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Anti-PBM Bills Pass Key Committee (Not Dead)

CVS Model More Buzz Than Impact As Widespread Transparency Moves Forward

Relevant Companies



»» Our Take & Next Up

We think several anti-PBM bills will pass in 2024, unlikely impacting the commercial market. Today, the House Energy & Commerce committee (Chair McMorris Rodgers, R-WA) passed out of committee anti-PBM reform, Part D co-pay reform, physician fee “fix,” and biosimilar reform with unanimous support. Link [here](#). PBM reforms passed include (a) Part D de-linking, (b) Part D/MA transparency provisions, and (c) standardizing pharmacy performance measures. We note that these are policies contained in Senate (companion) bills, therefore indicating likely passage. Yesterday CVS announced a commercial pharmacy drug pricing formula that would provide more transparency for stakeholders, patients and policymakers. Separately, price transparency measures – for ASC, imaging, diagnostic tests, PBM, hospital, and plans – move forward with a House suspension vote next week. Note: suspension means the policies enjoy widespread support, and no discussion/debate, for speedy approval.

»» Key Points

We have said that the slew of anti-PBM provisions passed by the various committees (House E&C, Senate HELP & Finance) are not dead by any stretch and have higher odds of passage in 2024. PBMs may be prioritized as potential riders during the new year (1Q24) funding talks as several anti-PBM provisions generate government savings that could help offset other healthcare “wants” like a physician fee fix. On which reforms are most likely to pass, we expect lawmakers to prioritize Part D/MA transparency, Medicaid spread pricing ban, and potentially even a newer idea, or “de-linking” reimbursement.

PBM policies are still in the mix as potential riders in early 2024, likely on the laddered CR approach. We think the Jan 11 bill looks most likely at this point because of the intention to include Extenders. Bills passed out of the House E&C committee focused on Part D/MA reform. Provisions on banning spread pricing and requiring PBMs to reimburse network pharmacies the same as affiliated pharmacies did not make it in the final markup, due to lack of unanimous support. Chair Rodgers (R-WA) noted that she supported a spread pricing ban in Medicare, but the text needed more work.

- An amended *Protecting Patients Against PBM Abuses Act* (original text [here](#)) passed out of committee would delink PBM compensation in Part D from cost of medications (by requiring service fees). CBO estimates that PBM de-linking could generate \$200 M in savings for the government.

- *The Medicare PBM Accountability Act* ([here](#)) would require PBMs to comply with annual Part D/MA transparency requirements that would collect info on formulary placement, estimated average cost-sharing, total rebates, WAC, # of claims, plan costs, and rebates retained.

As a reminder, anti-PBM reforms are bicameral and bipartisan. PBM reforms passed by House E&C overlap with the Modernizing and Ensuring PBM Accountability (MEPA) Act ([here](#)) passed out of the Senate Finance committee in July 2023. MEPA Act save \$719 M over 10. While not apples to apples, we expect the House PBM reforms to similarly generate some savings. Other committees that have passed anti-PBM reforms this year include the Senate HELP committee (Chair Bernie Sanders, I-VT) which passed a spread pricing ban and transparency requirements ([here](#)) in commercial markets, the House Education and the Workforce Committee (Chair Foxx, R-NC), that passed commercial transparency requirements ([here](#)), and Senate Judiciary (Chair Durbin, D-IL) that passed a bill requiring the FTC to study PBMs ([here](#)). Federal reforms targeting the commercial market are unlikely to pass due to GOP concerns on their impact on smaller PBMs.

Separately, next week the House is slated to pass price transparency bills, that apply to imaging, health plans, ASC, clinical labs, diagnostic tests and other providers ([here](#)). We have written about this in the past, given the concern around hospital-owned price transparency reporting rules that were transformed into ASC reporting rules overall. Our take [here](#).

CVS announcement around transparent pharmacy reimbursement is likely less impactful than the buzz it created, in our view. CVS announced a new commercial pharmacy model, CVS CostVantage, that aims to provide a transparent formula. Starting in 2025, CVS's pharmacy reimbursement will be via a defined formula (drug cost multiplied by markup %) + patient management fee.

The new CVS model does not address specialty pharmacy (starts 1/1/25), and the impact on PBM and pharmacy will take time to play out. The announcement follows the [launch](#) of CI's ClearCareRX model in April 2023, a "fully transparent" PBM option that charges a flat monthly fee for each member, and offers more visibility into manufacturers' prices and discounts. The industry has faced scrutiny largely over their rebating practices (particularly spread pricing) and the lack of transparency around their reimbursement. In response, large PBMs are debuting new models that focus on reimbursement transparency and service fees.

Ipsita Smolinski
Managing Director | Capitol Street
ipsita@capitol-street.com

202.250.3741 | www.capitol-street.com

900 19th St NW 6th Fl
Washington, D.C. 20006

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