

**United States Senate Judiciary Committee
Subcommittee on Antitrust, Competition Policy
and Consumer Rights
Hearing on the Proposed Merger between
Express Scripts and Medco
Testimony of Sue Sutter, Independent Pharmacist and Member of the
National Community Pharmacists Association
December 6, 2011**

Chairman Kohl, Ranking Member Lee, and Members of the Subcommittee:

Thank you for conducting this hearing and for providing me the opportunity to share my views regarding the proposed Express Scripts-Medco merger. My name is Sue Sutter of Horicon, Wisconsin. I am the co-owner of three independent pharmacies in the rural area of Dodge County, Wisconsin and I have been a practicing pharmacist for 33 years. I am representing the National Community Pharmacists Association, which represents the pharmacist owners, managers and employees of more than 23,000 independent community pharmacies across the United States. These pharmacies provide about 40 percent of all community-based prescriptions.

Today, I join with consumer groups and other small business groups to oppose the proposed merger. In sum, if the FTC allows this merger, it will make an already bad situation even worse for small community pharmacies and the patients that we serve. The PBM marketplace today is already extremely concentrated with the “Big Three” PBMs dominating the large employer market. A recent Morgan Stanley Report revealed that Medco alone controlled 50% of the top ten employer groups.

Allowing the merger of two of the “big three” PBMs would result in unparalleled market concentration in the PBM industry with the merged entity controlling at anywhere from 1/3 to 2/3 of all prescriptions filled in community pharmacies. This market dominance and significant reduction in competition will result in reduced choices for federal and state programs and third party payers, decreased patient access to pharmacy services and ultimately lead to higher prescription drug costs paid by plan sponsors and consumers. This includes Medicare Part D, FEHBP, TRICARE and state employee and retiree programs.

Why are we so concerned? Small community pharmacies are faced with “take it or leave it” contracts from the PBMs. PBMs directly set the ever-shrinking reimbursement rates for community pharmacies. These are the same pharmacies that stand in direct competition to the PBM-owned mail order pharmacies. Therefore, it is no surprise then when these PBMs try to shift patients to their own mail order pharmacies, many against their wishes. There is no negotiating. And we are not crying wolf.

If Walgreens, the largest pharmacy in the country with 7,000 pharmacies, had to drop out of the Express Scripts network because they couldn't negotiate fair terms, how can a one or two store independent pharmacy have any chance against these corporate giants?

Right now we have no negotiating leverage with the three large PBMs. From a business standpoint, we cannot merely walk away from these contracts - because we would lose a significant amount of our prescription revenues if we did. From a patient care and consumer services standpoint, if we drop a contract, we drop our patients. Independent community pharmacies across this country have been built on a philosophy of community service. However, if we continue to take these contracts we are selling our profession and patients short by being forced to provide pharmacy services at unsustainable rates. We are in a no-win situation.

Now here comes the ESI Medco mega merger. This entity could single-handedly put pharmacies out of business, reducing competition and choice for consumers. And these companies have already said that this is exactly what they are going to do. Unlike some chains and mass merchandise pharmacies, unless I can turn a small profit on prescriptions, I can't stay in business. My focus is serving my patients and my business is based upon dispensing prescriptions not over the counter, non-health related items. What sort of competitive balance would be created in the market by creating a monolithic entity of this size? None.

Express Scripts and Medco have claimed that the combination of these two companies would create an entity with the negotiating leverage that will enable it to create greater "efficiencies" in the pharmaceutical supply chain that it could in turn pass along to plans and consumers. They have claimed they can do this by squeezing manufacturers and pharmacies. I can tell you there is nothing left to squeeze. Our pharmacies operate at 2 to 3% net profit margin before taxes. In fact, the number of independent pharmacies operating at a loss is now 25%. Despite the PBMs false claims to the contrary, I am not making "millions" of dollars in margin.

In fact, we have estimated that the merger, if approved, will cost the state of Wisconsin \$68 million in sales and tax revenues annually and approximately 1,350 jobs and will send these precious resources to an out of state mail order pharmacy. The loss of pharmacies in rural communities could mean the end of primary health care for millions of individuals. Also, appended to this statement you will find an economic impact analysis detailing the potential effect that this merger-- and a corresponding shift to mandatory mail order pharmacy for state employees-- would have on each of the eight states represented by the members of this Subcommittee.

Even if greater "efficiencies" in the market were to be created, there are no assurances whatsoever that such savings will be passed along to plans and consumers. Keep in mind that the PBM industry is virtually unregulated at either the federal or state level and has a long track record of enforcement actions alleging fraudulent and deceptive conduct.

Rural Patients, Medicaid Patients, Medicare Patients Rely on the Community Pharmacist

I am extremely concerned about the negative impact that this merger would have on independent community pharmacies and in turn on consumer access to health care services, prescription drugs and face-to-face interaction with their community pharmacist. Overly restrictive PBM plan designs and rules already make it more difficult for my patients to have access to the medications that they need, and adversely affect their choice of pharmacy. It is important to recognize the critical services that community pharmacists provide that cannot be duplicated or replaced by access to a PBM-owned mail order pharmacy. We hope that the FTC takes this into account when reviewing this merger.

Community pharmacies represent the most accessible point in patient centered health care. Consumers do not need an appointment to talk with a pharmacist about prescription medication, over-the-counter products or any other health-related concern. In this way, community pharmacies also serve as safety net health care providers on the frontlines not only when a natural disaster, such as a tornado, hurricane or flooding occurs, but every day when consumers need help with their medications. Community pharmacists provide expert medication counseling and other cost-saving services that help mitigate the \$290 billion annual cost of treating patients that do not adhere to their medication regimen.

Merged Entity Would “Corner the Market” on Mail Order and Specialty Drugs

Believe it or not, the merged ESI Medco PBM can and will start dictating to employer sponsors the plan design they have to choose. Not the other way around. And why not? For large plans, including the Federal Medicare Part D program, TRICARE and FEHBP, there are currently really only three choices. If the merger is approved, there will only be two, one of which will be a vertically-integrated PBM that owns 7,000 of its own pharmacies. Why is this of concern? Because employers will have less choice over their plan design - which means less choice for consumers.

For example, if the merger is approved, it is likely that plan designs will include more mandatory mail order. And who loses with that? Consumers, pharmacies and plan sponsors. Who wins? The PBMs. The proposed merger would create the largest mail-order pharmacy in the United States, accounting for close to 60% of all mail-order prescriptions processed.¹ ESI will shift as many patients to its mail order facility as possible – for its own benefit. One misconception frequently cited by the merging parties is that mail order is less expensive than the use of a community pharmacy. However, evidence demonstrates that mail order pharmacies consistently dispense more costly brand-name drugs and fewer generics than community pharmacies. For example, the generic dispensing rate at the ESI mail facility is 60% and 62% at the Medco facility.² The PBMs collect lucrative manufacturer rebates from the large quantities of expensive drugs they push out to consumers, which they may or may not pass through to the plan sponsors, including the Federal government.

