The Consequences of Mandating That PBMs Pass Through Rebates to Plan Sponsors

By Alex Brill and Christy Robinson

December 2025

In December 2024, Congress considered but ultimately declined to enact legislation mandating that pharmacy benefit managers (PBMs) operate in a prescribed financial arrangement with their customers. Proponents of these restrictions have again brought them to the fore, but, as this brief explains, these constraints are neither the preference of nor in the interest of PBMs' customers.

The December 2024 proposal appeared in legislative text in Section 902 of H.R. 10455 and would have required that PBMs pass all "rebates, fees, alternative discounts, and other remuneration related to utilization of drugs or drug spending" to commercial customers (that is, employers and health plans who offer prescription drug coverage) and then "re-collect" a negotiated portion back from plans. PBMs would continue to be permitted to collect what the government defines as "reasonable payments" from health plans for "bona fide services." Despite this proposal ultimately not being enacted into law, advocates continued to press state lawmakers to act and are now again pushing the proposal at the federal level.

However, by limiting choice and imposing new operational burdens on PBMs' customers, this proposal will likely burden employers, not advantage them.

By limiting choice and imposing new operational burdens on PBMs' customers, this proposal will likely burden employers, not advantage them.

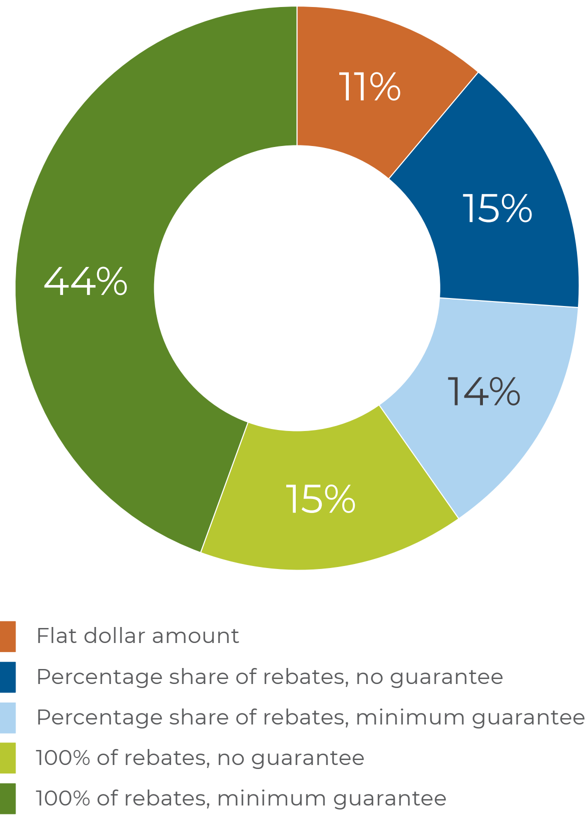
MATRIX GLOBAL ADVISORS

Limiting Choice

It is first important to recognize that, while this policy would be imposed on PBMs, its impact will be felt directly by all employers and plans currently (and, importantly, voluntarily) in alternative financial arrangements with their PBM. Specifically, this mandate would unduly constrain PBM clients by forcing all ERISA-governed health plans to accept one type of contractual arrangement with PBMs when, in fact, employer preferences are heterogenous.

According to a recent survey by Pharmaceutical Strategies Group, 59 percent of employers opt for PBM arrangements that provide 100 percent pass through of rebates. Twenty-nine percent of employers choose an arrangement where the employer receives a share of the rebates, and 11 percent opt for a flat dollar arrangement, one with no risk for the employer at all. In short, employers are not inclined toward a "one size fits all" arrangement with their PBM and have different preferences for risk sharing. (See **Chart 1**.)

CHART 1. PBM REBATE ARRANGEMENTS (NON-SPECIALTY DRUGS)



Source: Pharmaceutical Strategies Group. "2024 Trends in Drug Benefit Design Report."

Adding Complexity

While the proposed mandate is clear with respect to the requirement that 100 percent of all "rebates, fees, alternative discounts, and other remuneration related to utilization of drugs or drug spending" must be passed to the plan sponsor quarterly, it is less clear exactly what type of fee arrangements would be permitted and how they would be administered. Funds would appear to need to first flow to the employer with some amount then "round tripped" back to the PBM, a potentially cumbersome set of financial transactions. Such complexity would likely lead to higher administrative burdens on both parties, costs that will mitigate any purported advantage of this model. In addition, the ability to recreate incentive-based arrangements would be impaired.

Such complexity would likely lead to higher administrative burdens on both parties, costs that will mitigate any purported advantage of this model.

A State and Federal Concern

While the most prominent example of efforts to enact this policy is the federal legislative proposal discussed above, the risks at the state level are significant. Numerous states (including Alabama, Arkansas, California, Colorado, Florida, Idaho, Illinois, Iowa, Maine, and New Jersey) have already enacted laws requiring 100 percent of rebates be passed through to plans, and some states further mandate how those rebate dollars are to be used.

Moreover, many more states have had such policies introduced as legislation for consideration. In all cases, these state-level efforts impose restrictions on PBMs that ultimately yield limited choices for their customers, the state's own employers.

Solving What?

It is clear from recent survey data that requiring a 100 percent pass-through financial model would contradict the expressed preference of most employers. And, given the risk and uncertainty associated with rebates, prohibiting flat dollar arrangements could increase financial risk on employers.

This policy has little upside but risks restricting employers' choices.

The purported advantage of this proposal is an increase in transparency for employers. Will such transparency advantage employers? It's hard to say. To the extent that it yields better terms for some employers, it is likely to also lead to less generous discounts for other employers, as increased transparency can inhibit PBMs' ability to offer different discounts to different customers. In essence, this policy has little upside but risks restricting employers' choices.

ABOUT THE AUTHORS

Alex Brill is the CEO of Matrix Global Advisors (MGA), an economic consulting firm in Washington, DC. Christy Robinson is a principal at MGA.

This brief was sponsored by the Pharmaceutical Care Management Association. The authors are solely responsible for the content. Any views expressed here represent only the views of the authors.