A 'giant shell game?'
The egregious gimmicks of corporate health care

"That's corporations exerting their power to jack up the prices for their own profits and be oblivious to how much harm they're causing to Americans. We have to stop this. We have to stop this industry from hurting people like this." Dr. Ed Weisbart.

911. What's your emergency?

America's healthcare system is broken and people are dying.

Welcome to **Code WACK!,** where we shine a light on America's callous healthcare system, how it hurts us and what we can do about it. I'm your host, **Brenda Gazzar.**

(music)

This time on **Code WACK!** How are everyday people suffering from the way Pharmacy Benefit Managers or PBMs operate? What can be done once and for all to rein them in? To find out, we spoke to **Dr. Ed Weisbart,** national board secretary of **Physicians for a National Health Program,** a single-payer advocacy coalition that boasts more than 25,000 members, and former chief medical officer for one of the largest PBMs in the country. This is the second episode in a two-part series.

Welcome back to Code WACK! Dr. Weisbart.

Weisbart: So nice of you to have me back.

Q: Last time we spoke about how the U.S. Federal Trade Commission put out a report earlier this summer about Pharmacy Benefit Managers or PBMs and how these drug middlemen profit at the expense of patients by inflating drug costs. Can you summarize for us the main findings of the report?

Weisbart: It's a powerful report and what it reveals is the problem of corporate consolidation and power. It reveals the problem when you let any place get this big that's not interested in the health of people, but more interested in their own profits. So they're huge now, I mean, one of the findings of the new report was that the top six PBMs control more than 90% of the prescriptions in this country. The top three control 80% and that they're integrated throughout the healthcare system. So they often have the same owner as an insurance company. So CVS has the same owner as does Aetna. Express Scripts, the second largest pharmacy benefit manager – and it's owned by Cigna. Optum is the third largest PBM and it's owned by United and Humana owns its own.... They're all sort of integrated in that way and it's vertically like that.

And they're also integrated with owning their own pharmacies oftentimes. They almost all own their own specialty pharmacy, which is, you know, a pharmacy that's dedicated to the really expensive, relatively uncommon drugs. They almost all own their own mail order specialty pharmacy. CVS of course owns CVS, the chain of pharmacies that we all drive past every day. So they're really integrated and they take advantage of that to drive us to the places that they want so they get to decide which pharmacies we use. They get to decide which drugs are on the formulary. So your doctor has to work with the list of drugs that the PBM decides, rather than the list of drugs that your doctor might think is the best one for you. So the PBM decides what drugs we can take, where we can get them, how much we pay for them, if we can get them.

That's a lot of control.

Weisbart: And they do all those things for their own profits. It's a very profitable industry. They use this as a giant shell game so that they can make it look like they're spending a lot. The insurance company can make it look like they're

spending a lot because they're actually hiding the cost in the retail pharmacy. They pay the retail pharmacy way more if they own it than they do if they don't own it. And so it looks like it costs a lot of money and it looks like health insurance is expensive, but it's actually just a hidden way of profiting. And now they've got this other new thing that they've been doing called Group Purchasing Organizations, where it used to be that the PBM made its own contracts with the manufacturers and they had their own rebate structure with manufacturers. And then the PBM would've a contract with an employer or with an insurance company to talk about how much to share that.

That was a problem all by itself 'cause those contracts were hidden. They were proprietary. You could barely audit or look at them if you were their customer. But that was a problem enough. But even worse, now they moved this all offshore. Most of them now have an overseas thing that they call a Group Purchasing Organization or a GPO and it's actually a rebate aggregator so that they have this separate mysterious, non-disclosed way of getting these rebates structured that then the employer or the insurance company doesn't have a way of even looking at. They can't even look at it and it's not subject to the same tax system so the whole thing has gotten way outta control. Anyway,the FTC report shows a million examples of these, how it jacks up the prices of drugs, how it makes drugs inaccessible, unaffordable all in the glorious service of profit for the PBM industry.

Q: Wow. So I'm curious if you've heard any personal stories from customers or patients about this. I mean, it seems like many people don't even know why their drugs are going up so high. You mentioned earlier that 30% of people don't take their medicines fully or skip doses because of the cost of drugs. Are even more people now gonna be in this situation? Are people havig to forgo their cancer drugs? What do you know?