¹ AIS Annualized Through Q2-2011

² Big Three PBMs GDR by Channel. SEC Filings and Company Reports. 2007-2010.

In comparison, community pharmacies dispense generics 72% of the time. The enhanced generic dispensing rates of community pharmacies is particularly significant when one considers that for every one percent increase in generic utilization, health plans can expect to save 2.5%.³ Mail order pharmacies also play games with pricing benchmarks that are designed to fool payers into thinking that they are getting a better deal.

Finally, mail order pharmacy is simply not appropriate for certain patient populations--such as the elderly-- or for medications designed to treat acute conditions or are temperature sensitive. Waste in mail order pharmacy is rampant, and it's not anecdotal as the PBMs claim. Attached to this statement is example upon example of mail order waste collected from community pharmacy patients. I can tell you story upon story of patients who come in and bring boxes and bags of drugs they received from a mail order pharmacy.

This proposed merger would allow the merged entity to "corner the market" on specialty drugs. Specialty drugs are high cost medications that treat chronic, complex illnesses and are the wave of the future. It is estimated that eight of the top ten drugs in 2016 will be specialty drugs—compared with only five in 2008 and just one in 2000. Currently, the top PBMs already dominate this market due to the fact that many times they prevent community pharmacies from filling these prescriptions and direct these highly lucrative prescriptions to their own mail order pharmacies. The proposed merger would create an entity that would immediately own 52% of the market share for specialty drugs.⁴ There is no reason community pharmacists cannot dispense specialty medications, other than that the PBM's design their plans so we can't. This is just the newest form of anticompetitive behavior we've been dealt by the PBM industry.

We Need Human, Face-to-Face Pharmacist Interactions, Not Mail Order Prescription Robots!

During the September 20th House Judiciary Subcommittee on Intellectual Property and the Internet hearing on the proposed Express Scripts-Medco merger, Medco Chairman and CEO David Snow, Jr. expressed his support for the continued existence of "strong, independent retail pharmacies", in an attempt to allay the concerns that the merged entity would simply use the increased market power to drive consumers to its own mail order pharmacy.

However, just two weeks later, Mr. Snow in a presentation at the Cleveland Clinic's Medical Innovation Summit, told attendees "I am not dissing retail [pharmacy] but.....there's a fiction that a pharmacist comes out and dialogues with you. In reality, a high school student hands you a script from a shelf." In subsequent statements, Snow added that "Medco's robots are 'twenty-three times more accurate' than human pharmacists, in terms of dispensing prescriptions."

This is not what Consumer Reports shows year after year. Consumers highly value the interaction they receive from their pharmacist. It is also not what happens in our three pharmacies in Wisconsin. Our pharmacists speak with every patient, review every medication order, and work to assure that all of our patients are achieving their intended medication goals. PBM's, if they really managed the benefit, would be encouraging and rewarding such service, and they have not.

³ Prescription Drug Costs and Generic Dispensing Ratio. J.N. Lieberman, Ph.D, M. Christopher Robuck, MBA, Journal of Managed Care Pharmacy, Sept. 2010, ppg. 502-506, Vol. 16, no. 7.

⁴ Pembroke Consulting 2010- 2011 Economic Report on Retail and Specialty Pharmacies

I would like to share with you a few stories from my own pharmacies that highlight the fact that actual community pharmacists— not Mr. Snow’s robot prescription filling machines that reduce pharmacy care services to a one size fits all commodity— are truly making a difference in the quality of patient’s lives.

- Twice in the last couple of weeks, I’ve assisted transplant patients by contacting their physicians and dispensing a needed supply of their medications that had not arrived from the mail-order pharmacy. Now if the mail-order pharmacy is so committed to patient care, why wasn’t one of their pharmacists working to assure these patients got a supply from a community pharmacy? These patients were “on their own” and had to pay for the full cost of the medication, since payment by the PBM was not even authorized.
- Recent federal healthcare reform recognized the critical nature of and need for improvements in transitions of care. Transitions of care refers to the need for increased coordination between healthcare providers when patients transfer in or out of a particular care setting and typically includes medication reconciliation— or an accounting of all of the medications that the patient is currently prescribed. Our pharmacists, as do many community pharmacists, routinely assist with confirming patients’ current doses, directions and adherence to their medications when one of their patients is hospitalized. One of my pharmacists, with recent hospital experience, describes what a “nightmare” mail order was for doing “med rec” on admissions. “We simply never got responses from mail order pharmacies.”

At this time I would also like to submit for the record many examples just collected from community pharmacists from across the country about how they are not feeling this new-found “love” from ESI and Medco. Make no mistake; this publicly-professed new-found-love for community pharmacies by ESI and Medco is nothing but a thinly-veiled attempt to deceive policymakers at a time when these companies know that the proposed merger is suspect.

In conclusion, this proposed merger would:

- Reduce competition in the delivery of pharmacy benefits for consumers, employers and plan sponsors, including the Federal and state governments;
- Further threaten the existence of community pharmacies—safety net health care providers, especially in rural communities;
- Reduce patients’ choice and mandate that they use mail order pharmacy rather than their trusted community pharmacist.

I enjoy my role as a community pharmacist and I know my colleagues across the country and I, as a group, make a real difference in helping our patients manage their medical conditions and maintain their overall health. This proposed merger threatens the very existence of community pharmacies and the individualized care that we provide.

I appreciate the opportunity to address the Committee today and would be happy to address any questions that you may have. Thank you.

CONNECTICUT



Independent Community Pharmacy Impact Estimate

- There are 159 independent community pharmacies in the state of Connecticut
- Connecticut's independent community pharmacies generate \$639M in annual revenues
- Connecticut's independent community pharmacies support additional revenues to other state businesses in the amount of \$575M annually
- Combined, Connecticut's independent community pharmacies support \$1.21B in annual revenues (\$639M + \$575M)
- Connecticut's independent community pharmacies employ 1,685 full time individuals
- Connecticut's independent community pharmacies support additional full time employment to other businesses equal to 674 individuals
- Combined, Connecticut's independent community pharmacies support 2,359 full time employees (1,685 + 674)

Economic Impact Estimate: Mandatory Mail Order for State Employees¹

- Connecticut's Independent community pharmacies will lose 30% of their prescription drug business due to mandatory mail order
- Connecticut's independent community pharmacies will lose \$28.8M in annual revenue due to mandatory mail order
- Other businesses in Connecticut will lose \$25.5M in annual revenue due to forced mail order
- Combined, Connecticut will lose \$54.3M annually due to mandatory mail order
- Connecticut's independent community pharmacies will lay off 382 full time employees due to mandatory mail order
- Other businesses in Connecticut will lay off an additional 153 full time employees
- Combined, Connecticut will lose 535 full time employees due to mandatory mail order

¹ Numbers are based on state employee health plan switching to mandatory mail order. Roughly 110,000 employees, retirees, and their family members are part of the Connecticut State Health Plan.

