



State Representative Scott Lipps

State Representative Thomas E. West

Sponsor Testimony – House Bill 63

Lipps

Chairman Merrin, Vice Chair Manning, Ranking Member Boyd, and members of the House Health Committee, thank you for the opportunity to present sponsor testimony on House Bill 63. House Bill 63 is the same language found in HB 479, which passed unanimously off the house floor in the 132nd GA. Last GA, we started to work on this “PBM” issue, not knowing just how far down the rabbit hole we would go. As we continued our fight towards more affordable drug prices, we learned this issue inside and out. Last year, this legislation, along with many other price transparency pushes, led the Auditor to discover 224.8 million dollars being unfairly taken from taxpayers’ pockets, by a hidden tactic known as spread pricing. The Columbus Dispatch has covered our progress in a dedicated series called Side Effects, and as of just last week Attorney General Yost is seeking 16 million dollars from the PBM, OptumRx, for overcharging the Bureau of Worker’s Compensation.

Over this past weekend, another 2.4 million of overcharges were found. One PBM was found to have been charging our state Medicaid program \$6.57 PER PILL when a similar generic version

could be bought at almost any drug store for less than 60 cents a pill. I could order the same medicine online with no prescription for \$16 dollars, whereas Medicaid paid \$283.08. That's 17.7 times the amount of money for the exact same medicine and quantity. Medicaid was charged approximately a 1000% upcharge for a drug that doesn't even require a prescription. And all of this is a result of the PBM, CVS Caremark. CVS Caremark is in a joint venture with the company who owns the drug manufacture that Medicaid was paying more for!

All of this happens as we watch a brutal court battle between PBMs and the Ohio Dept. of Medicaid. If these PBM's are doing their job, why are they so intent on burying information and hiding lucrative data from taxpayers and the General Assembly?

In response to our bill in the last GA, and the findings of multiple investigations over several months, the Ohio Department of Insurance issued a mid-year rule change last year. This unprecedented act, banned gag rules and the practice of directing pharmacists to charge patients more than the cost that a medication would be without insurance. We were thrilled at the immediate progress we were seeing.

Just a few months later, the Ohio Department of Medicaid sent out a letter, informing all Managed Care Plans that they must terminate all contracts that engage in spread pricing, in favor of switching to a pass through model. These two rule changes are excellent steps in the right direction and are in keeping with our goals for drug price transparency and PBM accountability.

At this time, HB 63 bill will simply codify the administrative rules that I have previously discussed from ODI and add extra teeth into prohibitions against PBM-directed overcharges. By banning gag rules, we allow the pharmacists to inform their customers of the most affordable payment option for their prescriptions. With gag clauses, PBMs were previously allowed to direct the pharmacy to charge the patient more than the cash price of the drug. I will know hand it over to my joint sponsor Representative West to testify further on the importance of this legislation.