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Feds Launch Inquiry Into Pharmacy Benefit Manager Industry

On June 7, 2022, the Federal Trade Commission (FTC) announced that it will launch an inquiry into the prescription drug middleman industry, requiring the six largest pharmacy benefit managers (PBMs) to provide information and records regarding their business practices. The FTC's inquiry will scrutinize the impact of vertically integrated PBMs on the access and affordability of prescription drugs. As part of this inquiry, the FTC will send compulsory orders to CVS Caremark, Express Scripts, Inc., OptumRx, Inc., Humana Inc., Prime Therapeutics LLC, and MedImpact Healthcare Systems, Inc. "This study will shine a light on these companies' practices and their impact on pharmacies, payers, doctors and patients," FTC Chair Lina M. Kahn said.

The FTC's inquiry will examine PBMs' role at the center of the U.S. pharmaceutical system. PBMs are the middlemen who are hired to negotiate rebates and fees with drug manufacturers, create drug formularies and surrounding policies, and reimburse pharmacies for patients' prescriptions. The largest PBMs are now vertically integrated with the largest health insurance companies and wholly owned mail order and specialty pharmacies.

In these roles, PBMs often have enormous influence on which drugs are prescribed to patients, which pharmacies patients can use, and how much patients ultimately pay at the pharmacy counter. Many of these functions depend on highly complicated, opaque contractual relationships that are difficult or impossible to understand for patients and independent businesses across the prescription drug system.

The inquiry is aimed at shedding light on several practices that have drawn scrutiny in recent years including:

- Fees and clawbacks charged to unaffiliated pharmacies
- Methods to steer patients toward PBM-owned pharmacies
- Potentially unfair audits of independent pharmacies
- Complicated and opaque methods to determine pharmacy reimbursement
- The prevalence of prior authorizations and other administrative restrictions
- The use of specialty drug lists and surrounding specialty drug policies
- The impact of rebates and fees from drug manufacturers on formulary design and the costs of prescription drugs to payers and patients

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The FTC's inquiry will build upon the significant public record developed in response to the request for public information about PBMs that the agency launched in February 2022. Since then, the agency has received more than 24,000 public comments. The PBMs will have 90 days to respond to the FTC's compulsory orders for information and records.

Full text of press release (Federal Trade Commission, June 7, 2022)

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