



December 12, 2019

The Honorable Mitch McConnell
Majority Leader
S-230
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Republican Leader
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US House of Representatives
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Dear Leader McConnell and Leader McCarthy:

I write to express concerns with Section 206 of the “Lower Healthcare Costs Act” as currently negotiated by the Senate HELP and House Energy and Commerce Committees.

This section contains a provision that expressly prohibits pharmacy benefit managers (PBMs) from offering guaranteed-level pricing contract arrangements, also known as spread pricing, in any contract with employers.

Under any existing employer plan, a PBM will agree to reimburse an employer for prescription drug purchases in one of two ways – exactly what was paid to the pharmacy or through spread pricing, which sets the price at a predetermined sliding scale. This is beneficial to the employer because it offers a more predictable, standardized amount, and aligns the employer and PBM’s incentives to drive down pharmacy reimbursement costs.

Because of this flexibility, many employer plans negotiate spread pricing contracts with PBMs, including many small employers. The federal government should not be in the business of dictating the terms of contracts between two private entities. Lawmakers should not intervene or impose restrictions on the ability of employers and PBMs to negotiate contracts designed to best fit the needs of the individual employer.

Functionally, this proposal is just another imposed government mandate on private businesses that directly or indirectly will increase costs on the US healthcare system and distorts the economically efficient behavior and natural incentives created by the free market.

Although this proposal is not as harmful as direct price controls proposed by Democrats in Congress and running for President, it should still be rejected as it interferes in private contracts by imposing restrictions on the contracts agreed to by PBMs and employers.

Onward,

Grover Norquist
President, Americans for Tax Reform