COMMITTEE ON ARMED SERVICES

Subcommittee on Personnel

Wednesday, July 15, 2026

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TO RECEIVE TESTIMONY ON THE TRICARE PHARMACY PROGRAM

Wednesday, July 15, 2026

U.S. Senate
Subcommittee on Personnel
Committee on Armed Services
Washington, D.C.

The committee met, pursuant to notice, at 2:30 p.m., in Room SR-222, Russell Senate Office Building, Mr. Tommy Tuberville, chairman of the subcommittee, presiding.

Committee Members Present: Senators Tuberville [presiding], Scott, Schmitt, Warren, Blumenthal, and King.

OPENING STATEMENT OF HON. TOMMY TUBERVILLE, U.S. SENATOR FROM ALABAMA

Senator Tuberville: The subcommittee will come to order.

This hearing gives us an opportunity to examine a critical component of military health care, the TRICARE pharmacy program. Our witnesses today have a wide variety of experiences, from policy oversight of the program all the way to TRICARE beneficiaries using its services. I want to thank Dr. David Smith, Dr. Adam Kautzner -- is that it? That's pretty good. Dr. Lansford, and Mr. Greg Reybold. As someone who spent decades coaching young men and women to perform at the highest level, I understand that success depends on preparation, discipline, and access to the right tools. The same principle applies to our military. We cannot expect service members to maintain peak readiness if they cannot reliably access the medications and treatments they need. The TRICARE pharmacy program serves millions of active-duty service members, retirees, and military families. For many beneficiaries, access to prescription medicines or medications is not a matter of convenience, it is essential to managing chronic conditions, recovering from injuries, maintaining health, mental health and ensuring overall fitness for duty.

As Congress continues to oversee military health care spending, we must strike the right balance between controlling costs and maintaining access. Savings achieved on paper are not real savings if they result in delayed treatment, reduced readiness, or additional health care costs down the road. I'm particularly interested in how the pharmacy program supports preventive care, injury recovery, behavioral health, and overall force readiness. We should be asking whether beneficiaries can access medications in a timely manner, whether military families in rural communities face unique challenges, and whether the Department is using modern tools and data to improve outcomes while managing costs. I also want to understand how the Department is preparing for future challenges, including drug shortages, supply chain disruptions, and the growing costs associated with specialty medications.

Ultimately, our goal should be to straightforward provide America's service members and their families with reliable access to high quality pharmacy services while being responsible stewards of taxpayer dollars. I thank our witnesses for appearing here today and look forward to their testimony. We will have Senators coming in and out because we have a lot of committee hearings today, so be patient with us, but we also have a lot of questions that we want to ask. So, thank you for being here today. And now, Senator Warner, and her opening statement.

STATEMENT OF HON. ELIZABETH WARREN, U.S. SENATOR FROM MASSACHUSETTS

Senator Warren: Thank you, Mr. Chairman, and thank you to our witnesses for being with us today.

We're here today because the TRICARE pharmacy program lacks meaningful oversight. Since 2022, 13,000 pharmacies have left the TRICARE network. That means that's 13,000 local pharmacies that can no longer fill prescriptions for our service members, and 400,000 military families have got to get out there and find a new pharmacy. The consequences of losing access to your local pharmacy can be immeasurable. Think about veterans with complex medical needs who rely on the personalized care of a local pharmacist, someone who will check for drug interactions and package medications to maximize adherence and comfort -- a caregiver who is overwhelmed by their responsibilities. It is the kind of care we want for our military families, and it is the kind of care they deserve.

I have letters from 58 pharmacists who speak directly to this issue. Mr. Chairman, I request that they be entered into the record.

Senator Tuberville: So done.

[The information referred to follows:]

[SUBCOMMITTEE INSERT]

Senator Warren: This subcommittee has a responsibility to understand why this kind of care is shrinking in TRICARE, so we need to look at the contractor who is running this program. Since 2003, DOD has awarded the TRICARE pharmacy contract to Express Scripts, the largest pharmacy benefit manager, or PBM, in the country. For 23 years, they have had an exclusive contract, with the most recent contract worth at least $4.3 billion in revenues over 7 years. So, what does Express Scripts do with billions of taxpayer dollars? Well, they decide which retail pharmacies are in the TRICARE network and what they're going to get paid for a prescription. They process pharmacy claims, and they run a mail order program through Express Scripts subsidiaries, their own subsidiaries, called Express Scripts Pharmacy, and Accredo, a specialty pharmacy.

Here's the kicker: Express Scripts both decides the reimbursement rates for its competitors, and it provides its own pharmacy benefit services. All of it gets billed to TRICARE, and that seems to me to be a pretty clear conflict of interest. And yet, DOD actually requires the TRICARE pharmacy contractor both to own a PBM and its own pharmacy. I don't know who talked them into that, but it is an open invitation for Express Scripts to milk the Federal Government, to kick out the competition, and to steer a lot of money its own way.

The squeeze play is not hard to pull off. In a traditional PBM contract, when the same company owns a PBM and a pharmacy, it can leverage the vertical integration through tactics like spread pricing, in which PBMs charge insurers more than what they reimburse pharmacies for a drug or engage in steering in which they under reimburse the competitors and send more business to the PBMs own pharmacy. DOD and Express Scripts are quick to clarify that TRICARE pharmacy contract is not a traditional PBM contract. So, they claim that these profit maximizing games don't apply to them. The problem is the facts. Audits of express Scripts and other government contracts show exactly the same practices, but DOD and Express Scripts want you to believe there is nothing to see here.

Okay, but if that were true, DOD and Express Scripts should be rushing to provide this committee with proof. And yet, for 3 years now, I have repeatedly asked for the terms of DOD's contract with Express Scripts, only to be told for 3 years, that what DOD pays for prescription drugs is either proprietary or a trade secret, and that people like the chairman and me, whose job it is to conduct oversight on exactly this issue are not allowed to see it.

After I pressed Assistant Secretary Keith Bass on the Department's weak oversight of this contract during a hearing before the subcommittee in May, he committed to conduct an annual review of the contract, and to disclose the differences in reimbursement rates and fees between the retail pharmacies and the Express Scripts subsidiaries. Nearly 2 months later, I am still waiting for those numbers. If DOD and Express Scripts refuse to share this data, we can draw only one conclusion: the contract that DOD and Express Scripts want us to believe is so different is not really different at all.

Now, I am glad that this committee included a requirement in the Fiscal Year 2027 NDAA to audit this contract, we need to pass that requirement into law. DOD has also begun negotiating the next pharmacy contract, which will take place in 2030. I urge DOD to flatly prohibit vertical integration in the next TRICARE pharmacy contract. A vertically integrated PBM has every incentive to line its own pockets, and DOD should not be using taxpayer dollars to fund these schemes. If DOD wants to use a PBM, then get one that works exclusively for DOD and American taxpayers, and not one that is simultaneously trying to increase profits for its parent insurance company.

So, I look forward to discussing these topics. Thank you again for having this hearing, Mr. Chairman.

Senator Tuberville: Thank you, Senator Warren. Before we start, the Personnel Subcommittee has received a number of statements for the record. Without objection, they will be included in the record. Now, we have four witnesses.

Dr. Smith, we'll start with you. But I'd like to say this. We have a lot of questions. I've read some of your opening statements that are rather long. Please keep your statements short. Now, at the end, if you want to continue with your statement, we'll let you do that. But I'd like to get to the questions because we have Senators here that need to get on to other hearings. So, Dr. Smith, we'll start with you, please.

STATEMENT OF REAR ADMIRAL (DR.) DAVID J. SMITH, USN (RET.), DEPUTY DIRECTOR, DEFENSE HEALTH AGENCY

Dr. Smith: Well, Chairman Tuberville, Ranking Member Warren, and distinguished members of the committee, thank you for the opportunity to testify before you today, alongside my distinguished colleagues from the private sector.

The Department is proud to deliver one of the most comprehensive health benefits of any employer in the country to include an exceptional prescription drug benefit offered through three points of service the military treatment facility, the TRICARE Mail Order Pharmacy team up, which provides home delivery, and the TRICARE Retail Pharmacy Network. My written statement provides much more detail, as you pointed out, sir, of the TRICARE pharmacy program, addressing our contract support as well as how the government directly manages the benefit. I will, however, touch on a few important items that I know are among the greatest concerns you have raised with us.

