

March 21, 2023

Members of the U.S. Senate Committee on Commerce, Science, and Transportation,

On behalf of The ERISA Industry Committee (ERIC), we urge you to vote **“NO” when the *Pharmacy Benefit Manager Transparency Act (PBMTA, S. 127)* is considered by the Commerce, Science, and Transportation Committee** this week. The bill does not address the concerns shared by ERIC member companies and would fail to bring sufficient transparency and accountability to the prescription drug supply chain.

ERIC is a national nonprofit organization exclusively representing the largest employers in the United States in their capacity as sponsors of employee benefit plans for their nationwide workforces. With member companies that are leaders in every economic sector, ERIC is the voice of large employer plan sponsors on federal, state, and local public policies impacting their ability to sponsor benefit plans.

Employers who offer health benefits are severely impacted by the “black box” that represents payments made to and through pharmacy benefit managers (PBMs). The employer community, representing the primary customers of PBMs, have a fiduciary responsibility to protect the 155 million workers and their families who receive health insurance through their job. Unfortunately, employer perspectives were not included in the original drafting process of this legislation, and ERIC’s substantive recommendations to fix the legislation were also ultimately not included.

Specifically, ERIC recommended the following changes to the bill:

- Hold PBMs to the same standard as employers – require that PBMs act in the best interest of group health plans and their beneficiaries;
- Provide comprehensive transparency measures that would allow an employer to see how a PBM is spending the employer’s and patients’ money;
- Bring transparency to agreements between PBMs and pharmaceutical manufacturers;
- Protect ERISA preemption;
- Ensure Government Accountability Office (GAO) studies are not biased toward “point-of-sale rebates” that inflate health insurance costs;
- Apply reasonable limitations on “spread pricing” and PBM-owned pharmacies; and
- Outlaw direct payments related to drug formulary placements.

As drafted, S. 127 does not adequately address these concerns. Therefore, ERIC opposes the bill and urges **all members to vote “NO” when the legislation is considered**. We look forward to working with you on effective, bipartisan solutions to implement PBM transparency, accountability, and reform.

Sincerely,

