

THE EXAMINER

THE INDEPENDENT VOICE OF SOUTHEAST TEXAS

PRESCRIPTIONS



Middlemen charges drive up costs for consumers, providers

WINNER 2019
 News, 1st place
 Investigative Reports, 1st place
 Special Reports, 1st place
 Sports Feature, 1st place

PRESS CLUB
OF SOUTHEAST TEXAS

PARALYZED TEEN



COMMUNITY RALLIES BEHIND INJURED STUDENT

NEW STATE FUNDING



PRICE DROP IN TUITION

SOUTHEAST TEXAS JULY 18 - 24, 2019
Entertainment
 AUGUST 5-10
 JEFFERSON THEATRE

Featured speaker: JESSE DARTON

FILM CONTEST BY BOOMTOWN

DISCOVERBEAUMONT.COM



neches
FEDERAL CREDIT UNION

HOME LOANS UP TO **\$1,000**
— MADE EASY —

CASH BACK ON HOME LOANS

Your savings federally insured to at least \$250,000 and backed by the full faith and credit of the United States Government. SOME RESTRICTIONS MAY APPLY. SEE NECHESFCU.ORG FOR DETAILS.

Piece of the pill

Family pharmacies fight for survival

By Sharon Brooks
Business Editor

As Americans desperate for fair pharmaceutical prices caravan to Canada, local pharmacists are also struggling to pay the high price of doing business with drug companies and middlemen all after their piece of the proverbial pie.

Pharmacist and businessman Larry Plunk of King's Pharmacy says he recently sold two of his pharmacies, not because business was bad, but because unchecked pharmacy benefit managers (PBMs) are too often absorbing an unfair portion of potential profits, sometimes leaving family pharmacists to pay out-of-pocket for filling prescriptions.

"A PBM is a pharmacy benefit manager... also called a PBA, a pharmacy benefit administrator," described Plunk.

"They administer pharmacy benefits for insurance companies. Insurance companies go out and they write you a policy, (for example) you want prescription drug coverage. So, they'll use a PBM to manage that drug coverage."

The PBM then negotiates the price for the drugs, charging its own fee for that service, which is ultimately realized in the final price of the product. In effect, Plunk summarized, "PBMs control what pharmacies are paid for prescriptions."

"What these PBMs do, there's no regulation on them at all," he continued. "They're free will. They do whatever they want to do."

Because of that, he explains, pharmacists may end up making nothing – or less than nothing – in some instances.

According to Plunk, the PBMs negotiate contracts with individual pharmacies or with a pharmacy ser-



Larry Plunk

VICES administration organization (PSAO), which are intermediaries that operate between smaller pharmacies and PBMs. Plunk explains that when pharmacists fill a prescription they must "adjudicate it via the internet." That means the pharmacist transmits a description of the prescription to the PBM, and the PBM then tells the pharmacist what to charge pharmacy

customers for co-pays and what the pharmacy will be paid. But not all pharmacies are paid equally and consumers often end up paying the price.

While the business started off innocently enough in the early '70s, says Plunk, over time, the once reasonable rates charged by PBMs ballooned as they were bought out by large companies and corporations.

"A lot of the PBMs went to big companies," he recalled. "CVS bought Caremark, so CVS Caremark

is their PBM. It's one of the largest in the country."

