



October 12, 2023

VIA EMAIL

Hon. Julie M. Rogers
Chair
Michigan House Committee on Health Policy
Room 519
Rogers House Office Building
Lansing, MI 48909

Testimony of the Independent Pharmacy Cooperative in Support of HB 4276 (Rep. Alabas Farhat) Human Services; medical services; Medicaid managed care contract with pharmacy benefit manager; regulate and require reporting.

Dear Chair Rogers and Members of the Michigan House Committee on Health Policy:

I am John Covello, Director of Government Relations for the Independent Pharmacy Cooperative and I am submitting this written testimony **IN FAVOR OF HB 4276**, sponsored by House Representative Farhat that creates permanently in the Michigan Medicaid statute the reforms enacted by the Michigan Legislature over the past two Michigan State Appropriations Acts mandating transparent, cost-based pass through reimbursement mandates for Michigan Medicaid managed care organizations' Pharmacy Benefit Managers on reimbursements to Michigan independent pharmacies.

The Independent Pharmacy Cooperative (IPC) is a national trade group representing the interest of over 7000 independent pharmacy store owners in all 50 states and the District of Columbia, including 550 independent community pharmacies in Michigan. Many of our member pharmacies reside in rural, urban and other underserved and economically disadvantaged parts of the country. These pharmacies continue to accept the responsibility of being the first point and often only source for delivering health care in their local communities. As a part of our services to members, we engage in Government Relations on both a Federal and State level to actively participate in public policy advocacy on issues affecting pharmacies. It is in this capacity that we are submitting this testimony.

IPC has worked with the entire Michigan pharmacy industry starting when the Whitmer first started the path to Medicaid managed care prescription drug benefit reform back in 2019 all the way up through the reforms first instituted in the Fiscal Year 2021-2022 Annual Appropriations Act.

And starting with the first analysis of dramatic drops in Medicaid managed care reimbursement in neighboring Ohio in 2016, up through today, IPC has been involved in the actions nearly a dozen states of the 35 states that have Medicaid prescription benefits "carved in" to Medicaid managed care (MMC) programs to pursue reforms to the management of their Medicaid managed care prescription drug programs.

As our accompanying White Paper explains, starting in 2010, in the aftermath of the 2008 Great Recession and with the Affordable Care Act's requirement that the "Pryor Act" requirements of Medicaid rebates being applied to MMC prescription claims, states across the country were promised by PBMs

and MCO's that "carving in" the prescription drug benefits into Medicaid managed care programs would save the Federal Government and states at least \$11.7 billion (nearly \$4.9 billion state share) over 10 years of Medicaid dollars - mostly from paying pharmacies less than FFS rates rather than through more efficient drug benefit management or greater rebate maximization.¹ But as states like Michigan which did "carve in" pharmacy benefits into MMC analyzed MCO PBM prescription encounter claims, they reached the conclusion - based studies of the claims data and the facts - that opaque PBM practices of overbilling "spread pricing" in their Medicaid programs have instead increased their Medicaid drug spending costs. despite the PBM's assertion such Medicaid prescription "carve in" program changes would contain Medicaid drug costs and produce savings for state budgets.

Fortunately, Michigan was one of the earliest states started dealing with this MMC prescription "spread pricing" problem. In 2019, Michigan started the policy review when the several studies examined and defined the scope of the problem which culminated in the policy change embodied in Article 6 of 2020 Public Act 166, as part of Michigan's Annual Appropriations Act for that fiscal year to mandate Michigan MCO PBMs utilize a transparent, "cost based" (drug acquisition cost plus a tiered professional dispensing fee) pass through prescription claims reimbursement as a final payment. This process was in place the past two fiscal years and is once again continuing in the current fiscal year.

HB 4276 would take this annual policy in Medicaid's Appropriations and make it a permanent in Michigan's Medicaid statutes. To date this policy has been a program success as Michigan Medicaid program has:

- eliminated the overbilling by MMC PBMs of Michigan taxpayers;
- ensure Medicaid patients access to all their medication needs through their pharmacy of choice; and
- stabilized Michigan independent pharmacies' finances as they are paid fully for the cost of Medicaid prescription services.

