



Testimony of Mark Blum
HB1150 - Support
Maryland House Health and Government Operations Committee
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Chairwoman Pendergrass and Members of the Committee,

I am Mark Blum, Executive Director of America's Agenda: Health Care for All. America's Agenda is a non-profit health policy think tank headquartered in Washington, DC. Our mission is to achieve affordable, high quality, readily accessible healthcare for every American. America's Agenda's health care alliance brings together labor unions, businesses, healthcare providers, and policymakers who share a common commitment to smart policy and effective action nationally and in the states to advance our mission.

Since 2014, America's Agenda has had the honor of working closely with public sector unions and elected leaders in the State of New Jersey to design innovative and effective solutions for reducing overall costs of care for hundreds of thousands of public sector workers, through innovative, high-value redesign of health care delivery, rather than through cost shifting or cutting the costs of their benefits.

In 2016, New Jersey public sector unions requested that America's Agenda design a solution to the problem of rising prescription drug costs, the fastest growing component of State health care spending for 750, 000 public sector State and local government employees, first responders, and public school teachers, retirees and dependents. We accepted the challenge. We worked closely with leadership of NJ Senate President Steve Sweeney and State leadership of Communications Workers of America, AFSCME, New Jersey Education Association, AFT, police and firefighters unions, and other public sector union representatives to develop a strategy, termed a "PBM Reverse Auction" designed to achieve significant reduction of State spending on prescription drugs *without relying on cuts to public employee prescription benefits*. New Jersey's public worker unions endorsed the strategy. The New Jersey legislature led by Senate President Steve Sweeney embraced the strategy and enacted legislation that defined minimum capacity requirements for technology to implement the strategy and expedite its procurement before expiration of the incumbent PBM contract. Governor Christie immediately signed the bill into law.

The PBM Reverse Auction has resulted in a projected savings of **\$2.5 Billion** in prescription drug savings over a 5 year period from 2018 through 2022. That amounts to an ongoing, average annual prescription drug savings of **\$500 million per year**. over the 5-year period. As we enter the third year of this period, I am

pleased to report that the State of New Jersey is on course to achieving the projected savings level. This unprecedented reduction in New Jersey public employee prescription drug spending has enabled the State to fund other taxpayer priorities such as public education and infrastructure investment. The savings also enabled the first reductions in overall health care premiums in recent memory for State and local government workers, public school employees, and their dependents.

The Root Problem Driving Inflation in State Prescription Drug Spending: Absence of Meaningful Cost-based Competition among PBMs

America's Agenda began our development of a strategy to reduce State prescription drug costs with a straightforward observation that New Jersey, like most other states, has no direct customer relationship with prescription drug manufacturers or with retail pharmacists who dispense prescription drugs to plan beneficiaries at point of sale. The State's prescription drug purchasing transaction is with a PBM. Any successful strategy to reduce prescription drug spending would need to achieve the objective through reducing the cost of prescription drugs purchased under terms of the PBM contract with the State.

Prior to 2017, the New Jersey's State Employees Health Benefits Plan and the School Employees Health Benefits Plan had jointly selected a common PBM prescription drug pricing plan through the kind of conventional RFP process used commonly by most state health benefits plans. The conventional RFP process compels public employee health plans to choose between disparate and very complex PBM prescription drug pricing proposals, each with PBM-specified drug classifications, definitions, and other PBM-prescribed contract terms. Moreover, each PBM proposal was conditioned on State health plan adoption of a PBM-designed prescription drug formulary.

These conditions preclude possibility for effective price competition among PBMs. There is no single price for a PBM prescription drug benefit plan. Instead, there are prices of hundreds of prescription drugs in a PBM formulary, each one determined by multiple variables, which themselves fluctuate dynamically over the duration of a multi-year PBM contract.

In the conventional RFP setting, the State purchaser is unable to make "apples to apples" comparisons based on true value or cost comparisons between such dissimilar and complex PBM pricing proposals. Without ability to make value-based "apples-to-apples" comparison on the basis of overall prescription drug costs, it is not uncommon for State purchasers to make choices based on their comfort with established relationships. This explains, at least in part, why over 90% of PBM contracts are renewed with the incumbent PBM.

Adding to the transparency-obscuring complexity of diverse PBM drug pricing algorithms, PBM commonly derive multiple revenue streams from operation of multiple pricing techniques that operate collectively, and frequently concurrently in the same prescription drug claim, to increase the State purchaser's price. In such an environment, it is extremely difficult -- arguably impossible -- for a prescription drug plan purchaser to "out-negotiate" a PBM on complex and frequently opaque (to

the purchaser) prescription drug pricing terms designed by the PBM to retain target profit margins by shifting nimbly from one revenue driver to another, potentially in the same transaction, when the purchaser bargains improves in one or another discrete pricing terms (for example, increased percentage pass-through of prescription drug rebates).

In summary, cost-reducing competition between PBMs is sabotaged by lack of true PBM pricing transparency and the purchasers' inability to compare cost of complex and dissimilar PBM proposals. This is a classic opportunity for arbitrage PBMs who operate as market middlemen between prescription drug manufacturers and prescription drug plan purchasers who are unable to discern actual cost of the drug plans they are buying. In this kind of market environment, it is only reasonable to expect that PBM arbitrageurs, as rational profit maximizers, can and will divert substantial value to themselves in the form of very high profit margins -- at the expense of inflated prescription drug costs paid ultimately by State employees and taxpayers.

The PBM Reverse Auction Solution

The solution we proposed in 2017 created a dynamically competitive PBM marketplace in which PBMs competed transparently on the basis of projected cost of their proposals to win a State-prescribed PBM contract. This innovation, which was termed a "PBM reverse auction," produced record prescription drug savings for the State.

