

Bill would allow community pharmacies to negotiate with PBMs

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In an effort to permit community pharmacies to negotiate better contracts, Reps. Anthony Weiner (D-NY) and Jerry Moran (R-KS) recently introduced legislation designed to level the playing field between community pharmacies and pharmacy benefit managers (PBMs).

The bill, the Community Pharmacy Fairness Act of 2009, would create a narrow exemption to current antitrust law.

“Current law prevents community pharmacists from having the same leverage as large chains in negotiating the terms of their contracts with PBMs,” said Bruce T. Roberts, National Community Pharmacists Association (NCPA) Executive Vice President and CEO. “As a result community pharmacies are given the [choice] of signing unfair contracts that don’t benefit patients, or losing their patients altogether.”

Currently, independent community pharmacies are offered take-it-or-leave-it contracts by the PBMs. Giant PBMs have voiced concern over allowing pharmacies to negotiate; the PBMs fear losing the monopoly over these small businesses that allows them to dictate terms and create windfall profits for their shareholders, Roberts said.

If pharmacies were allowed to negotiate, they could enact terms in contracts that could better protect patients from shrinking and shifting formularies that confuse and restrict a patient’s treatment options.

Such negotiation would also allow pharmacists to reduce the pre-authorization hassles to obtain refills or formulary-restricted medications, and limit the switching of patients to higher-cost medications that may not be better for them therapeutically, but that earn higher brand-name drug rebates for the PBM, Roberts said.

The bill also reflects the changes that were made when the previous version of this bill was voted out of the House Judiciary Committee last year.

Those changes include a limitation on pharmacy negotiating pools to 25 percent of market share in a Medicare Part D region; a definition of independent pharmacy as less than 10 percent of market share of a PDP region and less than 1 percent of market share of the United States; a 5-year sunset clause from the bill’s passage; and a promise of a Government Accountability Office study six months before sunset to examine the impact.

“Community pharmacists deliver many valuable services, but our number one priority is being patient advocates,” said Holly Henry, NCPA President and a pharmacy owner. “Unfortunately PBMs undermine that priority by subjecting community pharmacy owners to onerous and inflexible contract terms, along with low reimbursement rates.”