "Statement of the Federal Trade Commission Concerning the Proposed Acquisition of Medco Health Solutions by Express Scripts"