The profits larger pharmacies and their

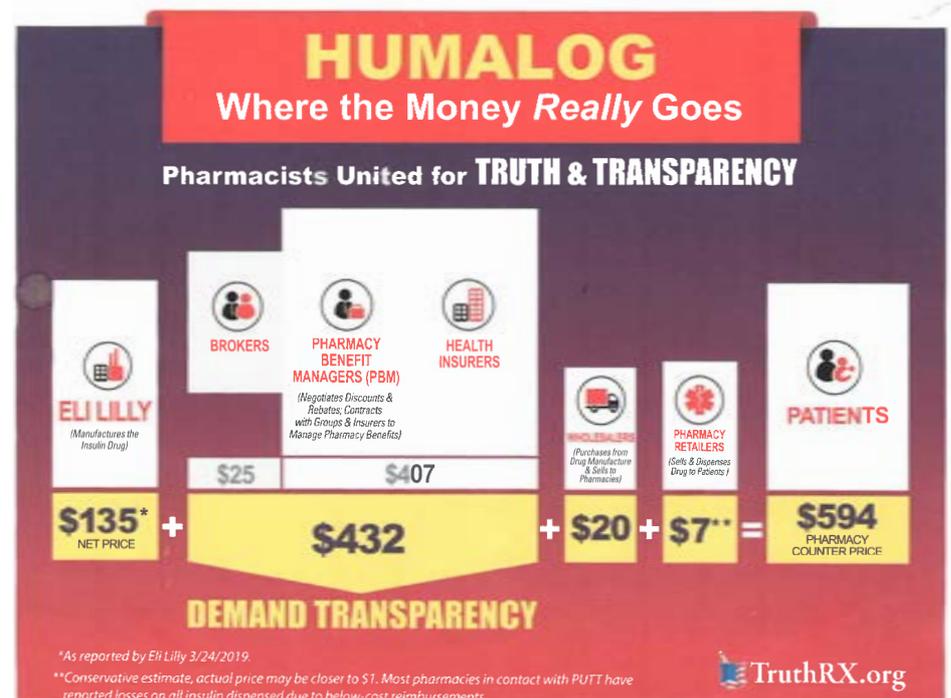
See PILLS on page 6A

'What these PBMs (Pharmacy Benefit Managers) do, there's no regulation on them at all. They're free will. They do whatever they want to do.'

– King's Pharmacy's Larry Plunk



PHARMACISTS UNITED FOR TRUTH AND TRANSPARENCY



Congress of the United States
Washington, DC 20515

June 18, 2019

President Donald Trump
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear Mr. President,

We write today to express our disappointment that the recently finalized Centers for Medicare & Medicaid Services (CMS) rule, Modernizing Part D and Medicare Advantage to Lower Drug Prices and Reduce Out of Pocket Expenses (CMS-4180-F), failed to finalize the pharmacy direct and indirect remuneration (DIR) fee reform for plan year 2020, as included in CMS's original proposal. While we commend the administration for your goal to reduce seniors' out of pocket costs for prescription drugs, we believe that finalizing this rule without including DIR reform is a missed opportunity to deliver real cost savings to Medicare beneficiaries. Without DIR reform, another year could pass before seniors see drug prices lowered at the pharmacy counter.

As CMS itself cited in the proposed rule, DIR fees on pharmacies participating in Part D grew by 45,000 percent between 2010 and 2017. This increase is unacceptable and unsustainable, and creates uncertainty not only for community and specialty pharmacies but also for the patients who rely on Part D prescription drugs. Until pharmacy DIR fee reform occurs, seniors will continue to pay higher cost-sharing for their prescription drugs. CMS estimated that these reforms would have saved Medicare beneficiaries between \$7.1 and \$9.2 billion in cost sharing over the next ten years.

For these reasons, we continue to encourage the administration to move forward with efforts to deliver seniors real relief from rising prescription drug costs. We stand ready to work with you to determine how we can adopt this relief this year.

Sincerely,



PETER WELCH
Member of Congress



EARL L. "BUDDY" CARTER
Member of Congress



VICENTE GONZALEZ
Member of Congress



H. MORGAN GRIFFITH
Member of Congress

A Congressional letter urging President Trump to recognize the need for DIR reform

**June 2019 Congressional Letters Urge
Trump Administration for DIR Relief**

25% OF CONGRESS

105 U.S. REPRESENTATIVES

70 REPUBLICANS
35 DEMOCRATS



28 U.S. SENATORS

21 REPUBLICANS
6 DEMOCRATS
1 INDEPENDENT

**Pharmacy's United Voice Commends
Congress and Urges Action Now**



PILLS

from page 5A

PBMs see through mail order pharmacies are even more streamlined, says Plunk.

