



Prescription Drug Transparency and Affordability Council

2020
Report of
Recommendations



Executive Summary

Created in 2019 in House Bill 166 of the Ohio 133rd General Assembly, the Prescription Drug Transparency and Affordability Advisory Council is comprised of a diverse group of government, industry, and consumer experts convened to assess the transparency, pricing, and accessibility of prescription drugs in the State of Ohio.

Purpose

The Council was organized and led by the Ohio Department of Administrative Services and was tasked with providing recommendations to the General Assembly, Governor Mike DeWine, and the Joint Medicaid Oversight Committee regarding Ohio's best path forward for:

- Achieving prescription drug price transparency in the State of Ohio.
- Establishing new payment models or other avenues to create the most affordable environment for purchasing prescription drugs.
- Leveraging Ohio's purchasing power across all state agencies, boards, commissions, and similar entities.
- Creating efficiencies across different health care systems, to reduce duplicative service delivery, ensure patients receive high quality and affordable prescription drugs, and support quality care and outcomes.
- Identifying which critical outcomes can be measured and used to improve this state's system of purchasing affordable prescribed drugs.
- Examining how federal, state, and local resources are being used to optimize outcomes and identify where the resources can be better coordinated or redirected to meet the needs of consumers.

Council members:

- **Matt Damschroder**, Director, Ohio Department of Administrative Services (statutory member)
- **Lance Himes**, former Interim Director, Ohio Department of Health (statutory member) *Dr. Amy Acton at the onset of the Council's creation*
- **Maureen Corcoran**, Director, Ohio Department of Medicaid (statutory member)
- **Lori Criss**, Director, Ohio Department of Mental Health and Addiction Services (statutory member)
- **Stephanie McCloud**, former Administrator, Ohio Bureau of Workers' Compensation (statutory member)
- **Steve Ferris**, Government and Public Affairs Director, Discount Drug Mart (appointed by the Ohio Senate)
- **Ryan Augsburger**, Managing Director of Public Policy Services, Ohio Manufacturers' Association (appointed by the Ohio Senate)
- **Holly L. Pendell**, Director, Advocacy and Activist Engagement, National Multiple Sclerosis Society (appointed by the Ohio Senate)
- **James Flynn**, Managing Partner, Bricker & Eckler (appointed by the Ohio House of Representatives)
- **Latoya Peterson**, Associate State Director for Advocacy, AARP (appointed by the Ohio House of Representatives)
- **Mark Totman**, Vice President, International Union of Operating Engineers (appointed by the Ohio House of Representatives)
- **The Honorable Christina Muryn**, Mayor of Findlay, Ohio (appointed by Governor Mike DeWine)
- **Pat Tiberi**, President and CEO, Ohio Business Roundtable (appointed by Governor Mike DeWine)

Meetings

The Council held six public meetings featuring in-depth discussions and review of relevant topics, and presentations from industry and government experts, as well as the bipartisan policy thought leaders and trade associations. While the first meeting of the Council was held in-person, all subsequent meetings were held virtually due to the COVID-19 pandemic. All meeting materials and recordings of all virtual meetings are archived on the Department of Administrative Services website at das.ohio.gov.

February 26, 2020

The Council's inaugural meeting on Feb. 26, 2020 featured a presentation from the National Governor's Association (NGA), which seeks bipartisan solutions to priority issues and matters of public policy and governance at the state, national and global levels. For several years, the NGA has worked with governors and their senior policy advisors in the states on the issue of prescription drug access and affordability. Representatives from the NGA's Center for Best Practices joined Horvath Health Policy to present an overview of the prescription drug supply and financing chain.

May 27, 2020

The Council next met on May 27 and heard a presentation from the West Virginia University School of Pharmacy that explained its Rational Drug Therapy prior authorization program. A separate presentation reviewed the State of New Jersey pharmacy benefit manager (PBM) reverse auction process that requires PBMs to engage in a competitive bidding process to manage benefits for New Jersey's public employees and dependents.

June 15, 2020

A June 15 meeting explored pharmacy programs within several State of Ohio agencies, including the Ohio Bureau of Workers' Compensation and the

Ohio Departments of Administrative Services, Medicaid, and Mental Health and Addiction Services. The agencies manage programs that provide prescription drugs, and pharmaceutical services and supplies to State of Ohio employees, Ohio injured workers, and Medicaid recipients as well as other State facilities, county health departments, community mental health agencies, free clinics, county jails, and non-profit organizations.

