



## VIA ELECTRONIC TRANSMISSION

November 3, 2022

Mr. Gilbert R. Cisneros Jr.  
Under Secretary of Defense for Personnel and Readiness  
United States Department of Defense

Under Secretary Cisneros:

My organization, Consumer Action for a Strong Economy (CASE), serves as the voice of American consumers and advocates for reasonable consumer protections to create more opportunity and prosperity for all Americans.

I write today expressing serious concern about access to care for a class of consumers that is often forgotten – our nation’s veterans, military members, and their families.

Last month, nearly 15,000 local and independent pharmacies were dropped from the TRICARE program, which is responsible for providing health benefits for military personnel, veterans, and their dependents, due to a contracting dispute with Express Scripts – a pharmacy benefit manager (PBM).

Express Scripts – the sole provider of pharmaceuticals for TRICARE participants – decided to cut reimbursements for prescriptions fulfilled at in-network retail pharmacies, forcing pharmacies to fill prescriptions at a net loss while Express Scripts further increases their profit margins.

Just weeks earlier, the supermarket chain Kroger announced its intent to terminate its contract with Express Scripts for a similar reason. Express Scripts’ proposed agreement with Kroger included reimbursement rates far below the industry standard, prompting the company to respond, *“We do not believe Kroger customers should have to pay higher costs to increase Express Scripts’ profits.”* Coupled with the loss of 15,000 independent pharmacies, there is little doubt that Express Scripts’ rapacious pursuit of profits will visit significant harm on TRICARE beneficiaries, as access to critical medications would be vastly restricted by dropping more than 2,000 Kroger pharmacies if the PBM fails to come to the bargaining table.

The National Community Pharmacists Association’s Karry La Violette recently addressed Express Scripts’ failure to provide fair contracts for pharmacies and customers, stating, *“There is no negotiating, these are take-it-or-leave-it contracts provided from Express Scripts Inc. to a pharmacy... If you want to be in the network, you take this horrible reimbursement rate or you don’t.”*

Currently, large PBMs like Express Scripts, owned by insurance hegemon CIGNA, have a stranglehold on retail, local, and community pharmacies that serve as critical healthcare providers for these individuals.

This modern-day price gouging by PBMs is occurring as the costs for generic drugs have significantly decreased – a savings most pharmacies and consumers have yet to see. Instead, PBMs have taken advantage of their role as middlemen in the pharmaceutical supply chain. For more expensive, brand name drugs, Express Scripts has leveraged its role in formulary management to increase rebate payments, further padding their pockets and increasing overall prescription drug costs.

As noted in a recent bipartisan letter to the Department of Defense signed by nearly 100 Members of Congress, *“Over 90 percent of Americans live within five miles of a community pharmacy, and 76.5 percent of pharmacies in rural areas are independent community pharmacies. As you know, in addition to dispensing medications and vaccines, community pharmacies provide services that lead to better health outcomes, lower overall administrative fees, and valuable in-person consultations with a healthcare provider.”*

While Express Scripts would like to blame pharmacies for their greed, the harsh reality is that their unwillingness to pass along savings to consumers is directly harming hundreds of thousands of TRICARE beneficiaries and adversely affecting those who need the care provided by pharmacies the most.

The behavior of Express Scripts is sinister, especially as you consider the importance local pharmacies play as a last mile provider of healthcare and pharmaceuticals to Americans in need of lifesaving medication.

Over the years, these pharmacies have established a trusting relationship with veterans and their families. For many, their pharmacist knows their medical history and are able to help answer important questions. Now, Express Scripts is stripping these veterans from the people and places they’ve relied on, forcing many to switch to a less accessible, personable, or trusted pharmacy.

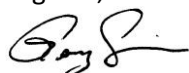
Mr. Cisneros, the decision by Express Scripts to drop tens of thousands of pharmacies and the refusal to negotiate in good faith with Kroger - one of the most expansive pharmacy chains in the country – in order to turn additional profits is craven and shameful. Express Scripts’ relationship with the Department of Defense, and the lack of action taken by your department and the Biden Administration, sends an alarming message that the federal government would rather be in the pocket of big insurance corporations than side with local pharmacies and veterans.

To right this wrong, and to show that the Department of Defense is committed to ensuring the benefits guaranteed by TRICARE remain robust and beneficial while preserving the access to care for veterans, military members, and their families, there needs to be an immediate investigation into any possible improprieties the Department of Defense’s Defense Health Agency may have with Express Scripts.

I urge you to immediately work with your colleagues to open an investigation into the Department of Defense’s relationship with Express Scripts, examine it closely to ensure that TRICARE beneficiaries are receiving the best available care, and send a strong message to Express Scripts that the Department of Defense will not be party to the predatory behavior of greed-stricken corporations determined to make a profit at the expense of vulnerable consumers.

Thank you for your prompt attention to this issue. My organization stands ready to assist you and your team as you work to serve the needs of our men and women in uniform, and ensure that access to care for veterans, military members, and their families is safeguarded from these inequitable practices.

Regards,



Gerard Scimeca  
Chairman  
Consumer Action for a Strong Economy (CASE)