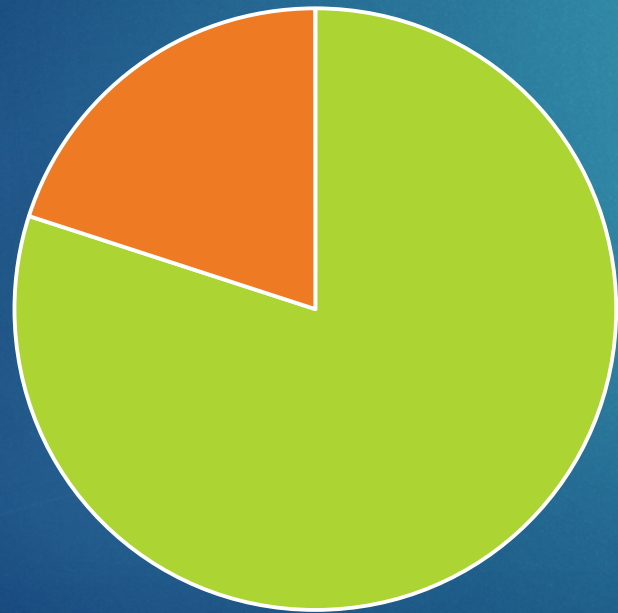


Prescription Drug Pricing

Why does this matter?

- ▶ Prescription drug prices are rising at alarming rates.
- ▶ Prescription drug expenditures make up nearly 20% of health care costs – and this percentage is growing

