

April 25, 2022

Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: Solicitation for Public Comments on the Impact of Prescription Benefit Managers' Business Practices

Howard Brown Health appreciates the opportunity to comment about the practices of PBMs, as we have concerns about the impact of their practices on patients, providers, and our ability to provide affordable medications to our patients. Howard Brown was founded in 1974 and is now one of the nation's largest LGBTQ+ community health centers. Rooted in LGBTQ+ liberation, Howard Brown provides affirming healthcare and mobilizes for social justice. We envision a future where healthcare and transformative social policies actualize human rights and equity for all. Howard Brown serves more than 40,000 adults and youth in its diverse health and social service delivery system focused around seven major programmatic divisions: primary medical care, behavioral health, research, HIV/STI prevention, youth services, elder services, and community initiatives. As a federally qualified health center, Howard Brown provides services regardless of a patient's ability to pay or insurance status.

The 340B Drug Pricing Program is a vital program that allows health centers like Howard Brown to provide low-cost and free medications to patients who need them the most. Furthermore, savings from the 340B program enable health centers to expand their primary and preventive care services to address the needs of our communities. Pharmacy Benefits Managers (PBMs) have a direct impact on the 340B Program and our ability to retain 340B savings. As such, fair contracts, more transparency, and adequate reimbursement from PBMs is essential to maintaining our 340B savings and all the programs and operations at our health center that rely on those savings. Our pharmacy partners need a stable business environment that maximizes patient care without operating at a financial loss.

At Howard Brown, we reinvest all of our 340B savings into improving care and expanding services for our underserved patient population. For example, the 340B Program helped us to expand clinical capacity and patient access throughout the COVID-19 pandemic. Since April 2020, we've provided over 64,000 COVID-19 tests and 70,000 vaccine doses. The 340B program has also made it possible for Howard Brown to provide essential and holistic wrap-around support services—such as transgender and gender non-conforming support groups, HIV case management, and substance use programs—to help every patient achieve optimal health outcomes. For example, 340B savings help to support our HIV and PrEP patient navigation and education services, contributing to our 80% viral suppression rate among Howard Brown patients living with HIV and over 6,600 unique patients prescribed PrEP in FY21.

We along with health centers across the nation have been impacted by unfair business practices, limitations on pharmacy choice, and contract restrictions that impact our 340B savings and our patients' access to medications. For example:

1. Prior to December 1, 2020, Illinicare Prescription Benefits was accepted at our Walgreens contract pharmacies, including our embedded pharmacies within our clinics. We were given a month's notice that patients with this plan would no longer be allowed to fill their prescriptions at Walgreens using Illinicare Prescription Benefit card. This impacted enough patients that our providers were informed to minimize disruption of care. It should be noted that Illinicare Prescription Benefits is owned by Aetna, which merged with CVS Health in 2018. In the Chicagoland area, Walgreens is the main retail pharmacy competitor to CVS. This change made by CVS created barriers to medication access especially for patients living in pharmacy deserts—which are especially prevalent in Chicago's predominantly minority communities¹—requiring patients to commute further and resulting in disruption to service.
2. On the evening of February 24, 2021, Express Scripts announced that beginning March 1, 2021, covered entities must identify 340B claims. In addition, since this requirement was implemented, Express Scripts sends prescription data to pharmacies for 340B status verification. Pharmacies have a narrow window (10 days) to complete verification. From the pharmacy perspective these extra tasks require additional resources and new processes to fill the same number of prescriptions. Most importantly, the status (340B or not) of claim should not have to be disclosed to any PBMs.

Along with our colleagues at the National Association of Community Health Centers, Howard Brown urges the Federal Trade Commission (FTC) to carefully consider the following:

1. Health centers need more federal protection from pharmacy benefit managers' anticompetitive practices which negatively impact pharmacy reimbursement and patient access to affordable medications. PBMs profit at nearly every stage of the supply chain, from the drug manufacturer to the patient purchasing the prescription at the pharmacy. They are incentivized to pursue contractual arrangements and rebates that increase profits for the PBM and PBM-owned health insurers and pharmacies.
2. Pharmacy benefit managers discriminate against health centers for participating in the 340B Program and force in-house and contract pharmacies to accept lower reimbursement and unfair contracting terms. PBMs intentionally reimburse 340B pharmacies at lower rates than non-340B pharmacies for prescription drugs simply because health centers receive a 340B discount. This practice is known as "pickpocketing," because PBMs are picking the 340B savings out of the health center's pockets.

¹ Qato D, Daviglius M, Wilder J, Lee T, Qato D, and Lambert B. (2014). 'Pharmacy Deserts' Are Prevalent In Chicago's Predominantly Minority Communities, Raising Medication Access Concerns. *Health Affairs*. 33(11). Available online at:

<https://www.healthaffairs.org/doi/10.1377/hlthaff.2013.1397#:~:text=For%20Community%20Health-'Pharmacy%20Deserts'%20Are%20Prevalent%20In%20Chicago's%20Predominantly%20Minority,Communities%2C%20Raising%20Medication%20Access%20Concerns&text=Qato%20%2C-Dima%20M.,University%20of%20Illinois%2C%20in%20Chicago.>

3. Howard Brown requests more data and transparency from pharmacy benefit managers to understand how manufacturer rebates are calculated and impact the cost of drugs for patients. Health centers and patients deserve to have access and insight into the process and the data used to calculate PBM rebates from manufacturers. PBMs should disclose information related to fee arrangements with drug manufacturers.
4. By dominating every step of the drug distribution process, pharmacy benefit managers create additional barriers for patients seeking to purchase their preferred medication at their pharmacy of choice. PBMs' financial interest conflicts with the best interest of patients. PBMs have a larger incentive to place expensive drugs on their formularies to increase manufacturer rebates, instead of considering the out-of-pocket costs for patients.
5. Pharmacy benefit managers create barriers to affordable medications for patients with Medicare Part D coverage. Under the current regulation, Part D sponsors have an incentive to opt for higher negotiated prices at the point of sale, which creates the illusion that pharmacies will receive a higher reimbursement until clawbacks occur over six to twelve months later.

Thank you for your consideration of these comments. If you have any questions, please contact Tim Wang, Director of Policy and Advocacy, at TimothyW@howardbrown.org.

Sincerely,

David Ernesto Munar
President and CEO