



## Legislation Text

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Res. No. 748

Resolution calling on Congress to pass, and the President to sign, the Prescription Pricing for the People Act of 2023 and the Pharmacy Benefit Manager Transparency Act of 2023.

By Council Members Brewer, Louis, Farías and Schulman

Whereas, In the United States (U.S.), prescription drug prices have been on the rise, with prices widely varying across cities and states, making it difficult for many Americans to access and afford their medications; and

Whereas, According to GoodRx Health, New York (NY) is the sixth most expensive U.S. state for prescription drugs, where residents pay 10.4% above the national average for their medications; and

Whereas, New York Public Interest Research Group Fund (NYPIRG) reports huge prescription drug price differences within and among NY counties; and

Whereas, For example, Spiriva, a medication for asthma and COPD, on average costs \$308.92 in Onondaga and \$322.64 in the Bronx; and

Whereas, Meanwhile, just within New York City (NYC), Spiriva can cost as high as \$698.72 or as low as \$224.95, a difference of \$473.77; and

Whereas, Over the past few years, the U.S. Senate has been examining the ever-increasing price of prescription drugs; and

Whereas, In 2019, the Senate Committee on Finance held a three-part hearing on drug pricing in America and examined the role that Pharmacy Benefit Managers (PBMs) play in increasing the cost of drugs for consumers; and

Whereas, PBMs are intermediaries that manage prescription drug benefits on behalf of health insurers, Medicare Part D drug plans, and large employers, and have significant influence over the prices and availability of prescription medications; and

Whereas, PBMs negotiate with drug manufacturers, using their buying power to get the best deal on medications on behalf of insurance companies and their customers; and

Whereas, PBMs are large corporations, and the three largest- CVS Health/Caremark, Cigna/Express Scripts, and UnitedHealth/OptumRx-control about 80% of the prescription drug market; and

Whereas, However, consumer and patient advocates have argued that PBMs act only to increase their bottom line, and not to make prescription medications more affordable for consumers and patients; and

Whereas, The National Community Pharmacists Association, for example, argues that PBMs will select medications for inclusion in a plan if a rebate is paid to the PBM, but not necessarily because including the medication would be in the consumers' best interests; and

Whereas, PBMs operate with little to no transparency, making it difficult to understand how they determine prices for prescription drugs, and whether they engage in anticompetitive or deceptive practices that harm consumers, pharmacies, and health plans; and

Whereas, PBMs may steer patients to pharmacies in which they have an ownership interest, or use formulary designs to favor drugs that generate higher rebates from manufacturers; and

Whereas, In a practice known as "spread pricing," PBMs may charge health plans more than they reimburse pharmacies for the same drugs, and keep the difference as profit; and

Whereas, PBMs may engage in "clawbacks" by imposing inflated copayments on consumers while charging pharmacies direct and indirect remuneration fees to reduce their reimbursement rates or decrease future payments to pharmacies to offset "negative funding" to an amount that is slightly above the drug

acquisition cost, allowing PBMs to pocket most of the money; and

Whereas, Due to such practices, while patients are forced to pay more money for the same drug at a particular pharmacy, which could often be higher than the out-of-pocket cost of their prescription, pharmacies also suffer through low reimbursements and decreased customer trust, which could threaten their viability; and

Whereas, Part of the difficulty in assessing the actions of PBMs stems from the fact that there is little regulation of the industry and it lacks transparency; and

Whereas, To address these issues, Senator Chuck Grassley has introduced S.133, the Prescription Pricing for the People Act of 2023, which would require the Federal Trade Commission to study the role of PBMs in the pharmaceutical supply chain and report to Congress on their anticompetitive practices and other trends that may impact the cost of prescription drugs; and

Whereas, S.127, the Pharmacy Benefit Manager Transparency Act of 2023 introduced by Senator Maria Cantwell, would prohibit PBMs from engaging in spread pricing, clawbacks, steering, and other unfair or deceptive practices when managing prescription drug benefits; and

Whereas, Together these bills would increase transparency and accountability in the PBM industry, protect consumers and pharmacies from abusive practices, and promote competition and lower prices in the prescription drug market; and

Whereas, Given that New Yorkers already pay one of the highest rates for their prescription drugs, it is vital that these bills become law; now, therefore, be it

Resolved, That the Council of the City of New York calls on Congress to pass, and the President to sign, the Prescription Pricing for the People Act of 2023 and the Pharmacy Benefit Manager Transparency Act of 2023.

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