

Public Testimony
Senate Banking and Insurance Committee
Senate Bill 637, Printer's No.716
Pharmaceutical Pricing Transparency

October 24, 2017

Introduction

Independence Blue Cross (Independence) thanks Chairman White, Chairman Street, and members and staff of the Senate Banking and Insurance Committee for the opportunity to offer comments on Senate Bill 637, legislation that seeks to bring a level of transparency to prescription drug pricing.

Independence has been operating for nearly 80 years in the 5-county southeastern Pennsylvania region and provides insurance coverage to nearly 2.5 million members with the mission of enhancing the health and well-being of the people and the communities we serve. As the region's leading insurer offering affordable options to businesses and individuals, the increasing cost of prescription drugs is a major concern. Like all insurance carriers, Independence must manage pharmaceutical costs in order to maintain overall affordability for individuals and families shopping for and purchasing our coverage.

We have seen the following trends at Independence with increasing pharmaceutical costs from 2012 through 2016:

- The average wholesale price per member prescription has increased **24 percent**.
- Total cost of prescription claims Independence has paid out has increased 40 percent, **from \$806 million in 2012 to \$1.1 billion in 2016**.
- Prescription drug claims paid for specialty and compounded prescriptions have increased by **275 percent**.
- Overall, average costs of **specialty drugs are over 60 times the amount spent on generic drugs**, making up more than **65% of overall pharmacy drug spend at Independence but amounting to only 2.1% of utilization**.

This trajectory is unsustainable, and therefore we appreciate today's opportunity to continue a discussion that began almost exactly one year ago today when the Committee held its first hearing on this topic.

What Has Changed?

Legislative Activity in a Growing Number of States

The number of states that have either passed or are considering legislation to address the rising drug cost of drugs through price transparency, cost caps, or other measures have steadily increased. To date, over half of all states have passed some form of legislation seeking to address the high cost of drugs. Some of the most recent states to enact legislation include California, New York and Maryland.

California's law was passed in September and beginning in 2019, will require drug manufacturers to disclose to health insurers and government health plans price increases exceeding 16 percent over a two year period, and to justify the hike. This was signed in to law by the California Governor despite the fact that the pharmaceutical industry spent almost \$20 million in its opposition campaign.

A New York law passed this spring allows state officials to cap what their Medicaid program spends on prescription drugs. If Medicaid drug payments rise over a certain level, manufacturers either undergo a

review of the drug's effectiveness, or provide additional rebates to bring the price of the drug below the exceeded threshold.

A new Maryland law goes even further, treating pharmaceutical price gouging as a civil offense, imposing fines and taking alleged violators to court.

The swelling tide of legislation at the state level is a strong indicator that this is a widespread problem for which lawmakers are increasingly and successfully seeking solutions.

Litigation

A number of states and local municipalities are engaging in lawsuits against pharmaceutical companies. The vast majority of these lawsuits – some of which are being brought by Pennsylvania localities including Beaver, Delaware, and Lackawanna Counties – concern pharmaceutical company's marketing actions related to the opioid crisis facing the state and the nation.

In addition, the attorneys general in a number of states, are currently investigating pharmaceutical company practices, again as it relates to the marketing and distribution of opioids.

Senate Bill 637

Most importantly for purposes of today's hearing, the discussion around Senate Bill 637 has evolved. Earlier this year and at the direction of Chairman White's office, stakeholders convened to discuss Senate Bill 637. The result of these discussions was the amendment provided to the Committee in late June (A02377). Major provisions of this amendment include:

- Removal of the pharmaceutical transparency commission.
- Removal of state-established price caps on prescription drugs.
- Requiring pharmaceutical companies to disclose rebates.
- Requiring health insurers to pass on to consumers the rebates negotiated with manufacturers or Pharmacy Benefit Manager (PBM) companies.
- Prohibiting insurers or PBMs from restricting pharmacists from disclosing prescription drug pricing information to patients.

The proposed amendment seeks to address the major concerns with Senate Bill 637 as drafted, specifically those raised by the pharmaceutical industry. The amendment also represents compromise on the part of insurers and PBMs as part of the overall prescription drug supply chain.

What Has Not Changed?

While the legislative and legal environments have changed with the advent of new state laws and lawsuits, some things have stayed the same in the past year.

Prescription Drugs are Still Expensive, and Prices Continue to Rise

In our testimony last October, we shared some alarming statistics that are worth emphasizing:

- One manufacturer of Naloxone, a drug that can block the effect of an opioid overdose, hiked prices by nearly 1,100 percent. The price of Evzio, a similar medication, has risen 400 percent since 2014.
- Opana ER, an abuse-deterrent opioid (ADO), has increased from about \$600 per prescription to about \$1,600 per prescription in two years. Five of the top ten highest cost prescription opioid medicines are ADOs.
- Over \$180 million dollars was spent on prescription drug benefits for 73,606 Pennsylvania state employees in 2016. Also impacted are state Medicaid and Corrections programs, the latter spent \$54.4 million on prescription drugs in 2015.
- According to testimony before the House Insurance Committee earlier this year, the Pennsylvania Insurance Department indicated that pharmaceutical drug costs rose from about 14% of per enrollee health care claims in 2014, to about 21% in 2015- a 57% increase.

Pharmaceutical Companies Continue to Oppose Transparency Measures and Seek to Confuse the Issue

Despite stakeholder discussions and the proposed compromise amendment, pharmaceutical companies will continue to oppose Senate Bill 637 and related measures. Instead of working to be part of the solution, the pharmaceutical industry is deflecting responsibility for the high cost of drugs – **prices which they set without limit or regulatory oversight.**

Pharmaceutical manufacturers are now pointing to insurers and PBMs and negotiated rebates as the problem. The existence of rebates are in fact a concept developed and promoted by the pharmaceutical industry as a direct result of the high prices **set unilaterally by pharmaceutical manufacturers**, who seek legislation to deflect the issue, disguising the true cost of medication to manufacturers' advantage. This instead forces more transparency requirements on insurers, without making any step toward transparency among and across their own industry.

As we have stated in previous testimony, this issue is not about insurance companies vs. the pharmaceutical manufacturers, or PBMs vs. pharmaceutical manufacturers or insurers – this is about the people we are all here to serve – our members, and your constituents. The rising cost of prescription drugs does not discriminate – it is pervasive in both public and private insurance programs, spans all age groups and populations, and is a real issue across all states.

Independence appreciates the efforts of Chairman White, staff and other Committee members who remain committed to continuing this dialogue and enacting common sense public policy to address a major health care concern. We would urge the members of the Committee to carefully consider the significant compromise in the proposed amendment to Senate Bill 637 and ask that you support moving the bill from Committee.