Iowa



Independent Community Pharmacy Impact Estimate

- There are 339 independent community pharmacies in the state of Iowa
- Iowa's independent community pharmacies generate \$1.36B in annual revenues
- Iowa's independent community pharmacies support additional revenues to other state businesses in the amount of \$1.22B annually
- Combined, Iowa's independent community pharmacies support \$2.58B in annual revenues (\$1.36B + \$1.22B)
- Iowa's independent community pharmacies employ 3,593 full time individuals
- Iowa's independent community pharmacies support additional full time employment to other businesses equal to 1,437 individuals
- Combined, Iowa's independent community pharmacies support 5,030 full time employees (3,593 + 1,437)

Economic Impact Estimate: Mandatory Mail Order for State Employees¹

- Iowa's Independent community pharmacies will lose 30% of their prescription drug business due to mandatory mail order
- Iowa's independent community pharmacies will lose \$38.1M in annual revenue due to mandatory mail order
- Other businesses in Iowa will lose \$34.3M in annual revenue due to forced mail order
- Combined, Iowa will lose \$72.4M annually due to mandatory mail order
- Iowa's independent community pharmacies will lay off 813 full time employees due to mandatory mail order
- Other businesses in Iowa will lay off an additional 325 full time employees
- Combined, Iowa will lose 1,138 full time employees due to mandatory mail order

¹ Numbers are based on state employee health plan switching to mandatory mail order. Roughly 150,000 employees, retirees, and their family members are part of the Iowa State Health Plan.

Minnesota



Independent Community Pharmacy Impact Estimate

- There are 358 independent community pharmacies in the state of Minnesota
- Minnesota's independent community pharmacies generate \$1.44B in annual revenues
- Minnesota's independent community pharmacies support additional revenues to other state businesses in the amount of \$2.74B annually
- Combined, Minnesota's independent community pharmacies support \$4.18B in annual revenues (\$1.44B + \$2.74B)
- Minnesota's independent community pharmacies employ 3,795 full time individuals
- Minnesota's independent community pharmacies support additional full time employment to other businesses equal to 1,518 individuals
- Combined, Minnesota's independent community pharmacies support 5,313 full time employees (3,795 + 1,518)

Economic Impact Estimate: Mandatory Mail Order for State Employees¹

- Minnesota's Independent community pharmacies will lose 30% of their prescription drug business due to mandatory mail order
- Minnesota's independent community pharmacies will lose \$28.3M in annual revenue due to mandatory mail order
- Other businesses in Minnesota will lose \$25.5M in annual revenue due to forced mail order
- Combined, Minnesota will lose \$53.8M annually due to mandatory mail order
- Minnesota's independent community pharmacies will lay off 859 full time employees due to mandatory mail order
- Other businesses in Minnesota will lay off an additional 347 full time employees
- Combined, Minnesota will lose 1,202 full time employees due to mandatory mail order

¹ Numbers are based on state employee health plan switching to mandatory mail order. Roughly 120,000 employees, retirees, and their family members are part of the Minnesota State Health Plan

NEW YORK



Independent Community Pharmacy Impact Estimate

- There are 2,203 independent community pharmacies in the state of New York
- New York's independent community pharmacies generate \$8.6B in annual revenues
- New York's independent community pharmacies support additional revenues to other state businesses in the amount of \$7.97B annually
- Combined, New York's independent community pharmacies support \$16.57B in annual revenues (\$8.6B + \$7.97B)
- New York's independent community pharmacies employ 23,352 full time individuals
- New York's independent community pharmacies support additional full time employment to other businesses equal to 9,340 individuals
- Combined, New York's independent community pharmacies support 32,692 full time employees (23,352 + 9,340)

Economic Impact Estimate: Mandatory Mail Order for State Employees¹

- New York's Independent community pharmacies will lose 30% of their prescription drug business due to mandatory mail order
- New York's independent community pharmacies will lose \$266M in annual revenue due to mandatory mail order
- Other businesses in New York will lose \$240M in annual revenue due to forced mail order
- Combined, New York will lose \$506M annually due to mandatory mail order
- New York's independent community pharmacies will lay off 5,287 full time employees due to mandatory mail order
- Other businesses in New York will lay off an additional 2,114 full time employees
- Combined, New York will lose 7,401 full time employees due to mandatory mail order

¹ Numbers are based on state employee health plan switching to mandatory mail order. Roughly 1,000,000 employees, retirees, and their family members are part of the New York State Health Plan.

Texas



Independent Community Pharmacy Impact Estimate

- There are 1,594 independent community pharmacies in the state of Texas
- Texas's independent community pharmacies generate \$6.4B in annual revenues
- Texas's independent community pharmacies support additional revenues to other state businesses in the amount of \$5.8B annually
- Combined, Texas's independent community pharmacies support \$12.2B in annual revenues (\$6.4B + \$5.8B)
- Texas's independent community pharmacies employ 16,896 full time individuals
- Texas's independent community pharmacies support additional full time employment to other businesses equal to 6,758 individuals
- Combined, Texas's independent community pharmacies support 23,654 full time employees (16,896 + 6,758)

Economic Impact Estimate: Mandatory Mail Order for State Employees¹

- Texas's Independent community pharmacies will lose 30% of their prescription drug business due to mandatory mail order
- Texas's independent community pharmacies will lose \$173M in annual revenue due to mandatory mail order
- Other businesses in Texas will lose \$156M in annual revenue due to forced mail order
- Combined, Texas will lose \$329M annually due to mandatory mail order
- Texas's independent community pharmacies will lay off 3,825 full time employees due to mandatory mail order
- Other businesses in Texas will lay off an additional 1,530 full time employees
- Combined, Texas will lose 5,335 full time employees due to mandatory mail order

¹ Numbers are based on state employee health plan switching to mandatory mail order. Roughly 750,000 employees, retirees, and their family members are part of the Texas State Health Plan.