Over 70 percent of all prescription medications are provided through either the mail order or the retail networks, which are managed by the Defense Health Agency through our TRICARE pharmacy contractor, Evernorth Federal Services. This contract is different from most civilian models for administering prescription drug benefits. DHA uses a pharmacy benefit administrator, or a PBA model, rather than a traditional pharmacy benefit manager, or PBM model, commonly used by many employers and health insurance firms. The defining feature of the PBA model is that the DHA pays the contractor a fixed administrative fee per prescription, filled at retail or team up. The contractor cannot generate revenue from price of drugs themselves at either retail or mail order outlets. The civilian PBM model often controls the formulary placement as another mechanism to drive revenue streams, which cannot happen under our contract due to the government's uniform formulary process. The government provides these functions and generates the savings for the program. We are essentially the PBM and saving dollars for the taxpayer.

Through this model, the government ensures contractor incentives are aligned with DHA pharmacy program goals rather than revenue generated from drug pricing. The DHA does recover costs on drug prices directly from the pharmacy manufacturers, not the pharmacy contractor, thanks to the statutory authority that Congress has provided us through the TRICARE Retail Refund Program for drugs dispensed at retail. Recovered refunds are returned to the government and are independent of the TPharm5 contract.

Since the program was first introduced, the Department has recognized over $22 billion worth of savings, and in

Fiscal Year 2026, those savings are projected to reach $2 billion. The DHA establishes access to pharmacy service requirements. As part of the contract, the contractor must offer at least one network pharmacy within a 15-minute drive for 95 percent of all the beneficiaries, and maintains a minimum network size of 35,000 pharmacies. Currently, there are over 98 percent of our beneficiaries who are within a 15-minute drive time, and over 99 percent that are within a 30-minute drive time. The retail network consists of 46,000 pharmacies, 11,000 higher than the contractual floor.

The government has full visibility and control over the cost of pharmaceuticals dispensed from our mail order programs, and the Defense Logistics Agency procures and replenishes through the Prime Vendor Program using the established pricing off the Federal supply schedules. Evernorth receives no reimbursement for the cost of drugs themselves dispensed through and under TMOP. The government determines the TRICARE pharmacy uniform formulary, or the covered drug list through a physician-led Department of Defense Pharmacy and Therapeutics (P&T) Committee, and the Department of War PA Committee develops and recommends drugs for formulary tiers, sets priority prior authorization criteria, and ensures the pharmacy benefit is standardized across all points of service based on medical needs, first and foremost. The government-managed model has saved the taxpayers over $6.5 billion in Fiscal Year 2025 through Federal supply schedule pricing and statutory refunds.

In conclusion, the DHA is proud of the comprehensive worldwide pharmacy benefit it offers to our 9.5 million beneficiaries, and similar, to the overall U.S. health system, pharmaceutical cost growth remains an area of intense focus and concern. The Department continues to explore approaches that ensure continued timely access to hard earned benefits in a fiscally responsible manner.

Thank you again for the opportunity to address our approach to managing of this important program, and I appreciate your vital support to the NHS and look forward to answering your questions.

[The prepared statement of Dr. Smith follows:]

Senator Tuberville: Thank you. Dr. Kautzner.

STATEMENT OF DR. ADAM KAUTZNER, PRESIDENT, EXPRESS SCRIPTS AND EVERNORTH CARE MANAGEMENT

Dr. Kautzner: Chairman Tuberville, Ranking Member Warren, and members of the subcommittee, thank you for the opportunity to appear before you today. My name is Adam Kautzner. I serve as president of Express Scripts and Evernorth Care Management. We are honored to serve more than nine million TRICARE beneficiaries on behalf of the Defense Health Agency.

Service members, retirees, and military families depend on TRICARE pharmacy program, wherever they live and wherever they serve. Ensuring they have reliable access to the medications they need is a responsibility we take seriously every day. I understand the importance of that responsibility personally. I began my career as a hospital pharmacist. Later, when I was diagnosed with stage 4 melanoma, I experienced firsthand how access to innovative medicines can save a life.

Today, the TRICARE pharmacy program brings together military, retail, specialty, and home delivery pharmacies. It provides beneficiaries with safe, convenient access to medications. It helps the Department manage rising drug costs, and it maintains force readiness. Congress established the program to provide consistent coverage to TRICARE beneficiaries. Congress sets the structure of the benefit and determines beneficiary cost sharing. The Defense Health Agency determines what medications are covered and how the program operates. The Defense Logistics Agency purchases medications dispensed through both mail order and military pharmacies.

Our role is straightforward: execute that design with precision and care every day. We are accountable for ensuring patients have reliable access to medicines, that the program operates smoothly, and that taxpayer dollars are spent responsibly. We build the broadest network of retail pharmacies across the country at the best possible value for the government, and we ensure service members can access their medications no matter where they serve. That responsibility matters. Behind every prescription is a service member, a spouse, a child counting on us, and a taxpayer who expects this program to deliver value.

I'm proud to report that the program is delivering strong results. TRICARE beneficiaries currently have access to more than 46,000 network pharmacies nationwide. This exceeds Defense Health Agency requirements by more than 11,000 pharmacies. More than 98 percent of beneficiaries live within 15 minutes of a network pharmacy, and more than 16,000 independent pharmacies nationwide participate in the network. We continue to welcome any independent pharmacy who wishes to join the TRICARE network through the TRICARE

Mail Order Pharmacy. We help ensure medications reach service members and their families across the country and around the world. In turn, government pricing generates significant savings for beneficiaries, the Department, and taxpayers.

Collectively, our work helps the Department deliver reliable access to medications for TRICARE beneficiaries while controlling costs. This preserves resources for other mission critical priorities. According to GAO, this is one of only two major TRICARE contracts that has decreased in cost over time. We operate within the framework the government has established, and we are committed to continuous improvement as the needs of the military evolve.

We welcome the opportunity to discuss how we can continue strengthening service for military families and taxpayers. I look forward to your questions.

[The prepared statement of Dr. Kautzner follows:]

Senator Tuberville: Thank you. You get bonus points for cutting it down pretty good. Thank you. Dr. Lansford.

STATEMENT OF DR. MICAH LANSFORD, PHARMACIST AND OWNER, RODEN-SMITH PHARMACY

Dr. Lansford: Chairman Tuberville, Ranking Member Warren, and members of the subcommittee, thank you for the opportunity to testify before you today. My name is Dr. Micah Lansford. I'm a pharmacist and owner of Roden-Smith Pharmacy in Clovis, New Mexico, and sits next to Cannon Air Force Base. It's a community of active-duty members, their dependents and retirees, and we've been able to serve this community for as long as I can remember. We did anyways, up until 2023, when Express Scripts forced us out of the TRICARE program.

For years, TRICARE beneficiaries could choose the pharmacy that served them best. For most, that was a community pharmacy like mine that provides a higher level of personal care, easier access, same day medications, packaging, med sync, immunizations, delivery, compounding, and a pharmacist that knew their family and their situation. Now, many pharmacies like mine have been forced out of the TRICARE program. We were pushed out by contract terms that made an already difficult participation impossible, leaving beneficiaries with fewer choices and less access to the care that worked best for them.

I reviewed all of the almost 7,000 prescriptions we filled in 2022, our last year in the program, and we were reimbursed on average 37 cents below the cost of the drug itself without any additional allowance for overhead. After ESI was awarded the TPharm5 contract, they drastically reduced their reimbursements rates such that I would have lost almost $9 on every prescription I filled before overhead, before any other expense. That would have been catastrophic for our business's viability and for all the other patients that we serve. Prescription care should not be a loss leader. No pharmacy can continue serving patients under a contract that requires it to lose money on the very care that it provides.

ESI's contract had real-life consequences, and was felt acutely by the families who live and depend on our care locally. People like Len, a disabled retired Airman, and Jelayne, his wife and also his full-time caregiver. Before each monthly fill, I worked with Jelayne to reconcile changes, identify concerns, and ensure his medications still made sense. I can't take care of them anymore, like the many military spouses holding down the fort at home while their Airman is deployed abroad. They used to be able to come through the pharmacy, drive through or pop in for an antibiotic for a child. Now, they have to wade through security lines trying to get on base pharmacy, hoping the drug is in stock when they arrive, or all the elderly retirees, they used to be able to come in, dump their problems or confusion quite literally on the counter in front of me, in front of somebody they knew and trusted. I can't do that for them anymore. And it wasn't just the patients that suffered under this contract change. I had to look each of them in the eye and say: I am sorry. I can no longer help you.

