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July 11, 2023

The Honorable Joe Courtney

2348 Rayburn House Office Building

United States House of Representatives

Washington, D.C. 20515

The Honorable Erin Houchin

1632 Longworth House Office Building

United States House of Representatives

Washington, D.C. 20515

Dear Representatives Courtney and Houchin,

On behalf of the Council of Insurance Agents & Brokers (“The Council”), we write to express our strong support for H.R. 4508, the Hidden Fee Disclosure Act. If enacted, this legislation would insert significant transparency into the pharmaceutical supply chain by clarifying that pharmacy benefits managers (“PBMs”) and third-party administrators (“TPAs”) are currently required to disclose all direct and indirect compensation they receive as part of servicing a group health plan.

By way of background, The Council represents the nation’s largest and most successful insurance agency and brokerage firms, and our members are the broker of record or advise on over 70% of the employer sponsored benefits plans in the United States. Our members consistently citeprescription drug pricing as the single biggest concern for their self-insured clients and they cite the opaqueness of the PBM compensation model as the largest driver of increasing prescription drug pricing. We therefore support efforts by this Congress to examine the pharmaceutical supply chain, particularly the role of PBMs, and to develop robust transparency legislation to support the ongoing viability of the commercial health insurance marketplace.

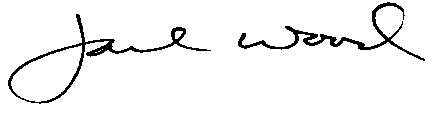
As you may know, a set of transparency requirements was included as an adjunct to the Surprise Billing Act provisions that were enacted in December 2020 as part of The Consolidated Appropriations Act, 2021 (“CAA Transparency Provisions”). Those CAA Transparency Provisions included a section (“Section 202”) amending ERISA to bar a group health plan fiduciary from contracting with service providers that provide brokerage or consulting services to the plan – including employee benefits agents and brokers and, we believe, PBMs – unless those service providers have fully disclosed any revenue they will receive directly or through an affiliate or subsidiary that relates in any way to that plan. The largest PBMs have taken the position that they are not plan “consultants” and are not complying.

H.R. 4508 solves this problem by removing the concept of “consultant” altogether and affirmatively imposing these requirements on all service providers—including PBMs and TPAs— that service the Plan. The bill also includes critical language specifying the types of PBM compensation that would be covered, including fees, rebates, alternative discounts, etc. and reiterating that the disclosure requirements also extend to compensation received by entities such as rebate aggregators, group purchasing organizations, and other third parties. Given the extreme opacity of the PBM compensation model, it is vital that all sources of revenue are accounted for in the Section 202 reporting regime. For these reasons the Council strongly supports H.R. 4508.

We appreciate your work to promote transparency for all actors in the pharmacy supply chain and maintain a robust commercial health insurance market.

If you have any questions, please feel free to reach out to Joel Kopperud [joel.kopperud@ciab.com](mailto:joel.kopperud@ciab.com) or Blaire Bartlett [blaire.bartlett@ciab.com](mailto:blaire.bartlett@ciab.com).

Respectfully,



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