"They own the drugs, they own the insurance, they own the PBM, they own everything – even the prescriber."

He includes the "prescriber," meaning the physician writing a prescription, because companies who manufacture the drugs choose what products to make available, what quantities to distribute and even the dosage of the drugs in question, giving doctors very few dosages to choose from in some cases.

Another pharmacist suggested that sometimes, when clients have difficulty filling prescriptions at larger pharmacies, it could be because the PBM has not worked out a deal on that specific drug and are trying to influence the doctor or patient to request a similar drug for which the PBM has already negotiated. Or, he proposes, manufacturers could be creating a shortage of a certain product to inflate the price.

"It's all about money," he said.

Plunk agrees, adding, "There are rebates on the back side of all that. There are rebates from manufacturers that go back to the PBM that really should go back to the consumers – but the PBM puts it in their pocket."

The breakdown Plunk's fellow pharmacist describes, displayed in an infographic created by Pharmacists United for Truth & Transparency (PUTT), shows enormous proportional differences in the amounts charged at each level of a drug's distribution.

"If you look at the breakdown of a \$600 vial of insulin – round numbers – \$130 goes to the manufacturer. Then, \$420 goes to an insurance PBM company for setting up contracts, for saying who gets what and when they get it – pushing paper. Then, of the \$600, only \$7 goes to the provider, the pharmacy," he estimated. "Think about the percentage and you will understand how razor thin our margins are. Out of that \$7, we have to pay all of the pharmacy personnel, all of our bills. It's crazy.

"How does a manufacturer set a cost on a drug? It's really within their purview to say the manufacturing process costs 'x.' But, then as you go through of the rest of the middlemen and look at the distribution of costs on this bitter pill, where does the cost lie? How much does paper cost to push?"

"And then the PBMs came up with this DIR fee – Direct and Indirect Remuneration," said Plunk. "Nobody knows how they get their numbers."

According to watchdog group pbmwatch.com, "DIR is a cover-all term that covers the monies that a Medicare Part D plan/PBM may collect to offset member costs."

Recently, explains the group, PBMs have begun expanding DIR fees for commercial plans, as well, causing additional consternation to pharmacists already struggling to stay competitive.

Plunk says the DIR fees are supposed to be assessed based on a pharmacy's performance, which the PBM rates using multiple factors.

"They use what they call a five-star rating," said Plunk. "They took five different categories... and based on that performance, they're going to assess a DIR fee. The lower your score, the higher your DIR fee."

And the fees are not immediately assessed and charged to pharmacies, so, at the time of a customer's purchase, the pharmacies do not even know what DIR fees they will ultimately have to pay or when they may be expected to pay them.

"It doesn't happen at the point of sale and it doesn't happen with a particular drug that is being assessed in the DIR process," said Plunk. "It happens at the discretion of the PBM. The sad thing about the DIR fee is, you never really know where they're getting the number, and you never know when they're going to call it back. They go back over all your claims; it could be a year to a year-and-a-half later.

"Over the last two weeks I was in business in Port Arthur, at that one store, they called back \$36,000 (in DIR fees), and we don't have a clue

**TEXAS
Super Lawyers**

SINCE 2008

HABLAMOS ESPAÑOL

**TOP VERDICT
8 YEARS IN A ROW**



CLAY DUGAS

BOARD CERTIFIED PERSONAL INJURY TRIAL LAWYER

18-WHEELER ACCIDENTS

1-800-222-1204 CLAYDUGAS.COM



**Edison Plaza
BEAUMONT**

**Williams Tower
HOUSTON**

why. We had to write them a check.” Disturbingly, one thing that Plunk says counts against pharmacies’ five stars is a customer not being on as many prescriptions as the PBM determines he or she should be.