Mail order may deliver medication. Community pharmacy is where care is delivered. These stories were not inevitable. They were the purposeful result of network terms ESI chose to impose and the conflicts of interest inherent in the system. ESI decides which pharmacies can participate, how much they will be paid, and then profits when the patient is redirected to one of their mail order or specialty pharmacy facilities. Then, ESI supplies most of the data to judge whether or not the network is adequate or if they are successful.

No contractor should be allowed to referee a game while also competing in it. Military families experience the consequences while the contractor reports that the system is working just fine. Congress can and should correct this: require an independent audit, measure real pharmacy access, require transparent and sustainable reimbursement, protect patient choice, and establish conflict of interest safeguards that require a non-vertically integrated manager. The question is not what pharmacy or what military families can tolerate, it's what they deserve. Thank you.

[The prepared statement of Dr. Lansford follows:]

Senator Tuberville: Thank you. Mr. Reybold.

STATEMENT OF MR. GREG REYBOLD, VICE PRESIDENT OF PUBLIC POLICY, AMERICAN PHARMACY COOPERATIVE, INC.

Mr. Reybold: Thank you, Chairman Tuberville, Ranking Member Warren, and distinguished members of the committee. My name is Greg Reybold, and I'm with American Pharmacy Cooperative, consisting of approximately 1,500 independent pharmacies throughout this country. Grateful for the opportunity to speak, more grateful that Dr. Lansford here had the opportunity to share his experience, which matches the experience of thousands and thousands of independent pharmacies across the State. I would lead with this: I would posit that what Express Scripts did in the TRICARE Retail Network is the poster child for why PBMs should not be allowed to own pharmacies, mail order pharmacies, or retail pharmacies. It speaks to the problems of vertical integration.

Now, here's the thing. The law is complicated. Under current law, TRICARE Federal law absolutely favors mail order pharmacies. It's entrenched. It restricts retail pharmacies from filling certain brand name maintenance medications, and in the statute, penalizes beneficiaries for choosing retail via higher cost sharing on paper. And every chance Express Scripts gets, every chance they get, they love to tout the savings of mail order pharmacy. But here's the thing, under DHS own data, it turns out that despite the

Federal Code, over and over and over again, it's cheaper for a TRICARE family, for TRICARE beneficiary to fill a prescription at a retail pharmacy than it actually is at ESI's Mail Order Pharmacy. It's cheaper on those cost shares. Stunningly, filling a generic medication at a retail pharmacy in TRICARE. Not only is cheaper for the beneficiaries via lower cost sharing, it's cheaper for the agency itself according to their own reports. Year over year over year, generic medications, on average, are cheaper at retail pharmacies than at Express Scripts Mail Order Pharmacy. In 2018, they were cheaper by 85 percent, on average, for a 30-day generic medication. And so, what happens? Why on earth would Express Scripts in around 2022 want to cull between 13,000 and 15,000 retail pharmacies from their network under the auspices of cost saving?

I would posit, and if you're anything like me and I know I am, I would posit that you look at their self-interest. You look at the vertical integration, and DHA's own data shows that between 2018 and 2022, ESI's Mail Order Pharmacy in the TRICARE Network lost about 9 percent of utilization, 9 percent utilization. Beneficiaries were choosing retail pharmacies to get the care that they deserve. And so, what does Express Scripts, the PBM, do? They cull around 13,000 retail pharmacies from their network, right? I think the GAO figure was around potentially 380 beneficiaries that lost access to their pharmacy of choice. But you know who wins? Express Scripts Mail Order Pharmacy. The pharmacy owned by Express Scripts. That's the only winner here, the only winner here.

And I want to talk a little bit more about the retail pharmacy network. And I'll be quick. But Express Scripts loves to say: Dr. Costa said. Right? This program is different. There's nothing to see here. We operate differently. First of all, in Federal pleadings, Express Scripts doesn't call themselves a PBA for TRICARE. They call themselves a PBM. Additionally, in court filings, Express Scripts has said that they manage the TRICARE retail pharmacy network in a manner that's indivisible and indistinguishable from their other networks, including the Federal employee health plan that's Express Scripts words in court filings. There's no difference with how they manage that program.

That's stunning and it's damning, and the reason it's stunning and it's damning is because the Office of Inspector General for the Office of Personnel Management has looked at Express Scripts practices in their retail network for two Federal employee health plans. You know what they found? They found the books didn't match. They found that the drug prices they were reporting to the Federal employee health plan clients didn't match the lower reimbursements. They were negotiating with retail pharmacies to the tune of $18 million. That tells you two things. One, they got two sets of books, and two, spread pricing is alive and well in the Express Scripts retail TRICARE Pharmacy Network.

I think the good news is there's things that we can do absolutely immediately. I think DHA should engage in an expansive audit using their Office of Inspector General, with an interagency agreement with the Office of Personnel Management Office of Inspector General. They've looked under the hood and they know where those bodies are buried. On top of that, I think certainly, the contract can be improved to prohibit vertical integration and to close these loopholes. And lastly, legislation is absolutely in order to remove the entrenched favoritism towards mail order pharmacy, increase patient choice and PBM steering, and take away the ability of Express Scripts to manipulate drug prices by moving to a market-based index.

Thank you, Chairman.

[The prepared statement of Mr. Reybold follows:]

Senator Tuberville: Thank you very much.

So, obviously, we have some disagreements in here. Let's get those out and see if we can make it better. For 6 years, I'm on the Health Committee and I've heard a lot about this over the years. So, this would be good, and I'm going to yield my time to pray that God knows more about health care than anybody up here who has being a Senator in the health care business for a long time. Senator Scott.

Senator Scott: Thank you, Chairman.

So, my background is I had 285,000 employees and I used a PBM. I also owned, at one time when I was running a hospital company, the third biggest PBM, and then I was the -- I think, the largest shareholder in a pharmacy chain that went through all the struggles of trying to make money where things were moving to mail order, not just not just drugs, but everything was moving to mail order. And so, you know, you lose it more. So, everybody up here, I've sort of been in your position.

So, Dr. Smith, before I get to the PBM part, can I just ask you a very simple question. How many fighter jets do we -- does America buy from China? Do you know of any? Have you ever heard of any warships?

Dr. Smith: I haven't had of any either.

Senator Scott: It seems like a pretty stupid idea to buy from them, wouldn't it, because we're building our military because they are an adversary. Right?

Dr. Smith: Yes, sir.

Senator Scott: But at the same time, we buy drugs from them every day, and it's my understanding that, you know, that we part of the reason we don't buy fighter jets or warships is from China is because, one, we don't want to be reliant on them, and we probably could save some money. Right? Probably, we might do it cheaper. So, why are we continuing to buy Chinese drugs when we don't want to rely on them for fighter jets or anything else?

Dr. Smith: So, sir, I'm -- we are well aware of some of the dependencies that are in the system that we've had this discussion with a number of you, the national security concerns that we have, and I believe we try to only buy TAA-compliant drugs, which is part of the reason for the difference in the generic pricing depending on where you are for the venue. But we are doing a number of different efforts to try to shore up that chain, and in next year, in that President's budget, you will see funding that is dedicated to trying to do a number of efforts relative to shoring up that supply chain.

Senator Scott: So, Dr. Smith, part of your job is you want to make sure that every body that's relying on TRICARE can get the drugs they need --

Dr. Smith: That's right.

Senator Scott: -- and you want to get the best price you can because it's taxpayer money, right?

Dr. Smith: Absolutely.

Senator Scott: You're trying to do both of those. So, under the under the contract with Express Scripts or Evernorth, whatever it is, so how are they paid? Do they have a profit incentive, or do they have where they're making money off the drugs, or do they get a set fee and you set the price of the drugs?

Dr. Smith: So, the basic way it works with -- it's complicated because there's three different pieces to this, but relative to the mail order pharmacy, they get basically a fill fee from us. All of the drugs are bought by the Defense Logistics Agency using the Federal pricing and our negotiations directly with the manufacturers. And so, we replace in kind anything that's used by their mail order pharmacy, and then they get an administrative fee for that fill.

On the retail side, we rely on the network that they built, both for their commercial business and also for our business, and they have provided in the contract a network discount guarantee for us. If they do better than that, there's incentives for them. If they do less than that, then they basically have to make up the difference, then we are the ones that go out and get the refunds based on the

TRICARE. The exact name is TRICARE Retail Refund Program that you-all authorized us and we have that.

