

Congress of the United States

Washington, DC 20515

January 9, 2025

Commissioners
Federal Trade Commission
600 Pennsylvania Avenue
Washington, D.C. 20580

Dear FTC Commissioners,

We write in advance of the Federal Trade Commission’s (FTC’s) Open Commission Hearing on Tuesday, January 14, 2025, to urge you to vote in support of issuing a second interim staff report on pharmacy benefit managers (PBMs).¹

PBMs were originally created to handle the prescription drug benefit on behalf of health plans, negotiating directly with drug manufacturers and setting pharmacy networks for their contracted payers.² But over the years, these once little-known middlemen have morphed into giant, vertically-integrated conglomerates that control every link in the drug coverage and delivery chain, including pharmacies and health plans.³ Numerous federal and state investigations – arising from concerns raised by policymakers and enforcers on both sides of the aisle – have found that the largest PBMs have used their market dominance to overcharge taxpayers and employers, hide profits in overseas entities, and squash competition from independent community pharmacies.⁴ Indeed, during President Trump’s first term, he branded PBMs as “famous middlemen” that “rip[] off Medicare patients with high prescription prices.”⁵

Responding to market abuses, in June 2022, the FTC launched an inquiry into the prescription drug middleman industry pursuant to its authority under Section 6(b) of the FTC Act, requiring the six largest PBMs to provide information on their business practices and contractual arrangements in order to determine their effect on the affordability of prescription drugs. Notwithstanding delay tactics from PBMs, the FTC released an interim staff report revealing that

¹ Federal Trade Commission, “Open Commission Meeting – January 14, 2025,”

<https://www.ftc.gov/news-events/events/2025/01/open-commission-meeting-january-14-2025>.

² The House Committee on Oversight and Accountability Staff, “The Role of Pharmacy Benefit Managers in Prescription Drug Markets,” <https://oversight.house.gov/wp-content/uploads/2024/07/PBM-Report-FINAL-with-Redactions.pdf>.

³ Federal Trade Commission, “Pharmacy Benefit Managers: The Powerful Middlemen Inflating Drug Costs and Squeezing Main Street Pharmacies,” July 2024, https://www.ftc.gov/system/files/ftc_gov/pdf/pharmacy-benefit-managers-staff-report.pdf.

⁴ The House Committee on Oversight and Accountability Staff, “The Role of Pharmacy Benefit Managers in Prescription Drug Markets,” <https://oversight.house.gov/wp-content/uploads/2024/07/PBM-Report-FINAL-with-Redactions.pdf>; STAT News, “Express Scripts overcharged postal workers by \$45 million, audit says,” Bob Herman and Ed Silverman, July 22, 2024, <https://www.statnews.com/pharmalot/2024/07/22/express-scripts-overcharged-postal-workers-by-45-million-audit-says/>.

⁵ The White House, “Remarks by President Trump on Delivering Lower Prescription Drug Prices for All Americans,” November 20, 2020, <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-delivering-lower-prescription-drug-prices-americans/>.

the six largest PBMs manage nearly 95% of all prescriptions filled in the United States to the detriment of independent pharmacies and patients.⁶ The report detailed how the largest PBMs “employ lopsided and unilateral contracting practices” that force unaffiliated pharmacies to “enter into one-sided, non-negotiable contracts with the leading PBMs.”⁷ The report also found that these middlemen have sent billions in inflated payments to their pharmacy subsidiaries, “allow[ing] pharmacies affiliated with the three largest PBMs to retain levels of dispensing revenue well above estimated drug acquisition costs,”⁸ and in some cases, forcing patients with insurance to pay an unreasonably high out-of-pocket cost that is far beyond to the true cost of their prescription drug.”⁹

The FTC’s interim report helped inform various bipartisan proposals to rein in abuses in the PBM market, including our *Patients Before Monopolies (PBM) Act*. We expect a second interim report will shine further light on the industry that will be invaluable to legislators as the policy priorities of the 119th Congress take shape.¹⁰ Accordingly, we urge FTC to issue its second interim staff report swiftly and continue investigating the serious effects of the PBM industry on patients, taxpayers, and independent pharmacies.

Sincerely,



Elizabeth Warren
United States Senator



Josh Hawley
United States Senator



Jake Auchincloss
Member of Congress



Diana Harshbarger, Pharm. D.
Member of Congress

⁶ Federal Trade Commission, “FTC Releases Interim Staff Report on Prescription Drug Middlemen,” <https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-releases-interim-staff-report-prescription-drug-middlemen>.

⁷ Federal Trade Commission, “Pharmacy Benefit Managers: The Powerful Middlemen Inflating Drug Costs and Squeezing Main Street Pharmacies,” Interim Staff Report, July 2024, p. 48, https://www.ftc.gov/system/files/ftc_gov/pdf/pharmacy-benefit-managers-staff-report.pdf.

⁸ Id.

⁹ Id. p. 44.

¹⁰ Federal Trade Commission, “Open Commission Meeting – January 14, 2025,” <https://www.ftc.gov/news-events/events/2025/01/open-commission-meeting-january-14-2025>.