

Health Care Policy: PBMs' Medicaid Role Under Attack in Some States

Legislative Update

The Medicaid role of Express Scripts, CVS/Caremark and other pharmacy benefit managers is under siege by Appalachian state legislators proposing bills that would curb or stop entirely a reliable revenue stream for the companies.

In Ohio and Kentucky, legislators proposed bills last month to replace PBMs with state agencies in performing the most important duties in managing the Medicaid recipients' prescription benefits. West Virginia's state Medicaid agency didn't wait for legislation and last year unilaterally ended PBMs' role in the program.

PBMs in many parts of the U.S. reimburse pharmacies for prescription sales to Medicaid recipients, process claims, and negotiate drug prices with manufacturers and distributors on behalf of the U.S. government health insurance program for the poor. But lawmakers in the three states, which have large Medicaid populations, told *The Capitol Forum* that PBMs have failed to substantially check drug price increases while pushing many independent pharmacies to the brink of bankruptcy with lower reimbursements.

"The question is whether we need PBMs in the first place," said state Senator Reggie Thomas, a Democratic co-sponsor of the Kentucky legislation and candidate for a U.S. congressional seat. "They failed to bring down the cost for drugs; prices have been rising."

The move against PBMs comes on the heels of other recent state efforts to assert more authority over the companies. A Florida lawmaker recently introduced a bill requiring PBMs to disclose drug costs and permit pharmacists to tell consumers about drugs bought more cheaply without insurance. Under the legislation, PBMs would need to register with the state insurance regulator. Washington, New York and Nebraska are considering similar measures.

Other state legislatures such as New Hampshire's are debating bills that ban the "gag clause" PBMs put in their drugstore contracts preventing pharmacists from telling customers about cheaper prescription drug options.

Push to limit PBM role. The push to limit PBMs' role in Medicaid could affect the companies in some states more than others. If the Ohio bill passes, PBMs will stop providing any Medicaid-related services. Under the Kentucky bill, the PBMs would stop providing reimbursements to pharmacies but would still have a role in processing claims.

Legislators can't cut the companies totally out of Kentucky's Medicaid equation because PBMs directly contract with the health insurers hired by the state to provide the insurance, said state Senator Max Wise, a Republican who authored the Kentucky [bill](#).

The arrangement is typical in most state Medicaid programs using PBMs. The PBM-insurer contracts aren't public, making it difficult to determine how much money the PBMs receive for providing the services. Adding to the financial murk, the largest PBMs' annual reports don't break out revenue generated through state Medicaid programs.

"Nobody really knows about the money they are making and what is their administrative cost," Wise said.

The biggest PBMs dominate the market for Medicaid prescription services. In 2015, Express Scripts handled prescription drug benefits for 21 percent of the Medicaid managed-care population; CVS/Caremark, [19 percent](#); and OptumRx and Catamaran, which merged in July 2015, a combined 16 percent, according to a CVS presentation.

Without a role in reimbursements, the larger PBMs, though, could become less attractive to states that once had been eager to take advantage of the companies' bargaining power to lower drug prices. Small and medium-sized PBMs are more able to compete for contracts for back-office services such as claims processing.

PBM role in state Medicaid programs. The Medicaid population served by PBMs is large. In the second half of last year, private insurers delivered benefits for 55 million of the program's participants, according to industry researcher Health Management Associates.

Spokespeople for trade groups representing PBMs and insurers said states are unfairly blaming PBMs for rising prices, and not the true culprits -- drugmakers and pharmacies.

"We support the patient paying the lowest price available at the pharmacy counter for the prescribed drug," said Greg Lopes, a spokesperson for the Pharmaceutical Care Management Association (PCMA), a PBM trade group.

Prescription drug prices rose about 9 percent in 2016, following three years of average annual increases of 10 percent, according to Truveris, a healthcare analytics company. PBMs could help states save \$17.7 billion on their Medicaid programs over the next 10 years, according to a PCMA-sponsored [study](#).

West Virginia officials said they have found the opposite to be true. Since the state's Medicaid agency took over for PBMs on July 1, 2017, West Virginia has saved an estimated \$30 million, according to the state's Department of Health and Human Resources.

Spokespeople for Express Scripts and CVS/Caremark referred questions to the PCMA. An Optum spokesperson didn't respond to requests for comment.

Reining in drug costs. State policymakers' efforts to rein in rising prescription drug costs have intensified with Obamacare's expansion of Medicaid, usually among a state's biggest budget expenditures. The urgency is felt most in states with large low-income populations reliant on Medicaid.