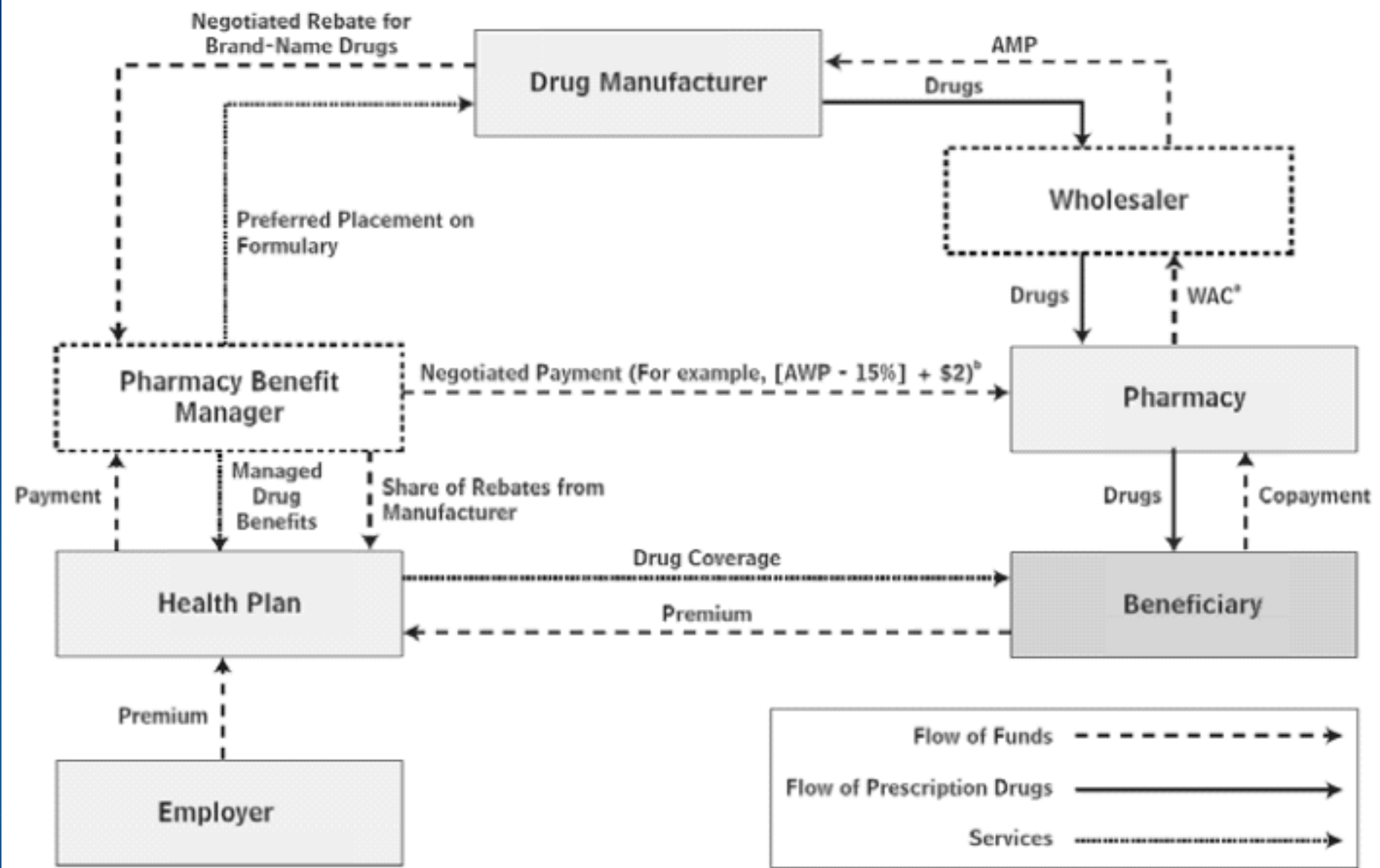


American spending on prescriptions increased by 13.1% in 2014, and 12.2% in 2015.

■ Total Health Care Costs ■ Drug Costs

Study Tasks– HJ 17

1. The overall price changes in prescription drug prices in the last 10 years, as well as the price changes in specific groups of drugs.
2. The factors related to the price changes.
3. The cost of prescription drugs to Montana state programs, including how the costs have changed in recent years.
4. The efforts made in other states and in Congress to control the costs of prescription drugs or to obtain more information about prescription drug pricing.



Follow the drugs

- Manufacturer
- Wholesaler
- Pharmacist
- Consumer



Follow the money

- ▶ Manufacturers – both generic and brand name
- ▶ Pharmacy Service Administration Organizations
- ▶ Wholesalers
- ▶ Pharmacists
- ▶ Pharmacy Benefit Managers
- ▶ Insurers
- ▶ Employers
- ▶ Prescribing Physicians
- ▶ Consumers
- ▶ Third-Party Administrators
- ▶ Pharmacies
- ▶ Mail Order Pharmacies
- ▶ Brokers



Revenue Comparison

- ▶ CVS Health -- \$177 billion
- ▶ Walgreens -- \$117 billion
- ▶ Express Scripts -- \$100 billion
- ▶ Boeing – \$94 billion
- ▶ Disney -- \$55 billion
- ▶ Microsoft -- \$85 billion
- ▶ Amazon -- \$135 billion



14 of the top 50 Forbes revenue leaders are involved in the pharmaceutical supply chain.

How do manufacturers impact the cost of prescription drugs?

- ▶ Research and development
- ▶ Consolidation and mergers
- ▶ International factors
- ▶ Manufacturer rebates
- ▶ Manufacturer coupons
- ▶ Advertising



Pharmacy Benefit Managers

- ▶ What is a PBM?
 - ▶ Third-party administrator of health plan prescription drug benefits.
 - ▶ Create preferred formularies.
 - ▶ Use leverage to negotiate rebates and discounts on drugs.
- ▶ Over two-thirds of the pharmacy benefit management industry is controlled by just three PBMs
 - ▶ Practices Questioned
 - ▶ Gag Clauses
 - ▶ Clawbacks
 - ▶ Spread Pricing
 - ▶ Rebates

MEDICAL WASTE: THE CLAWBACK

** PAID CLAIM INFORMATION **

Patient: (redacted)
ADDR: (redacted)

Drug: SPRINTEC 28 TAB 28 DAY Qty: 28
Cvg: DTP Phone: 877-889-6510

NDC: 00555-9016-58
Ref#: (redacted)

Rx# (redacted) Date: 12- -15 Trans. Date: 12- -15 Time: 09:16

	Transmitted	Received	Difference	
Cost	32.23	10.04	22.19	(68.85%)
Fee	17.36	1.00		
Tax		0.65		
Cost+Fee+Tax	49.59	11.65	0.00	Acq Cost
Copay		50.00-		
Amt. Paid		38.35-		

- Cost of the drug
- Pharmacist fee/tax
- Total cost to customer
- Customer's co-pay
- The clawback: overpayment to insurer/PBM

The customer's drug costs just \$11.65. But the required co-pay is \$50.00. Who gets the extra \$38.35? The pharmacy benefits manager, Optum/UnitedHealth in this case.