So, that brings it back down to about Federal supply, and then our Pharmacy and Therapeutics Committee also then works with manufacturers on volume discounts and all, and we will go after additional discounts to save money. But none of that -- and this is a distinct difference with all of the other plans, including the FEHB plans that were referred to. It does not go through Evernorth. It comes directly from us back and forth with --

Senator Scott: So, you're --

Dr. Smith: -- and Evernorth actually -- one more thing, sir. I'm sorry to interrupt.

Senator Scott: That's okay.

Dr. Smith: On the team, on the retail network, they are using direct government funds to actually pay the bills to the pharmacies.

Senator Scott: Okay. So, you said you decide the price -- you're buying the drugs?

Dr. Smith: Yes, sir.

Dr. Smith: So, it's your drug and you're -- do you set the copay for TRICARE?

Dr. Smith: That's set by you, the Congress.

Senator Scott: So, Express Scripts does not set in the copay?

Dr. Smith: No, sir. They do not. Now, the pricing within the network that is paid to the pharmacy is part of Evernorth's work. We then come back and get refunds from the pharmaceutical companies if that -- for the price that is above the FSA, just to be clear on that.

Senator Scott: Right, and you use whether it's Express Scripts or somebody else's use mail order because it's cheaper. Right?

Dr. Smith: We use -- the advantage of mail order is multifold. One is that it's convenient for the person that needs to get their drug on a recurrent basis. But we also buy all the drugs for mail order, so that makes it significantly cheaper than what it costs in the retail network.

Senator Scott: Okay. So, is it consumer-mandated to use mail order?

Dr. Smith: If they are for brand name drugs, they are after two fills in the retail network. We asked them to move over to the top.

Senator Scott: And that's the decision you made because you can save money?

Dr. Smith: Yes, sir.

Senator Scott: Okay. All right. And so, Dr. Kautzner, how many pharmacies are there in the country?

Dr. Kautzner: Senator, there are over 60,000 retail pharmacies in the country.

Senator Scott: So, how many and how many do you contract with on behalf of the Department of War?

Dr. Kautzner: So, we contract today over 46,000. So, 11,000 more than the minimum that's met in the contract.

Senator Scott: So, when there's somebody like Dr. Lansford that he loses the contract, what's the right -- what's the typical thing -- why does that happen? Why does Express Scripts or Evernorth, whatever, change?

Dr. Kautzner: So, we have 16,000-plus independent pharmacies that do participate and have chosen to serve as TRICARE beneficiaries in our network today. We do go out and contract. We want to have as many pharmacies in our network as we possibly can. We would like to have an even broader network than what we already have, but we do cover over 98 percent of beneficiaries within a 15-minute drive time today, and which exceeds the standard within the contract. It depends on where those pharmacies are located. Certainly, those that are in very rural areas, we may contract with them even differently because there's an unmet need and a gap that we need to fill. So, it really depends on the location of that pharmacy and how many other pharmacies are around it that a beneficiary will have access to.

Senator Scott: Can I ask one more question?

Senator Tuberville: All right. One more.

Senator Scott: So, Dr. Smith, if you didn't work with Express Scripts on their mail order, you could contract with somebody else. Right? You could contract with another PBM company. Right? There's no reason you have to do it with Express Scripts.

Dr. Smith: Relative to the mail order, yes, sir. It's a competitively bid contract each time.

Senator Scott: Okay. Thanks.

Senator Tuberville: Thank you, Senator Scott. Senator Warren.

Senator Warren: Thank you, Mr. Chairman.

So, we know that insurance companies often contract with the pharmacy benefit manager to manage the prescription drug coverage. And at least in theory, the way it was supposed to work is that the PBM would work for the insurance company and for the people who have insurance with them, but PBMs have gotten caught doing all kinds of self-dealing. We've already mentioned several times today. It was in much of your testimony, spread pricing, and that's when the PBM reimburses an independent pharmacy, not its own subsidiary, but an independent pharmacy, $70 for a drug, then bills the insurance company $100 for the drug, and then often, secretly pockets the $30 difference. That's spread pricing that we're talking about today.

Now, DOD and Express Scripts say the TRICARE pharmacy contract is not a traditional PBM contract. It's a, "purely administrative contract." They claim that Express Scripts follows DOD directions and passes all of the savings through to DOD, meaning there is no spread here. What you pay goes straight on through and that's how we protect the taxpayer. I taught contract law for many, many years. So, what I want to see is not how DOD summarizes this contract or how the PBM summarizes this contract. I want to see what the contract itself actually says. I wanted to see it, but DOD refuses to release the contract with Express Scripts.

However, I have a copy of the contract that Express Scripts told the pharmacies that they would have to sign in 2022, or they couldn't get any reimbursement and be part of the system. And so, you want to be part of TRICARE? You had to sign this. So, I just want to take a look at one of those terms. Section 3.5 states that Express Scripts maintains the right to, "aggregate reimbursement reconciliation and offset methodology. Dr. Kautzner, you're the president of Express Scripts. So, tell us, does this mean that Express Scripts can adjust what they pay pharmacies after a claim has been processed?

Dr. Kautzner: I appreciate the question, Senator. I haven't reviewed that document, and so that's the piece I would have to take back and evaluate to be able to give you a comprehensive answer on. If you're referring to things like clawbacks, we don't engage in clawbacks.

Senator Warren: I'm referring to exactly what the contract is that your company, Express Scripts, required pharmacies to sign if they wanted to be part of the network. And I'm just asking, does that mean after you've told the DOD, for example, in my example, that it was $100 per prescription, that you can readjust that price with the pharmacy after the fact, say, down to $70, just sticking with the same example. Is that what that phrase means?

Dr. Kautzner: As we've covered today, the contract is a full pass-through contract.

Senator Warren: Well, that's what I'm trying to look at. I'm just looking at the language of what you tell the independent pharmacies who show up. Tell you what, let's ask a lawyer what it means. Mr. Reybold, you've been dealing with these contracts for a long time. Express Scripts is supposed to reimburse the pharmacy at a predetermined price, $100 in my example. Is that what this contract language says?

Mr. Reybold: Yeah. Thank you, Senator Warren. If I heard you correctly, you said that that contract language references aggregate reimbursement reconciliation and offset methodology. And what I would say is that in about 20 years of practicing law, that might be the biggest smoking gun document I've seen in a hearing, right, because what that means is they get to do post-adjudication offsets. So, what they reimburse a pharmacy at the point of sale, they get to move it around.

And with all due respect to Dr. Kautzner, you know, my understanding is for years he was over at retail pharmacy networks, so this term shouldn't be a real surprise to him. But what I would say is this, when you take that provision, which gives them the right to move money around after the fact across plans, it's essentially, we're talking about what a complex shell game. We're talking about a Fortune 20 company playing a shell game that you see on the street corner in any city, and you combine that with the fact that in their own court admissions, they admit that they administer their retail network in a manner that's indistinguishable and indivisible from their other networks. And we know the OIG found in, "pass-through contracts and Federal employee health plans," the spread pricing was there.

Senator Warren: All right. So, let's follow through on that, because the contract shows that Express Scripts can do spread pricing in TRICARE, notwithstanding what DOD keeps telling us. It's right there in the contract. It turns out that Express Scripts has been caught doing exactly that in other government contracts. An inspector general audit of the Federal employee health benefit, Compass Rose Plan, found that Express Scripts overcharged the government millions of dollars by failing to pass through all retail pharmacy discounts, and another inspector general audit of the American Postal Workers Union Health Plan found millions more in unallowable spread pricing.

In other words, they've already been caught with their hand in the cookie jar on this. But still, DOD claims that for TRICARE, "all savings --" meaning the difference between $100 and $70 that you're getting, Dr. Lansford -- "go directly back to the government," to DOD. So, Dr. Kautzner, when Express Scripts exercises Section 3.5 and retroactively reimburses -- and retroactively lowers the reimbursement rates, are you contractually bound to pass that money through, back to the DOD?

Dr. Kautzner: Appreciate the question, Senator. Our focus is administering the contract with DHA. It's 100 percent pass-through --

Senator Warren: So, you are passing -- is it your testimony today that when you tell Dr. Lansford that he is only going to get $70 and you've already told the DOD that it cost $100, you get $30 back from Dr. Lansford, $130 back. Are you telling us that every penny of that gets sent back to DOD? Is that your testimony today.

