



NEW YORK STATE SENATOR

James Skoufis

Senate Investigations and Government Operations Committee Releases Full Report on Pharmacy Benefit Managers

JAMES SKOUFIS June 3, 2019

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In January of 2019, Senator James Skoufis, Chair of the Senate Committee on Investigations & Government Operations, in coordination with Senator Gustavo Rivera, Chair of the Senate Committee on Health, opened an investigation into the practices of Pharmacy Benefit Managers (PBMs) in New York State.

Senator James Skoufis (D-Hudson Valley) said, “Every single day in this state, someone is forced to choose between buying medication that they need and buying groceries for the week. This is an atrocity and a failure of government oversight. Price hiking has plagued consumers for decades and we are currently at a point where it has gotten out of control. This is why back in January, our team of investigators and I started diligently looking into this practice. The purpose of this investigation was to better understand the impact PBM practices have on New York State residents, as well as establish legislative recommendations for further action. I’m confident that our findings and legislative recommendations will help inform our end-of-session decisions on PBM legislation.”

Senator Gustavo Rivera (D-The Bronx) said, "This report summarizes important and pressing concerns about the PBM business model, specifically on how their incentives are not aligned with that of patients. Although the steps taken during the budget were certainly important, this report makes it clear that new legislation is necessary to address additional parts of the business model that are being exploited -- often times to the detriment of patients in terms of cost and treatment access. I thank Senator Skoufis for spearheading this investigation and I look forward to working together to push for legislation aimed at increasing transparency within PBMs."

The investigative team held numerous meetings and discussions with representatives from three PBMs, CVS Caremark, Express Scripts, and OptumRx, regarding the requests, investigatory scope, and potential voluntary actions by the PBMs to adjust industry practices to better serve consumers.

Key findings include:

- One of the key mechanisms by which PBMs generate revenue is through spread pricing.

- The lack of transparency and oversight of PBMs has created an environment in which PBMs are able to engage in self-dealing to the detriment of consumers across New York State.
- New York State must take immediate action to regulate the practices of spread pricing, MAC appeals, mail order operations, and reimbursements.
- The New York State Comptroller should perform a full audit of all dollars paid to PBMs via spread pricing.

Legislative recommendations include:

- Regulate the practices of spread pricing in all pharmacy benefit contracts
- Enhance the transparency of MAC appeals
- Require the licensing and registration of PBMs to enhance accountability and oversight by instituting a fiduciary duty for their clients
- Prohibit PBMs from mandating that patients use specialty and mail order pharmacies
- Providing for the adequate and transparent reimbursements for pharmacies
- Require PBMs to pass-through all discounts or rebates received from drug manufacturers to its Medicaid managed care clients

This is the first report to come out of the Investigations and Government Operations Committee; under Senator Skoufis' leadership, this committee has been course-corrected to finally undertake real investigations and produce meaningful and substantive reports that all New Yorkers will benefit from.