Utah



Independent Community Pharmacy Impact Estimate

- There are 204 independent community pharmacies in the state of Utah
- Utah's independent community pharmacies generate \$820M in annual revenues
- Utah's independent community pharmacies support additional revenues to other state businesses in the amount of \$738M annually
- Combined, Utah's independent community pharmacies support \$1.6BB in annual revenues (\$820M + \$738M)
- Utah's independent community pharmacies employ 2,162 full time individuals
- Utah's independent community pharmacies support additional full time employment to other businesses equal to 865 individuals
- Combined, Utah's independent community pharmacies support 3,027 full time employees (2,162 + 865)

Economic Impact Estimate: Mandatory Mail Order for State Employees¹

- Utah's Independent community pharmacies will lose 30% of their prescription drug business due to mandatory mail order
- Utah's independent community pharmacies will lose \$31.8M in annual revenue due to mandatory mail order
- Other businesses in Utah will lose \$28.6M in annual revenue due to forced mail order
- Combined, Utah will lose \$60.4M annually due to mandatory mail order
- Utah's independent community pharmacies will lay off 490 full time employees due to mandatory mail order
- Other businesses in Utah will lay off an additional 196 full time employees
- Combined, Utah will lose 686 full time employees due to mandatory mail order

¹ Numbers are based on state employee health plan switching to mandatory mail order. Roughly 110,000 employees, retirees, and their family members are part of the Utah State Health Plan

Wisconsin



Independent Community Pharmacy Impact Estimate

- There are 404 independent community pharmacies in the state of Wisconsin
- Wisconsin's independent community pharmacies generate \$1.6B in annual revenues
- Wisconsin's independent community pharmacies support additional revenues to other state businesses in the amount of \$1.5B annually
- Combined, Wisconsin's independent community pharmacies support \$3.1B in annual revenues (\$1.6B + \$1.5B)
- Wisconsin's independent community pharmacies employ 4,282 full time individuals
- Wisconsin's independent community pharmacies support additional full time employment to other businesses equal to 1,713 individuals
- Combined, Wisconsin's independent community pharmacies support 5,995 full time employees (4,282+ 1,713)

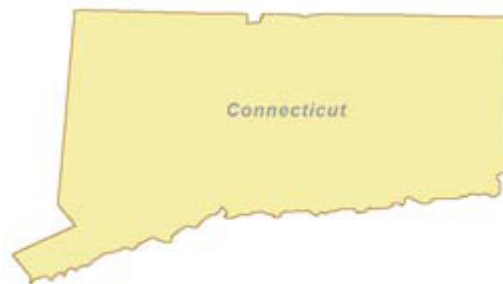
Economic Impact Estimate: Mandatory Mail Order for State Employees¹

- Wisconsin's Independent community pharmacies will lose 30% of their prescription drug business due to mandatory mail order
- Wisconsin's independent community pharmacies will lose \$35.8M in annual revenue due to mandatory mail order
- Other businesses in Wisconsin will lose \$32.2M in annual revenue due to forced mail order
- Combined, Wisconsin will lose \$68M annually due to mandatory mail order
- Wisconsin's independent community pharmacies will lay off 970 full time employees due to mandatory mail order
- Other businesses in Wisconsin will lay off an additional 388 full time employees
- Combined, Wisconsin will lose 1,358 full time employees due to mandatory mail order

¹ Numbers are based on state employee health plan switching to mandatory mail order. Roughly 150,000 employees, retirees, and their family members are part of the Wisconsin State Health Plan.

Independent Community Pharmacists to ESI-Medco: “We are NOT Feeling the Love”

Connecticut



November 2011

Recent comments by the Chairman of ESI and Medco to a Congressional Committee would make it sound like independent community pharmacies are their new best friends.

- Under oath, ESI CEO George Paz said about independent pharmacies: *“They are a critical component of our offering. We do not want to see (them) go out of business, nor will we put (them) in that position ...”*
- Medco CEO David Snow said, *“Medco is dependent on the continued existence of strong independent retail pharmacies.”*
- However, Snow also said “I’m not dissing retail [pharmacy], but...there’s a fiction that a pharmacist comes out and dialogues with you. In reality, a high school student hands you a script from the shelf.”

This survey provides examples to policymakers regarding the challenges that over 240 pharmacies say they confront when dealing with ESI and Medco. These pharmacies are not feeling the love from either company. Survey results suggest that PBM practices negatively affect pharmacies ability to care for patients or stay in business. This survey was conducted between October and November 2011.¹

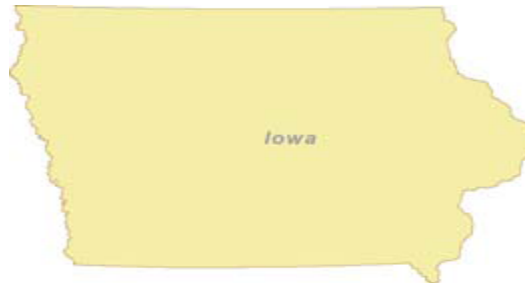
¹ Responses may have been edited for clarity purposes only. NCPA has not independently verified the statements made by survey respondents

Connecticut Pharmacy Comments

- We try to work with ESI & Medco to update them on manufacturer price increases in a timely manner. The in-house data base is not kept up to date especially with drugs that they MAC. The MAC committees have no time schedule to meet so price increases take up to 60-90 days while stores are expected to fill prescriptions, many times at a loss. The pricing guides show prices from manufacturers that have stopped manufacturing the product without showing the plans this information - so PBM's continue to use old pricing in their calculations. Shortages in active ingredients (which are nonsense) have caused drug prices to increase up to 1000%+, leaving us no option to service our patients, and still staying in business.
- On a weekly basis customers are telling our pharmacies that their mail order pharmacy keeps sending medications after the medication has been discontinued. Talk about waste! Have you ever thought about why medication take backs are so important now? It's because of the mail order waste. Years ago patients never had unused medications to throw away.

Independent Community Pharmacists to ESI-Medco: “We are NOT Feeling the Love”

Iowa



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Iowa Pharmacy Comments

- Both Medco and ESI individually are threatening to independent pharmacies, and their merger one-ups the threatening nature of the CVS-Caremark merger which I didn't think it could get any worse. George Paz and David Snow's statements about independent pharmacies are beyond ignorant, their ridiculous margins do put us in the position where we could go out of business, and their mail-order pharmacies cause us to work for free as they are well aware their beneficiaries will eventually tire of talking to \$8.00/hour technicians if they're able to make it past their discouraging IVR system, and show up to the faithful pharmacist who has helped them so many times in the past. These organizations prey on the good nature of the community pharmacist, and because we are at an unfortunately powerless intersection of the healthcare industry, they know they can get away with it.....we'll see if my pharmacies are here in 10 years, what will my patients do then?
- No love from ESI or Medco. Both would like to see all business be funneled in to their own pockets through mail order service and leave community pharmacy to fill antibiotics and pain meds. That just doesn't pay the bills, especially when reimbursement is at an all time low, and continually going down. I don't think it's too much to ask from a company that pays their CEO \$3 million per year, and 31k shares of stock to pay us at least for our cost for the medications we dispense. Walgreens not signing Express's contract should speak VOLUMES to the customers of Express Scripts as to what type of payments are being offered to retail pharmacies. Walgreens and independent pharmacies are not greedy. We simply want to be paid a fair price for the drugs we dispense and the service we provide.

