

Are Pharmacy Benefit Managers' below-cost reimbursement practices creating opportunities for criminals to enter the legitimate supply chain?

Over the past decade, Pharmacy Benefit Managers (PBM) have cut the reimbursements pharmacies receive for the medicine they dispense to insured patients. Many times, [those reimbursements do not fully cover the acquisition cost of medicine](#). Pharmacies now routinely dispense medication that they lose money on.

This is by design. A pharmacist sent us the 2024 contract for a major PBM and it shows that dispensing brand name medicines is compensated at a rate of “average wholesale price minus 25.5%.”

September 25, 2023

2024 MEDICARE PART D NATIONAL PERFORMANCE AMENDMENT TO THE [REDACTED] INC. PHARMACY PROVIDER AGREEMENT

		Contract Rates		
		BRANDS Up to an Average Discount for Single-Source & Multi-Source ^{1,2} Brands not paid on <input type="checkbox"/> MAC + Not less than an Average Dispense Fee:	GENERICS – A Up to an Average Discount for	GENERICS – B Generic Drugs and Multi-
30 Day Network Participation			A 30 day dispense of a brand name medicine is reimbursed at Average Wholesale Price Minus 25.5%	
Year 1		AWP – 25.50% + \$0.00		
90 Day/EDS Benefit Participation				
Year 1		AWP – 30.50% + \$0.00	AWP – 37.00% + \$0.00	<input type="checkbox"/> MAC + \$0.00

One of the medicines that has been the subject of significant diversion and counterfeit activity by criminals is Biktarvy. A pharmacist in Delaware shared his receipts with us. He purchased a bottle for \$3,700.36. The PBM only reimbursed him \$3,661.75, and his pharmacy lost \$38.

Data Entry On	Dispensed Item Name	Dispensed Quantity	Total Price Paid	Acquisition Cost	Net Profit
9/2/2023 10:05 AM	Biktarvy 50-200-25 Mg Tablet	30	3679.45	3700.36	-20.91
10/9/2023 5:32 PM	Biktarvy 50-200-25 Mg Tablet	30	3679.45	3700.36	-20.91
11/7/2023 4:24 PM	Biktarvy 50-200-25 Mg Tablet	30	3661.75	3700.36	-38.61
10/10/2023 9:26 AM	Biktarvy 50-200-25 Mg Tablet	30	3679.45	3700.36	-20.91
9/27/2023 10:00 AM	Biktarvy 50-200-25 Mg Tablet	30	3679.45	3700.36	-20.91

What does under-reimbursement have to do with criminal counterfeiting?

Pedigree that Safe Chain sent to pharmacy
SAFE CHAIN SOLUTIONS, LLC
Drug Supply Chain Security Act Document (Doc# 0000019202)

(TI) Transaction Information

Drug Name, Strength, Dosage Form, Container Size:
BIKTARVY 50CT,
50/200/25 MG,
NDC: 61958-2501-01

Reference Number: 01140811
Document Type: Invoice
Reference Date: 01/08/21

Lot Number	Quantity	Unique Serial #
6400505A	3	
CDGXBA	1	
CCZCFA	1	

(TH) Transaction History

Manufacturer's Name: GILEAD SCIENCES
Manufacturer's Information:

SOLD TO:
Name: GENTEX LLC
Address: 45 CEDAR ST UNIT 3
STAMFORD CT 06902
Date Purchased & Ref: [REDACTED]

SHIPPED TO:
Name: SAFE CHAIN SOLUTIONS, LLC
Address: 822 CHESAPEAKE DR
CAMBRIDGE MD 21613
Date Received & Ref: 01/07/21

SOLD TO:
Name: MEDICINE SHOPPE
Address: 10313 GEORGIA AVENUE #101
SILVER SPRING MD 20902
Date Purchased & Ref: [REDACTED]

SHIPPED TO:
Name: MEDICINE SHOPPE #1802
Address: 10313 GEORGIA AVENUE #101
SILVER SPRING MD 20902
Date Received & Ref: 01/08/21

SOLD TO:
Name: [REDACTED]
Address: [REDACTED]
Date Purchased & Ref: [REDACTED]

SHIPPED TO:
Name: [REDACTED]
Address: [REDACTED]
Date Received & Ref: [REDACTED]

SOLD TO:
Name: [REDACTED]
Address: [REDACTED]
Date Purchased & Ref: [REDACTED]

SHIPPED TO:
Name: [REDACTED]
Address: [REDACTED]
Date Received & Ref: [REDACTED]

FRAUDULENT

When a pharmacy is faced with being reimbursed less than the cost of acquisition for medicine, they have two choices: stop serving the patients that need that medicine or find it at a cheaper cost. However, in many cases, that medicine is not legitimately available at a price low enough to keep the pharmacy from losing money.

The pharmacies that continue to serve patients are vulnerable to criminals offering diverted and counterfeit medicines at lower prices. Criminal counterfeiters have developed extremely convincing fraudulent systems to defraud pharmacies. They sell through companies with legitimate state-issued wholesale licenses, and they often use forged DSCSA transaction histories like this. They get away with it because of how labor intensive it is to check these documents.

A recent example is Gilead Sciences Inc. v Safe Chain Solutions LLC et al / USA v Lazaro Hernandez.

In early 2022, federal courts unsealed a civil case that revealed a \$250mm drug counterfeiting scheme. Criminals had been buying medicine bottles from patients, filling them with different pills if they



were empty, cleaning them up to look new, and forging Drug Supply Chain Security Act paperwork to show a false ownership history. At the time the court filings were unsealed, over 85,000 bottles of medicine that treated HIV (including Biktarvy), Hepatitis C, and cardiac issues had been found within or had moved through the supply chain to patients.

Many brick-and-mortar pharmacies bought these medicines thinking that they were getting bargains from licensed participants, and dispensed them to American patients. All these medicines, whether they were bought back from patients or wholesale fabricated from empty bottles, were unsafe to dispense.

Below cost reimbursements are the way criminals enter the legitimate supply chain.

Increasingly, we are seeing the same medicines that are being under reimbursed below cost show up in criminal counterfeiting cases. They may not have created the under reimbursement problem, but criminals are certainly taking advantage of the situation to defraud pharmacies and patients.

Healthcare advocates representing stakeholders in the supply chain have decried the business practices of PBMs for putting pharmacies out of business, inserting an additional expensive middleman that wastes government healthcare dollars, or blocking access to cheaper generics of branded medications.

We can now add “increasing the chance pharmacies buy from less reputable vendors who might sell counterfeits” to their list of harmful consequences. We hope policymakers putting boundaries on the behavior of PBMs take note, because this is not just an economic dispute: these dynamics put all U.S. patients at risk.



<https://safedr.ug/pbmbblackmarket>

Read more on how PBM reimbursement practices create opportunities for criminals to enter the legitimate supply chain.



https://safedr.ug/pbm_video

Watch and share our video highlighting the danger.



<https://safedr.ug/RXLossExamples>

Examples of below cost reimbursement from pharmacies around the country.