



June 17, 2021

Chair, Senator Curt VanderWall  
Committee on Health Policy and Human Services  
Michigan State Senate  
Room 1100, Binsfield Office Building  
201 Townsend Street  
Lansing, MI 48933

Honorable Chair and Members of the Senate Committee,

The Michigan Society of Hematology and Oncology (MSHO) and the Association for Clinical Oncology (ASCO) are pleased to **support HB 4348: Insurance; third party administrators to be licensed in Michigan.** We recognize that this measure is tie-barred with HB 4347: Health: pharmaceuticals; reports on certain costs and other information associated with prescription drugs; require manufacturers of prescription drugs to file with the department. However, our comments do not extend to the tie-barred measure and are solely focused on the merits of HB 4348.

The Michigan Society of Hematology and Oncology (MSHO) is a non-profit 501c(6) corporation, formed in 1985 to address the growing needs of oncologists, radiation oncologists and hematologists in all practice settings in the state. It is the Mission of MSHO to promote exemplary care for patients with cancer and/or blood disorders through advocacy, education, and research. ASCO is the national organization representing nearly 45,000 physicians and other health care professionals specializing in cancer treatment, diagnosis, and prevention.

**MSHO and ASCO applaud the efforts that this measure takes in promoting accountability in the PBM industry.** We are particularly encouraged to see these efforts target anti-competitive business practices that ultimately cause harm to patients. Specifically:

- **MSHO and ASCO welcome this bill's prohibition on the PBM practice of reducing reimbursement amounts after a claim has been adjudicated by way of a direct or indirect remuneration (DIR) fee.** This practice involves the retroactive collection of fees by PBMs, the amounts of which are based on physicians' and pharmacists' performance according to a given PBM's proprietary metrics. PBMs justify imposition of these performance-based DIR fees by referencing CMS' Star Rating System; however, it is important to note that the Star Rating System measures relate largely to medication adherence for conditions such as diabetes, hypertension, and cholesterol. The System was designed to apply to Medicare Part D plan sponsors, not pharmacies. No such measures exist for medication management in oncology and, therefore, these policies are not appropriate for application in a specialty pharmacy or in an in-office dispensing setting.
- **MSHO and ASCO support policies that curtail steering patients towards or limiting patients to exclusive use of PBM-owned or affiliated pharmacies.** PBMs increasingly are shifting drug dispensing away from physicians and toward pharmacies they own or with which they are affiliated, which can negatively impact patient care and access. Some PBMs require that patients

use only their proprietary specialty pharmacy for certain drugs, despite the possibility that the patient could access the drug more cheaply and quickly from a different pharmacy. For example, PBMs actively incentivize—and in some cases require—patients to use mail order or specialty pharmacies in lieu of a dispensing physician. Patient steering and mandatory mail order policies are problematic not only because they disrupt patient choice and access but also from a business perspective as it means PBMs are both competing with and determining reimbursement rates for contracted pharmacies.

- **We are reassured that this measure places guardrails around PBM-specific provider credentialing in their networking contracts.** PBM accreditation standards required for participating pharmacies are costly and do not have relevance for oncology care. They often are applied in a manner that inappropriately limits the dispensing of specialty drugs. CMS has stated that it has received complaints from pharmacies that Part D plan sponsors have begun to require accreditation of pharmacies, including accreditation by multiple organizations or additional Part D plan-/PBM-specific credentialing criteria for network participation. In a final rule, CMS clearly stated that it does not support the use of a PBM-specific credentialing criteria that inappropriately limits dispensing of specialty drugs to certain pharmacies.

**And finally, we are pleased to see the inclusion of various transparency reports that would support the regulation of PBM business practices. MSHO and ASCO are very concerned about the lack of transparency surrounding PBM utilization management operations, dubious pricing calculations, and their potential impact on patient access to care.** As for-profit companies, PBMs obtain price concessions and discounts from pharmaceutical manufacturers in the form of rebate payments for “preferred” formulary status, which results in increased market-share and revenue by encouraging utilization of the included drugs. **Our concerns related to this issue are two-fold:**

- **Basing drug preference on cost-savings due to negotiated rebates, rather than basing formulary design on value can lead to poor patient outcomes and increased costs over the course of cancer treatment.** The practice of negotiating rebates to secure preferred formulary status is particularly problematic in oncology because cancer drug therapies are often highly specialized and not clinically interchangeable. Prescription drugs have different indications, mechanisms of action, and side effects, depending on the diagnosis and unique medical circumstances of each patient. If formularies are not designed in a way that offers a patient the most effective treatment for his or her disease at the most appropriate time, they may experience suboptimal outcomes and health plans could end up spending more on higher cost treatments down the line.
- **Without transparency, there is no evidence that patients’ out of pocket costs are reduced as a result of rebates and price concessions PBMs receive.** Scarce information is available about the size and frequency of rebates PBMs receive from manufacturers, nor is it understood the extent to which patients experience actual benefits of these rebates and discounts. Even with rebates, most cancer treatments are still considered high-cost drugs that remain subject to specialty benefit tiering policies. Specialty tiering is typically applied to expensive drugs and are generally associated with higher patient out of pocket costs. Since this practice shifts a large portion of the cost of care from the payer to the patient, there is often significant adverse impact on patient finances, which contributes to medical bankruptcies and disproportionately affects low-income populations. Worse, financial difficulties can result in abandonment of treatment and adverse patient outcomes. If a PBM is receiving a rebate that will ultimately lower the cost of a prescription drug, out of pocket policies should be adjusted in a way that allows patients to benefit from these savings.

**MSHO and ASCO appreciate the steps HB 4348 takes to improve PBM practices in Michigan and encourage the Senate Committee pass the measure without amendment.** For a more detailed understanding of our policy on this issue, we invite you to read the [ASCO Position Statement: Pharmacy Benefit Managers and Their Impact on Cancer Care](#) by our affiliate, the American Society of Clinical Oncology. MSHO and ASCO welcome the opportunity to be a resource for you. Please contact MSHO Executive Director Mary Kay Makarewicz at [mmakarewicz@msho.org](mailto:mmakarewicz@msho.org) or Allison Rollins at ASCO at [allison.rollins@asco.org](mailto:allison.rollins@asco.org) if you have any questions or if we can be of assistance.

Sincerely,



Anas Al-Janadi, MD  
President  
Michigan Society of Hematology & Oncology



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President  
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