Independent Community Pharmacists to ESI-Medco: “We are NOT Feeling the Love”

Minnesota



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Minnesota Pharmacy Comments

- I am in the process of trying to figure out why Express Scripts reversed and re-billed some eye drops for a patient of mine. Express Scripts did not tell me of any issue involving the script nor was there a reject or message when the scripts were initially filled. I did not receive any notification from them saying they were going to do the reversal/re-bill and, as of now, they have not returned a phone call to describe the reason after 2 + weeks of waiting. I have even called United Drugs to try and resolve the issue and Express has not returned that call either. This is a \$100 loss for me on one prescription for one patient for no reason. In another matter I was told by a patient of mine that just started taking Methotrexate injection that she HAD to get the medication through Express' mail order program. It would not be covered through my pharmacy. Period. I asked her how much Express was charging and she couldn't tell me for sure because of the billing confusion involved. She would try to find the price and get back to me. Plain and simple this whole process is undesirable. I don't understand why independent pharmacies can't combine our negotiating power because it would create a monopoly, and yet, with the proposed Express/Medco merger processing over 40% of prescriptions nationwide cannot be considered a monopoly.
- Please find listed below the latest example of an Express Scripts audit. As I state below, none of the pharmacists recall speaking with Express about the claims. 11-2-11 I talked to the 2 other pharmacists working here and they do not recall speaking to anyone at Express Scripts, or any other PBM, concerning a phone audit. Everything is done via fax or mail. If it wasn't documented on paper then it didn't happen. If we did talk to someone at a PBM we always document on the paperwork received what was asked and what was given. Does Express Scripts have documentation as to who they spoke with? If they can't produce documentation concerning this than they need to fess up and admit that they are in the wrong. I want, and deserve, documentation from Express Scripts concerning this "audit."
- A friend has had several experiences with Express Scripts mail order that indicate that the early refill limitations our patients struggle with in community pharmacy don't seem to apply to Express Scripts mail order. After an annual visit with his physician he received new prescriptions for all of his maintenance medications. He mailed all the prescriptions to Express Scripts thinking they would not fill them because he had as much as a 60-day supply remaining on all of them and all of them had been filled the last time by Express Scripts. Express Scripts filled all of them. When he called to inquire why, he was told that Express Scripts had no means to track when they had last filled his prescriptions or how much he had remaining. On his next physician visit, the physician prescribed an albuterol inhaler and accidentally transmitted the order to Express Scripts electronically. He requested another prescription and had it filled at a community pharmacy on his way home. Several days later, he received six albuterol inhalers in the mail from Express Scripts, apparently a 90-day supply. He

called me asking how to dispose of them because he knew he would never use any of them because his need for the inhaler was only temporary.

Independent Community Pharmacists to ESI-Medco: “We are NOT Feeling the Love”

New York



November 2011

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- Medco CEO David Snow said, *“Medco is dependent on the continued existence of strong independent retail pharmacies.”*
- However, Snow also said “I’m not dissing retail [pharmacy], but...there’s a fiction that a pharmacist comes out and dialogues with you. In reality, a high school student hands you a script from the shelf.”

This survey provides examples to policymakers regarding the challenges that over 250 pharmacies say they confront when dealing with ESI and Medco. These pharmacies are not feeling the love from either company. Survey results suggest that PBM practices negatively affect pharmacies ability to care for patients or stay in business. This survey was conducted between October and November 2011.¹

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New York Pharmacy Comments

- The growing regularity and ferocity of the pharmacy audits done by predatory companies hired by ESI, MEDCO, and all other PBMs will eventually drive independent pharmacies out of business. These audits drastically increase pharmacy operating expenses and labor costs by having to deal with auditors while they are on site, as well as preparing our defenses to blunt the ridiculous take-backs they claim for frivolous claims of clerical errors that are easily solved using common sense, which they lack. These audits, combined with increasingly low reimbursement rates will indeed cause the demise of the independent pharmacy.
- Express Scripts is notorious for blocking prescriptions from being filled at my local pharmacy. This forces a devaluation of my business by taking my patients away. I know of no other business like this. Patients are peeled away after their choosing who they want to support. Then, we are held to these take it or leave it contracts.
- ESI and Medco don't value community pharmacies. Why would they if they have their own pharmacies they are trying to direct business to? In a rich country like USA, it is shame what low level of pharmacy care patients gets through big mail order pharmacies. Yes, robots are more accurate than humans in counting the pills yet there is so much more that community pharmacists provide to their patients. What about human factor, good advice for patient not to take two meds together because of interaction, (computer interactions are overlooked in big chains) or reducing the load of meds to better combo with same effect? Hepatitis C patient getting refill on Ribavirin but no Interferon? Robots will never picked up those things! **AMERICANS DESERVE GOOD HEALTHCARE AND ACCESS TO PHARMACY OF THEIR CHOICE.** Pharmacy business is not "selling candies!" Drugs are dangerous if they are not used properly and on the same token, drugs don't work if patient doesn't take them. How many ER visits are prevented just by community pharmacists staying on the top of the patient meds regimen? We pharmacists ask Congress members, if one of them tomorrow is in need of good healthcare - try to get that from ESI / MEDCO - you will be very sorry you ever let the healthcare reform take the turn for worse and not being able to have access to humane way of getting appropriate help.
- We have tried to communicate to Medco that they are "allowing" us to fill a 90-day supply at a retail level at a negative gross profit margin. When I called MEDCO they told us that was a "negotiated rate." I explained to them there were never any negotiated rates. Then they told us "take it or leave it." I wish there was something to take! This is blatant abuse and Medco continues to get away with it. ESI does the same. This is exactly how they will do away with small business.

