



Testimony offered on behalf of:
EPIC PHARMACIES, INC.

IN SUPPORT OF:

HB 374 – Health Insurance - Pharmacy Benefits Managers – Audits of Pharmacies and Pharmacist

House Health and Government Operations Committee
Hearing 3/2 at 1:00 PM

EPIC Pharmacies, Inc. **SUPPORTS HB 374** – Health Insurance - Pharmacy Benefits Managers – Audits of Pharmacies and Pharmacists.

Very few if any pharmacy audits in Maryland are the result of pharmacy fraud or maleficence. In fact, I am not aware of any audits that resulted in the removal of any Maryland pharmacies from a Pharmacy Benefit Manager's (PBM's) network. Despite what PCMA says, the purpose of pharmacy audits are not to improve patient care. Pharmacy audits are simply revenue streams for PBMs, auditing companies, and payers. Warfarin is an inexpensive prescription medication that is responsible for many unnecessary hospitalizations. PBMs primarily audit expensive prescriptions because those claims have a tremendous risk/ reward potential for the PBM, not inexpensive Warfarin. The miniscule audit risk for the PBM is the hourly rate of a technician. The cost to the pharmacy is the tremendous time burden of taking away a pharmacist owner or manager from direct patient care to focus on the time of the audit as well as the onerous and time-consuming appeals process, and obviously the loss of revenue for funds captured back when the patient received the correct medication and took the medication properly.

HB 374 offers solutions for the following abuses and issues of the current pharmacy auditing environment:

- **Adds MCOs into the group of plans affected by Maryland Audit Laws.** Historically, MCO claims were exempt from Maryland's very reasonable audit language. To my knowledge a payer or PBM had never complained that Maryland's audit laws were unreasonable.
- **Addresses the unreasonable Bulk Purchasing requirements that CVS Caremark enacted in their provider manual In May of 2022.** The policy requires a pharmacy to have a purchasing invoice that is dated 30 days prior to the dispensing of a prescription. If the pharmacy's invoice is dated more than 30 days prior to the prescription being dispensed, than upon an audit, CVS Caremark may capture back all funds originally paid for the prescription and may terminate the pharmacy from their provider network. This is neither reasonable, nor a standard of practice, nor is this required by any other PBM.

Generic Adderall is in short supply right now. I was able to procure a larger volume of inventory in September 2022 when there were whispers of an impending shortage. I still have some of that inventory but I can not dispense that inventory to Carefirst, Amerigroup, Priority Partners, Aetna, Federal Employees, Silver Script or Wellcare patients. I can dispense this to Optum or ESI patients.

- Allows a completed register transaction as proof of patient delivery and receipt, just like the chain pharmacies that own the PBM that audits them.
- Prevents charge backs to pharmacies for days of supply rejections that result from the PBMs own inability to accept the correct days of supply in their computer system as a result of an unbreakable package, such as Insulin, Inhalers, and Eye Drops.
- **Prevents a PBM from looking at a pharmacies bank records, credit card receipts, and depository statements.** Many PBMs are direct business competitors because they are vertically integrated. Wouldn't you like unfettered access to your competitors bank, business and financial records?
- Limits the number of prescriptions that may be audited to a reasonable amount.
- Enacts penalties and costs to the PBM for overly time consuming and long audits.
- **Ensures that patient expended funds captured back from a pharmacy during an audit are returned to the actual patient, and not simply the PBM or auditing company's coffers.**
- Adds common sense communication and data submission requirements such as **mandating that the auditing company or PBM have the infrastructure in place to accept HIPAA secure emails for the data that they request** as well as phone numbers for audited pharmacies to speak with a live person should they have any questions.

In 2008, Maryland was one of the first states to enact common sense pharmacy audit language that became a model for other states. PBMs fought that original 2008 HB 257 tooth and nail. Since its enactment, not one payer, PBM, nor auditing company has ever complained that our laws prevented them from conducting pharmacy audits.

I respectfully ask your favorable support for HB 374.

Sincerely,



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