NASPA NATIONAL ALLIANCE OF STATE PHARMACY ASSOCIATIONS

NACDS NATIONAL ASSOCIATION OF CHAIN DRUG STORES

NCPA NATIONAL COMMUNITY PHARMACISTS ASSOCIATION

Oppose Merger of PBM Giants ESI and Medco

Eighty percent of the national prescription drug plan market is held by three pharmacy benefit management (PBM) firms.[1] If Express Scripts (ESI) and Medco are allowed to merge, then only two firms would dominate this market, resulting in unparalleled market concentration. **We urge you to write to the Federal Trade Commission as soon as possible, but no later than August 15, 2011, to oppose this dangerous merger. We also encourage state policymakers to contact your state Attorney General or Insurance Commissioner to ask them to oppose this merger.**

Merger Will Hurt Patient Care

Community pharmacy services help improve patient health and lower overall healthcare costs. PBMs diminish the vital role of community pharmacists in healthcare delivery in a number of ways. They use financial tactics to steer patients to their own mail order facilities. PBMs also deny many patients access to their local pharmacies and establish drug formularies that may be based on their financial interests instead of patients' health interests. PBMs receive rebates or other forms of payment from brand drug manufacturers for placing drugs on their formularies.

Questionable Savings; More Power over Government Programs

ESI and Medco claim that their merger would create a powerful entity to extract savings. However, there is no evidence that any "savings" would be passed along to health plan sponsors and consumers. Each of the large three PBMs net an average profit of $15 billion annually, much of this from the "spread" between the parties they contract with: plan sponsors, pharmacies, and drug manufacturers. Reduced PBM competition would most likely have a negative impact on health plan sponsors, including the government healthcare programs, as the giant PBMs would have even more power to dictate contract terms. If PBMs were truly interested in controlling healthcare costs, they would encourage the use of generic drugs. However, research shows that PBMs' mail order operations dispense generic drugs 56% of the time, compared to 71% for community pharmacies.

More PBM Scrutiny is Required

Over the past few years there have been substantial enforcement actions taken against each of the major PBMs, indicating fraudulent and deceptive conduct that have resulted in over $370 million in damages. Between 2004 and 2008, these cases shed light on widespread practices in the PBM industry, including misuse of rebates, kickbacks, submission of false claims, taking secret rebates, and drug switching. These concerns were recognized during the healthcare reform debate. Under new federal provisions, PBMs are now required to share basic information with the government about how they operate and generate their profits. Before any further consolidation is approved in the PBM market, regulators must better understand how PBMs operate.

Action Requested

Lawmakers and state policymakers are urged to write to the Federal Trade Commission as soon as possible in opposition to this merger. *Letters should be received no later than August 15, 2011.* Letters should be addressed to: Honorable Jonathan Leibowitz

Chairman, Federal Trade Commission
600 Pennsylvania Avenue, NW, Room 338, Washington, DC 20580
jleibowitz@ftc.gov

State policymakers are also encouraged to contact your state Attorney General and Insurance Commissioner to oppose this merger.

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[1] http://dealbook.nytimes.com/2011/07/22/dealing-with-antitrust-issues-in-a-giant-merger/