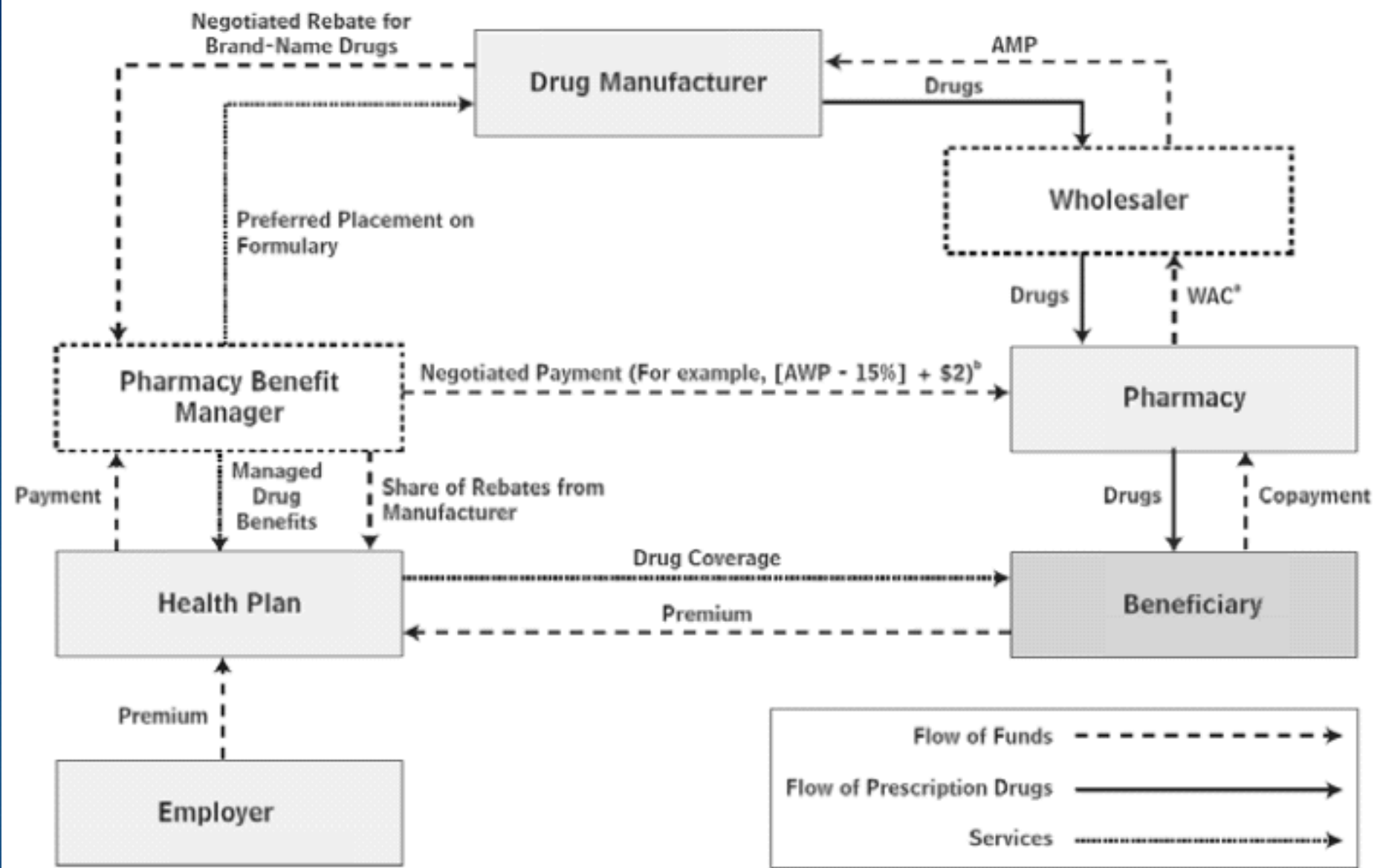
Spread Pricing

- ▶ PBM bill to insurer > PBM reimbursement to pharmacy
- ▶ PBM retains the difference (the “spread”)
 - ▶ Example: PBM bills insurer \$100 for Rx – PBM pays Pharmacy \$90
 - ▶ PBM retains \$10

What is a formulary?

