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## Simplify Complexity, Cut Costs.

## PBM Accountability – Your Fiduciary Responsibility

By Bill Frack, Co-founder & Chief Product Officer

Recent lawsuits against high-profile organizations underscore the importance of employers' ERISA fiduciary duties when selecting and monitoring health plan vendors such as Pharmacy Benefit Managers (PBMs).

The lawyers are lining up. Will they come to your office? Many industry observers say “It’s not a matter of if, but when”

While you may not be able to eliminate all sources of excess profit from a PBM contract, here are some of the more well-known sources:

### **Hidden Fees**

**Rebate Retention:** PBMs often negotiate rebates with drug manufacturers but may not fully disclose or pass these rebates on to employers, keeping a significant portion as profit.

**Spread Pricing:** PBMs charge the employer a higher price for a drug than what they reimburse the pharmacy, pocketing the difference.

### **Opaque Pricing Models**

**Complex Contracts:** PBM contracts are often complex and difficult for employers to understand, making it hard to discern the actual cost of prescription drugs.

**Non-Transparent Formularies:** The criteria for drug formulary placement can be influenced by undisclosed financial incentives, rather than clinical effectiveness or cost-efficiency.

## **Lack of Detailed Reporting**

**Incomplete Data:** Employers may not receive easily digestible comprehensive data on drug utilization, costs, and rebate information, hindering their ability to analyze and manage their pharmacy benefits effectively.

**Delayed Information:** When data on drug utilization, costs and accrued rebates are delayed, proactive cost management is thwarted.

## **How to avoid legal pitfalls and costly penalties**

Unless you want to bet that the lawyers won't show up at your door, how will you immunize your employer and yourself? The answer is to use a disciplined approach and become a less attractive target.

**Get Expert Review of the Contract:** An expert can help you close as many gaps as possible. If your broker receives any compensation from the PBM, they cannot be the unbiased expert.

**Strengthen Financial Controls:** Establish proactive and continuous plan oversight to mitigate these risks effectively. This includes implementing measures aimed at preventing fraud, waste, and abuse. Real-time monitoring of your health plan data demonstrates management.

**Leverage Actionable Insights:** Utilize advanced analytics and predictive modeling to make informed decisions. Taking action not only improves performance, but it also demonstrates your proactive oversight.

## **Take Action Now**

Given the increasing trend of fiduciary litigation, it is important for employers to adopt proactive oversight. These changes take time.

These efforts not only improve the health benefits offered to employees but also protect the organization from potential legal issues.

Have comments? I look forward to hearing from you at [b.frack@wellnecity.com](mailto:b.frack@wellnecity.com).

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