

Testimony of Jonathan J. Boehm

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A R G U S H E A L T H S Y S T E M S , I N C



Before the United States House of Representatives Committee on Oversight and Government Reform
Subcommittee on Federal Workforce, Postal Service, and The District of Columbia on

The Federal Employees Health Benefits Program (FEHBP)
Prescription Drug Integrity, Transparency, and Cost Savings Act

February 10, 2010

Introduction

Good morning Chairman Lynch, Ranking Member Chaffetz, and Members of the House Committee on Oversight and Government Reform. Thank you for inviting me to testify today. Chairman Lynch, I also would like to applaud your introduction of H.R. 4489, the FEHBP Prescription Drug Integrity, Transparency and Cost Savings Act. This legislation would provide the Office of Personnel Management (OPM) with the oversight it needs to be able to more effectively manage the prescription drug benefits for FEHBP beneficiaries.

I am Jonathan Boehm, President and CEO of Argus Health Systems, based in Kansas City, Missouri.

Argus is one of the largest pharmacy benefit administrators processing over 500 million claims in each of the last four years. This total includes a significant portion of the Medicare Part D claims nationally. In 2008, we processed 20% of the claims volume for Part D. We currently process claims for 50 customers with 5 million plus Medicare Part D members and 25 million commercial members. Argus supports some of the largest and most sophisticated health plans in the country as well as smaller to mid-size health plans. We have contracted with over 66,000 pharmacies in our pharmacy network, and we support CMS' access requirements for Part D customers.

Our business model, however, is different than most of our competitors'. We generally offer services in a cost-effective fee-for-service, fully disclosed and auditable manner. We refer to our model as a transparent model, and we have been doing business this way since 1999.

I am not here today to go into detail about our competitors' business model. I will tell you that I think effective management of the pharmacy benefit is dependent upon transparent access to relevant information. Transparency allows an understanding regarding sources of payments made to a PBM on behalf of a health plan and is critical to managing the benefit. I believe that Pharmacy data belongs to whoever is paying for the benefit. Your proposed legislation supports greater transparency in the pharmacy benefit and therefore should help the OPM control prescription drug spending within the FEHBP.

Definition of Transparency

To provide you context regarding transparency in the pharmacy benefit, let me further define what I mean by transparency. I like the definition of transparency that David Calabrese stated in the May 1, 2006 issue of *Managed Care Executive*. He wrote, "Transparency is a form of business practice involving full disclosure of costs and revenues, allowing the customer to make more well-informed decisions regarding purchases. In the PBM industry, transparency lays the groundwork for more simplified PBM-client business relations, more accurate financial modeling and performance metrics

and a greater comfort level among PBM consumers. 'Transparency,' however, is a relative term used freely in the marketing efforts of many PBMs. The genuine commitment to transparency lies in the actual business practices the PBM invokes to support this claim. 'True transparency' is a model in which all PBM revenue streams [drug-level rebates, funding of clinical programs, administrative fees, service fees, management fees, research/educational grants, etc.] are fully disclosed to the payer; the full value of retail and mail order pharmacy discounts is passed onto the client; data is shared with the client; and the client is given ultimate decision-making control over its drug benefit design and formulary management. It is this commitment to true transparency which has begun to differentiate newer PBMs.¹ At Argus, **we embrace this definition and business model.**

Argus' Transparency Model

In Argus' transparent model, we provide data to our customers in support of their business. As an example, our customers receive unaltered claims data as submitted by the Pharmacy. This fully auditable access to data enables Argus' customers to comprehensively manage their business for the benefit of their members. Consistently, our customers have told us that, when they transition to the Argus model from a traditional PBM business model they receive a reduction in prescription drug expense of between 8% to 10% on Day 1. After implementation, they have the information and tools to manage their annual drug spending trend 1% to 3% below the published industry data that suggests the annual drug spending trend is between 3% to 6% annually². The cumulative impact of the decrease in trend is financially more significant than the initial savings. We believe that these differences are the result of the fact that our customers own and have full access to their data. This allows them to have the information they need to manage the prescription drug expense on behalf of their members more effectively while still maintaining quality outcomes.

Interestingly, by implementing an Argus model, our customers achieve a generic dispensing rate of over 70% versus low to mid 60% industry averages³ because access to their data enables them to make informed decisions and to work with providers and members to achieve desired expense and health outcomes.

Another difference in Argus' transparent model is that we do not own a mail order facility or drive members to mail order. Rather we support 90-day prescription strategies for mail order AND at retail pharmacies through whichever method that the member deems is the most convenient for them. This is a significant difference from PBMs that own mail order facilities and drive utilization to this distribution method regardless of member preference.

Other Views of Transparency

There are clearly divergent views regarding the impact of transparency on managing the pharmacy benefit. I have considered the views of others who take the position that transparency in the

pharmacy benefit model will raise the cost of prescription benefits, and I have come to a different conclusion. If one reads the available federal government related materials⁴, it is clear that there is not a consensus regarding the impact of transparency on ultimate cost. This committee has heard, and I have reviewed, the testimony from both sides of this argument. The argument that the disclosure of sensitive pricing information would negatively impact negotiating leverage with pharmaceutical manufacturers and pharmacies appears to be predicated on the premise that this information would be available for public consumption. This bill clearly treats this information as confidential and it can only be utilized by OPM, thus invalidating the premise.