Weisbart: All of the above, all of the above diabetics who should be taking their insulin twice a day are, you know, taking it maybe once every two or three days. Cancer patients splitting their pills in half. A friend of mine that's got Multiple Sclerosis and her Pharmacy Benefit Management company kind of decided to change the drug for her and it created a gap in care. She had been stable for I

think 15 years and they decided that that's no longer the drug that she can use for her multiple sclerosis and they messed with it. And she couldn't get it for a few weeks and not having had a flare for I think 15 years gave her a flare of her multiple sclerosis and you don't always recover from those. And indeed, she's not quite, you know, this was about a year or two ago and she's not quite at the same level that she was before her PBM decided to mess with her.

Same story of a patient with ulcer ulcerative colitis who had, who was stable for years on an infusion that he was getting for his ulcerative colitis. And the PBM decided, 'oh, you might be stable now, but you know, our profits aren't' so, we're gonna switch you and they switched him and guess what? His ulcerative colitis went outta control and it's a painful, potentially deadly, illness and he never got it back under control like it was 'cause sometimes when you switch, you can't switch back. It doesn't automatically just work like that in your system. So it's not automatically still as effective. So I mean, the stories like this, they're all over the place. I'll bet every one of the listeners to this show, either they themselves or someone that they know has had a story like this and that's not right. That's corporations exerting their power to jack up the prices for their own profits and be oblivious to how much harm they're causing to Americans. We have to stop this. We have to stop this industry from hurting people like this.

Q: Yeah, so what is someone's recourse then? If people can't get access to the medication they need to stabilize their condition and it's affecting their health, what can they do to protest?

Weisbart: Well, for her, the most effective thing was she went like crazy viral on social media and shamed the company and that seemed to actually work. But she's particularly skilled at that. You know, I could not have even thought about doing some of the things she did on social media. So there's that. You don't really have much recourse today because you have a contract with your insurance company or your employer does or whatever and the contract in the fine print says they get to decide what drugs you can take. You know, the fine print in those contracts doesn't give us any power over it. Doesn't mean that that's right. I mean, even so bad contracts that are still contracts can still be litigated. You can sue, you

know, so there's things that you can do. And I think we need to do as many of 'em as we can.

You know, the structural thing is we have to fix this system 'cause it's beyond repair. The PBM industry when I was there, had maybe 30 or 40% of the market share. You know, it was a very fragmented industry and we were still getting the sort of taste of some of the stuff that's in the FTC report. But it wasn't anywhere near the level that's in the report today. Now that the PBMs are, you know 80 or 90% depending on which three or six you pick, they're like unbridled and they're doing these things that are just horrendous.

So my thinking is that Medicare Advantage, as dreadful as it is in many ways today, and we know it's literally killing people, Medicare Advantage today has something like 50% of the Medicare market, so to speak. So my point to the FTC is if they're only 50% today and they're doing these horrible things to patients, what's Medicare Advantage gonna be like when Project 2025, God forbid, gets its way? And Medicare Advantage is Medicare? Project 2025 is explicitly called for Medicare Advantage to be the default form of Medicare. So put that in place, put policies based on that strategy in place, and the Medicare Advantage is gonna be more egregious than I can imagine, which is where the PBM industry is today. The PBM industry is more egregious than I could have imagined when I left the industry 15 years ago.

Umm, interesting.

Weisbart: One more little example that I didn't know that I read in the FTC report. So, you know, PBMs get rebates from brand name drugs. They have contracts that say, you know, if more of our patients take your brand name drug, we will get a rebate based on the amount of that. And that by itself is worrisome enough. But what I didn't know was , there's now rebate contracts that are conditioned on the PBM blocking access to generic drugs and biosimilar drugs. So there are now PBM contracts that are conditioned on the PBM not allowing patients to get access to generic drugs.

Wow.

Weisbart: That explains why you'll go to the pharmacy and get, you know, ‘oh, sorry. You can't get that $5 generic drug. You have to have this $300 brand name drug because the PBM wants its hundred dollars rebate. We don't care about the fact that your copay is $50 instead of $5 that would've been if you'd gotten the generic drug.’

So yeah, when you go to the pharmacy and you're told something crazy about a price, you want to ask 'em what would it cost if I didn't use my insurance? And you might be able to find the drug for a fraction of the price, but that's not a great plan. I mean, that's, you know, as an individual maybe, but as a plan, that's terrible because then you're not gonna hit your deductibles. You know, you're not gonna get the benefit of having insurance if there is one. You're not gonna get it because you're having to work around your insurance and stay in the, you know, out-of-pocket retail darkness for a longer period of time.