“For example,” he explained, “a PBM may determine that if a patient is diabetic and using insulin, he or she should also be on something to protect the kidneys. If they are not, it negatively impacts the pharmacy’s rating.”

Plunk says that leaves the pharmacist in an awkward position.

“That’s telling the pharmacy that we’ve got to make sure the patient’s on that. So, we would have to call the doctor and say, ‘Hey doc, you need to prescribe a (drug) for Mr. Jones.’ We can’t do that.”

Additionally, if a patient fails to refill drugs for chronic conditions, like diabetes or high cholesterol, the pharmacy will be penalized for that too, which basically translates into them paying higher DIR fees that

could completely negate the minimal profits as described or even cause them to pay more than the co-pay they charged the customer.

“There are seven different PBMs that assess DIRs. We’re only talking about one,” Plunk remarked. Those fees could mean a customer has to go somewhere else for their medications. “If a pharmacy is losing money from a certain drug, they are going to stop filling that prescription.”

Pharmacists have tried to appeal for relief directly to the PBMs with “no luck,” says Plunk, and have even taken their issues all the way up to the state legislature with similar results.

“There is no recourse for appeal,” Plunk complained.

But pharmacists are not giving up, and they are asking for support from their congressional leaders. In light of a recently missed opportunity for the government to initiate DIR reform, pharmacists are uniting and legislators from both sides of the

aisle are doing the same to get the attention of the executive branch to quickly address the systemic problems costing small businesses their livelihoods. Following the exclusion of pharmacy DIR fee reform from the Centers for Medicaid and Medicare (CMS) drug pricing rule recently finalized, concerned parties have sent at least three letters to the President urging immediate action.

On June 10, the National Community Pharmacists Association wrote a letter addressed to President Donald Trump at the White House, asking him to act on DIR fee reform and asserting “bipartisan support is strong for a legislative fix to the loophole that inflated drug costs for patients and for Medicare, and that jeopardizes pharmacies.” The missive also pointed to a shockingly huge increase in DIR fees over an eight-year period.

“We write to voice our disappointment that the final rule Modernizing Part D and Medicare Advantage to Lower Drug Prices and Reduce Out-of-Pocket Expenses did not address onerous [DIR] fees that have increased 45,000 percent since 2010, with no savings passed on to beneficiaries. This number will continue to grow if these practices are not reformed,” the united pharmacy

organizations wrote.

Most recently, on June 27, members of the House of Representatives sent a bipartisan letter to the President expressing their disappointment at the lack of DIR fee reform. The letter, signed by 105 House members, followed another expressing a similar sentiment sent on June 18 and signed by 28 members of the Senate.

In its letter to the President, the House called the 45,000 increase in DIR fees from 2010 to 2017, as estimated using data provided by CMS, “unacceptable and unsustainable,” and indicated the fees would continue to cause suffering in the senior community.

“This increase... creates uncertainty not only for community and specialty pharmacies, but also for the patients who rely on Part D for prescription drugs,” the letter reads. “Until pharmacy DIR fee reform occurs, seniors will continue to pay higher cost-sharing for their prescription drugs.”

At the time of this report, the issue remained unsettled, as does the future of community and family pharmacies in the absence of DIR reform or wide-reaching policy changes pertaining to the sale of pharmaceuticals.



**HARD-WORKING
LAWYERS**
for
**HARD-WORKING
PEOPLE**

Provost★Umphrey Law Firm, L.L.P. boasts 50 years worth of dedication, integrity and commitment to the civil justice system. As one of the most competitive and successful trial law firms in the country, we fight for our clients nationwide.

50 1969 ★ 2019
PROVOST ★ UMPHREY
LAW FIRM, L.L.P.



CALL (409) 835.6000 | PROVOSTUMPHREY.COM
490 PARK STREET | BEAUMONT, TX 77701