July 8, 2020

The Council heard presentations from two biopharmaceutical and biotechnology trade associations during its July 8 meeting. The Biotechnology Innovation Organization (BIO) represents biotechnology companies, academic institutions, state biotechnology centers and related organizations across the United States and in more than 30 other nations. PhRMA represents the United States' leading biopharmaceutical research companies and supports the search for new treatments and cures. Topics of discussion included pharmaceutical research and development, rebates, pricing, and cost sharing.

August 19, 2020

Presenters during the August 19 meeting included representatives from three organizations representing the interests of PBMs, large employers and older Americans. The Pharmaceutical Care Management Association, a national association representing PBMs, presented on the role of PBMs in the health care system. The American Association of Retired People, a membership organization for Americans age 50 and older reviewed that organization's perspective on the importance of the national discussion on prescription drug costs to its constituency and consumers in general. The final presentation was delivered by ERIC, a national advocacy organization



representing large employers that provide health, retirement, paid leave and other benefits to their nationwide workforce. ERIC's presentation covered the issue of unsustainable prescription drug prices, solutions to addressing the issue, and suggested supply chain solutions.

August 26, 2020

The Council's meeting on August 26 featured a full agenda of three presentations, as well as written testimony from two additional interested parties. A representative of the Ohio Pharmacists Association and 3 Axis Advisors spoke about concerns related to transparency in the drug pricing system, particularly in relation to brand specialty drugs, and delved into common business practices of PBMs such as spread pricing and ownership of specialty pharmacies. The National Multiple Sclerosis (MS) Society then provided an overview of its organization, price trends for MS disease modifying treatments, experiences of people with MS obtaining needed medications, and suggested policy solutions that would benefit the MS community. Equitas Health, a regional nonprofit community health care system that is also one of the largest health care organizations serving LGBTQ+ people and people living with HIV/AIDS in the United States, detailed its use of the 340B Program. The program provides discounts on outpatient prescription and over-the-counter drugs to certain safety net health providers. Equitas advocated for policies to protect the 340B Program as well as ban co-pay accumulators that can unexpectedly increase prescription drug costs for vulnerable patients.

In written testimony, Tom Whiston, a Morrow County Commissioner, pharmacist, and Past President of the Ohio Pharmacist's Association detailed his family's experience managing its

community pharmacy that he argues was forced to close due to market forces. Gary Dougherty with the American Diabetes Association in written testimony offered suggested solutions for controlling the cost of insulin for diabetes patents.

Recommendations

Following six months of research, discussion, and engagement with experts and stakeholders, the Council is pleased to recommend further exploration of the following policies and actions that could bring needed transparency to prescription drug pricing and payment modeling while improving efficiency in the delivery of health care to Ohioans¹.

1 Consider a single prescription drug purchasing plan for public employers across the state.

The State of Ohio can currently only bid for services and cover benefits for State of Ohio employees and their families. Ohio is home to numerous other public entities that are also constrained in their bidding flexibility. The Council recommends further research into laws, rules, and policies that restrict the ability of public entities to create a single prescription drug purchasing plan.

A single plan that combines individual entities' purchasing power would yield greater savings with a larger pool of covered individuals. Such a plan would require strict oversight and transparency to uphold the best interests of Ohio patients and taxpayers.

This recommendation addresses Ohio Revised Code Sections 125.95 (C) (1) and 125.95 (C) (3).

2 Further research how a reverse auction process may be implemented in Ohio.

The State of New Jersey presented the Council with a summary of its legislatively-established reverse auction process², defined as "an automated bidding process conducted online that starts with an opening price and allows qualified bidders to counter offer a lower price, for as many rounds of bidding as determined by the division."

The Council recommends the State of Ohio consider a similar program, with specific consideration to establishing statewide purchasing authority to cover at least all State entities involved in prescription drug purchasing. As discussed in the first recommendation of this report, greater savings can be realized with a larger pool of covered individuals.

This recommendation addresses Ohio Revised Code Sections 125.95 (C) (2) and 125.95 (C) (5).

