

TESTIMONY BEFORE THE UNITED STATES CONGRESS
ON BEHALF OF THE
NATIONAL FEDERATION OF INDEPENDENT BUSINESS



Statement for the Record of Tyler Dever
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United States House of Representatives
Committee on Education and Workforce

Health, Employment, Labor, and Pensions Subcommittee Hearing titled
"Profits Over Patients: The PBM Business Model Under Scrutiny"

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National Federation of Independent Business
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Chairman Allen, Ranking Member DeSaulnier, and Distinguished Members of the Subcommittee:

On behalf of NFIB, the nation's leading small business advocacy organization, thank you for the opportunity to submit this statement for the record for the hearing titled *"Profits Over Patients: The PBM Business Model Under Scrutiny"*. The rising cost of health care has been the top issue small businesses have faced for the last four decades.¹ Today, only about one-third of small business owners can afford to provide coverage, compared to more than 96% of large employers.² Rising costs, rigid mandates, and health industry consolidation have made it increasingly difficult for small employers to offer health benefits to their employees. Without meaningful reforms, fewer small businesses will be able to offer health benefits, leaving them at a significant disadvantage to their larger competitors.

As the Wall Street Journal Editorial Board wrote in 2023, the rise of Pharmacy Benefit Managers (PBM's) is largely attributed to government price controls and profit caps.³ For one, the Affordable Care Act [Obamacare] established the Medical Loss Ratio (MLR). The MLR requires insurance companies to spend at least 80% of premiums on medical claims to reduce administrative spending. Instead, the MLR has fueled rapid industry consolidation, as insurance companies merged with PBM's, pharmacies and other healthcare providers.⁴ The Journal concluded "ObamaCare's market distortions are spurring a bipartisan movement in Congress to regulate PBM's. It's a familiar story: Big government intervention creates incentives and raises costs that help big business, and then politicians demand more government intervention to fix the distortions they caused."⁵

However, far from focusing on the root causes of exploding healthcare costs, Congress has shifted its focus to the symptoms, such as PBM's. Small businesses understand that the many mandates, price controls and red tape are leading to unsustainable health costs. If Congress is serious about reducing health costs for small businesses, it must increase competition, transparency, flexibility and choices.

One area for Congress to increase transparency is regarding drug pricing. At its core, the practice of PBM spread pricing is simple but deeply problematic. PBMs charge a health plan or employer one price for a prescription drug, reimburse the dispensing pharmacy a lower amount, and retain the difference, or the "spread", as profit. This model inflates costs for employers, who never see any of the savings the PBM receives. Because PBMs often earn more when prices are higher, the model creates a misalignment where industry middlemen benefit from rising costs rather than savings.

¹ Holly Wade & Madeleine Oldstone, Small Business Problems and Priorities, 2024 NFIB Research Center, 2024 <https://strgnfibcom.blob.core.windows.net/nfibcom/2024-Small-Business-Problems-Priorities.pdf>.

² U.S. Agency for Health Care Research and Quality, Medical Expenditure Panel Survey (MEPS) Insurance Component (IC), <https://datatools.ahrq.gov/meps-ic/?tab=private-sector-national&dash=19>.

³ Editorial Board, *Wall Street Journal*. Nov. 23, 2023. "Elizabeth Warren Has an ObamaCare Epiphany." <https://www.wsj.com/opinion/obamacare-medical-loss-ratio-elizabeth-warren-mike-braun-letter-healthcare-pbm-af77e284?msocid=3efaf226485565230208e7e7493964c4>.

⁴ *Id.*

⁵ *Id.*

For small businesses, these hidden costs function as a tax on providing health benefits. Employers end up paying more than necessary, and those costs are passed on through higher premiums or reduced benefits. In many cases, small employers lack the leverage to negotiate better terms in PBM contracts. This issue reflects a broader structural problem in the health care system, where an estimated 9 out of every ten health care dollars flow through third parties rather than directly between patients and providers.⁶

These challenges are compounded by the MLR requirements. MLR rules have created incentives that drive higher health care spending. Since insurer profits are capped as a percentage of total costs, increasing overall spending can increase allowable profits.

Moreover, payments to PBMs—including inflated drug prices driven by spread pricing—are often classified as “medical spending” for MLR purposes. This allows insurers, particularly those that own PBMs, to retain profits while still complying with federal requirements. In effect, higher costs can translate into higher allowable profits, masking inefficiencies and undermining the intent of the policy.

Addressing these problems requires both targeted PBM reforms and structural changes to MLR rules. Congress should eliminate or strictly limit spread pricing and require pass-through pricing models in PBM contracting practices. The MLR should be eliminated as it has failed to reduce health costs and fueled industry consolidation.

Small businesses want to provide high-quality health coverage to their employees, but they cannot afford to offer benefits in a system where government-protected middlemen profits send costs skyrocketing.

Congress must get serious about reducing health care costs. It must increase access to affordable and flexible health care options, and eliminate failed price controls like the MLR and burdensome mandates that drive up the cost of care. Without serious action, small businesses will continue to suffer under the heavy weight of rising health costs.

Sincerely,



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⁶ Centers for Medicare and Medicaid Services, National Health Expenditure Fact Sheet, 2023.
<https://www.cms.gov/data-research/statistics-trends-and-reports/national-health-expenditure-data/nhe-fact-sheet#:~:text=Historical%20NHE%2C%202023;.12%20percent%20of%20total%20NHE>