

My Prescription Costs What?

A photograph of a modern building's curved glass facade, showing multiple stories of windows and dark structural elements, set against a light blue sky.

2 MIN READ

November 9, 2023, 3:18 PM

By: Jeny M. Maier

This [WSJ story](#) highlights the challenges faced by patients as they navigate the “convoluted” ways in which drug prices are set between manufacturers and the pharmacy benefit managers (PBMs) who negotiate on behalf of health insurance plans.

As featured in the WSJ story, patients can find two dramatically different prices for the same drug – one price using their insurance benefits, and another by paying cash out of pocket. These types of “funky” results arising from the complexities of the US healthcare payer system are also gaining the attention of legislators, policy organizations -- and antitrust enforcers. In June 2022, the FTC launched a market study of PBMs and the impact of their practices on pharmacies, payers, doctors, and patients.

Earlier this year, on the ABA Antitrust Section’s “Our Curious Amalgam” podcast, I interviewed Dr. Erin Trish, an economist and health policy expert, about the evolution of PBMs and the current antitrust inquiries they are facing. In our conversation, we learned that, historically, PBMs were extremely successful in encouraging the adoption of generic drugs, saving health plans and patients considerable cost. PBMs have also been successful in using their bargaining power to drive down the cost of branded drugs significantly, often via rebates from the drug manufacturer to the PBM and its member health plans.

Over time, though, consolidation among PBMs and transactions combining PBMs with health plans, pharmacies and other healthcare providers have significantly changed the industry landscape, companies' financial incentives, and generated a tide of complaints from policymakers, patient advocacy groups, independent pharmacies, and antitrust enforcers. Listen to [the episode](#) if you want to learn more about what goes into the price that you pay for your prescription.

For years, doctors and patients have criticized drugmakers for their high prices. The companies have responded, in part, by listing at least 10 drugs at a lower price.

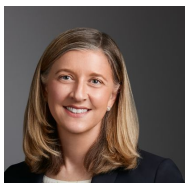
Yet some drugmakers are also keeping the higher price they had been charging. Others are introducing a new drug with two prices simultaneously—one high, one low. And many health plans are choosing the more-expensive version, according to data analysis conducted for The Wall Street Journal.

The reasons reflect how the drug-payment system doesn't work like most markets.

WSJ [www.wsj.com/...](#)



Related People



Jeny M. Maier

Related Services

Antitrust

To subscribe to our publications, [click here](#).

TAGS

healthcare, pharma

News & Insights

- GCR Live: Law Leaders Global 2025
SPEAKING ENGAGEMENT ANTITRUST
- Evidence for Trial Lawyers: Motions, Introducing Evidence, and Objections
SPEAKING ENGAGEMENT INTELLECTUAL PROPERTY
- NYC Bar Trade Secrets Symposium 2024: Navigating the Law of Trade Secrets and Restrictive Covenants
SPEAKING ENGAGEMENT INTELLECTUAL PROPERTY
- Stakeholders 24th Annual CYOC Career Development Conference
SPONSORSHIP
- IAM Connect Patent Policy and Litigation Conference 2024
SPEAKING ENGAGEMENT INTELLECTUAL PROPERTY
- CompLaw 33rd Annual Advanced EU Brussels Conference
SPEAKING ENGAGEMENT ANTITRUST
- Jason Murata Named a Profiles in Diversity Journal Diverse Lawyers Making a Difference Award Winner
AWARDS & RECOGNITIONS INTELLECTUAL PROPERTY
- AIC General Counsel Day 2024
SPEAKING ENGAGEMENT ANTITRUST
- ALM General Counsel Conference East 2024
SPEAKING ENGAGEMENT ANTITRUST
- Global M&A Antitrust Outlook: Trends Shaping Enforcement Strategies
SPEAKING ENGAGEMENT ANTITRUST

© 2024 Axinn, Veltrop & Harkrider LLP. All Rights Reserved