



**Written Testimony**  
**Dr. Patrick Conway, CEO Optum Rx**  
**House Committee on Oversight and Accountability Hearing**  
**“The Role of Pharmacy Benefit Managers in Prescription Drug Markets Part III:**  
**Transparency and Accountability”**  
**July 23, 2024**

Chairman Comer, Ranking Member Raskin, and Members of the Committee:

I am Dr. Patrick Conway, CEO of Optum Rx, a part of UnitedHealth Group. I appreciate the opportunity to discuss the role of pharmacy benefit managers (PBMs) and how companies like ours promote prescription drug affordability and access. Optum Rx is a pharmacy care services company that works to make healthcare more affordable for our customers and patients. The customers who choose to hire us – employers, unions, health plans, and governments – count on us to help them access the most effective medicines at the most affordable costs. Our suite of pharmacy services, pharmacy benefit solutions, and direct-to-consumer offerings drive value by helping people achieve better health and lowering the overall cost of care. The thousands of clinical professionals and pharmacists that work for Optum Rx are committed to improving pharmacy care for those we serve.

In addition to my role at Optum Rx, I am a practicing pediatrician who continues to see patients on weekends at a Boston city hospital. In my earliest days as a physician, I experienced a tough situation I will never forget. I had sent a child home who had been hospitalized with a mild infection with a prescription for an antibiotic. In no time, the child was back, readmitted with sepsis and very sick. The child was readmitted because when the mother took the prescription to the pharmacy, it cost \$200 that she did not have. A scared kid and a terrified parent spent seven days in a Boston hospital because they couldn't afford an antibiotic. This was a costly outcome for the system and, most importantly, an example of how we must do better for patients and families. Today, Optum Rx offers customers its Critical Drug Affordability Program, which includes low or \$0 cost sharing on more than 290 brand and generic medicines – including common antibiotics – with the goal of making all essential medicines affordable.

Experiences like that one, seeing the realities people face when it comes to paying for medicine and accessing care, inform how we approach our work in pharmacy.

My testimony today focuses on two areas:

1. **PBMs' Role in Promoting Prescription Drug Affordability and Meaningful Access**
2. **Optum Rx-Supported Policy Solutions to Further Address High Drug Prices and Transparency into the Pharmacy Benefit**

## **PBMs' Role in Promoting Prescription Drug Affordability and Meaningful Access**

Our Company's role is to ensure patients have access to the safe and effective prescription drugs they need while managing the cost of those drugs. Companies like ours act as a counterweight to the substantial market and pricing power of drug manufacturers, which have sole discretion in setting prices for their products. Using loopholes in the current patent system, periods of exclusivity can be extended by manufacturers, limiting product competition for decades, and amounting to government-granted monopolies. This makes our role even more critical. More than 5,000 customers of all sizes – from local businesses and national companies to unions, labor groups, and public sector organizations – rely on our negotiations with drug manufacturers and the resulting savings off manufacturers' high and increasing drug list prices.

In 2023, the median annual list price for a new medicine was \$300,000, a 40% increase from 2021.<sup>1</sup> While many new medicines may bring clinical benefit to patients, their skyrocketing prices make it difficult for our customers to offer affordable prescription drug coverage. Our negotiated discounts and clinical tools deliver more than \$2,000 per person in average annual drug savings. An economic analysis from the University of Chicago concluded that without these PBM negotiations with manufacturers, the cost of drugs would be even higher. In fact, the authors found that PBMs save the healthcare system \$145 billion annually.<sup>2</sup>

Our customers rely on our essential services, the options we provide, and these material drug cost savings to control medical and pharmacy benefit costs for their employees and members. PBMs are the only entity in the prescription drug supply chain incentivized to reduce drug costs. This role is more important than ever in the age of exceptionally high-priced specialty drugs, a large and growing segment of the prescription drug market in which competition is lacking, and there is a lack of discounts from many manufacturers. For example, two frequently prescribed specialty biologics with indications for Lupus and oncology – Benlysta®, manufactured by GlaxoSmithKline, and Keytruda®, manufactured by Merck – today have annual costs of approximately \$54,000 and \$120,000 per patient, respectively. Neither manufacturer offers Optum Rx rebates for these medications, yet each product has seen a roughly 30 percent price increase since launch. These high and growing prices set by drug manufacturers present significant challenges to managing the pharmacy benefit so that our customers and consumers have affordable access to clinically appropriate medicines.