- Large PBMs drive business away from local pharmacies by using "saving money" as the biggest excuse. It's not really saving money for the consumer though. Sometimes, the co-pays for the consumer is less if they use mail order instead of a local pharmacy, which itself should be illegal, since they are practicing unfair pricing. But, that little saving for the consumer quickly erodes when they do not receive their drug on time or if the dosage changes midway thru therapy and the mail order pharmacy can't deliver meds right away. Also, the preferred formulary of drugs is not always the cheapest medicine in terms of cost. It is the preferred manufacturer giving rebates to the PBM for dispensing it irrespective of cost! And the consumer has barely any say it, since the PBM directly communicates with the doctor to change meds, in the middle of therapy to save them money, while advocating savings for the consumer. Please clear off all these false promises from PBMs and let the consumer choose whichever pharmacy they would like with equitable pricing. If some want mail order only then that's fine too. At least we would have a healthy competition, not unfair pricing and luring customers by threat and coercion.
- Independent pharmacies lose due to the mandatory mail order some patients are being forced to use. Medco states that patients have a choice. Truly is the choice of 100% co-pay at local level compared to three months co-pay at mail-order a choice?
- We do not get paid on time. I thought with the prompt payment laws in this state that was an agreement to which they had to adhere. What can I do to have them pay me promptly? They are at least 120 days behind.

Independent Community Pharmacists to ESI-Medco: “We are NOT Feeling the Love”

Texas



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Texas Pharmacy Comments

- I have several patients whose companies chose an insurance plan about a year ago that uses ESI. With this particular plan, my patients are only allowed two fills of a medication before they must send the prescription to ESI mail order. When we try to run a maintenance medication claim we get a rejection that states "Refills not covered" and gives a number for the patient to call ESI. Some of these patients have called to try to get exemption from mandatory mail order and were told that mail order was NOT mandatory. The patient still had the choice to fill their prescription at the pharmacy of their choice, but insurance would only cover if filled by mail. What kind of choice is that? When these patients have drug questions, though, who do you think they call? I have often answered drug questions or identified tablets when the patient received a new manufacturer from mail order and were not sure they had received the right medication. They state when they try to call the ESI mail facility they cannot ever get through to a person.
- I am a community pharmacist in a small, rural community. My insurance is through my husband's work and is managed by Medco. I get letters about every quarter from Medco telling me how much money I could save by switching my maintenance medications to their mail order facility. I am certainly not going to join the many others that are leaving my pharmacy due to these coercive co-pays, though it is hard to fault my patients for leaving us to use mail order when they can get three months for the price of two in my pharmacy.
- The PBM model for drug distribution is a failed model! Health care expenditures across the spectrum have out-paced inflation at a rate proportionally to the market share of PBM's since their entry into the market. There is a huge disconnect between the PBM / Mail order and the patient. Check Consumer Report or talk to a few patients for confirmation. The PBM / mail order is motivated by the number of units shipped. Or check mail order waste. When I am doing MTM patient counseling and review the drug profile of a mail order patient it is apparent that mail order does not have the same refill rules that retail pharmacy have. Ninety day refills are shipped about every sixty days, patients are over-run with medication in addition to change orders or adverse effects of excessive medication. The retail pharmacist is motivated by patient outcomes. Why not compare the drug cost per 1,000 mail order patients vs. retail. I wager that if direct and indirect costs are factored in, the mail order distribution system represents a vastly more expensive model. Only the PBM's will win in a game with the PBM writing the rules and keeping score!

- I became a pharmacist in order to help cure sick people or at least make them feel better. Having been a pharmacist since 1960, the good old days were when the doctor wrote the prescription, the patient took it to his/her PHARMACIST OF CHOICE, and the pharmacist and patient took care of the rest. Now with the PBM's, the doctor prescribes, the PBM decide whether or not to pay and how much to pay. In the mean time, the patient is left without the chosen medication and sometimes no medication at all because it is not on the PBM formulary. AFTER 51 YEARS, MY OPINION OF THE PBM'S IS VERY LOW AND THEY ONLY WANT TO MAKE MONEY AND THEY HAVE NOT A CARE ABOUT THE PATIENTS WELLBEING. We should go back to the 20/80 system where the patient pays for services whether MD or RPH and files claim with their insurance carrier for payment. This worked well!! We have seen good PBM's start and conduct themselves very well in regard to treating patient and caregivers fairly; however, the big PBM's want them out of the picture so they offer to purchase them for whatever the good guys ask. I am not calling ESI or MEDCO good guys, but the larger the PBM gets the less their actions show any real concern for the patients and caregivers. I could ramble on and on, but THERE HAS TO BE A BETTER SYSTEM than the PBMs. They are really Pharmacy Benefits MISMANGERS rather than managers.
- It has been our experience to receive either by fax, mail, phone, email, etc. communication after communication from PBMs like Medco and ESI about how we have to fill out forms, take cuts in reimbursements, transmit via another processing format, re-enroll, sign contracts that continue to cut our reimbursements to the point it has become a nightmare to process insurance covered prescriptions. If I'm not mistaken, pharmacist and pharmacies have been on the top of the charts year after year as being one of the most trusted professions in America. Insurance companies and used car dealers are at the bottom of the trust chart. Why is the pharmacy profession the target of all the waste, fraud prevention legislation when the insurance companies are the ones that should be investigated? The pharmacy profession is having to jump through so many hoops now we can't do what we were trained to do and that is provide a needed product to a needy public at a reasonable price for profit. It is time that the insurance PBM's be held accountable for their practices of "saving money" for companies.
- We are a brand new independent pharmacy that opened October 19th. I started the application process with Medco in June 2011. In the last two weeks I have talked to about 10 different people, 10 different times, and each time we get a different answer as to if we are set up with Medco or not. ALL of our patients that have come with insurance are dependent on Medco. We have had a hard time even getting off the ground or knowing where to go in order to service these patients due to their inability to work with the independent pharmacy.

Independent Community Pharmacists to ESI-Medco: “We are NOT Feeling the Love”

