

January 13, 2010

Senator Harry Reid, Majority Leader  
U.S. Senate  
528 Hart Senate Office Building  
Washington, D.C. 20510

Representative Nancy Pelosi, Speaker  
U.S. House of Representatives  
235 Cannon House Office Building  
Washington, D.C. 20515

**Re: Pharmacy Benefit Manager Transparency**

Dear Senator Reid and Representative Pelosi:

We are twenty-four of the nation's leading consumer rights, labor and public interest organizations. As representatives of consumers and workers, we have been following the health reform debate closely. We appreciate your consideration of diverse perspectives, and we applaud you for your accomplishments so far in bringing the nation closer to landmark health reform.

Several of our groups wrote to each of you earlier this year to ask that you include pharmacy benefit manager (PBM) transparency requirements in your respective chambers' health reform legislation. We were happy to see that each bill requires PBMs to disclose some level of information to plan sponsors to allow them to account for and curb their prescription drug spending. We are writing today to urge you to integrate the strong language on PBM transparency from the House health reform bill, H.R. 3962, into the final health reform legislation that the House and Senate will consider soon. We hope that you will also support inclusion of the language from the Senate bill that applies transparency requirements to Medicare Part D plans.

Transparency is a key component in curbing health care spending. It gives health plans and consumers the tools they need to ensure that their money is well spent, and that the plan receives a reasonable portion of the savings and rebates accrued by the PBM on their behalf. Large plan sponsors with the bargaining power to demand transparency have enjoyed considerable savings as a result.

We appreciate Senator Cantwell and her staff's efforts in support of PBM transparency. Both Senator Cantwell's language and the House language provide plan sponsors with the information that is absolutely necessary to account for prescription drug spending and seek to reduce it.

The Senate language currently provides a broad exception for "bona fide service fees" This gives PBMs the opportunity to withhold information to the plan sponsor's detriment, something the major PBMs' record of fraud and consumer harm suggests they might do. In contrast, the language in the House bill requires disclosure of the entirety of payments or discounts PBMs receive from drug manufacturers. The PBM is required to describe the reason for these payments, giving the plan sponsor the

opportunity to hold their PBM accountable for passing on a reasonable share of these payments.

The House bill also requires PBMs to disclose when a plan member is switched from one prescription to another equivalent drug at a higher cost to the plan. A PBM might seek to switch patients to a drug that costs more per prescription—a cost incurred entirely by the plan sponsor—in order to earn a larger rebate from that drug’s manufacturer. Without this disclosure, the plan sponsor has no means of knowing why these switches are made or how to reduce their costs net of rebates.

Finally, the House language requires that these disclosures occur at least annually, while the Senate language does not set a standard for minimum disclosure. Further, the House language applies to the full range of plans that will be offered in exchanges and gives the Secretary the discretion to apply these requirements to plans not being offered in the exchanges. This flexibility allows a broader range of consumers and health plans to benefit from the savings provided by transparency.

The Senate language championed by Senator Cantwell explicitly applies these transparency protections to the government-subsidized Medicare Part D plans serving our nation’s seniors. Because Part D plans represent a large share of prescription drug spending in the U.S., including this provision will increase accountability to taxpayers while reducing spending.

As representatives of consumers’ and workers’ interests, we hope you will make these improvements to the final health reform legislation. Our nation stands to achieve significant savings on prescription drugs if the House language on PBM transparency is integrated in the final health reform bill along with the Senate’s explicit application of these requirements to Medicare Part D plans.

We would appreciate the opportunity to meet with you and your staff to discuss this matter. Thank you for your consideration of our views.

Signed,

AFSCME – District Council 37 Health & Security Plan (NY)

California Alliance of Retired Americans (CA)

CALPIRG (CA)

Community Catalyst

Center for Medical Consumers (NY)

Congress of California Seniors (CA)

Connecticut Citizens Action Group (CT)  
Consumer Federation of America  
Health Care for All (MA)  
Long Island Health Access Monitoring Project (NY)  
Maryland Citizens' Health Initiative (MD)  
Massachusetts Public Interest Research Group (MA)  
Medicare Rights Center  
Metro New York Health Care for All Campaign (NY)  
National Legislative Assoc. on Prescription Drug Prices  
National Women's Health Network  
NC Justice Center's Health Access Coalition (NC)  
Our Bodies Ourselves (MA)  
Public Citizen  
South Carolina Appleseed Legal Justice Center (SC)  
Teamsters Union 25 Health Services & Insurance Plan (MA)  
Tennessee Health Care Campaign (TN)  
UHCAN Ohio (OH)  
U.S. PIRG

CC: Representative Henry Waxman  
Representative Anthony Weiner  
Representative Tammy Baldwin  
Senator Maria Cantwell