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SB 915 – Maryland Insurance Administration – PSAO – Regulation
Hearing 3/4/2020 ay 1:00PM

I would urge the committee to **REJECT SB 915** – MIA – PSAO – Regulation

Contrary to protecting and assisting independent pharmacies, this bill actually harms small business pharmacies.

Regarding p. 11, 15-2015: This section of the bill mandates that the PSAO, that I pay and hire, data mine my claims and submit that data to PBMs to conduct predatory audits. For what logical reason other than to harm independent pharmacies was this paragraph put in?

Regarding p. 13, lines 1 – 16: This part of the bill:

- was designed to mandate that a PSAO (the pharmacy's vendor) give data to a PBM to attack and target independent pharmacies whose patients utilize copay and manufacturer assistance programs.
- harms independent PBA's that utilize manufacturer assistance programs in lieu of kickbacks called rebates. This section puts those PBA's at a disadvantage to the rebate centric big 3 PBM's.

Why did the Sponsor put this bill in? What problem is being resolved by this legislation?

PBM legislation was put in as a result of bad behavior by the PBM industry. What problems have PSAO's caused, and who is alleging the problems? Is this legislation an altruistic attempt to help pharmacies or are there ulterior motives?

How many lawsuits or infractions have been filed against a PSAO? A few. All as a result of PBM DIR/GER shell games. No lawsuits from Local, State, or Federal Government or regulators.

How many lawsuits or infractions have been filed against the PBM industry? Too many to list. Source: p. 105 – 109 of CVS Caremark 2018 Annual Report:

https://s2.q4cdn.com/447711729/files/doc_financials/annual/2018/annual-report-2018.pdf

- State of Texas ex rel. Myron Winkelman and Stephani Martinson, et al. v. CVS Health Corporation (Travis County Texas District Court)
- Corcoran et al. v. CVS Health Corporation (U.S. District Court for the Northern District of California)
- Podgorny et al. v. CVS Health Corporation (U.S. District Court for the Northern District of Illinois)
- Sheet Metal Workers Local No. 20 Welfare and Benefit Fund v. CVS Health Corp. – RICO Case
- Plumbers Welfare Fund, Local 130 v. CVS Health Corporation
- State of California ex rel. Matthew Omlansky v. CVS Caremark Corporation (Superior Court of the State of California, County of Sacramento)
- State of Mississippi v. CVS Health Corporation, et al. (Chancery Court of DeSoto County, Mississippi, Third Judicial District)

- Bewley, et al. v. CVS Health Corporation, et al. and Prescott, et al. v. CVS Health Corporation, et al. (both pending in the U.S. District Court for the Western District of Washington) – RICO & Antitrust Case
- Klein, et al. v. Prime Therapeutics, et al. (U.S. District Court for the District of Minnesota)
- The consolidated multidistrict litigation captioned In re National Prescription Opiate Litigation (MDL No. 2804) is pending in the U.S. District Court for the Northern District of Ohio.
- The Company (CVS) routinely is audited by the United States Drug Enforcement Administration (“DEA”). For several of these audits, the Company is in discussions with the DEA and U.S. Attorney’s Offices concerning allegations that the Company violated certain requirements of the Controlled Substances Act.
- In September 2015, the DEA served Omnicare with an administrative subpoena.
- In December 2016, the Company (CVS Caremark) received a CID from the U.S. Attorney’s Office for the Northern District of New York request- ing documents and information in connection with a federal False Claims Act investigation concerning whether the Company’s retail pharmacies improperly submitted certain insulin claims to Part D of the Medicare program rather than Part B of the Medicare program.
- In May 2017, the Company received a CID from the U.S. Attorney’s Office for the Southern District of New York requesting documents and information concerning possible false claims submitted to Medicare in connection with reimbursements for prescription drugs under the Medicare Part D program. The Company has been cooperating with the government and providing documents and information in response to this CID.
- The Company is named as a defendant in purported class actions and individual lawsuits arising out of its practices related to the payment of claims for services rendered to its members by health care providers with whom the Company has a contract and with whom the Company does not have a contract (“out-of-network providers”).
- The Company also has received subpoenas and/or requests for documents and other information from, and been investigated by, attorneys general and other state and/or federal regulators, legislators and agencies relating to, and the Company is involved in other litigation regarding, its out-of-network benefit payment and administration practices. It is reasonably possible that others could initiate additional litigation or additional regulatory action against the Company with respect to its out-of-network benefit payment and/or administration practices.
- The Company (CVS) has received CIDs from the Civil Division of the DOJ in connection with a current investigation of the Company’s patient chart review processes in connection with risk adjustment data submissions under Parts C and D of the Medicare program.

I implore you to oppose SB 915. It is a purposeful distraction to divert attention away from a corrupt industry. We are all judged by the company we keep. As written, this bill hurts the small business independent pharmacies that serve and employ your constituents.

Sincerely,



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