There have been numerous governmental reports that have estimated increased cost, unknown impact on cost and the CBO recently scored the Cantwell transparency amendment as budget neutral. Rather than debate the assumptions in the various reports, I thought it would be constructive to review observations from other industries.

In retail markets, it is well documented that transparency drives down costs. There are articles written to help companies determine how to combat the affects of transparency. The Harvard Business Review published a report entitled, "Cost Transparency: The Net's Real Threat to Prices and Brands," by Indrajit Sinha, a Washburn Research Fellow at the Fox School of Business, Temple University. In his article, he wrote, "Cost transparency threatens both retailers and manufacturers." He goes on to write, "Sellers have a natural interest in keeping their costs opaque to the outside world...Buyers, on the other hand, have a natural interest in knowing a seller's costs for a product or service – after all, they want to know if they are paying a fair price for what they are receiving." Mr. Sinha also notes that "Cost transparency severely impacts a seller's ability to obtain high margins." In this article, he attempts to help companies understand the negative impact that cost transparency may have on their businesses. He reviews actions companies can take to mitigate the impact of cost transparency including bundling services to keep buyers from seeing or determining the cost of individual items. An example he provides is that Gateway Computers bundles its internet service and computers to combat plunging computer prices.⁵ It is evident when one reads his article that cost transparency results in lowering prices and reducing margins. While pharmacy benefit management is much different than the retail market, it is also clear that bundling valuable services and keeping costs opaque to the outside world are strategies employed by many PBMs.

The final point regarding the importance of transparency is that I would suggest that it is more important in pharmacy benefit management than other industries, because the products and services are not procured at a specific price but rather a pricing structure. Without visibility into true costs and rebate arrangements, the pricing construct can not only not be validated or audited, but is invalid by the very premise that it is based on the unknowable.... The inspector General of OPM, Patrick McFarland, testified before this committee in June that "...the single most important issue which OPM must resolve is that PBMs are utterly nontransparent. This means that there is no objective basis

whether the terms being offered to an FEHB carrier by a PBM represent an advantageous arrangement... we find the absence of transparency to be deeply troubling..."⁶

Conclusion

In conclusion, it is my view that the effective management of pharmacy benefits is fundamental to reducing prescription drug costs and improving the quality of Health Care outcomes in both the public and private sector. Effective management of this benefit is dependent upon transparent access to the relevant information. Transparency allows understanding regarding the magnitude and sources of payments made to a PBM on behalf of a health plan and is critical to managing the pharmacy benefit. The baseline issue is that the pharmacy claim data "belongs to" whoever is paying for the benefit. This is significant because a health plan sponsor has the inherent right to full transparency of all pricing related data communicated between the PBM and the Pharmacy. Since the data is owned by the health plan sponsor, it means that the PBM cannot use this data for any purpose for which they have not been authorized. True Transparency must include the payments to pharmacies mentioned before, the payments from pharmaceutical manufacturers and the business processes regarding formulary management and drug switching. Any action that improves transparency for OPM and other payers will help curtail the rising prescription drug costs in the Federal Employee Health Benefits Program.

Chairman Lynch, it is my view given our customers' experience as well as my research into this issue that your proposed legislation will be beneficial to OPM by enabling it to have access to information so better decisions regarding pricing and outcomes management can be made on behalf of federal employees and ultimately the taxpayers. The confidentiality provision that you have included will mitigate the risk that the disclosure of sensitive pricing information will result in increased costs to administer prescription benefits.

Endnotes

1 David Calabrese “The new PBM: PBMs step up as leaders call for true transparency”, *Managed Care Executive*, May 1, 2006.

<http://managedhealthcareexecutive.modernmedicine.com/mhe/article/articleDetail.jsp?id=322942>

2 The drug trend figures were published in the 2009 Drug Trend Reports for CVS/Caremark, p 4, ExpressScripts, p 3 and Medco, p 20 based on 2008 data.

3 Lawrence W. Abrams, Ph.D., “De-Capitation: Express Scripts’ Unspoken Plan for its Wellpoint PBM Acquisition” White Paper, May 11, 2009.

4 Sources include: CRS Report for Congress, “*Does Price Transparency Improve Market Efficiency? Implications for Empirical Evidence in Other Markets for the Health Sector*”, D. Andrew Austin and Jane G. Gravelle, April 28, 2008; Congressional Budget Office, “Cost Estimate: S 1, Prescription Drug and Medicare Improvement Act of 2003,” page 15. July 22, 2003; US Federal Trade Commission & US Department of Justice Antitrust Division, “Improving Health Care: A Dose of Competition,” July 2004.

5 Indrajit Sinha, “*Cost Transparency: The Net’s Real Threat to Prices and Brands*”, Harvard Business Review, March-April 2000, pp 43-50.

6 Testimony of Patrick E. McFarland, “*Statement of the Honorable Patrick E. McFarland, Inspector General U.S. Office of Personnel Management before the Subcommittee on the Federal Workforce, Postal Service and District of Columbia, on FEHBP’s Pharmacy Benefits: Deal or No Deal?*”, June 24, 2009.