The Daily Dish

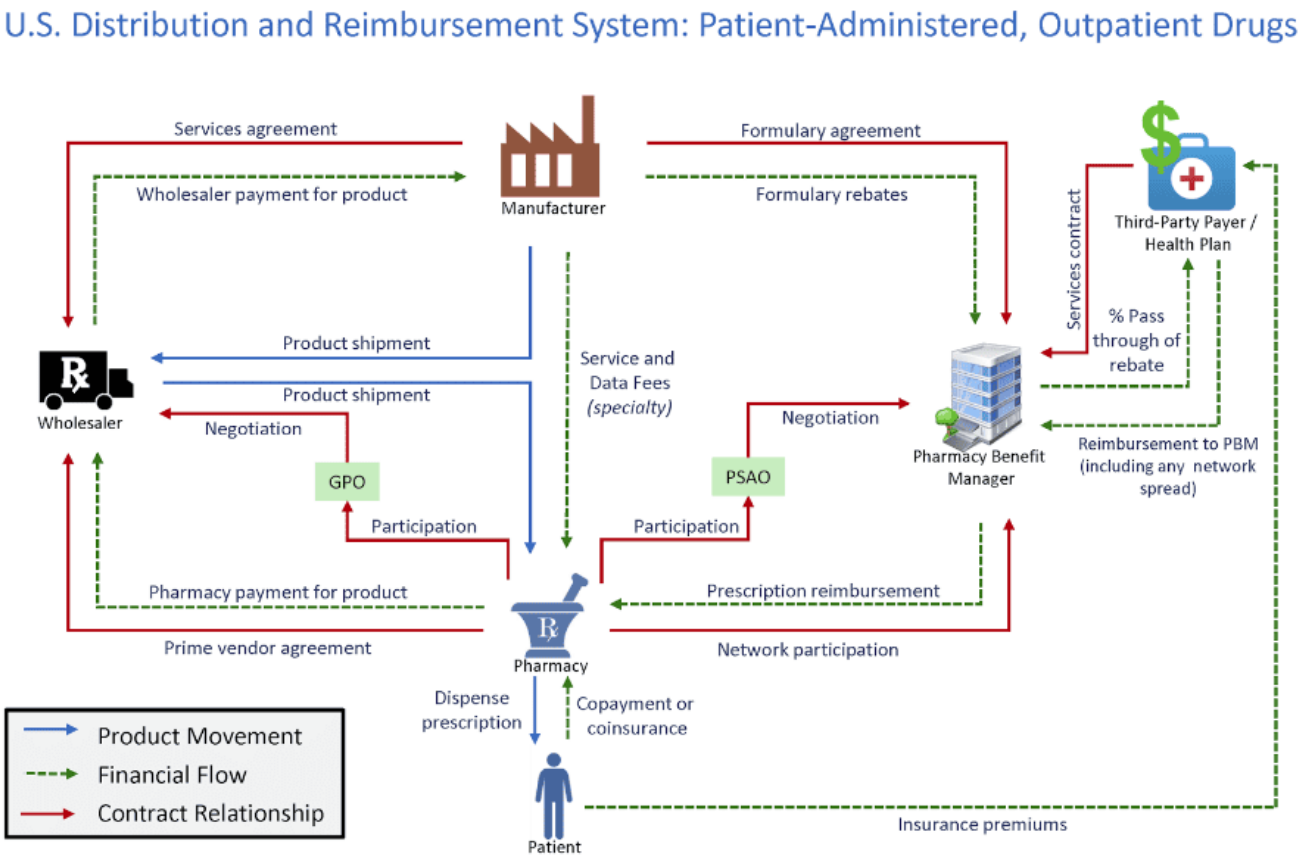
The FTC Skips the Hard Part

DOUGLAS HOLTZ-EAKIN | AUGUST 9, 2024

Pharmacy benefit managers (PBMs) are seemingly everywhere – in the news, on Capitol Hill, in ads, and who knows where else. So it is unsurprising that in June 2022, the Federal Trade Commission (FTC) announced it would launch a so-called 6(b) investigation into PBMs' effect on the access and affordability of prescription drugs. The FTC later released an "interim staff report" in July. AAF's Fred Ashton has a complete rundown on the report. Here are three key takeaways.

First, the report is fundamentally incomplete. While it comes to the weaselly conclusion that market conditions "may" have enabled PBMs to "profit[] by inflating drug costs and squeezing Main Street pharmacies," it provides no real evidence on this point. (This is becoming a pattern. The FTC released a similar report on grocery supply chains.) Granted, it is only an interim report, and one by the staff at that. But there is no need to release such a report. A more serious FTC would have completed the quantitative analysis of impacts on consumers' out-of-pocket costs before releasing anything.

The second, related point is that the FTC has seemingly given up on economic analysis. Now, I'm not taking this "Hey, Doug. Drop dead!" attitude personally, but this is a real problem. The diagram (below) is reproduced from Ashton's paper, and sourced from the Drug Channels Institute, and shows the complex flows in pharmaceutical and supply chain markets.



These flows make a few points abundantly clear. One cannot study the PBMs in isolation; their incentives are part of a very complicated, interrelated set of incentives. Indeed, a PBM does not even have a relationship with the final consumer. To study the implications of their behavior on consumers requires system analysis (i.e., economic analysis) and an assessment of magnitudes (quantitative evidence). An FTC that is allergic to these topics will never get the right answer.

Finally, this haphazard process and shoddy analysis threaten the perceived integrity of the FTC. As Ashton noted in his review of the report:

> *[FTC] Commissioner Holyoak's concerns were not limited to the lack of empirical evidence or the scope of the report. She was also concerned with what it meant for the agency's future. In her dissent, she explained the history of 6(b) studies and how "these reports have provided Congress and the public with evidence-based, objective, and economically sound information that can shape the national debate," noting that "the standard of these reports has been nothing short of excellence." She concluded, however, that the PBM report "fail[ed] to meet that rigorous standard," and that the report "will only exacerbate ideological schisms and further degrade the legitimacy of the Commission."*

The public will not learn much from the FTC report, and this will ultimately tarnish the FTC more than anything else.