3 Consider establishing a single formulary across State entities

A formulary is a list of drugs covered under a medical plan. The Ohio Bureau of Workers' Compensation has its own pharmacy and therapeutics (P&T) committee, allowing the agency to create and manage its own formulary. The Council recommends researching the possibility of establishing a P&T committee to create and manage a statewide formulary, including a meaningful appeals process, and harness the combined purchasing power of all covered entities.

This recommendation addresses Ohio Revised Code Sections 125.95 (C) (3) and 125.95 (C) (5).



¹ The Council recognizes some recommendations may require policy changes or revisions to the Ohio Revised Code, Ohio Administrative Code, or collective bargaining agreements.

² State of New Jersey S887: nileg.state.nj.us



4 Find additional ways to benefit the consumer.

While issues surrounding prescription drug pricing and policies invite debate from a wide range of interests, at the core is the direct impact on the consumer, a recurrent topic of presentations delivered by the wide range of experts this Council engaged during its research. For purposes of this recommendation, “consumer” means the private or public sector employer that often pays all or most of the cost of the prescription drug benefit, as well as the end beneficiary. First and foremost, policymakers must consider the patient’s needs, quality customer service, and access to pharmacies while taking action to lower prescription drug costs. Following are recommendations for additional actions that could benefit Ohioans managing their health care and prescription drug costs:

- Expand options for the use of copayment programs produced by drug manufacturers to help defray the cost of expensive medications. Customers would benefit if these copayment programs could be applied to members’ deductibles and out of pocket maximums.
- A high deductible health plan features a deductible and out of pocket maximum floor established by the Federal Government, and sometimes allows for lower member contributions. The financial burden on individuals with these plans could be reduced if the plans covered certain medications without applying a deductible.

- Rebates are earned and paid to the employer or insurance company based on the volume of drugs purchased. Members are typically not afforded rebates at the point of sale. Allowing health plans to apply drug rebates at the point of sale would lessen member responsibility by sharing part of the negotiated savings.

This recommendation addresses Ohio Revised Code Sections 125.95 (C) (4).

5 Consider health equity when developing prescription drug policies.

As detailed in the State of Ohio COVID-19 Minority Health Strike Force Interim Report³, “the coronavirus pandemic has emphasized deep-seated inequities in health care for communities of color and amplified social and economic factors that contribute to poor health outcomes.” The report highlights long-existing patterns of adverse outcomes for minority communities that lack access to resources that support overall health and wellbeing. As prescription drug policies evolve, it is important for policymakers to gather and continue to collect data to inform health equity decisions across racial and socioeconomic spectrums.

This recommendation addresses Ohio Revised Code Sections 125.95 (C) (6).

6 Require clarity and accountability in PBM contract terms.

Contract terms must be clearly defined and PBMs should be encouraged to prioritize plan sponsor initiatives. PBMs and plan sponsors must agree to precise and unambiguous contract terms that clearly define roles and responsibilities at the onset of a business relationship in order align expectations and ensure transparency and accountability. PBMs should also be required to allow annual audits of all claims, as well as frequent market checks to provide detailed transparency and hold them accountable to plan sponsors and consumers.

This recommendation addresses Ohio Revised Code Sections 125.95 (C) (1) and 125.95 (C) (4).



Conclusion

The Prescription Drug Transparency and Affordability Council is committed to pursuing change that will relieve the burden on Ohioans in need of prescription medications while preserving taxpayer dollars, improving transparency, and creating efficiencies across health care systems. The Council is pleased to make these recommendations and fully recognizes the need to carve a path forward to smart policies that will benefit Ohioans only after thoughtful assessment of their complete impact on the health care system and private business operations. The Council was also reminded during this process of the complexities that exist in the operations of individual State agencies. The laws that govern agencies and their unique relationships with Ohioans and the pharmaceutical industry can create barriers to cross-agency coordination. Significant internal discussions among State agencies will be required to determine the future path toward the coordination required to make meaningful progress for the citizens of Ohio.

The Council appreciates the opportunity to contribute to Governor DeWine and the Ohio Legislature’s efforts to bring needed change that puts Ohioans first by increasing transparency, affordability, and efficiency in prescription drug pricing and healthcare delivery.

³ COVID-19 Minority Health Strike Force Interim Report: [coronavirus.ohio.gov](https://www.coronavirus.ohio.gov)



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