



**House Committee on Oversight and Reform Republican forum
“Reviewing the Role of Pharmacy Benefit Managers in Pharmaceutical Markets”
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Members of the United States House Committee on Oversight and Reform, my name is Antonio Ciaccia, and I am the CEO of 46brooklyn Research, an Ohio-based non-profit organization dedicated to making prescription drug pricing more transparent, understandable, and digestible to the public. I am also the president of 3 Axis Advisors, a consulting firm that works with Medicaid Fraud Control Units, provider groups, research firms, technology companies, law firms, employers, government agencies, benefit consultants, and private foundations to diagnose and eliminate inefficiencies and inappropriate incentives in the prescription drug supply chain.

I cannot overstate the gratitude I have for the invitation to speak with you today about the central component of our prescription drug supply chain, pharmacy benefit managers (PBMs).

Drug pricing is really complicated. We know why. With mystery comes margin, and within the drug supply chain, there’s a lot of mystery.

Unfortunately, when we talk about the price of a drug, the actual price evades us as consumers. That’s because there are many ways to quantify the price of a drug, and whatever price we are quantifying can be different depending on who exactly is experiencing the price. Regardless, whether a drug has two prices or 64 prices, any time you have more than one price, there is no such thing as price. The lack of objectivity around price enables and empowers those who seek to take advantage of government-sanctioned or market-yielded latitude on drug price management and architecture. And PBMs have arguably the most leash in the market when it comes to the ability to influence, or even directly set, prices in various ways within our drug supply chain.

In my home state of Ohio, we’ve learned a lot about PBMs, thanks in large part to vocal and engaged pharmacists, thorough investigative journalism, and a relentless pursuit of accountability from state lawmakers, our state attorney general Dave Yost, and our Governor Mike DeWine.

Years ago, while I was working for the Ohio Pharmacists Association, I received an onslaught of complaints from pharmacies of all shapes and sizes that within our Medicaid managed care program, PBMs had subjectively slashed reimbursements to the point where as much as 80% of the pharmacy’s gross margin within the program had evaporated. Hundreds of pharmacies across the state were closing in large part due to the unprecedented cuts.¹ In a long, drawn-out hunt for answers through our own

¹ Schladen, M., Caruso, D. (2019, July 7). Stingy pharmacy reimbursements leave Ohio Communities on the brink. The Columbus Dispatch. Retrieved November 16, 2021, from

analysis of CMS drug pricing data, the work of the Ohio Joint Medicaid Oversight Committee, and the Columbus Dispatch, we learned that the cuts to pharmacies never resulted in savings to the state – in fact, the costs reported to the state by PBMs and managed care plans were actually increasing during a time of significant generic drug price deflation and massive reimbursement cuts to pharmacy providers.²
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Through the discovery of audits to the program, we learned that PBMs were taking advantage of the latitude to arbitrage prices in the program through a practice known as spread pricing, where the PBM pays the pharmacy low, bills the plan sponsor (in this case, the state) high, and pockets the difference.⁵ In our case, that spread was \$244 million in just one year of the program, which was anywhere from three to six times the going rate for PBM services.^{6 7}

Our state banned this practice and sued one of the companies engaging in the practice, but the problem of overinflated prices was never fully extinguished, as PBMs used their vertically aligned structure to push higher margins into specialty drugs that they can then pressure or force patients to receive at pharmacies owned by the PBM. PBMs are also paying pharmacies higher rates for drugs than their contract requires only to turn around and use aggregate network rate guarantees in what's known as effective rate clawbacks to skirt around new pass-through pricing requirements imposed by state

<https://stories.usatodaynetwork.com/sideeffects/stingy-pharmacy-reimbursements-leave-ohio-communities-on-the-brink/>.

² Ciaccia, A., Pachman, E. (2019, April 21). New Pricing Data Reveals Where PBMs and pharmacies make their money. 46brooklyn. Retrieved November 16, 2021, from <https://www.46brooklyn.com/research/2019/4/21/new-pricing-data-reveals-where-pbms-and-pharmacies-make-their-money>

³ Optumas. (2018, January 25). Ohio JMOC 2018 Big Picture Kick-Off Meeting. The Joint Medicaid Oversight Committee. Retrieved November 16, 2021, from <https://www.jmoc.state.oh.us/assets/meetings/OptumasPresentation1.18.pdf>.