Our customers recognize the value of our services, which are provided in a highly competitive market. As of 2021, there were more than 70 companies that offered a full range of pharmacy benefit services in the U.S. market.<sup>3</sup> We must compete constantly to win and retain our customers. We face competition from pharmacy benefit companies of varying sizes with

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<sup>1</sup> "Prices for new US drugs rose 35% in 2023, more than the previous year," Reuters, February 23, 2024. Available at: <https://www.reuters.com/business/healthcare-pharmaceuticals/prices-new-us-drugs-rose-35-2023-more-than-previous-year-2024-02-23/>

<sup>2</sup> "The Value of Pharmacy Benefit Management," Casey Mulligan, July 2022. Available at: [https://bfi.uchicago.edu/wp-content/uploads/2022/07/BFI\\_WP\\_2022-93.pdf](https://bfi.uchicago.edu/wp-content/uploads/2022/07/BFI_WP_2022-93.pdf)

<sup>3</sup> "The PBM Marketplace Continues to Evolve," PCMA, April 2023. Available at: [https://www.pcmanet.org/wp-content/uploads/2023/04/PBM-Marketplace-Continues-to-Evolve\\_r4.pdf](https://www.pcmanet.org/wp-content/uploads/2023/04/PBM-Marketplace-Continues-to-Evolve_r4.pdf)

different value propositions – some of which are growing disruptors in the market.<sup>4</sup> We continually innovate to drive costs lower and meet the unique needs and demands of current and prospective customers.

We compete for business on our clinical capabilities, patient support programs, and drug trend analytics and insights, but most importantly on our ability to lower drug costs for our customers, regardless of list price. This squarely aligns the interests of pharmacy benefit companies with our customers and consumers, not with the manufacturers that set the prices for prescription drugs.

Optum Rx plays an essential role in ensuring consumers have access to the safe and effective prescription drugs they need while managing the cost of those drugs for customers and consumers.

**First, everything we do begins with a clinical foundation.** Our work is anchored by clinical data and starts with our independent Pharmacy & Therapeutics (P&T) Committee, which applies significant clinical rigor and provides unbiased, evidence-based review and appraisal of new and existing drugs and their place in therapy. Our P&T Committee is made up of physicians and pharmacists who are not affiliated with Optum Rx and operates in a highly transparent manner. Our customers are welcome to and regularly observe the P&T Committee’s clinical decision-making process.

**Second, based on this clinical foundation, we deploy innovative clinical programs to actively support the patients we serve at each stage of their healthcare journey, as well as tools to drive affordability.** While our customers ultimately determine and fund their medical and pharmacy benefits, we offer options so customers can balance their healthcare costs with patient out-of-pocket protections while making sure patients get affordable access to the medications they need. For example, Optum Rx’s Critical Drug Affordability Program is a program Optum Rx makes available to customers that works to lower out-of-pocket costs on over 290 brand and generic medicines that are considered life-sustaining. We also offer our customers a wide range of formularies, which enables them to choose the drugs and pricing solutions that best fit their needs and meet their affordability, predictability, and accessibility expectations. We offer condition-specific medication adherence programs to make sure patients stay on therapy once prescribed. For example, the Optum Rx Diabetes Management Program is a program we make available to customers that provides access to diabetes education, case management, care gap analysis, adherence monitoring, and other resources. Finally, we are also able to offer a 30-day supply of many insulins for \$35 to the uninsured.

Our PreCheck MyScript (PCMS) tool enables healthcare providers and patients to see how much a prescription will cost – and if there are any lower cost alternatives – before leaving a provider’s office. When PCMS is used, patients, providers, and health plans benefit: patients save an average of \$119 per prescription fill, providers save an additional 50 minutes by avoiding prior authorizations, and health plans save an average of \$266 per prescription filled. Separately, our Price Edge tool ensures patients pay the lowest cost in the market for their

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<sup>4</sup> “How Pharmacy Benefit Managers are evolving to add value in a changing industry,” EY Parthenon, March 20, 2023. Available at: [https://www.ey.com/en\\_us/insights/strategy/consolidation-pharmacy-benefit-manager-and-primary-care](https://www.ey.com/en_us/insights/strategy/consolidation-pharmacy-benefit-manager-and-primary-care)

prescription, with average savings per prescription of over 30% and combined savings of more than \$42 million year-to-date. And MyScript Finder allows members to look up a medication's price, view options on where it can be filled, and whether there are lower cost alternatives. Patients using MyScript Finder have saved an average of \$97 per 30-day prescription so far this year. All these tools provide greater transparency and help people cut through the complexity that can be a barrier to accessing affordable, high-quality care.

**Third, we aggressively negotiate with drug manufacturers to secure the lowest net cost for our customers to enable them to control costs for their members.** This job is more difficult when there is not competition between manufacturers for a particular therapeutic class. Although more than 90 percent of prescriptions are for low-cost generics, often without rebates,<sup>5</sup> negotiated discounts are the only check on manufacturers' pricing power for most branded drugs (the remaining 10 percent of prescriptions). While negotiating for discounts on these expensive branded drugs is a vital role, it is only one of the ways we work to ensure people have access to the most affordable medicines.

