STOP PHARMACY BENEFIT MANAGERS FROM **"GAMING THE SYSTEM"**

Health insurance companies use middlemen called pharmacy benefit managers, or PBMs, to negotiate prescription drug prices and develop formularies that determine what medicines people can get and how much they must pay.

The Problem

While PBMs negotiate rebates and discounts for medicines — **extracting more than $100 billion from pharmaceutical companies in 2021 alone** — the compensation these middlemen receive is typically tied to the price of a medicine. Government agencies, economists and other experts have noted that this model may create misaligned incentives, as PBMs may favor medicines with high list prices and larger rebates to maximize their revenue.[1] Moreover, there are no requirements that PBMs share their negotiated rebates and discounts with the clients they claim to serve: health insurance companies, employers, state agencies or patients. In fact, in a practice called "spread pricing," PBMs often bill more than what they pay to the pharmacy for medicines and keep the difference, enriching themselves, typically unbeknownst to their own paying clients and patients.

All of this means that patients, as well as employers, state governments and others, are **paying more for medicines than they should be**.

[1] See, e.g., Health and Human Services Office of Inspector General. "Removal of Safe Harbor Protection for Rebates Involving Prescription Pharmaceuticals and Creation of New Safe Harbor Protection for Certain Point-of-Sale Reductions in Price on Prescription Pharmaceuticals and Certain Pharmacy Benefit Manager Service Fees." 84 Fed. Reg. 2340, 2341 (November 20, 2020). https://www.federalregister.gov/documents/2020/11/30/2020-25841/fraud-and-abuse-removal-of-safe-harbor-protection-for-rebates-involving-prescription-pharmaceuticals; Medicare Payment Advisory Commission. "Report to the Congress: Medicare Payment Policy. Chapter 13: The Medicare Prescription Drug Program (Part D): Status Report." March 2021. https://www.medpac.gov/document/chapter-13-the-medicare-prescription-drug-program-part-d-status-report-march-2021-report/

The Solution: Fix How PBMs are Paid

State policymakers can act to fix this problem by **requiring that PBMs get paid a fee based on the value of the service they provide**, not the price of the medicine. Several states have started taking steps to do this:

1. Legislation proposed in Nevada requires that PBMs be paid administrative fees only and prohibits them from getting reimbursed based on how much they negotiate in rebates off the list price of a medicine.

2. Other states have begun requiring PBMs contracting with a state employee health plan or Medicaid program to pass through 100% of rebates to the plan sponsor. By wielding their large purchasing power, states could help to address misaligned incentives that may result in higher costs for them and their taxpayers.

3. At least 21 states have banned the practice of spread pricing in Medicaid or commercial health insurance companies regulated by states, meaning PBMs can't bill more than what they pay to the pharmacy and keep the difference.

PBMs play an important role in negotiating coverage and cost for medicines, and they should be compensated for it. Their compensation, however, should not be tied to the price of a medicine and should instead be based on the value of the service the PBM provides.