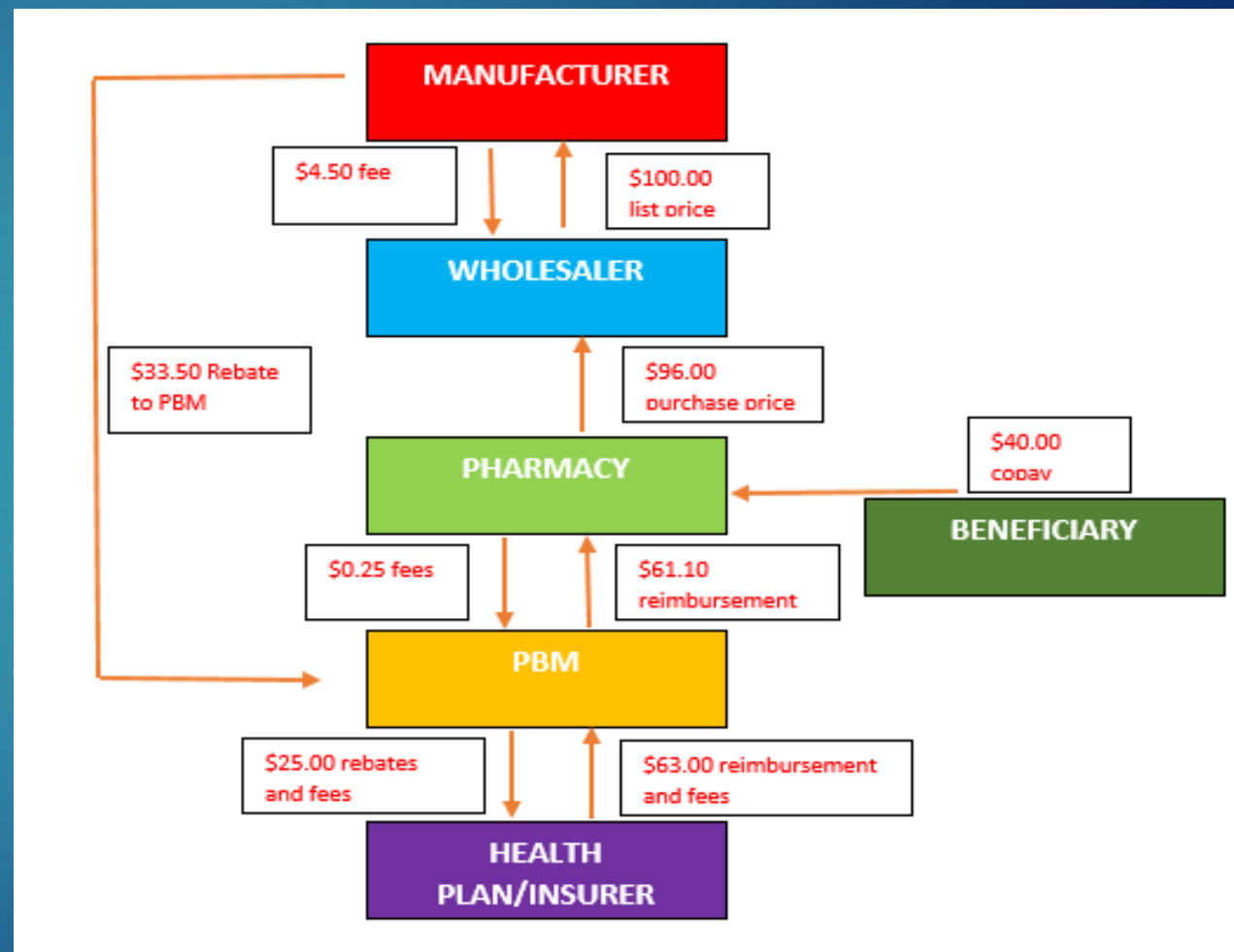
- A formulary is a list of covered drugs under a certain health plan
- PBMs create drug formularies on behalf of insurers for the benefit of beneficiaries
- PBMs also determine the “tiers” in which a certain drug is covered.
- Different tiers on a formulary are associated with different co-payment amounts due from a beneficiary
- In exchange for placing a drug on a formulary, PBMs negotiate for rebates from drug manufacturers
- PBMs also negotiate with pharmacies for inclusion in pharmacy networks
- Manufacturers have an incentive to negotiate with PBMs in order to have their drugs distributed at in-network pharmacies

Drug Name	Drug Tier	Prior Authorization	Step Therapy	Dispensing Limits	ACA	Limited Distribution
doxycycline hyclate cap 50 mg	2					
doxycycline hyclate cap 100 mg (Vibramycin)	2					
doxycycline hyclate tab 20 mg	2					
doxycycline hyclate tab 100 mg	2					
doxycycline monohydrate cap 50 mg	1					
doxycycline monohydrate cap 75 mg (Monodox)	2	•				
doxycycline monohydrate cap 100 mg (Monodox)	1					