Dr. Kautzner: Senator, we don't engage in spread pricing. This is a different type of --

Senator Warren: That is a description of spread pricing. If you engage in no spread pricing, then you have a really easy one-word answer here, and that is that you are returning every penny when you retroactively adjust prices. Is that your testimony today.

Dr. Kautzner: Senator, this is a pass-through arrangement contract and --

Senator Warren: If it's a pass-through --

Dr. Kautzner: -- and all savings go back to DHA.

Senator Warren: Let's do it the other way then. If this is a pass-through arrangement, would you support an independent, public audit to verify that you are complying with full pass-through.

Dr. Kautzner: We're honored to be able to serve the TRICARE beneficiaries and the government's business is very important to us, and we wouldn't be --

Senator Warren: And so, I take it that's a yes. You would support --

Dr. Kautzner: -- happy to comply with --

Senator Warren: -- an independent audit to verify that every penny is going back to the government. Is that right, that you're not using this clause in the contract? Is that right?

Dr. Kautzner: If Congress and DHA would like to do those --

Senator Warren: I would like to do it. We are the oversight committee here. I'm a member of Congress. This is my job, oversight. Will you agree to an audit?

Dr. Kautzner: Our company will comply with what Congress and DHA tell us that we need to do.

Senator Warren: Then you will. You know, look, DOD and Express Scripts say there's no spread pricing in the TRICARE contract, but the same language that Express Scripts used to bilk other government plans out of millions of dollars is also present in TRICARE. We may well find that Express Scripts is playing the same games in TRICARE or not, but we can't tell without an independent audit.

I am glad that we have a provision in this year's NDAA that will require an audit here, but frankly, I'm pretty outraged that you drag in billions of dollars from taxpayers, and that you won't submit to an audit when it's clear that you have the opportunity to bilk the Federal Government, and you have used that opportunity in other circumstances. So, yeah.

Thank you, Mr. Chairman. I appreciate the extra time.

Senator Tuberville: Thank you very much.

Dr. Lansford, as a pharmacist who previously participated in TRICARE network and then made the decision to leave, can you walk us through the factors that led to that decision? Specifically, what challenges did you face regarding reimbursement rates, administrative requirements and other aspects of the program, and what changes would be necessary for your pharmacy or others like it to rejoin the network?

Dr. Lansford: Thank you for the question, Senator. The direction of the industry has been unsustainable for a long time. PBMs and their vertically-integrated organizations, take every opportunity to underpay and compromise the local health care networks that already are in place and exist. In this particular instance, it would have become the worst contract that we would have been a part of, only second to New Mexico Medicaid at the time, which later went on to recognize the problem with about half of the rural pharmacies in the State closing over a short time frame, and they pass legislation fixing it, a NADAC plus model that supports pharmacies staying in business.

Senator Tuberville: Very good. Mr. Reybold, from the perspective of the independent pharmacy community, what are the most significant challenges pharmacies faces in participating in TRICARE network today, and how have those challenges affected beneficiary access to pharmacy services?

Mr. Reybold: Yeah. Thank you for the question, Mr. Chairman. And, you know, what I would say is and just to follow-up when I said earlier is, you know, when you have vertically integrated, when you have the PBM that also owns the mail order pharmacy -- and just to set the record straight here, what happened is Express Scripts went to DHA in late 2022, and they asked to reduce the pharmacy network by up to 15,000, they got that permission and they wielded underwater reimbursements as a sword. They wielded underwater reimbursements to purge roughly 13,000 retail pharmacies from their network, 13,000 competitors on the heels of, in fact, them losing 9 percent utilization at their mail order pharmacies between that 2018 and 2022.

So, you know, I think that in and of itself is damning. And the other thing that I think is just so important to understand here is when you have these vertically integrated pharmacies and they're engaging in these practices that favor their mail order pharmacy, it's so tricky because the statutory code says -- and bear with me here really quickly, I'll be fast -- but the statutory code essentially says, hey, if you want to use a mail order pharmacy, you're going to pay a $14 copay. If you want to use a retail pharmacy, you're going to pay a $16 copay for 30 days times three. And so, in the Code, it looks like using a retail pharmacy is over 200 percent more than using a mail order pharmacy. But in practice, here's what I see is doing, they're reimbursing their mail order pharmacy over and over and over again at the statutory ceiling of $14, but they're reimbursing retail pharmacies, sometimes as low as $0.65 a prescription.

And so, Express Scripts is telling beneficiaries, hey, mail order is cheaper. But when you look at their data, their mail order pharmacy can be as much as sometimes 500, 600, even 1,000 percent more. So, they love to tout the savings of mail order, but the way they have implemented this system, ESI is not giving the best prices at their mail order pharmacy. They're not even giving it the best prices on the block. We've got Express Scripts data in Georgia that's required to be filed, and we've got beneficiaries in commercial plans who are getting far, far better deals than they are at ESI's mail order pharmacy. And then on top of the $14 cost share, they're also getting an admin fee. I don't know how much that admin fee is. I'd sure like to know. Thank you, Chairman.

Senator Tuberville: Thank you. Senator King.

Senator King: Thank you, Mr. Chairman. I appreciate your allowing a non-member of the subcommittee, but a member of the committee to join you today.

You'll have to pardon me because this doesn't make sense. Mr. Smith, what's the purpose of the contract with ESI? What does the contract do? What are you buying?

Dr. Smith: Yes, sir. So, the contract is basically a pharmacy benefits administrator. So, what they do is they help us with providing the retail network. They also provide our mail order pharmacy. They do the actual mailing --

Senator King: You say your mail order pharmacy. Is it yours? Is it the government's mail order pharmacy?

Dr. Smith: Yes, sir. We're the ones that contracted for it. So, I think it's reasonable to say it's run by --

Senator King: I thought this company owned the mail order pharmacy.

Dr. Smith: Well, they own the mechanism for the mail order pharmacy. We tell them how to run the --

Senator King: They own it or not? Sir, is the mail order pharmacy one of your lines of business, Dr. Kautzner?

Dr. Kautzner: Senator, the government buys the drugs --

Senator King: Got it through a replenishment model. We just do the physical dispensing of those within our facility, and we're paid a flat fee to do that.

Senator King: You're paid a fee per prescription?

Dr. Kautzner: Yeah, we're paid a fee. One to adjudicate the prescription. So, we adjudicate over 200 million prescriptions a year. For that, we are paid a flat fee, and we do nearly 18,000 safety quality benefit checks on every prescription. Additionally --

Senator King: But you also have these independent pharmacies. What I'm puzzling here is you've got somebody who you're hiring to manage the distribution of drugs, who also is in the drug distribution business, and there's an inherent conflict of interest there, it seems to me. I just don't -- I'm a country lawyer from Brunswick, Maine, but I don't get this arrangement.

Dr. Smith: Sir, they don't own retail pharmacies other than --

Senator King: No, but they own the mail order. Why wouldn't they, in every case, do whatever they could to move people toward their business as opposed to these independent pharmacies. Right?

Dr. Smith: In general, we are trying to move them to mail order, because for us it is a cheaper venue, and our goal is to make sure that the beneficiaries actually --

Senator King: Does the data validate what you just said that the drug X to beneficiary Y is cheaper if it comes by mail order versus from an independent pharmacy?

Dr. Smith: Yes, sir, because if some of the restrictions that other mail order pharmacies don't have to have that aren't serving us, for example, TAA compliance, that means often they can buy much cheaper Chinese generics and other things. So, when you do a drug-by-drug comparison, you will clearly find there are places where we pay a little bit more --

Senator King: I don't understand hiring somebody to manage the distribution who also has a drug distribution arm of their own company. Am I missing something here?

Dr. Smith: But we are the ones that actually provide the drug to them for the mail order pharmacy. So, the drug distribution is not relevant here. We are providing the drugs and then they are simply packaging it and sending it to the beneficiary.

Senator King: But they also manage this network of independent pharmacies. Again, they have their running -- they got business X over here and 15,000 businesswise over here. Why wouldn't they try to steer all the business to the one that they get a $14 fee every time? Well, I mean, again, this contractual arrangement makes no sense.

Dr. Smith: Sir, it is very complex. But the mail order, the $14 fee is the mailing, et cetera. That is not what it costs on the retail side. We have -- the copays are set with Congress. It is -- we have a higher price on the retail side, because it costs ultimately more for us because we are not supplying the drug at the price that we can supply.

