Senate Judiciary Committee
Subcommittee on Antitrust, Competition Policy and Consumer Rights
Hearing on "The Express Scripts/Medco Merger: Cost Savings for Consumers or More Profits for the Middlemen?"
December 6, 2011

Questions for the Record from U.S. Senator Al Franken
for David Snow, Chairman and CEO, Medco Health Solutions, Inc.

1. **In your testimony, you stated that Medco has a "generics-first policy." What percentage of pharmaceuticals in your contracts for in-patient pharmacies are generics? What percentage of pharmaceuticals that you sell through mail order are generics? What is the expected percentage of generic pharmaceuticals in contracts for in-patient pharmacies after the merger? What percentage of pharmaceuticals sold through mail order are expected to be generic after the merger? What accounts for Medco's lower generic utilization rate as compared to a retail pharmacy?**

   We believe that data that shows that generic utilization rates are higher in the retail setting can be explained by adjusting for the mix of drugs dispensed. When comparing "apples to apples," the rates are similar. Moreover, a review of how quickly generics are dispensed once available for a drug coming off of patent demonstrates Medco's "generics first" strategy.

   Medco's "generics first" strategy recognizes that in every aspect of our business, when therapeutically appropriate, generics provide the greatest clinical and financial benefit for payors, members and for our company – and incentives are aligned to encourage the optimum use of generics. This is reflected in our rapidly increasing generic dispensing rates across our business.

   Medco administers benefit programs for our clients that are accessible to members at retail pharmacies, mail order pharmacies and in certain instances, long-term care facilities. As part of our quarterly performance updates, we publicly report the generic dispensing rates for both our mail order pharmacies and prescriptions filled through retail pharmacies. In the most recent quarter for which data is available (August-October 2011), the retail dispensing rate was 75.4 percent and Medco's mail order generic dispensing rate was 64.8 percent (a year-over-year increase of approximately 2 percentage points in both the retail and mail channels).

   As the Federal Trade Commission (FTC) has cautioned, however, these generic rates must be adjusted to account for the "mix" of drugs. In a 2005 report, the FTC determined that the generic dispensing rate is an "unreliable" measure if it does not take into account the different mix of drugs dispensed through the retail and mail pharmacies, as well as benefit design features and formulary decisions that affect the member's pharmacy selection.[1] Ninety-day prescriptions – generally prescriptions dispensed via mail – are

[1] Federal Trade Commission Report: "Pharmacy Benefit Managers: Ownership of Mail Order Pharmacies," August 2005.

largely applicable to chronic therapies such as cholesterol, cardiovascular and diabetes medicines, many of which are relatively new, branded products and, therefore, are not currently available as generics. Proportionally, retail pharmacies tend to dispense a greater share of acute therapies, such as antibiotic and short-term pain medicines, which are largely generic products.

Thus, in light of the FTC's caution about examining the rates after adjusting for this drug mix, it is more accurate and informative to compare generic dispensing rates between retail and mail in those instances when the medication is available in generic form and there is an actual opportunity to dispense a generic. A Government Accountability Office (GAO) report determined, "For drugs where a generic version was available, the retail and mail-order pharmacies dispensed generic drugs at more similar rates – on average 89 percent of the time for retail pharmacies and 87 percent of the time for mail service pharmacies."[2]

The FTC also found that retail and PBM-owned mail pharmacies substitute generics at similar rates and that the generic substitution rates (GSR) observed "show that (PBM-owned) mail order pharmacies were generally more, rather than less, aggressive in dispensing generic drugs than were other pharmacies…."[3]

In addition to overall generic dispensing rates, it is also helpful to examine the efficiency of mail order and retail in quickly moving patients to the generic once the patent for a branded medicine expires. This is important because the faster this substitution occurs, the faster payors and patients derive the financial benefits. For instance, a Medco study revealed that within the first week of generic availability for Ambien (zolpidem), generic substitution rates at Medco's mail order pharmacies reached nearly 97 percent, compared with just 76.6 percent at retail for the same time period. In fact, even after six months the retail generic substitution rate did not catch up to the Medco pharmacy's achieved week-one rates.[4] For Zyprexa, used for treating schizophrenia and bipolar disorder, a generic (olanzapine) became available at the end of October 2011. In the first month, the mail generic dispensing rate was 81.3 percent compared to the retail rate of just 52.8 percent. Finally, for Nasacort AQ, a prescription nasal spray licensed to treat sneezing, runny or stuffy nose, and nasal itching due to allergies, a generic (triamcinolone acetonide) became available in June 2011. After three months, the mail generic dispensing rate was 93.5 percent and the retail rate was 81.6 percent.

With respect to your question about the expected percentage of generics dispensed after the merger – as the acquired company in this transaction, we are not in a position to comment specifically on operations post merger.

[2] GAO Report: "Federal Employees' Health Benefits: Effects of Using Pharmacy Benefit Managers on Health Plans, Enrollees, and Pharmacies," January 2003.
[3] Federal Trade Commission Report: "Pharmacy Benefit Managers: Ownership of Mail Order Pharmacies," August 2005.
[4] Medco 2008 Drug Trend Report.

2. What percentage change in reimbursement rates can pharmacies expect if Express Scripts merges with Medco?

As the acquired company in this transaction, we are not in a position to comment on potential changes in reimbursement rates post-merger.

3. I have heard complaints from pharmacies about a lack of transparency in pricing of pharmacy services to sponsors. Do you share with pharmacies the price for which you contract their services with sponsors? Could you share such information, so that pharmacies are better informed about how their services are being distributed?

We do not share the terms of our client contracts with other clients or with suppliers, such as pharmaceutical manufacturers or retail pharmacies. Our mission is to lower the cost of prescription drugs for plan sponsors and the members we mutually serve, and making our pricing terms public would undermine our ability to negotiate the lowest possible price for these plan sponsors. Moreover, we are not aware of any private enterprise that offers suppliers full access to every element of its revenue stream.

However, it is important to note that we operate with complete transparency in the context of our relationships with our plan-sponsor clients. Last year, there were more than 600 audits of our contractual relationships with our clients. All benefit plans are designed at the plan sponsor's direction and, as part of their contract, includes the price that plan sponsors and their members will pay for pharmacy services. Plan sponsors also have complete audit rights to validate that they receive the full benefit of the services for which they have contracted.

Medco's level of transparency with clients has been publicly described as setting the "gold standard" in the PBM industry by state attorneys general.[5]

[5] Boston Globe, April 27, 2004; Pink Sheet, May 2, 2004.