Rebates

- Roughly one third of list price of drug is delivered to PBM in the form of a rebate
- Beneficiary pays slightly more for drug than the insurer (after rebate)
- Beneficiary spends \$40.00
- Insurer spends \$38.00
- Manufacturer retains \$62.00
- Wholesaler retains \$0.50
- Pharmacy retains \$4.85
- PBM retains \$10.65



The Big Picture



- ▶ Montana Medicaid
- ▶ Avg. initial cost: \$93.48
- ▶ Avg. Rebate: \$49.51
- ▶ Avg. Net: \$43.97



- ▶ Rhode Island Medicaid
- ▶ Avg. initial cost: \$43.79
- ▶ Avg. Rebate: \$19.57
- ▶ Avg. Net: \$24.22

Chasing Rebates

- ▶ Montana Medicaid does a great job chasing rebates.
 - ▶ Manufacturers offer the steepest rebates for the most expensive products
- ▶ This does nothing to help consumers.
- ▶ Montana Medicaid incentivizes the use of brand name drugs.
- ▶ Montana Medicaid ranks 39th in the nation for percentage of generic prescriptions.
 - ▶ Montana Medicaid's generic prescription percentage is 77.9%



Has the situation improved?



- ▶ Montana Medicaid 2014
- ▶ Avg. initial cost: 48th (\$93.48)
- ▶ Avg. Rebate: 4th (\$49.51)
- ▶ Avg. Net: 40th (\$43.97)



- ▶ Montana Medicaid 2016
- ▶ Avg. initial cost: 41st (\$94.48)
- ▶ Avg. Rebate: 13th (\$41.73)
- ▶ Avg. Net: 42nd (\$39.17)

Is there a better way?

- ▶ Montana Employee Group Benefit Plan
 - ▶ Transitioned to a transparent, pass-through PBM model
 - ▶ The plan pays the same amount for the drug as the PBM and an administration fee
 - ▶ Under the previous PBM, the plan paid an administration fee and a “spread”
 - ▶ The Plan has posted actual savings near \$6 million for 2017
 - ▶ Rebates are also transparent. The plan receives the full rebate.
 - ▶ Generic alternatives, when available, are encouraged.
 - ▶ The plan is not chasing rebates. The plan realizes an 88.3% generic usage rate

Auditor's actions

- ▶ The Montana State Auditor's office actions:
 1. Document requests to insurers and Pharmacy Benefit Managers (PBMs)
 2. Requests for contracts
 3. Requests for drug transaction records
 4. Subpoenas
 5. Evaluate actions and legislation in other states

Results?

- ▶ The Auditor's office has already been sued by CVS/Caremark, one of the largest PBMs in the nation, in an attempt to prevent transaction data from being disclosed.
- ▶ Without specific pharmaceutical transaction data, the Auditor's office will be unable to identify issues in the pharmaceutical supply chain or offer solutions to the unsustainable increase in pharmaceutical costs.



What is the federal government doing to combat rising drug prices?

- ▶ CMS manages part D prescription coverage
- ▶ FDA manages market approval and formulary design
- ▶ FTC approves mergers in the industry

- ▶ Patchwork federal legislation
 - ▶ Anti-kickback rules (49 USC 1320)
 - ▶ The False Claim Act
 - ▶ RICO



Lack of federal action

- ▶ Today, there is not a coordinated scheme or mechanism of federal law to regulate the pharmaceutical industry
- ▶ The existing federal laws were not designed to regulate the pharmaceutical industry
- ▶ Because existing laws do not enable federal action, the federal government has done little to combat rising drug prices
- ▶ Where the federal government does not act, states are free to act

What are States doing?

- ▶ California: transparency legislation
- ▶ Maine: imposed fiduciary duty on PBMs
- ▶ District of Columbia: transparency and fiduciary duty
- ▶ Georgia: requires PBMs to be licensed pharmacies
- ▶ Rhode Island: PBMs are required to file annual financial reports and disclosures
- ▶ Kansas: PBMs required to register with CSI
- ▶ Maryland: PBMs examined triennially
- ▶ Louisiana: regulates PBMs as TPAs
- ▶ Mississippi: requires PBMs to file financial statements
- ▶ North Dakota: regulates PBMs as administrators
- ▶ South Dakota: regulates PBMs as administrators and requires disclosure of rebates

What can Montana do?

