True Transparency?

Fiduciary PBMs emerge as response to consolidation of Rx dispensing, concern over conflicts of interest and need for deeper clinical expertise

By Bruce Shutan

With rising prescription drug costs considered the nation's fastest-growing component of health care, pressure has been mounting on pharmacy benefit managers (PBMs) to help Corporate America rein in such spending. But at a time when transparency has never been more important across the self-insured community and beyond, a struggle over stewardship is brewing.

Gary C. Becker, CEO of ScriptSourcing, estimates that less than 2% of the nation's roughly 300 PBMs operate without conflicts of interest. In contrast to a traditional PBM, he says all manufacturer revenue in a "fiduciary" PBM contract belongs to the employer – adding "there will be no spread pricing." Leaders in this nascent field of expertise include US-Rx CARE, TransparentRx and OrchestraRx, among others.

These market disruptors could help bend the Rx cost curve in ways that self-insured employers never imagined, crow proponents of this model. Becker says it's analogous to scores of employers transitioning from retail to institutional pricing for their 401(k) investment fees. His point is that employers have an opportunity to mirror these cost savings by working with a fiduciary PBM.

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OrchestraRx reinvents cost baselines through design, clinical and technological innovations and earns revenue from a subscription model. Free from traditional PBM constraints, the fiduciary PBM provides reference-based pricing, pharmacy-centric condition management, polypharma management, integration of rebates and coupons at point of sale, and new capitated models of care by which patients are managed at the therapeutic class level where cost are optimized.

"These characteristics allow us to implement solutions where others will not because we are not sacrificing already established revenue streams from rebates, price spreading and mandates to use specific, owned pharmacies," explains founder and CEO Paul Ford.

A handful of traditional players dominate the PBM market, with a 2017 Drug Channels Institute report noting that the six largest players accounted for about 62% of U.S. prescription dispensing revenues in 2016. They include CVS Health, which late last year set its sights on acquiring Aetna, as well as Walgreens Boots Alliance, Express Scripts, Walmart, Rite Aid and OptumRx.

While transparency is all the rage, "it has been greatly overused and abused" in the PBM arena, says Renzo Luzzatti, CEO of US-Rx CARE. "You're either acting in the best interests of the client, always, or you're not," he bluntly adds.

The chief differentiation between a traditional and fiduciary PBM is "elimination of any possible financial conflicts of interest and the ability to manage risk, which takes years of clinical management experience," according to Luzzatti. It involves a deep understanding of clinical best practices and encouraging use of cost effective options among therapeutically equivalent medications as well as an ability to effectively communicate with doctors and patients to optimize prescribing with a focus strictly on delivering the highest quality of care at the lowest cost to both the insured member and plan sponsor.

Charging only a modest administrative fee per script, the mission of a fiduciary PBM is to manage costs and mitigate risks, as well as provide clinical or consultative advice to the health plan members, according to Spencer Allen, SVP and employee benefits practice leader for Insurance Office of America, one of the fastest-growing independent agencies.

"Their incentive is to do the best job they absolutely can for the employer, regardless of whether the drug costs $75,000 or $15," he explains, which can make a significant dent in the specialty drugs area.

Different paths to cost savings

However, employers shouldn't expect this new way of managing prescription drugs is necessarily a silver bullet. Keith McNeil, co-founder of United Benefits Advisor partner firm Arrow Benefits Group, much prefers the fiduciary PBM model, though cautioning it doesn't automatically mean that such programs save money.

"There are other factors that come into play," he says, noting the prospect of purchasing scripts on the international market and maximizing patient assistance programs.

"PBMs are now finally starting to offer a solution to this fiduciary problem," according to McNeil. For example, he cites programs that estimate rebates and front to members so that they pay the net true cost of drugs at the pharmacy. While largely a moot point for most of those with relatively small copays at the pharmacy, he sees significance for high-deductible health plan participants who often pay the full cost of drugs.

The Pharmaceutical Care Management Association (PCMA), which represents PBMs, is on record supporting "transparency that offers consumers and plan sponsors like labor unions, employers, and health plans the information they need to make the choices that are right for them."

But the group has been highly critical of unsuccessful attempts in dozens of states, including the District of Columbia, to designate PBMs as fiduciaries, noting how "such proposals inadvertently raise, not reduce, prescription drug costs." Another criticism is that they conflict with ERISA. In the case of a bill in Nevada, the PCMA noted that an unintended consequence of "giving drug companies inside information that would empower them to collude with their competitors."

Still, a huge problem associated with traditional PBM practices is that "relative drug prices will often change as soon as the ink is dry on the contract," Tyrone Squires, managing director of TransparentRx, wrote in a recent blog articulating differences between a traditional and fiduciary PBM. "But the plan sponsor is unaware of the price changes because their PBM doesn't offer full auditing rights or access to MAC price lists."

Further complicating matters is that they "may send only a single line item invoice for drug benefit costs, although thousands of claims have been submitted for that reporting period," he added. "To speak of transparency alone is not enough; it must be binding."