**Fourth, we provide a range of options for providing the prescription drug benefit that meets the needs of our diverse employer, union, health plan, and government customers.** We offer our customers choice in how they compensate us for the savings we generate and how they reimburse us for pharmacy claims administered by our pharmacy network. Some customers choose to compensate us for the savings we generate and the services we provide by opting for us to retain a small fraction of the discounts we negotiate with drug manufacturers. Others prefer that we pass to them 100% of the savings we negotiate and instead compensate us via an administrative fee. Some reimburse us for pharmacy network claims through a predictable, aggregate payment and some choose a per claim or "pass through" reimbursement. Our customers are provided options and they each make the choice that best meets their needs. On average, Optum Rx passes through 98% of the discounts we negotiate to our customers. These savings enable them to reduce premiums, provide point-of-sale discounts, and invest in population health and wellness programs.

### **Optum Rx-Supported Policy Solutions to Further Address High Drug Prices and Transparency into the Pharmacy Benefit**

We understand and share Congressional concerns around the cost of and access to prescription drugs. As we think about our role in the pharmaceutical supply chain, we take a holistic approach to these goals that focuses on transparency, customer decision making, supporting our pharmacy partners, and competition.

#### **Transparency**

Optum Rx strongly supports actionable, client-facing transparency that helps our customers understand both how their pharmacy dollars are being spent and the value PBMs bring to the healthcare system. This support is evidenced by the multitude of contracting, payment, and reporting models that Optum Rx has and will continue to develop – tools that give customers

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<sup>5</sup> "The Use of Medicines in the U.S. 2024," IQVIA Institute for Human Data Science, May 2024. Available at: <https://www.iqvia.com/insights/the-iqvia-institute/reports-and-publications/reports/the-use-of-medicines-in-the-us-2024>

deep insight and control into how their pharmacy benefit is managed. We believe all clients should have access to this type of information.

Patient-facing decision tools also play an important role in promoting actionable transparency. Tools like our PreCheck MyScript, Price Edge, and MyScript Finder can help ensure that patients receive the right drug, for the right price, at the right time. We are supportive of transparency to consumers.

However, transparency proposals that are not client-facing would come with unintended negative consequences. Publicly disclosing PBMs' net prices for particular medicines risks revealing confidential rebate amounts that PBMs have negotiated with drug manufacturers. Armed with this information, competing manufacturers would feel emboldened to reduce the rebates they provide to at least that amount, now knowing the terms their competitors have reached with PBMs. This dynamic was modeled and observed by the Centers for Medicare & Medicaid Services' Office of the Actuary (OACT) when examining the impact of the proposed rule eliminating safe harbor protection for rebates negotiated between drug manufacturers and PBMs (the Rebate Rule). OACT found, among other dynamics, that drug manufacturers would retain some of the rebates that they were providing to the Part D program, and that Part D premiums would increase by \$58 billion over a 10-year window.<sup>6</sup> This type of "transparency" would increase costs for clients and drive-up drug manufacturer profits.

## **Customer Decision Making**

As sponsors of the pharmacy benefit, we believe that our customers – employers, unions, health plans, and governments – should be able to access the full suite of PBM tools available to them. Not all our customers are similarly situated. They have different priorities, populations, and financial objectives. This diversity of plan sponsors is one reason the Employee Retirement Income Security Act (ERISA) has been so successful at promoting employer-sponsored insurance. By allowing plan sponsors the flexibility to design healthcare coverage that best suits their needs and the needs of their members, ERISA has become the backbone of our employer-sponsored health coverage system, which covers nearly 165 million Americans.<sup>7</sup>

Preserving the options available to employers, unions, and governments in providing comprehensive health coverage, including prescription drugs, is critically important. A recent survey of employer perspectives toward their PBM found that 97 percent of direct contract employers say they are satisfied with their PBM, and 93 percent said that it is essential to have flexibility and a range of choices in how they offer prescription benefits to their employees.<sup>8</sup>

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<sup>6</sup> Analysis available at: <https://www.cms.gov/research-statistics-data-and-systems/research/actuarialstudies/downloads/proposedsafeharborregulationimpact.pdf>

<sup>7</sup> "What are the trends in employer-based health coverage?", Peterson-Kaiser Health System Tracker, December 22, 2023. Available at: <https://www.healthsystemtracker.org/chart-collection/trends-in-employer-based-health-coverage/>

<sup>8</sup> "New Survey: 9 in 10 Employers Value Full Range of PBM Contract Options," Coalition for Affordable Prescription Drugs, October 2023. Available at: <https://www.affordableprescriptiondrugs.org/articles/new-research-9-in-10-employers-value-full-range-of-pbm-contract-options/>

Several key policies included in recent PBM reform legislation proposals would reduce the options available to plan sponsors and make it more difficult to provide affordable coverage. Moreover, these proposals do not address the root cause of high prescription drug costs: the list prices set by drug manufacturers.

