



**COUNCIL for
CITIZENS
AGAINST
GOVERNMENT
WASTE**

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U.S. Senate Finance Committee
219 Senate Dirksen Office Building
Washington, D.C. 20510

Dear Senator,

On behalf of the more than one million members and supporters of the Council for Citizens Against Government Waste (CCAGW), I am writing to express our opposition to the Senate Finance [draft](#) legislation “to amend titles XVIII and XIX of the Social Security Act to expand the mental health care workforce and services, reduce prescription drug costs, and extend certain expiring provisions under Medicare and Medicaid, and for other purposes.” This legislation would impose onerous regulations on pharmacy benefit management and interfere with privately negotiated, voluntary contracts among insurers, pharmacy benefit managers (PBM), and the sponsors they serve, including businesses, unions, state and local government, associations, and other organizations that provide health insurance to their employees or members.

Today, PBMs administer plans for more than [275 million Americans](#) nationwide. PBMs save payers and patients an average of [\\$1,040](#) per person per year. PBMs use various tools like rebates, pharmacy networks, drug utilization review, formularies, specialty pharmacies, mail-order, and audits to drive down drug costs, improve quality, increase patient medication adherence, and prevent fraud. By negotiating on behalf of large groups, PBMs drive down costs for patients. This bill would make it more difficult for PBMs to provide cost-saving services to their customers.

The “any willing pharmacy participation” provision in the bill is now what it seems. It would allow any pharmacy to participate “in network,” which undermines the benefits and security of the private contractual agreements that comprise pharmacy networks. PBMs use a variety of preferred network pharmacies, including independent, chain, mail-order, and specialty, to prioritize safety while keeping costs low. Eliminating these agreements and requiring PBMs to include all pharmacies in the plan is inconsistent with the purpose of PBMs and the agreements they make with pharmacies on behalf of their customers. Pharmacies agree to charge lower prices to receive a large share of patients from a plan; if any pharmacy can participate, the incentive to lower costs and maintain patient safety will be gone. Patients on a PBM negotiated plan have the option to go to any pharmacy they choose but are not guaranteed the lower price if it is not in a contract with their PBM preferred network.

The wholesale acquisition costs (WAC) provisions in the bill are nothing more than a price control that will harm patients by stifling the development of new treatments and cures.

The WAC is essentially a list price and does not represent what a patient will pay at the pharmacy after negotiations have occurred among pharmaceutical companies, insurers, pharmacy benefit managers, and pharmacies to lower out-of-pocket costs for patients. This legislation expands the scope of the federal government's power to control healthcare costs and implement price setting, which will harm consumers.

The draft legislation also imposes burdensome transparency and pricing requirements. The disclosure of proprietary and sensitive information beyond the existing transparency requirements is anti-competitive and will ultimately harm the consumer. Exposing privately negotiated agreements will increase rather than decrease costs. Price controls and overregulation never reduce costs for any product or commodity.

The legislation purports to reduce drug prices, but it will only undermine a successful, cost-effective component of the private sector healthcare ecosystem. Instead, Congress should encourage competition in the marketplace to drive down costs, similar to how PBMs negotiate lower prices on behalf of their customers. The draft proposal also opens the door further to more government control of healthcare and socialized medicine. Senators who oppose price controls and believe in free markets should oppose this legislation.

Sincerely,

Tom Schatz