Ford believes it's nearly impossible for publicly traded PBMs that dominate the market to change their economic model and business practices without devaluing their stock value significantly. "They will be forced to change by market demand and pressures, including regulatory changes," he says. "This is why PBMs are buying hospitals and provider practices. It is to diversify revenue streams or have other places to distribute and account for margins that would be scrutinized and regulated."

Hidden costs

The trouble with traditional PBM contracts is that they abdicate any fiduciary responsibility, according to Becker, whose firm helps self-funded employers mitigate prescription drug

claims. "Who would ever hire someone to mitigate prescription spend who is not going to act in their clients' best interests?" he asks rhetorically.

Many PBMs are loosely claiming to be transparent and offering 100% of the rebate, Becker says, "but what they don't share is that they might be referring to the formulary rebate, can be a very small percentage of the actual rebate." Other rebates are associated with price protection, administration and marketing.

Becker notes that TPAs garner significant income from rebates upward of 20% or more of a client's total Rx spend. Traditional PBM incentives simply aren't aligned with the plan sponsor, Allen opines. Rather, he says they're focused on maximizing profitability – even with generics, thanks to spread pricing – and dispensing high-cost drugs whenever possible.

In conversations with a prospective client with 4,500 employees, Allen was nearly astounded to learn that specialty drugs accounted for more than 40% of the company's $10 million overall drug spend. He says all employers realize these rising costs are "pervasive and getting worse."

Health insurance carriers are just as culpable as TPAs "in that they make money on the [traditional] PBM that is not shown to the client," Allen says. This makes it exceedingly difficult to carve out a PBM from carrier partners, and when it's done, he notes that a per-employee-per-month (PEPM) fee is charged.

While employers look to their PBM as a gatekeeper, Luzzatti points out "an inherent conflict of interest" in terms of cost management, oversight, and ultimately, what gets dispensed. The primary sources of revenue for most, if not all, PBMs, "are rebates from manufacturers and dispensing," regardless of whether it's traced to a retail, mail-order or specialty pharmacy setting, he explains. If a PBM pockets any rebates or manufacturer incentives to increase utilization of expensive brand drugs or profits from dispensing any medications, that entity is almost certainly not acting in a fiduciary capacity in the best interest of the client.

Modest admin fees

A fiduciary PBM doesn't make money off rebates or dispensing, he says. "We get paid to manage the risk and refer to ourselves as pharmacy risk managers." The upshot is that the formulary is structured differently and a more clinical approach drives prior authorization.

The problem with health insurance carriers and TPAs enticing employers with a modest PEPM administrative fee, the arrangement is contingent upon doing business with a particular PBM with whom they've negotiated Luzzatti notes. "The employer would be much better served paying a higher administrative fee and keeping their own rebates, and not having the spread pricing," he adds, stressing the need to remove any conflict of interest.

Many PBM contracts don't charge an administration fee, which Luzzatti says sounds like the customer is getting it for free. They also might stress the maximum discount off average wholesale price. "But what they don't realize is the reason that there are no fees is because of all these other sources of revenues that are not transparent that work against the goal, which is lowering cost," he adds.

A fiduciary PBM can help better address some of the systemic problems associated with the health care system. For example, Allen says doctors don't always have a good enough sense about the cost of what they're prescribing.

He recalls how the lead registered pharmacist for US-Rx CARE advised one physician to prescribe an alternative for Stelara, which at $80,000, was not medically necessary for the patient. And then, by collaborating with ScriptSourcing's specialty drug program, the patient's medication ended up costing the client just $12,500. "That's how you fix rising drug prices," he quips.

Behind the fine print

The importance of contractual fine print cannot be underestimated. Traditional PBMs typically will lock up their employer clients for three years, "and as fast as this market is changing, that's not good for the plan sponsor," Allen warns. His suggestion is "to allow the termination of that contract at any point in time without cause."

PBMs are infamous for contractual language setting themselves up to be the exclusive provider of various services, including prior authorization, which Luzzatti says allows them control the gates for manufacturers and maximize profit.

"The client should be allowed, if they choose, to have somebody else do the prior authorizations so you take the fox out of the henhouse," he says.

The language used in US-Rx CARE contracts mirror the fiduciary definition under ERISA, with references to performing duties "free of any conflict of interest" and "in accordance with the standards of conduct applicable to a fiduciary in an enterprise of like characters and with like aims."

There's also a commitment to full disclosure of all financial, utilization and rebate information. With this in mind, Luzzatti says PBM contracts should stipulate that all data generated as a result of the servicing their members is the property of the clients and that they're entitled to that information at no charge. There should never be any additional charges for obtaining a claims history, a list of open prior authorizations, or other client data requests, he says.

Self-insured employers need to audit their Rx claims, as well as ensure that the PBM is adhering to its contract and that it squares with the request for proposal, Becker adds. "We feel many PBMs have been hustling their employer customers for quite some time, and this market requires radical transformation," he says, noting that a true fiduciary contract is held to a higher standard. ■

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