The PBM Reverse Auction Strategy consisted of two key elements:

1. Development of a best-in-class PBM contract with precise prescription drug pricing terms and definitions defined by the State, which PBMs would be required to accept digitally, term-by-term, *in advance*, as a condition for bidding to fulfill the State pharmacy benefits contract. The terms of this contract could be modified only by agreement of the State, and any such change of term would be applied equally to all PBM bidders.

With this approach, which is a reversal of the conventional RFP procedure for PBM selection and contracting, PBMs bid on the basis of price, only, with adherence to otherwise common contract terms and definitions. This innovation enables the State to make direct "apples-to-apples" comparisons and rankings based on overall cost of each PBM proposal.

2. Conduct a transparent online auction, in which PBMs compete on the basis of the cost of their prescription drug pricing bids to fulfill the State's best-in-class PBM contract. The auction is powered by a cutting-edge, "big data" pharmacy analytics technology that rapidly calculates the overall cost to the State of each PBM's prescription drug pricing bid conforming to the terms of the State's best-in-class contract. By sharing the projected cost of each PBM bid transparently with the other PBM competitors and the State purchaser after each round of multiple bidding rounds, the reverse auction creates a dynamic, truly competitive market in which PBMs bid and counter-bid against one another to win award of the State contract.

The PBM reverse auction is, in fact, a modernized, technology-enabled successor to the traditional RFP procurement process for a prescription drug pricing vendor. The intent to minimize State cost is the same, but the procedure is updated with State purchaser deployment of modern, big data analytics tools of a kind that, previously, only PBMs had utilized. In contrast to the conventional RFP process in which the State purchaser attempts to choose between extremely complex and diverse PBM drug pricing proposals and then negotiate with the selected PBM, the PBM reverse auction strategy creates a dynamically competitive marketplace in which PBMs attempt to underbid one another on the State's cost projection platform. The PBM reverse auction enables the State to effectively harnesses the power of PBM direct cost competition over multiple transparent, online, bidding rounds to win award of a best-in class contract prescribed by the State. In this process, dynamic competition redirects value previously diverted into high PBM profit margins into lower prescription drug prices to the State purchaser.

The Administration of Governor Christie determined in 2017 that the PBM Reverse Auction process comports fully with State procurement statute and regulations. As such, no change to New Jersey statute was required to implement the dynamically competitive PBM reverse auction process in place of the relatively static RFP procedure that the State had previously used. However, New Jersey did enact legislation, Senate Bill 2479, that Governor Christie signed into law in 2017 to enable an expedited RFP process for State selection of a technology platform whose capabilities met minimum specifications defined in the bill.

Two additional benefits that the PBM Reverse Auction Strategy captured for the State should noted:

First, the granular terms of the winning PBM's digital bid populates, automatically, the prescription drug price terms of the pre-accepted PBM contract with the State. There is very little left to negotiate following the PBM reverse auction. The State's best-in-class PBM contract can be executed quite rapidly after award to the winning PBM. The lengthy period of contract negotiation with a selected PBM that is quite common in a conventional RFP process is simply a *non sequitur* in the PBM reverse auction process.

Second, the State of New Jersey redeployed the same technology platform used to conduct the PBM reverse auction in order to very rapidly review 100% of PBM prescription drug claims and flag every deviations from the State contract terms within a matter of a few hours. In this way, deviations from the State's PBM contract terms (usually overcharges) can be identified and potentially reconciled before the State pays the invoice. This real-time PBM bill review process enabled ongoing, real-time enforcement of New Jersey's PBM contract and quick reconciliation of PBM overcharges: \$46 million in overcharges were reconciled during first two years.

Results

Reliable projections from New Jersey's first reverse auction in 2017 set expected prescription drug savings to the State at **\$1.6 Billion** or **18.5%** over a 3-year contract period.

In fact, prescription drug savings to the State public worker health plans exceeded this projection. In September 2018, just 9 months into the first plan year under the new pharmacy benefits contract awarded through our PBM reverse auction, NJ Governor Murphy reported that the technology-enabled, PBM reverse auction and electronic bill review process had:

... reduced pharmacy costs for state and local governments by **over 25%**. Active school employee members will see a sizable difference in their premiums for Plan Year 2019 with rates *decreasing* by 1.1 percent - in stark contrast to the 13% increase they saw last year – even before introduction of the new changes.

In all, State conduct of the reverse auction, followed by ongoing electronic 100%-of-claims bill review and PBM invoice overcharge reconciliation resulted in **\$822 million** in prescription drug savings during 2018, *without reliance on cost-shifting or cuts to public employee prescription drug benefits*.

In 2019, the second plan year following the 2017 PBM reverse auction, State prescription drug spending was reduced by an additional **\$578 million**.

In the summer of 2019, the State conducted a second reverse auction for a successor to the PBM contract awarded through our first PBM reverse auction of 2017. The PBM that had won the first reverse auction in 2017 re-won award of the State contract in New Jersey's 2019 reverse auction. As a result of the second, successive PBM reverse auction, prescription drug savings to State taxpayers and public employees increased to a projected **\$2.5 Billion** over two successor contracts covering a 5-year period. That is an average prescription drug spending reduction of approximately \$500 million per year from 2018 through 2022.

Thank you for the privilege of sharing the experience of crafting a record reduction of prescription drug costs for new Jersey taxpayers and the State's public sector employees, retirees and their families. I hope our experience can be of value to you're the important work of this Committee on behalf of the good people of the Great State of Maryland.

I'll be pleased to answer any questions you may have.

Respectfully submitted,



Mark Blum
Executive Director
America's Agenda