- ▶ State Legislation

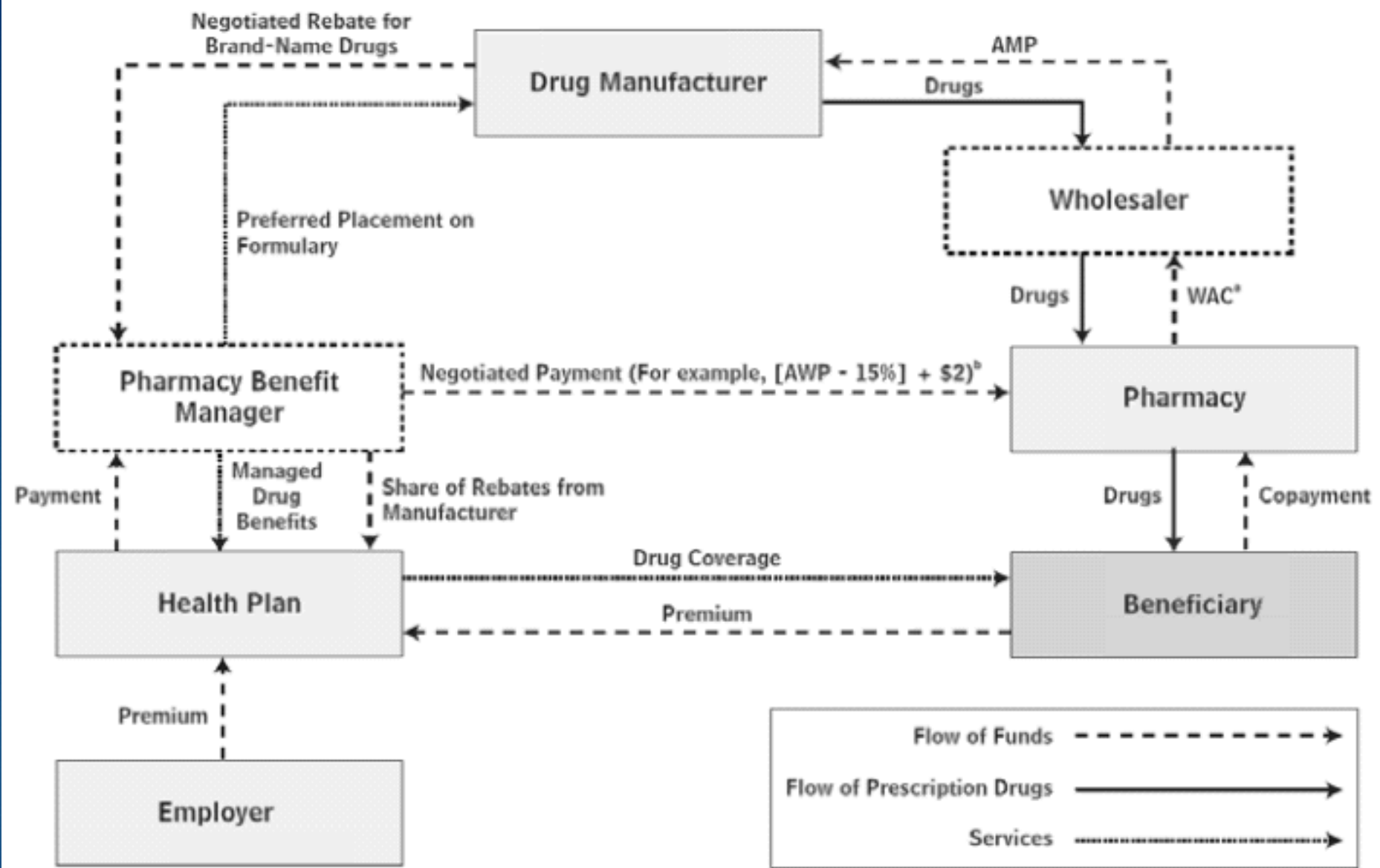
- ▶ Take aim at promoting transparency, requiring a fiduciary duty, requiring disclosure of contractual agreements and transaction data

- ▶ State regulation

- ▶ Provide regulation and oversight of PBMs and Insurers by the Auditor's office
- ▶ Provide regulation and oversight of manufacturers and wholesalers by the DOJ

- Allow the Auditor's office to do the "heavy lifting" and report back to this committee the results of our work
- Expect to have some proposals for specific state legislation by September
- We will report on the lawsuit and document collection efforts, as well as our analysis of contracts and transaction data
- We also expect to have more information on the role of pharmacies, pharmacists, wholesalers, and insurers within the pharmaceutical supply chain





Questions?