Senator King: Help me out here, Mr. Reybold. Am I just crazy?

Mr. Reybold: Yeah. Thank you, Senator, and I'd respectfully disagree with the DHA's data, frankly, right, because in your annual reports, you note that generic medications are cheaper year over year at retail pharmacies than they are at the mail order pharmacy in 2018, by as much as 85 percent. You also note that your theory on why beneficiaries continue to choose retail pharmacies over Express Scripts mail order pharmacy is because Express Scripts uses a lesser of logic, and what that means is they are setting the copay for beneficiaries at $14 at their mail order pharmacy, when it may cost the beneficiary as low as 65 cents at a retail pharmacy. So, I absolutely dispute the notion that for generic medications, it's cheaper at ESI's mail order. Your own data disputes that.

Dr. Smith: And of course, that's where it has to be apples to apples, and I was not saying generics exclusively, which is what you've been concentrating on.

Senator King: All right. Let me let me change the subject a bit. Access concern. I'm from a very rural state. We've got something like 45 percent of the people in our State are in pharmacy deserts. And that's a real problem. Apparently, my understanding is DHA does not audit the information about access that's provided by the by the company. Is that true?

Dr. Smith: No, sir, that is not true. We have had Guidehouse Consulting actually do an independent audit of the access numbers that Evernorth has been providing us, and we have found that they are in compliance with the contract.

Senator King: And the company you just mentioned is independent of Evernorth?

Dr. Smith: Yes, sir. It's the Federal arm originally of PwC.

Senator King: Final concern -- well, two other concerns. One is the differential for reimbursement. I mean, if by definition the reimbursement is minus $9 for an independent pharmacy, that's your That's a model for getting rid of all independent pharmacies.

Dr. Smith: So, sir, when we've looked at it, the NADAC price is basically about comparable across the independents and the -- what we're doing with the chain drugs. I can't speak on -- its Evernorth that deals with the fill fees. But I'm not sure I understand because, at least on balance, that's what we see in the data. Now, I will say if there's a fair number of pharmacies in the location, then clearly the one with the best pricing is the one that potentially ends up being in the network. But I can't speak for that. That's really Evernorth and what we rely on them to do for us.

Senator King: Just one final note. I'm concerned about the Coast Guard. We have a series of Coast Guard stations in Maine. Their very remote access is very -- is a significant problem, and I hope that's something that can be addressed.

Dr. Smith: Yes, sir. We certainly are aware of that. In your great State of Maine and Wisconsin, there's a number of places where they're clearly in desserts, both for the health care side and the other, and we work closely with them. I will say our partner has been very good about when we point out that there's an area where there's clear access issues, trying to work with the pharmacies in the area and often they end up in the network.

Senator King: Does this contract go out for bid periodically?

Dr. Smith: Yes, sir.

Senator King: How often?

Dr. Smith: The last time was in -- this one started in 2023, and the next round will be in 2029.

Senator King: Thank you. Thank you, Mr. Chairman.

Senator Tuberville: Thank you, Senator King. Without taking any warm up pitches, I'm going to throw Senator Schmitt into the game.

[Laughter.]

Senator Schmitt: All righty. Thank you, Mr. Chairman.

Admiral Smith, do you prefer admiral or doctor, by the way, you have doctor here, but I have -- what do you prefer, sir?

Dr. Smith: Anything works, sir, or Dave works, too.

Senator Schmitt: Okay. Well, when I was attorney general of Missouri, people would call me general. I was always very uncomfortable with that, especially when I was around real generals, so I -- anyway, Dr. Smith.

Dr. Smith: I'm a real admiral, but.

Senator Schmitt: Well, I'm going to call you Admiral.

[Laughter.]

Senator Schmitt: I'm going to call you Admiral. I want to I just wanted to ask you some -- a few questions about on the pharmacy side. In your view, what unique capabilities does the mail order pharmacy provide to the Department?

Dr. Smith: On the mail order side, it provides a convenience store. It does provide -- you know, we're a worldwide organization and so they will send to APO and FPO addresses along with when I deploy, they will adjust the medications for my deployment length so that I make sure that I actually get the drugs that are required for that period of time. So, they're very helpful on that side. We also then have it set up to where it's just a fill fee and we supply all of the drugs using FSS pricing or better through DLA.

Senator Schmitt: And it may seem like maybe an obvious question, but I think worth asking. And how do you since given the nature of this committee, how do you think that this -- as how do you view this as a component of readiness for our men and women?

Dr. Smith: I think it's absolutely critical. We talked about the worldwide distribution of our personnel and the fact that our partners help us with that. Clearly, we have to make sure that we have that logistics chain, if you will. Additionally, having good access means that I can start the drug sooner and hopefully have a quicker result to make me more fit and deployable sooner or my family recover faster. So, having a robust pharmacy benefit is what we clearly want to have, but we also want to be cognizant of the pricing and pharmacy and make sure that we're getting the best value for the taxpayer.

Senator Schmitt: Is your assessment that Express Scripts has performed well in that regard, because as --

Dr. Smith: Yes, sir.

Senator Schmitt: Yeah. And how do you measure success as it relates to how Express Scripts is doing?

Dr. Smith: Well, we have a whole number of criteria that we look at, everything ranging from claims accuracy to our customer satisfaction rates, and they routinely run, in the 90s percents. So, we think that -- certainly, my impression is that the contract is great value and for the government.

Senator Schmitt: When Congress established the TRICARE pharmacy benefit, you know, my understanding is it envisioned multiple points of service, retail facilities, mail order, all kind of working together. How have you seen some of the utilization shifts over the years is how people access?

Dr. Smith: Yeah, it has waxed and waned, quite frankly. And part of it depends on our MTFs. And clearly, as you know, over time, that access has decreased somewhat with our continually rationalizing the system, but recently the retailers actually bumped up. And I think part of it is the fact that the generic pricing, when we buy the drugs, we have to be NDA -- sorry, have to be a trade agreement TAA compliant, and so at times we can't buy the generic that's coming from China or India. And so, if I go into a retail network, then I pay whatever that cost is versus the set copay.

Senator Schmitt: So, that flexibility is obviously important because people have different ways to access.

Dr. Smith: That's right.

Senator Schmitt: How would you assess Express Scripts ability or capability as they've demonstrated to -- for people to access pharmaceuticals or drugs in a flexible way? How would you assess? What have they done that has impressed you in that way?

Dr. Smith: First of all, it's just the access. You know, we went from a mileage to an actual time because I think that's much more realistic as to what it really takes. And when you look at how accessible we are, I think that's one of the strongest criteria that we see with what they are -- what they have put together for us.

Senator Schmitt: Well, the pitch clock has run down, Mr. Chairman. But I want to thank you for your time, your testimony, Admiral.

Senator Tuberville: Thank you, Senator Schmitt. Senator Blumenthal.

Senator Blumenthal: Thank you, Mr. Chairman.

Dr. Kautzner, maybe you can explain, when Express Scripts makes formulary decisions, do the manufacturer rebates have a role?

Dr. Kautzner: Senator, I appreciate the contract. And this is one area where normal PBM operations what we do for our employer is very different than what we do here for DHA and for TRICARE beneficiaries. So, in this instance, DHA makes all clinical decisions on formularies, prior authorizations, and those types of things. So, they make all the clinical decisions. They also negotiate all of the drug discounts and rebates for those products. So, we simply, one, adjudicate the prescriptions and ensure that there is a high clinical quality and safety on those prescriptions. And then, in some cases, as we've discussed today, we may dispense those products through our TRICARE Mail Order Pharmacy, and if that is the case, we're paid a flat dispense fee.

Senator Blumenthal: So, you're saying for TRICARE formulary decisions are unaffected by the manufacturer rebates?

Dr. Kautzner: I'm saying for our portion of what we do as the contractor for TRICARE, we aren't involved in any of those decisions or processes. All that's done by DHA.

Senator Blumenthal: Do they affect others decision makers, the manufacturer rebates?

Dr. Kautzner: In terms of TRICARE, I couldn't speak to what decisions the Defense Logistics Agency and DHA may make around their negotiations with drugs and the preferencing of those drugs. In this instance, we are simply the contractor, and we're focused on providing broad access, providing strong clinical quality and service, and ultimately, then value to beneficiaries and taxpayers.