Utah



November 2011

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Utah Pharmacy Comments

- Plainly stated, and consistent with the comments from David Snow, Medco has aggressively been trying to put community pharmacy out of business for a long time. Likewise, Express Scripts is our lowest paying PBM. We lose money on every script we fill for their patients, plus we do all the legwork making sure their patients are well taken care of. As noted by Mr. Snow, if he is suggesting the notion that "high-school" seems to be the standard in my practice and in all others like mine, name-calling is a poor and weak admission of someone who represents an organization that purposely places undue economic pressure on the very players who keep him in business. His comments are indicative of someone who takes pleasure in playing the bully.
- My patients are continually being harassed by Medco mail order pharmacy solicitors. They use any transmitted prescription information as a marketing tool to divert business from the community pharmacy to the mail order by calling the patient and telling them that they should fill any future prescriptions through mail. They use their whole retail network as a large marketing lead generator for their mail pharmacy. This year has seen many price increases and market shortages. The adjustments to MAC prices are deliberately slow. My guess is that ESI tracks increases in cost of goods (because of their mail order pharmacy acquisition costs) and immediately pass on price increases to the payer but are deliberately slow to pass any increase in MAC pricing to the pharmacy.
- All of us need to ask ourselves, who are our customers? In the case of PBMs, they are represented by their many members. In the case of community pharmacy, they are represented by the many patients who frequent their pharmacies. If put to the members/patients for a vote, I believe this merger would be met with a resounding "No!" When it comes to the business of health care, the level of touch is high, at least for those of us on the front lines. When our democracy has advanced to the point that the sound of the wallet carries more weight than the sound of the people, something is terribly wrong. This merger is bad for many reasons: a further disconnect with members, poorer service, inherently more problems for members, for providers and for pharmacies (the PBM mail order model is flawed, just ask the members). Oh and yes, it will not save a dime for anyone, but will only perpetuate less service at a higher cost. Having spent over thirty years in the health care industry, it is clear that managing costs has actually never occurred. The ever-changing system has only managed to re-direct profits to the chosen few who are least involved in patient care. Let's put an end to this nonsense and stop the merger of ESI and Medco. Their service to members is bad now, let alone what it will be later if this goes through.
- The PBMs continue to record profits and wield unprecedented power over the community pharmacists. Contracted reimbursement rates continue to decline and community pharmacists struggle to stay in business. A merger of ESI and Medco would only create a greater position of market dominance and produce even lower contracted rates which could potentially force many of the community pharmacies out of the network and drive more business to mail order. This would have a negative impact on overall patient care and in the long run add to the costs associated with delivering quality health care.

Independent Community Pharmacists to ESI-Medco: “We are NOT Feeling the Love”

Wisconsin



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Wisconsin Pharmacy Comments

- I started one of my days this past week adjudicating six commonly used generics to these PBM companies. Four of the prescriptions came back with PBM pricing below acquisition cost on the U.S. market. These were commonly used antibiotics that had stable pricing for many months if not years. These behemoth PBM companies are systematically putting me out of business with corrupt practices which will ultimately require local residents to travel many miles in order to obtain commonly prescribed prescriptions. They absolutely need legislative oversight and regulation rather than considering a merger and making the problem even worse!
- My most recent example happened today, November 17, 2011. I own and operate a small town/rural pharmacy, where the nearest pharmacy is either 15 miles east, west or south of my business. Yes, mail order pharmacies share many of my patients. This particular patient has actually not been to my pharmacy in three years, as she moved 18 miles east of my business - allowing a more local pharmacy to take care of her medication needs when mail order fails her. Today this patient was in need of a Combivent inhaler. She was told by Medco that the soonest they could ship her med was Thursday, November 17, despite the fact that she requested the refill ten days ago. The very thought of not having ready access to a "fresh inhaler" caused this 80-something year old oxygen restricted woman to have what I will refer to as anxiety induced shortness of breath. She contacted her more local pharmacy to see if they would deliver one Combivent inhaler to her, to be told they had changed their policies, and she was now outside of their delivery area. When this woman was referred to my pharmacy, she was adamant that she needed a Combivent inhaler today. She was willing to pay the full price of the inhaler - plus a delivery fee - anything to have access to the new Combivent inhaler today. She openly admitted she believed the temporary worsening of her symptoms was anxiety induced. This understanding did not allow her shortness of breath to go away. I took the time to transfer the one time doctor authorized prescription from her more "local" pharmacy. We contacted Medco third party to get the override for her Medicare D coverage, and then delivered the med to her - free of charge. My pharmacy could do this "extra" because we are not bound by administrative "red tape." I know the chances of this woman needing this inhaler prior to the arrival of her mail order supply was minimal, but having the inhaler in her possession could certainly decrease the potential need for additional medical attention when she is already identifying worsening of her symptoms because she would not have a new inhaler! Simply put, big business does not allow for compassion or common sense when taking care of the patient. What good comes of a patient in this situation requiring emergency care because it was too soon for her mail order to send her inhalers two weeks ago? If they are so concerned about the possibility of misuse/waste, then only send ONE inhaler! When does the assault on patient care and compassion end? When do "those who know" finally wake up to realize if big mail order companies were the answer to less expensive health care, then we should be seeing results already? Thanks for being a sounding board.

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NCPA[®]

the NATIONAL COMMUNITY
PHARMACISTS ASSOCIATION

THE VOICE OF COMMUNITY PHARMACY



Waste Not, Want Not

Examples of mail order pharmacy waste

*These are actual images sent by participating pharmacies in the Dispose My Meds Program. Patient information has been removed or obscured to comply with all applicable laws protecting personal health information.



Mail Order Waste – ESI



“Just one example of Express Scripts overutilization of the healthcare system. The patient has since deceased and his spouse opened up about how many times that she tried to get Express Scripts to stop sending items. That is over \$6,000 that Express Scripts charged the patients plan.”

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Mail Order Waste – ESI



Tricare patient

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Mail Order Waste – ESI



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Mail Order Waste – Medco



“Almost all were returned unopened” ~ \$2,300

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Mail Order Waste – Medco



“Just over \$17,000 worth of meds from Medco Mail order. I hate to see what this persons company paid for these meds and what it did to his company’s health premiums. Mail order facilities can shout from the rooftops about compliance all they want but just because you mail a person his/her meds, that doesn’t mean they are taking them.”

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Mail Order Waste – Medco



“One patient. Six months over supply due to 90-day rx filling and therapy changes.” Approximately \$4,000

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Mail Order Waste – Caremark



“This is all for ONE patient that passed away and the family brought it into us to see if we could dispose of it for them. The patient was a Cystic Fibrosis patient that was dealing with Caremark Specialty mail order.”