⁴ Schladen, M., et. al. (2019). Side effects. USA Today. Retrieved November 16, 2021, from <https://stories.usatodaynetwork.com/sideeffects/>

⁵ Sullivan, L., Candisky, C. (2019). Cost cutting middlemen reap millions via drug pricing data shows. The Columbus Dispatch. Retrieved November 16, 2012, from <https://stories.usatodaynetwork.com/sideeffects/cost-cutting-middlemen-reap-millions-via-drug-pricing-data-show/>

⁶ Schladen, M. (2018, June 27). Drug Middlemen charging Ohioans Triple going rate-or more. The Columbus Dispatch. Retrieved from <https://www.dispatch.com/news/20180627/drug-middlemen-charging-ohioans-triple-going-rate---or-more>

⁷ Ohio Auditor of State (2018, August 16). Ohio.gov. Retrieved November 16, 2021, from <https://ohioauditor.gov/news/pressreleases/details/5042>

officials.^{8 9 10 11 12} As recently as last month, the Ohio Medicaid director revealed that the state's drug pricing data – as well as other states' Medicaid drug pricing data – is likely corrupted and untrustworthy due to recent PBM maneuvers to obfuscate the reporting of true net drug costs to the state.¹³ In both instances, the practices seem designed to end-around the legislative intent of pass-through pricing.

The bad news for you all is that these prescription drug overcharges are not unique to Ohio, not unique to Medicaid, and all the pumped-up drug prices are being matched with federal taxpayer dollars.¹⁴

That said, not all PBMs engage in all of these costly tactics, and PBMs are not the only layer in the drug supply chain that include bad actors that seek to exploit their entrusted roles between patients and their medicines – our longitudinal research has shown that pricing arbitrage is a universally adored activity among drug channel participants – but as PBMs bill themselves as the only member within it working to lower prescription drug costs¹⁵, and as they set incentives for the rest of the drug channel, it is imperative that PBM accountability be a central component of any endeavor aimed at prescription drug pricing reform.¹⁶

Financial incentives are what drive industry behavior, and the excessive complexity of U.S. drug pricing, lack of transparency, and significant conflicts of interest within the drug channel sadly create unlimited opportunities for gamesmanship and unwarranted cost inflation. More simply put, if you don't like what

⁸ Meltzer, R. (2018, August 16). Ohio takes action after audit shows egregious spread pricing in Medicaid. Fierce Healthcare. Retrieved November 16, 2021, from <https://www.fiercehealthcare.com/regulatory/ohio-takes-action-after-finding-pbms-engaged-egregious-spread-pricing-medicare>

⁹ Ohio Attorney General (2021, June 14). Centene agrees to pay a record \$88.3 million to settle Ohio PBM Case brought by AG Yost. Ohio.gov. Retrieved November 16, 2021, from [https://www.ohioattorneygeneral.gov/Media/News-Releases/June-2021/Centene-Agrees-to-Pay-a-Record-\\$88-3-Million-to-Se](https://www.ohioattorneygeneral.gov/Media/News-Releases/June-2021/Centene-Agrees-to-Pay-a-Record-$88-3-Million-to-Se)

¹⁰ Rowland, R. (2019, June 23). Dispatch analysis: state's attempt to curb drug middlemen mostly futile. The Columbus Dispatch. Retrieved November 16, 2021, from <https://stories.usatodaynetwork.com/sideeffects/dispatch-analysis-states-attempt-to-curb-drug-middlemen-mostly-futile/>

¹¹ Herman, B. (2019, April 24). Why specialty pharmacies matter. Axios. Retrieved November 16, 2021, from <https://www.axios.com/specialty-pharmacies-drug-prices-medicare-9f422bdb-4cb7-479b-a7da-a6ea02abb1e6.html>

¹² Rowland, D. (2021, October 3). 'To me, that's fraudulent': Bipartisan Ohio lawmakers vow to fix loophole exploited by PBMs. The Columbus Dispatch. Retrieved November 16, 2021, from <https://www.dispatch.com/story/news/2021/10/03/ohio-law-lower-drug-prices-dodged-pharmacy-benefit-managers-pbms-health-care-clawbacks-legislature/5920613001/>

¹³ Rowland, D. (2021, October 27). Medicaid chief quietly drops bombshell: Millions obtained by PBMs unaccounted for by state. The Columbus Dispatch. Retrieved November 16, 2021, from <https://www.dispatch.com/story/news/2021/10/27/health-care-monopoly-raises-drug-costs-consumers-pharmacists-say-pbms-prescription-cvs-united-cygn/8513593002/>

¹⁴ Medicaid and CHIP Payment Access Commission (MAPAC). (2021). Matching Rates. Macpac.gov. Retrieved November 16, 2021, from <https://www.macpac.gov/subtopic/matching-rates/>

¹⁵ PCMA. (2020, September 30). Twitter. Retrieved November 16, 2021, from <https://twitter.com/pcmanet/status/1311297879156445184>

¹⁶ Ollove, M. (2021, August 9). Laws for prescription drug brokers could soon have teeth. PEW. Retrieved November 16, 2021, from <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/08/09/laws-for-prescription-drug-brokers-could-soon-have-teeth>

you see as the output of the current drug channel, you must target a recalibration of the incentives – and those who create those incentives – if you are going to change the future output.

It is for that reason that any serious attempt at solving America's unique drug pricing dysfunction will inevitably fall short if the subjective price-setting, pervasive opacity, arbitrary margin distribution, and misaligned conflicts of interest that plague the predominant sectors of the PBM industry today are not addressed.

Thank you for the opportunity to speak with you today.