Senator Blumenthal: Well, one reason I ask is that, as you know, finding the right mental health medication can sometimes take months or even years. Once a patient has found a productive treatment, disrupting it can take can have serious consequences, and there are concerns that the pharmacy benefit managers are changing members' medication regimens even when their mental health is stable. Have you encountered that concern?

Dr. Kautzner: In practice, I have encountered those types of concerns, and it's a piece that we take very seriously, especially for patients that are on mental health drugs, their stability on those drugs and ensuring that once they get on a drug that works for them, because many of those drugs do have unique side effects that once you're able to tolerate those on a product, that you're able to stay on the product, be able to refill the drug as you need to for those types of medications. But in these instances, around these clinical decisions for the TRICARE contract, those that are left to DHA to make those decisions and we carry those out.

Senator Blumenthal: Let me ask you, Dr. Smith, does DHA monitor whether formulary changes or coverage decisions result in disruption or interruption in the mental health care treatment of patients?

Dr. Smith: Sir, we, as you're probably aware, have a Pharmacy and Therapeutics Committee. And they meet periodically to review all the new drugs that come out from FDA, but also, every quarter go through classes of drugs to figure out placement within the formulary. And we have primary -- when there are drugs that have similar effects, we will choose one to be on the primary formulary, but that doesn't mean that I don't have access to the others with prior authorization and some paperwork as a provider that I need to do. So, I think it's fair to say that our beneficiaries have wide access to what is required for them clinically.

Senator Blumenthal: What is the single most important improvement that you could see being made in the health care system, TRICARE?

Dr. Smith: For the overall system, clearly, we are in a similar situation to the rest of the country, which is being able to attract and retain our health care staff. And we clearly have on the civilian side some constraints because of the amount that we can actually pay. And so -- but my biggest issue is the personnel issues that we're competing with everybody else in the country. And there's clearly a substantial manpower shortage in the health care industry.

Senator Blumenthal: Thank you. Thank you, Mr. Chairman.

Senator Tuberville: Thank you, Senator Blumenthal.

I got a question for everybody. Take about a minute each. We'll start with you, Mr. Reybold. What can pharmacies. What role can they play in improving medication and helping beneficiaries maintain healthier lifestyles? You got about a minute.

Mr. Reybold: Yeah. Thank you, Mr. Chairman. You know, retail pharmacies are amongst the most accessible health care providers in the Nation, right? They're accessible in inner cities, which can also have pharmacy deserts, and they're absolutely some of the most accessible providers in rural. And I think, you know, there's really studies that show access to retail pharmacies improve medication adherence and improve outcomes. And I think leaning into that and leaning into all of the skill sets that pharmacists have to do, makes a lot of sense from a policy perspective. And it's going to improve outcomes, improve medication adherence, and ultimately reduce costs. That said, obviously I am not a pharmacist and would greatly defer to Dr. Lansford in that regard.

Dr. Lansford: You know, I think that retail pharmacy is special in this country, and in every State, in every community, it is the most accessible place for people to go and get the questions that they have answered. And we don't -- it's an uncompensated component of health care that there's no data on that happening, but it happens all day long, every day. And one thing that I find really compelling, you know, I've overheard that that ESI is receiving a flat fee for their services on a drug that they do not have to pay for, and I can't help but ask the question what that fee maybe? I might take that deal instead of Express Scripts if it were offered to me.

Senator Tuberville: Dr. Kautzner?

Dr. Kautzner: Mr. Chairman, we put a great deal of effort into the clinical side of the work and in working to help TRICARE beneficiaries, military families, and retirees. And so, we would focus on continued focus on adherence and helping patients ensure that they're able to refill those medications from an automatic perspective so they don't have to think about it. So, once they're on the drugs that work for them, those drugs are going to continue to arrive either from a mail order perspective or from a retail perspective.

One of the things that we've recently done as part of this new contract with DHA is implemented a clinical insights hub. So, with pharmacy being the most utilized benefit, this hub allows us to go and preidentify patients that have complex conditions where they may have the potential to worsen with those conditions. We can then intervene on that patient's behalf, help them be able to get healthier and be able to prevent them from progressing with a disease state. It's been a nice win for the organization to work with DHA, and be able to truly help TRICARE beneficiaries stay healthy and prevent conditions from getting worse.

Senator Tuberville: Dr. Smith?

Dr. Smith: I agree with virtually everything that's been said relative to making sure that -- and the pharmacists are a critical component of making sure that our beneficiaries are actually educated about the drugs that they have along with, obviously, their providers. We also work a number of their key to us working, for example, antibiotics and making sure that we're putting them on the right antibiotic to prevent unnecessary use of broad-spectrum antibiotics, and I think everybody is aware that there's a significant national and international problem with multidrug resistance. And so, I think all of that, our pharmacy community is actively engaged in helping us with.

Senator Tuberville: Thank you. Senator Warren.

Senator Warren: Thank you, Mr. Chairman.

So, I just want to dig in a little bit more on the comparison between the mail order pharmacy price for a drug and what an independent pharmacy charges. So, DOD and Express Scripts say repeatedly, it's in all your stuff, that the mail order program saves money. But DOD actually reported data to Congress on this in Fiscal Year 2023. That's the most recent we've got. So, Dr. Smith, did filling a 30-day supply of generic drugs at Express Scripts pharmacy cost DOD on average more or less than filling the same prescription at a retail pharmacy?

Dr. Smith: Ma'am, I'm actually going to have to take that one back for the record.

Senator Warren: You don't have to. I actually have it. It's the DOD report on this, and the answer is Express Scripts cost 12.5 percent more than the retail pharmacy when you put them all together on the generic drugs 30-day supply. So, I want to dig just a little bit into how that could happen. Because the way you describe the business model, it shouldn't be able to happen. So, where does the money come from that goes to the different parties here? And one is a flat administrative fee. We've been talking about this flat administrative fee on every claim that its mail order pharmacies process and one lawsuit. That's where I got to look for data alleges it's $17 that Express Scripts gets every time they fill a prescription.

Let's look at the cost from the perspective of military families. The TRICARE Express Scripts website claims military families will save money by using mail home delivery, and Federal law states that for all non-active-duty TRICARE beneficiaries, the copay for a generic drug is $14 with mail order versus $16 at retail. So, I'm sitting there, military member and I say, okay, I get it. It's a $2 difference. And the retail pharmacy is more expensive.

But let's pause for a minute. Lots of generic drugs cost less than $14, so DOD requires all of the other independent pharmacies to use a lesser of requirements. So, Dr. Lansford, under a lesser of requirement that's part of your contract with DOD, if a drug costs $3, how much do you charge the patient, $16 or $3?

Dr. Lansford: Well, the pharmacy benefit manager would decide that, and in this case, it would absolutely be the lesser of $3.

Senator Warren: That's right. So, you only get 3 bucks, right? If the thing costs 3 bucks, that is actually the law that's in your DOD contract. But what about Express Scripts? Well, I have an explanation of benefits right here that shows that Express Scripts Mail Order pharmacies charge TRICARE and the Federal Government -- oh, I'm sorry, charge beneficiaries, the full $14 copay even when the cost of the drug is cheaper. So, there's a big difference in what the customer is actually paying on the cheaper drugs.

Now, in addition to the customer's copay, we've just done there's a Federal Government copay, maybe $17, that's the best I can tell from the lawsuit on every prescription filled. So, that means a $3 prescription, that it costs $3, can earn Express fees $31, a $14 copay from the customer, from our service member, and then a $17 administrative fee from the Federal Government. Express Scripts is supposed to save money for DOD, but it appears to me, I mean, we just work the example here, and that's what your own data show is that it costs more.

So, this raises the question that's really bothering me, and that is it goes back to what Senator King was asking about -- and that is why on earth is DOD requiring vertical integration so that the very company that's supposed to be doing the managing also owns this pharmacy that is competing with our independent pharmacies. And in fact, we've got the data charging more, at least in some of the cases, charging both our service members more and charging our Federal Government more. Do you think, Dr. Smith, that maybe it is time for DOD to revisit this requirement of vertical integration, and in fact, considering saying, no, you only work for the Federal Government and there is no vertical integration. That is, you do not own your own pharmacy at the same time that you're trying to manage pharmacy claims for the United States Government.

Dr. Smith: Ma'am, the -- using the generic example is a little bit problematic because the real cost drivers are the brand name drugs and the specialty drugs over -- I believe it's 50 percent -- 56 percent of my costs come from 1 percent of the prescriptions.