\$61,000

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Mail Order Waste – Caremark



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Mail Order Waste – Caremark



\$17,000

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Mail Order Waste – Caremark



Medicare Part D Patient

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Mail Order Waste – Caremark

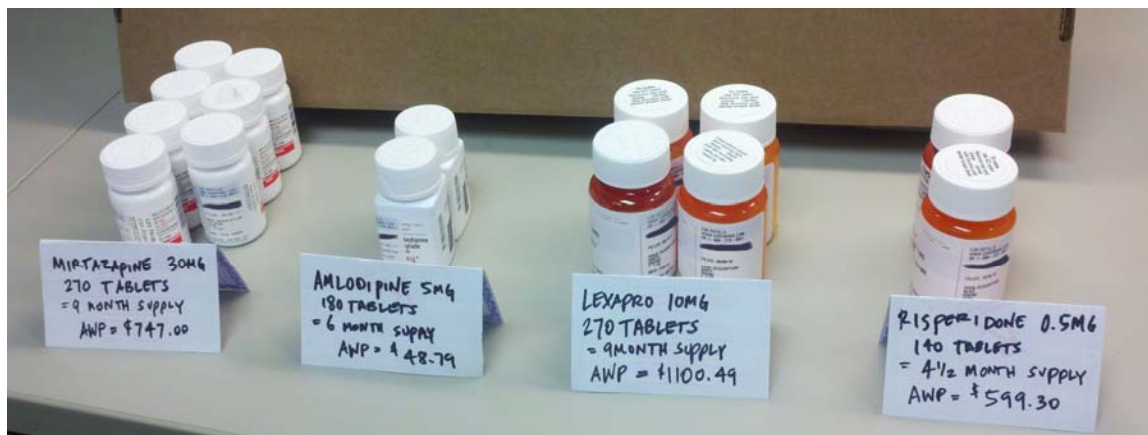


Medicare Part D Patient

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Mail Order Waste – Caremark



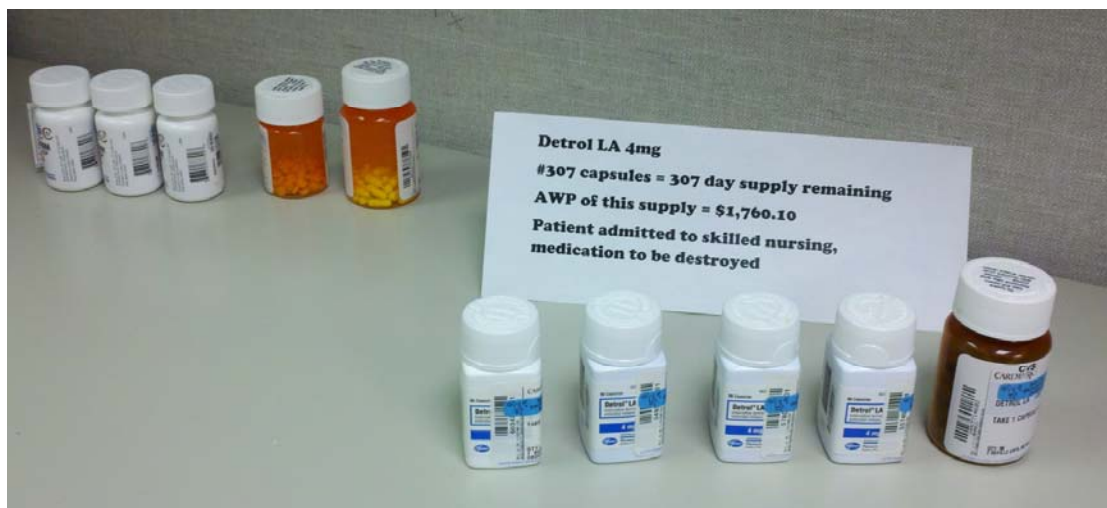
“This patient is cared for in a dementia unit so these are not missed doses, it is overfilling by mail order.”

\$2,500

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Mail Order Waste – Caremark



\$1,760

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Mail Order Waste – Caremark



\$14,844 = 17 month supply

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Mail Order Waste – Veteran's Affairs



\$6,800

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Mail Order Waste – Veteran's Affairs



\$3,500

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Mail Order Waste – Veteran's Affairs



\$1,000

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Mail Order Waste – Veteran's Affairs



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Mail Order Waste – Medicare



“These items were brought in by a customer for a family member who just entered a nursing home. They were not ordered, just automatically shipped regularly by Liberty Medical. I assume taxpayers paid for all this through Medicare.”

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Mail Order Waste – Medicare



Albuterol and Budesonide, 1201 doses from Liberty Medical, billed to Medicare Part B. The patient only brought in what was outdated and said she had 3 to 4 times that much at home still and they send more each month.

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Mail Order Waste – Medicare



Albuterol and Ipratropium, 1920 doses, billed to Medicare Part B. Patient had 6 times more still at home and called the mail order pharmacy to tell them they had overstocked. The pharmacy told the patient to hang on to the medicine because his insurance might stop covering these products. None of this medicine was outdated.

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Mail Order Waste – Medicare/Medicaid



“Almost \$900 worth of insulin, still in date! We can’t recycle to anyone, clinic, or organization because there’s no guarantee that it has been stored appropriately (including us). What a travesty! This patient is a **Medicare patient, dual eligible.**”

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Mail Order Waste – Cigna



“A patient of ours was ‘forced’ to use mail order for her insulin. Cigna mail order signed her up for an auto ship program. She told us that she called them to alert them that she would be on vacation and to hold her insulin until she returned. They shipped about \$2,000 worth of insulin which sat on her front porch in the summer heat for over a week.”

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Mail Order Waste – Prescription Solutions



\$2,500

“Photos of insulin that one of our regular customers got from mail order - the patient has not been in good health for some time and passed away. The family brought in this unused insulin to see what to do with it. Unfortunately the only option was to tell them to dispose of it.”

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Mail Order Waste – Prime Therapeutics



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Mail Order Waste



\$3166.87

A customer brought in a sack full...her husband had passed away and wanted us to donate the medications for someone else to use. Unfortunately we couldn't.

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Mail Order Waste



\$7,000



\$2,700

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Mail Order Waste

“Over \$10,000 of Lovenox mailed to a patient! She received 18 boxes of 180 syringes when typically a patient may only use a few syringes (certainly not 90 days worth) following a hospital procedure for certain medical conditions, surgeries, or risk factors for blood clots. The patient only used about \$170 worth of product, the rest was thrown away.”



Over \$10,000

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Mail Order Waste



\$2,800

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Mail Order Waste



\$11,096

“26 vials of Novolog and 84 vials of Lantus. About \$11,096 worth of waste in the mail order pharmacy system. Auto Shipped from Liberty Medical to the patient who accumulated beyond belief and now wants them wasted, since they are changing to the Insulin Pen. Adherence was not great for this patient. Do you think that Liberty Medical ever checked to see if the patient was compliant? Or do you think they just kept auto shipping, and auto shipping, and auto shipping.”

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Mail Order Waste



“These testing supplies were brought in by a customer who had already called and asked the mail order company to stop sending her father's testing supplies since he already had more than he could ever use. There was over \$3500 in strips, another \$500 in lancets and another \$100 in testing solutions. 2 meters and 3 lancing devices. She said she had already thrown out several other boxes in the past to make room. We advised her to call the Medicare fraud waste and abuse hot line..... she has received two more shipments since that time.”

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Mail Order Waste



“Liberty Mutual testing supplies. Wasteful! They send too much to the patient without them requesting it!”

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Mail Order Waste



“The picture represents my mother’s diabetes medications that were auto shipped to her from Liberty mail order pharmacy during a 2 year period. The cost for these products represents \$442.50 per year of waste in the system that you and I as taxpayers paid for. Multiply this by the number of diabetic patients in this country, over 21 million, and the numbers are astronomical: **\$9.3 Billion** in potential waste and abuse in the diabetes community alone when provided by mail order companies.”



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