One proposal would “delink” PBM compensation from list price metrics. Built on the false premise that PBMs somehow encourage higher list prices since many entities in the supply chain are paid based on list price metrics, this proposal is another distraction from the high prices drug manufacturers alone have the power to set. To be clear – Optum Rx would prefer manufacturers set lower list prices.

Enacting such a delinking proposal in either the commercial or Medicare markets would not lower the cost of drugs for customers or consumers. In fact, by prohibiting PBM compensation based on the amount of rebates they negotiate with drug manufacturers, delinking would significantly hamper the ability of PBMs to enter value-based arrangements with entities across the supply chain. This disincentive to aggressively negotiate for greater rebates would increase the cost of the pharmacy benefit. An economic analysis of this dynamic found that, if delinking were implemented in Medicare, Part D premiums would increase by \$4 to \$13 billion annually. This would translate to an increase in federal government spending of \$3 to \$10 billion per year.<sup>9</sup> Delinking would also be incredibly costly and complex to implement, given that list price reimbursement metrics are common across the supply chain and not just related to PBMs.

Other policies would limit how customers compensate their PBM for building and maintaining a high-quality network of pharmacies by prohibiting spread pricing arrangements. Having multiple arrangements for managing a network of pharmacies helps Optum Rx serve its wide range of customers. For a particular customer, either spread or pass through pricing may be the best option. Additionally, several proposals would reduce flexibility for our customers by requiring rebate dollars be passed through fully to either the plan sponsor or to patients at the point-of-sale. But it is precisely this flexibility that has made the model of employer-sponsored insurance so successful in the United States. Removing choice from our customers by prohibiting spread pricing or restricting the use of rebate dollars would undermine value to the system and increase costs.

## **Supporting Our Pharmacy Partners**

We are committed to recognizing the value and role that independent and rural pharmacies play in our network. In many areas of the country, these providers not only serve as an access point for filling prescriptions, but also sites for vaccination, testing, and chronic disease management. There are meaningful steps that can be taken to support these pharmacies, and Optum Rx has deployed a range of tools and programs to serve rural areas. Understanding the complex economics and cash flow realities these pharmacies can face, we eliminated clawbacks more

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<sup>9</sup> “Ending Pay for PBM Performance: Consequences for Prescription Drug Prices, Utilization, and Government Spending,” Casey Mulligan, September 2023. Available at: <https://www.nber.org/papers/w31667>

than a decade ago.<sup>10</sup> To promote greater payment predictability and in anticipation of upcoming regulatory changes, Optum Rx eliminated retrospective pharmacy direct-and-indirect remuneration (DIR) beginning in 2023 and made the decision to not use DIR in any form in 2024, and has no plans to use it moving forward. We have also piloted and launched several initiatives focused on smoothing payment volatility and improving transparency and predictability into cash flow for independent pharmacies.

Policymakers can also do more to support the role of rural and independent pharmacies by repealing outdated and anticompetitive restrictions on pharmacists' ability to practice to the top of their license. When many areas in the United States are facing acute shortages of primary care providers<sup>11</sup>, it makes little sense to prohibit pharmacists from performing healthcare services for which they are trained and can administer safely and according to clinical guidelines. Congress can aid in this effort by enacting legislation that would allow pharmacists to provide appropriate services for Medicare beneficiaries in medically underserved areas.

## Competition

Congress can help to promote a competitive marketplace for prescription drugs by preventing patent abuses by drug manufacturers. Current law allows manufacturers to exploit loopholes and extend patent protections. Strategies such as product hopping, patent thickets, and pay-for-delay have been deployed by manufacturers to maintain their market power and to delay – in some cases, for decades – the launch of lower-cost generic and biosimilar products. An analysis found that the cost of these abuses on the healthcare system from just five drugs *in one year* amount to between \$1.8 and \$7.6 billion.<sup>12</sup> Reforming this system will generate substantial savings and ensure competition is based on clinical benefit – not the manufacturer's ability to game the patent system.

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We appreciate the Committee's interest in how to improve the healthcare system and look forward to continued work to address affordability and access to prescription medicines. Thank you for your time today and for your government service in Congress.

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<sup>10</sup> A "clawback" is a situation where a PBM recoups patient cost sharing paid to a pharmacy that is in excess of the contracted rate between the PBM and pharmacy.

<sup>11</sup> "Health Workforce Shortage Areas," Health Resources & Services Administration (HRSA). Available at: <https://data.hrsa.gov/topics/health-workforce/shortage-areas>. Accessed June 6, 2024.

<sup>12</sup> "Patent Thickets and Lost Drug Savings," Alex Brill and Christy Robinson, January 26, 2023. Available at: <https://www.affordableprescriptiondrugs.org/resources/patent-thickets-and-lost-drug-savings/>