But as an individual, you should know that that's an option to tell the pharmacist, ‘I don't wanna do this.’ And the pharmacist probably has a contract with the PBM that prevents them from offering that to you. The pharmacist probably has a contract that ties their hands from volunteering to you. You know ‘don't use your darned insurance, just buy it retail from us.’ We’ll give you the generic. They probably can't initiate that and most of the time, I hope, I don't know most of the time that if you initiate that, I believe you can still get that. But, if worse comes to worse and your pharmacy won't talk to you about that, go to another pharmacy. Go back to mom and pop.

Q: Right, right. Now hopefully they’re still open since a good number of pharmacies are closing down. So it’s interesting. These PBMs have so much power. It sounds like these PBMs, they're actually cornering the market on the medicines that we need to stay alive to stay healthy. If a PBM was a government, what kind of government would it be? They're becoming a monopoly, but how else would you describe what's happening here?

Weisbart: Well, they're both a monopoly and a monopsony and they're non-democratic. I think the word would be fascist, wouldn't it? When a corporation owns the government? Isn’t that one of the definitions of that word? What I would rather think about is what could we do that's better. That old

original notion [that] a PBM could add value, that still actually is a function that's needed, right? You need somebody 'cause otherwise, what do we do? If you just got rid of that industry and got rid of the pharmacy benefit, then you would what? Buy your drug directly from the manufacturer who would negotiate the price down from what the manufacturer wanted? How would that work? So that's where, in my mind, a national health insurance program can really be powerful. And one part of a national health insurance program, of course, would be having the federal government authorized and empowered to negotiate the prices of drugs.

Understand we could do that. We could set up a national pharmacy benefit and just a national pharmacy benefit. We wouldn't have to set up the National Health Insurance Program. I think we should, I think we should set up a national health insurance program and that the pharmacy should be a piece of that. But you could fragment it and just say, ’my God, these PBMs, they're so outta control. The industry is so crazy. There's so many places where money is being hidden ‘and we've barely touched on it today, Brenda. There's so many more pockets of obfuscation and hiding and incestuous exploitation. So, you know, I don't know that you can fix this industry. It's vertically integrated, horizontally integrated. You should disintegrate this industry and replace it with a pharmacy benefit function of the federal government done by the people, for the people of we the people, and have it be run to get the best price for the best drugs and cut out all these middlemen, cut out all these middlemen.

So we need that kind of function of negotiating prices for drugs against the manufacturers. That function is critical 'cause you know, the manufacturers want more for their product, as does any manufacturer. They want more for their product. So somebody has to be able to powerfully negotiate. And you know, if Brenda wants to negotiate against Pfizer for their drug, well, Pfizer's got all the power, then Brenda can't negotiate. But if 330 million of us have the federal government negotiating against manufacturers on our behalf, yeah, we can get a pretty darn good price. And that's exactly what every other modern country does.

And the fact that we don't do that is why we spend twice as much on prescription drugs, as does every other modern country because they all get together. They

say, ‘Hey, we got 330 million people ‘play ball with us. Give us a good price. If you don't give us a good price, we're gonna walk away and not include your drug.’ And as a matter of fact, we even have the power. ‘If you're not gonna play with us, if you're not gonna give us a good price, we can break your darned patent and we can start letting other manufacturers produce your drug at a better price.’ There's a law on the books today to allow the federal government to do it, but it's never been taken advantage of.

Wow, interesting point.

Weisbart: So it's not a leap to say that we could have a single national pharmacy benefit managed by Medicare and made available to everybody in the country and have them negotiate aggressively for lower cost drugs down to world norms. Don't throw the manufacturers out of business. We want manufacturers. Somebody's gotta make these things. But we're already paying for the research. The manufacturers aren't paying for most of the research, most of the research on new drugs is paid by the National Institutes of Health.

The federal government is currently paying for the vast majority of the cutting edge, pivotal, important pharmaceutical research. So we wouldn't be disrupting that. And we would be able to negotiate the prices of drugs and we would be able to make sure that everybody in the country could get them through their pharmacy benefit. So I don't think the PBM industry can be salvaged. I really don't. I think we need to blow it up, disintegrate it to use the integration vertical and horizontal integration. Let's just disintegrate it and create a national pharmacy benefit managed by us and for us – we the people.

Thank you Dr. Ed Weisbart of Physicians for a National Health Program.

Do you have a personal story you’d like to share about our wack healthcare system? Contact us through our website at heal-ca.org.

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