Just on the fiscal benefits, two reports by the Michigan Department of Human Services (MDHSS) identified a cost avoidance of \$745 million of 'spread pricing' overbilling by the MMC PBMs over the previous two fiscal years prior to the 2020 Public Act 166 mandate for cost based pass through MMC prescription claims reimbursement mandate that started in February of 2021.² The change in policy, even with the increase in claims payment to pharmacies has saved Michigan hundreds of millions of dollars by avoiding these overbilling "spread pricing" practices of charging the state more than it pays pharmacies. Keep this point in mind when the PBMs claim that mandated cost to dispense professional fees "raise" MMC prescription claims costs. Another critical point on the impact of spread pricing, also explained in our accompanying White Paper – MMC prescription "spread pricing" practices result in increased per capita payments for state Medicaid programs which created excessive, undo enrichment profits for MCOs and PBMs.

¹ The Lewin Group, Sponsored by the Medicaid Health Plans of America, *Projected Impacts of Adopting a Pharmacy Carve-In Approach Within Medicaid Capitation Programs*, February 2011.

http://www.lewin.com/content/dam/Lewin/Resources/Site_Sections/Publications/MHPAPaperPharmacyCarve-In.pdf

²<https://www.michigan.gov/-/media/Project/Websites/mdhhs/Folder4/Folder31/Folder331/Section16262-PA166of2020.pdf?rev=c2da1ae417d84ac3b563e7232657600f>

<https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Inside-MDHHS/Budget-and-Finance/Legislative-Reports-FY22/Section16262PA87of2021.pdf?rev=3547448476c046d4aa333a97129ce7af>

The other major point IPC wishes to stress as to why HB 4276 should be enacted to make these reforms permanent in Michigan statute – while Michigan is a leader in discovering the MCO PBM overbilling “spread pricing” practices, this pattern of abuse has been discovered and address in a number of states.

In addition to the accompany 50 state map, here are the basic overview of the degree of state Medicaid managed care prescription benefit program reforms.

Of the 35 States that have their Medicaid prescription benefit program “carved into Medicaid managed care, the following states over the past 10 years, states have taken various steps to address or reform this abuse:

- **4 states** have acted to “**carve out**” their **Medicaid prescription benefit program** from MMC back into their Medicaid Fee for Service Program and have **saved \$631.5 Million**
- **8 states** have instituted an **actual cost reimbursement** mandate for MMC prescriptions which **saved taxpayers over \$1.27 billion.**
- **14 states and the District of Columbia** have **conducted studies** related to Medicaid Managed Care prescription claims practices – **uncovering** evidence of MMC Rx **overbilling practices over \$1.3 Billion**
- **16 states** have introduced legislative and /or administrative reforms to address MMC PBM overbilling

In the 12 states that enacted MMC Rx reforms through either a FFS carve out or mandated actual Rx cost reimbursement formulas have seen or budgeted to save over \$1.9 BILLION in Medicaid dollars even with greater dollars to pharmacies to protect and enhance Medicaid patients’ Rx access.

And to show the degree of the PBM abuses of overbilling state Medicaid programs, states have pursued Medicaid fraud claims against the largest MMC PBM, Centene. The result of these Medicaid fraud claims cases to date is that **17 State Attorney Generals have settled cases with Centene for a total of \$927.6 million.** At least 3 more State AG’s are pursuing Medicaid fraud cases against Centene, which has set aside up to \$1.5 billion for these cases.

This multi-state evidence of the degree of MMC PBM overbilling abuses - and the reforms that have been enacted across the country to stop these practices - provide the path for other Medicaid managed care prescription drug benefit “carve in” states to follow suit.

IPC applauds Michigan for being an early part of these Medicaid managed care prescription drug benefit program “spread pricing’ abuse reforms through your annual Appropriations Act. The evidence of this success over the past 2 and half years warrants the passage of HB 4276 in this year’s legislative session.

To ensure the legislative intent to have this permanent statute mirror the program in article 6 of 2020 Public Act 6, IPC requests that the Committee amend the Committee substitute for HB 4276 as follows:

On Page 2 Line 2, after the phrase “article 6 of 2020 PA 166, or” add the phrase “as provided through section 1625 of article 6 of 2020 PA 166.”.

IPC applauds the Michigan House Representative Farhat for sponsoring HB 4276 and the Michigan House Committee on Health Policy for posting this bill. I urge you to make your current Medicaid managed care policy through annual Appropriations Act permanent in Michigan Medicaid's statutes by voting for HB 4276.

I appreciate the opportunity to provide this written testimony and the accompanying background information on the status of state reforms to the Medicaid managed care prescription drug program management by Medicaid managed care PBMs.

I am happy to make myself available to provide any additional information to this committee and answer any questions Committee members may have about my testimony. Please feel free to contact me by either by email (john.covello@ipcrx.com) or by phone (608-733-6180).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Covello". The signature is stylized and cursive.

John Covello
Director of Government Relations
Independent Pharmacy Cooperative

Attachments