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FTC to Scrutinize Impact of Pharmacy Benefit Managers

In a unanimous vote of the five members of the Federal Trade Commission (FTC), the agency announced it will launch a study into the practices of the pharmacy benefit manager (PBM) industry.

The FTC is requiring the six largest PBMs to submit data, records, correspondence and other material designed to help the FTC assess the impact of vertically integrated PBMs on the access and affordability of prescription drugs. These PBMs include CVS Caremark; Express Scripts, Inc; OptumRx, Inc; Humana, Inc.; Prime Therapeutics LLC; and MedImpact Healthcare Systems, Inc.

According to the release, FTC's inquiry will include assessing fees and clawbacks to unaffiliated pharmacies, complicated and opaque methods to determine pharmacy reimbursement, and the impact of rebates and fees from drug manufacturers on formulary design and the costs of prescription drugs to payers and patients. The agency will also assess methods to steer patients towards PBM manager-owned pharmacies, as well as the use of specialty drugs lists and surrounding specialty drug policies.

The FTC inquiry is important to hospitals and health systems for its potential to expose practices that harm providers and patients. In a May letter from the American Hospital Association (AHA) to the chair of the FTC, AHA urged the agency to increase scrutiny in three areas: the 340B program, insurer-mandated white bagging policies, and overall drug pricing.

The 340B program allows providers that serve vulnerable communities to purchase prescription drugs at a discounted price and use those savings to provide more comprehensive services to patients. In its letter, AHA said PBMs engage in policies that force 340B hospitals to accept discriminatory reimbursement rates, block network participation for 340B hospitals and pharmacies, and engage in efforts to reduce the scope and benefits of the 340B program.

Insurer-mandated white bagging is a practice which requires that patients obtain their clinician-administered drugs from the pharmacy designated by the insurer instead of allowing the health care facility to provide the drug on-site. The AHA letter indicates that white bagging has only increased as large health plans have become vertically integrated with PBMs and specialty pharmacies. The Wisconsin Legislature introduced AB718 in this past session to prohibit insurance-mandated white bagging. Hearings in both the Senate and Assembly exposed the potential for patient harm and treatment delays that result because the medication must be obtained outside the provider's normal process for procuring, storing, preparing and handling these drug therapies. According to Director of State Policy and Advocacy for the American Society of Health System Pharmacists Kyle Robb, legislation has been introduced in 17 states, and an additional seven states have enacted laws to prohibit or restrict the practice.

Finally, AHA urged the FTC to assess the overall impact PBMs have on drug prices, given their role as intermediaries. "While PBMs argue that their role lowers the overall cost of drugs, the process actually results in significant incentives to maintain high drug prices and decrease competition," wrote AHA. The FTC indicates it is focusing on PBMs as the middlemen since they have enormous influence through "opaque contractual relationships" that determine which drugs are prescribed to patients, which pharmacies patients can use, and how much patients ultimately pay for their prescription drugs.