Questions for the Record from Senator Charles E. Schumer

for witnesses at Senator Judiciary Committee Hearing on

"The Express Scripts/Medco Merger:

Cost Savings for Consumers or More Profits for the Middlemen"

December 6, 2011

- How would the merger of Express Scripts and Medco affect community pharmacists' ability to provide quality care and services to their patients—particularly in rural communities, inner cities and other underserved areas?

  Response: The problems we are experiencing with PBMs would only get worse with this proposed merger. We believe that the merger of two of the three largest PBMs will harm the patients we serve by reducing choice, decreasing access to pharmacy services and will ultimately lead to higher prescription drug costs paid by consumers and plan sponsors. The largest PBMs already control the vast majority of the prescription benefits for large national health plans, which provide benefits for our patients. Refusing a contract with one of the Big 3 PBMs would mean decreased patient access to community pharmacies and the valuable pharmacy services we provide. In addition, the large PBMs – including Express Scripts and Medco – already use their existing market share to dictate contract terms, including plan design, benefit structure, and pricing. Today, among the common business practices for the current two separate PBMs are take it or leave it contracts without any form of negotiation, even for organizations the size of Shopko. We expect that situation would worsen considerably with a merged entity. That is one key reason we oppose the merger and are seeking legislative relief on PBM practices. Less competition among PBMs will provide them with greater ability to dictate contract terms and network rates to health plans, employers and community pharmacy. This will allow them to keep even more of the healthcare dollar and increase costs for everyone in the healthcare system. We need more – not less – competition among PBMs to ensure that patients have choice and access to pharmacy services, as well as affordable prescription drug prices.

  This issue is exacerbated in rural communities, inner cities and other underserved areas. This will result in a significant reduction in consumer access to neighborhood pharmacies and at a minimum, reduced choice and convenience. This will not only deprive patients of valuable healthcare services offered by pharmacists, it will directly impact the services pharmacies are able to provide. For instance, it could lead to pharmacies having to close or reduce hours and services, such as less time to consult with patients and longer wait times.

- How would this merger impact patients and pharmacies in the Medicare Part D program?

Response: The impact on public programs would be similar to the effects on private payors and health plans. There will be fewer choices for these programs, and higher prescription drug costs for patients and taxpayers. The Medicare Part D prescription drug benefit continues to operate below Congressional Budget Office projections. Competition and choice are key elements in the success of the Part D plan, and this merger would reduce these critical factors.

- Two recent reports from the Health & Human Services Office of Inspector General have found that PBMs are not adequately sharing savings with Medicare patients and that PBMs underestimate the rebates they receive from manufacturers—ultimately resulting in higher Medicare costs for both beneficiaries and taxpayers. Based on the findings of the OIG reports, how can we be assured that this merger will drive the best bargain for patients, for public and private payers, and for taxpayers?

  Response: The merger must be blocked to assure that competition in the large PBM market remains. This would provide the best opportunity for the free enterprise system to work and offer the best bargain for beneficiaries and taxpayers.