



EXPRESS SCRIPTS®

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Senator Laurie Monnes Anderson, Chair
Senate Health Care and Human Services Committee
900 Court St. NE, Room 453
Salem, OR 97301

Re: Senate Bill 402: Oppose
Senate Health Committee: March 5, 2013 3:00pm

Dear Senator Monnes Anderson:

I am writing to inform you that Express Scripts respectfully opposes Senate Bill 402. Express Scripts administers prescription drug benefits on behalf of our clients – employers, health plans, unions and government health programs — for approximately 109 million Americans, including over 170,000 Oregonians. We provide integrated pharmacy benefit management services including pharmacy claims processing, home delivery, specialty benefit management, benefit-design consultation, drug-utilization review, formulary management, medical and drug data analysis services, as well as extensive cost-management and patient-care services.

As a pharmacy benefit manager, we use the maximum allowable cost reimbursement methodology to ensure a fair reimbursement to pharmacies for generic drugs. MAC pricing was originally developed by state Medicaid programs as they realized that were overpaying for generic medications. Today, 46 Medicaid programs, multiple federal programs, and most private payers use a MAC benchmark.

There is no single publisher of a MAC price. All of the other pricing methodologies that exist are useful for brand drugs, but none are flexible or broadly applicable enough for the generic drug market. As the marketplace changes, because manufacturers discontinue production of a product, there is a shortage, the FDA imposes a sanction on a manufacturer or any other reason, MAC prices will fluctuate.

One of the ways that Express Scripts serves patients in Oregon is as a mail order and specialty pharmacy. At each of these businesses, we recognize the importance of maximum allowable cost pricing to ensure that the pharmacy industry doesn't include members that try to overcharge patients for generic medicines. It keeps us constantly working to make sure we're purchasing products at the lowest possible cost for our plans and patients. Different

manufacturers will charge different amounts for equally interchangeable generic drugs. If a pharmacy buys the higher-priced product, it will not make as large a spread or could lose money, but if it buys the cheapest generic drug it will make more. MAC pricing keeps the economic incentives in the right place.

Critics of MAC pricing often do not acknowledge that maximum allowable cost prices increase frequently. This year, the MAC prices for certain drugs that treat high blood pressure, arthritis, pain and infections all increased for various reasons. In several cases, the wholesalers raised their price. In others, there were issues with nationwide availability for the product. In another, the MAC price increased because of a pharmacy complaint.

It is important to understand that many pharmacies in Oregon do not directly contract with pharmacy benefit managers. Rather, they use group purchasing organizations called pharmacy services administrative organizations (PSAOs) who collectively contract with PBMs. Simultaneously, the PSAOs are serving as the wholesaler to the pharmacies and selling them the drugs for their pharmacies. Simply put, the PSAO sells the pharmacy the inventory AND administers the contract for reimbursement at the pharmacy. If there is an egregious difference between the amounts a pharmacy pays to procure and drug and the amount they are reimbursed in return, we cannot have a complete dialogue without having the PSAO present to address their dual role in the supply chain. According to a recently released study by the Government Accountability Office at least 75% of the country's independent pharmacies contract with a PSAO.

If MAC information is publicized, it would have an anti-competitive effect on insurers and employers, as well as PBMs. Competing plans, wholesalers, pharmacies and others would have access to others' pricing information. According to the FTC, this would drive up drug prices for employers and consumers. In a letter to the Mississippi House of Representatives in 2011 about a similar type of disclosure, the FTC warned that "pharmacies and manufacturers will be less likely to offer "deals" when they know that everyone they do business with can see the terms of the deal and will likely demand the same terms."

It's true – sometimes pharmacies are reimbursed less than their acquisition costs. It's also true that Express Scripts often has to pay pharmacies more than we can contractually bill our clients. No industry or company is guaranteed a profit on every sale.

For these reasons we must oppose SB 402 and respectfully request your "No" vote.

Sincerely,

CYNTHIA M. LAUBACHER
Senior Director, State Affairs