Portions of Ohio, Kentucky and West Virginia make up Appalachia, the storied mountain region whose poverty rate has remained stubbornly high for generations. The hardship felt by Appalachia's residents has contributed to the three states' Medicaid rolls: Ohio has 2.5 million residents on Medicaid, while Kentucky and West Virginia have 928,000 and 470,900, respectively, according to the Kaiser Family Foundation.

An [estimated 26 percent](#) of West Virginia's population is on Medicaid, exceeding the national average of 19 percent. Twenty-two percent of Ohio residents, and 21 percent of Kentucky residents are on Medicaid, according to Kaiser.

To help cut drug costs, many state Medicaid agencies mandate insurers to hire PBMs such as Express Scripts, CVS/Caremark or Optum to negotiate drug prices with manufacturers and distributors, and then reimburse pharmacists for drug sales.

Some Medicaid agencies and lawmakers, however, have raised questions about the prices PBMs are negotiating and fielding complaints from independent pharmacists feeling squeezed by lower reimbursements from the PBMs.

“The state has lost accessibility to pharmacies, jobs and money” because of the PBMs, said state Representative Scott Lipps, co-sponsor of the [legislation](#) that would put Ohio’s Medicaid department in charge of administering the program’s prescription benefits. “The proposed bill is designed to help both consumers and pharmacists.”

The bill’s primary sponsors are Republican, which should be an advantage in pushing the legislation through the GOP-controlled state legislature. Governor John Kasich, a Republican, hasn’t weighed in on the bill, but he recently signed a budget measure that included a provision increasing the transparency of information related to PBMs’ reimbursement payments.

Four of the five insurers Ohio hired to provide Medicaid insurance benefits use CVS/Caremark as the program’s PBM. The fifth insurer contracts with Optum.

Independent pharmacists struggle with lower reimbursements. One hundred eighty pharmacies have closed since Ohio began using PBMs to administer the Medicaid prescription benefit in 2011, Lipps said, while drug prices have continued to rise.

Independent pharmacies are vital to rural residents: some parts of West Virginia, for instance, have only one of these drugstores within a five- to 10-mile radius. But PBMs are adding to these small business’s difficulties, West Virginia state Senator Edward Gaunch said.

“PBMs have been using bullying tactics that made life hard for rural pharmacists in the state,” said Gaunch, a Republican who sponsored [a bill](#) passed last year that standardized PBM audits of independent pharmacies. Gaunch said he and his co-sponsors introduced the legislation following pharmacists’ complaints about PBMs throwing the drugstores’ operations into turmoil by conducting surprise audits, checking finances and compliance with Medicaid regulations.

Independent pharmacists have stoked opposition to PBMs, one of which, CVS/Caremark, is owned by a chief drugstore chain rival. Wise, the Kentucky senator, said he introduced his legislation at the urging of independent pharmacists.

A former FBI analyst, Wise said his former employer “and DOJ should look at the way PBMs operate nationwide.” In his state, many pharmacies recently suffered dramatic reimbursement cuts from CVS/Caremark, Wise said. Following the cuts, some received letters from CVS offering to buy their businesses, the lawmaker said – the same complaint made by pharmacists in other states. Despite bipartisan support, the Kentucky bill will likely face stiff opposition from the PBMs, he said.

The National Community Pharmacists Association, a lobbyist for independent pharmacists, isn’t taking a position on the Kentucky and Ohio bills, said Scott Brunner, a group spokesperson. Some members of the group run their own PBMs.

Still, Brunner took a swipe at the PBMs. “These two bills have been introduced as a response to the wave of under-reimbursements to pharmacies in the Medicaid managed care program since last fall,” he said.

West Virginia Medicaid agency cuts out PBMs. West Virginia’s Medicaid recipients and pharmacies are adjusting to the state’s management of the program’s prescription benefit. Since taking over the prescription benefit’s administration, the state’s Bureau for Medical Services has set reimbursement rates based on lists from the Centers for Medicare and Medicaid Services, which oversee government-provided health programs at the national level.

West Virginia isn’t the first state to cut out PBMs wholly or in part. The governments of Missouri and Wisconsin also administer the pharmacy benefit, while Tennessee partners with PBM MagellanRx.

For some state lawmakers, more oversight and transparency of PBM contracts are needed. Florida state Representative David Santiago introduced [a bill](#) that he said would do both. The Republican lawmaker said he might be willing to go further, expressing interest in the Ohio and Kentucky legislation.

“More can be done, and I have some concerns about PBMs’ role in Medicaid,” he said.