Senator Warren: Look --

Dr. Smith: Let me just say, I do think that the generic question needs to be looked at. I frankly will have to take for the record to figure out why we don't decrement the cost of the drug part of the -- but of course, when you're mailing it, there is a cost associated with the mailing, et cetera, that we have to work through. The other thing is, as I've said multiple times, and hopefully, you recognize we have to go with TAA-compliant sources. So, Kuban doesn't need to do that, we do.

Senator Warren: I'm sorry, maybe I wasn't clear in my question, Dr. Smith.

Dr. Smith: I'm sorry, I may have --

Senator Warren: No, no, it's my fault. I'm just trying to ask do you think maybe it's time to revisit whether or not the person or the entity that manages prescription drugs does not also own a competing prescription drug dispensary that competes with every independent pharmacy in America and creates incentives to prefer your own subsidiary over all of the independent pharmacies out there. Do you think it's time, maybe just for DOD to rethink that? You're getting ready to renegotiate a contract here.

Dr. Smith: Ma'am, we're always willing to look at how we can do this better, and certainly, we can look at it. But most of what ESI is doing, quite frankly, is how we have set it up and what we've told them to do it and perform it as. So, I think it's reasonable for us to look at it. We clearly will. I still -- because of the way our contract is set up, I don't get the issue that clearly we need to have more discussion on relative to conflict of interest, because we're the ones that are driving people to go to the retail.

All our rule sets say you need to go to retail for brand and specialty because it's dramatically cheaper through mail order than it is via the retail network.

And so, and that's why, for example, with Accredo, the specialty provider that is an affiliate of Cigna, that is the owner also of Evernorth, we make 92 percent of those come through us because we buy the drugs rather than the specialty provider, but happy to look at the system and see for our next contract whether there is a better way to set it up.

Senator Warren: Dr. Smith, let me just say it may be cheaper to do some things by mail. I fully understand that.

Dr. Smith: Dramatically.

Senator Warren: But I do not know why it is that the company that is administering how we're going to get prescription drugs out to our people and how they're going to get reimbursed for it, needs to own the mail order pharmacy and be in direct competition with every individual pharmacist out there, and have an incentive to drive all of our prescriptions in a way that will maximize profits for this company if we're not in alignment on that central question. I just don't know how we go forward here, but thank you for having this hearing today. We need independent audits and we need to rethink these DOD contracts.

Senator Tuberville: Senator King, you got any other questions?

Senator King: No, sir, but thank you.

Senator Tuberville: You sure? You look like you got something on your mind over there.

[Laughter.]

Senator King: I'm sitting here thinking, what if these guys didn't have the mail order pharmacy, but they owned CVS? Would it make sense to have them administering this program for all these other pharmacies around the country, if they also own CVS? I mean, you don't have to define what I mean. The conflict is obvious, and it seems to me you're basically saying we've got this company and we're hiring them to help us distribute drugs, but they also have their own distribution. I mean, to me, Doctor, or Admiral, the conflict is obvious. It's just I don't want to -- we've beaten this horse pretty hard, but I don't understand. Again, I'm coming to this as sort of a novice, but the model makes no sense. What if they own CVS? Would that be okay? They own CVS, and they also deal with all these independent contractors.

Dr. Smith: At the end of the day, frankly, what we are most interested in is making sure that our beneficiaries have great access and that we are saving the taxpayer money.

Senator King: And I applaud you for that. That's exactly what the mission is.

Dr. Smith: The question I would hope so, sir.

Senator King: The structure of this contract serves those purposes. That's the question.

Dr. Smith: I think there's a need to prove that it doesn't.

Senator King: I hope you will. Thank you. Thank you, Mr. Chairman.

Senator Tuberville: We're going to give everybody about a minute closing arguments. Mr. Reybold, we'll start with you.

Mr. Reybold: Yes. Thank you, Mr. Chairman. Obviously, a lot to go over here. I would absolutely echo the points of Senator King and Senator Warren with regard to the vertical integration. It's funny how it always works out to cost beneficiaries more, harms retail pharmacies, but boy ESI's Mail Order Pharmacy comes out looking pretty good. The other thing I want to talk about really quickly, just to record set is Federal Code absolutely provides that the Federal Government gets the same discounts, whether they're filled with mail order or whether they're filled at retail, they get those same discounts. And so, I think that's really important to preserve in the record. Mail order isn't getting better discounts than retail pharmacies, and again, like that's so important because that gets lost here.

Lastly --

Senator Tuberville: The price is the me.

Mr. Reybold: It means the price is the same, right? And so, I'd absolutely push back on that.

The last thing that I would say, and I'll say it really quickly is, yes, the Department of Defense contract bars, literally bars fees, rebates, discounts specific to processing TRICARE prescriptions. That's what the contract said. It was in a court filing filed by the Ohio attorney general for anti-competitive practices against Express Scripts. That's what it says. But what we know Express Scripts does is they negotiate aggregate discounts, non-claim specific discounts from drug manufacturers, from pharmacies, administrative fees from pharmacies. They are engaging in aggregate pricing that allows them to continue to capture revenue from what is one of their biggest clients, and that is the Federal Government and this TRICARE program. They're finding multiple ways to leverage that and to recoup money. Are they negotiating claim specific discounts? No, but boy, I'll bet you that if there's an OIG audit, they're going to absolutely find that money there. And if I were the Federal Government, if I were DHA, if I were any one of Express Scripts commercial clients, I would be running to an auditor, based on what we've seen here today and based on the contract language that you provided.

Thank you.

Senator Tuberville: Dr. Lansford?

Dr. Lansford: Chairman Tuberville, thanks again for the opportunity to testify. There's a lot of layers to this, and something that is just apparent to me with my colleagues is that we have a strong desire to serve these people. We want to be there for them. We used to be able to be there for them, and we want to be there for them again. All we expect is reasonable reimbursement in that process. And whenever I hear the admiral say: well, there's an expense to mailing it. I think there's an expense to the other components of delivering the drug within my pharmacy as well that do not get accounted for in terms that are sent to me. And, you know, we just want a fair shake at it. That's all we want. We just want a fair deal to be able to provide service to these members. Thank you.

Senator Tuberville: Thank you. Dr. Kautzner?

Dr. Kautzner: Mr. Chairman, thank you for the opportunity today to be able to testify. I would first point to again, our organization is proud to serve the men and women of the military, military families, and retirees. We get up every day to ensure that we can do that on the 200 plus million prescriptions that we service for them every single year. We've been doing this for over 20 years and hope to do it for many years to come. It is a passion of our organizations.

If we look at the facts, 98 percent of beneficiaries have a pharmacy within 15 minutes of their home exceeding DHA standards. We focus on service. 90-plus percent beneficiary satisfaction is high with the TRICARE benefit and the services that we provide. If we look at the savings, we are providing to date, given this contract, over $140 million of savings that has gone back to the government for other real defense components that they can utilize those dollars for. This agreement is 100 percent pass-through. We do not retain that $14 that is collected at the mail order pharmacy. That goes back to DHA. Those components, again, are misunderstood.

Appreciate the time today though and behalf on behalf of the over 1,000 veterans that work for our company. Proud of the opportunity today to be able to testify, and proud of what we do each and every day, getting up to ensure that we take care of our servicemen and women.

Senator Tuberville: Thank you. Dr. Smith? Admiral, General.

[Laughter.]

Dr. Smith: Admiral, sir. Chairman Tuberville, and Ranking Member Warren, along with Senator King, I appreciate the opportunity to testify today. I do think that this is a high quality, very good contract that we actually are saving significant amounts of money for the taxpayer, but most importantly, doing a remarkably good job in a complicated system, taking care of our beneficiaries, and making sure that they get the access and the support for whatever their pharmaceutical needs are. So, we appreciate the opportunity and the various questions. And, once again, thank you for the opportunity.

Senator Tuberville: Thank you. Very complex issue. One day, I think even a football coach might be able to understand all of it. I don't know whether I can or not, but it is pretty complex. It kind of reminds me of one of my favorite movies, Cool Hand Luke. What we have here is a failure to communicate in a lot of areas, and a lot of that is a lot in politics and in Federal Government. But thanks to all of you for being here. And hopefully, we got something out of this, and maybe we can do it again and continue to try to work out all the kinks, but we appreciate all of you being here. We really do.

Thank you very much. We're adjourned.

[Whereupon, at 4:03 p.m., the hearing was adjourned.]

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