



The Case for The Pharmacists Fight Back Act

Proposed Reforms Set the “Gold Standard” for a Working PBM-Pharmacy Relationship

What is the Pharmacists Fight Back Act?

The 2024 **Pharmacists Fight Back Act (PFBA)** was introduced by Representatives Jake Auchincloss and Diana Harshbarger. It is the most comprehensive federal Pharmacy Benefit Manager (PBM) reform legislation introduced to date, garnering robust bi-partisan support with 55 cosponsors: 29 R, 27 D including the bill's author.

In 2025 PFBA is expected to be reintroduced as two bills: (1) the Pharmacists Fight Back Act (PFB) which reforms PBM practices in Medicare Part D and Medicaid managed care; and (2) the Pharmacists Fight Back Oversight Act (“PFB Oversight”) which reforms PBM practices in the Federal Employee Health Benefits Program. **While there are some technical differences between the two bills both versions look to address central unfair PBM practices including drug pricing manipulation, steering patients to PBM owned pharmacies, and PBM rebate games that drive up costs for patients at the pharmacy counter.**

PFBA’s “Gold Standard” reforms:

- **Rein in PBM abuses in federally funded healthcare programs, including:**
 - Medicare Part D, Medicare Advantage and Medicaid Managed Care
 - Federal Employees Health Benefits Program
- **Provide pharmacy reimbursement using market-based pricing benchmarked to National Average Drug Acquisition Cost (NADAC)**
 - **Market Based Index Pricing:** NADAC + state Medicaid dispensing fee + 4% preventing the well-documented massive drug cost markups at PBM-owned / affiliated retail, mail-order and specialty pharmacies.
 - Fair and predictable reimbursement for pharmacies, aligns drug prices across pharmacies, patients, and payors, & ends PBM markups
- **Lower drug costs and premiums for patients and plan enrollees**
 - **Shared savings:** Requires PBMs to share a portion of drug manufacturer rebates directly with patients at the pharmacy counter. Any remaining rebates must be used to reduce plan premiums.
 - Returns billions of dollars to patients at the pharmacy counter. Improves medication adherence and patient outcomes (similar to a West Virginia law that suppressed premium growth).
- **Protect patient choice of pharmacy provider**
 - **Restores patient choice:** Prohibits PBM practices that steer patients to PBM owned pharmacies.
 - Restores patient freedom to use a pharmacy of their choice and increases access to care.
- **Robust Enforcement Ensures Pharmacies Can Remain Open, Viable and Accessible to Patients**
 - Contemplates strict penalties and robust enforcement mechanisms to ensure maximum PBM compliance with the new regulations.
 - Ensures the new reforms are implemented effectively and prevents PBMs from circumventing the law.

PFBA “Gold Standard” reforms protect patient access to care at local pharmacies. They slash the excess administrative fees PBMs pay themselves for managing federally funded health plans. They ease the epidemic of local pharmacy closures by ensuring the federal monies collected are used to fully reimburse pharmacies for prescriptions dispensed.

Why PFBA “Gold Standard” Reforms are Needed

Patients, community pharmacies, and taxpayers continue to suffer at the hands of PBMs while drug prices skyrocket. Abundant evidence of large PBM practices and abuses in federal healthcare plans includes:

- Hundreds of millions of dollars in spread pricing markup in Medicaid managed care plans¹
- A large PBM in Part D increased generic drug prices by 51% for seniors at the counter despite those generics' prices deflating more than 8% during the same period²
- Over \$60 billion in drug manufacturing and pharmacy discounts denied to Medicare Part D beneficiaries in 2021
- Large PBMs paying their affiliated pharmacies more in Medicare Part D³
- PBMs mandating patients receive expensive brand name drugs when cheaper generic drugs were prescribed and available in Medicare Part D, driving up drug costs for seniors at the pharmacy counter and for taxpayers⁴
- Over \$39 million in PBM overcharges in the American Postal Workers Union Health Plan administered of the Federal Employee Health Benefit Program⁵

While PBM practices are opaque and complex, the solutions provided in PFB and PFB Oversight offer sensible and simple solutions that will lower costs for patients at the pharmacy counter while paying retail pharmacies transparently and fairly.



¹ <https://www.pharmacist.com/CEO-Blog/the-pbm-fire-that-started-in-ohio-is-spreading-across-the-states-and-apha-is-fanning-the-flames-updated>;

<https://www.fiercehealthcare.com/payer/kentucky-pbms-accused-profiting-from-spread-pricing>

² <https://www.3axisadvisors.com/projects/2022/3/7/deserving-of-better-how-american-seniors-are-paying-for-misaligned-incentives-within-medicare-part-d-3aa>

³ https://www.medpac.gov/wp-content/uploads/2023/06/Jun23_MedPAC_Report_To_Congress_SEC.pdf (CH. 2)

⁴ Id.

⁵ https://www.oversight.gov/sites/default/files/oig-reports/OPM/2022-SAG-029_0.pdf.