



May 22, 2026

House Education and the Workforce Committee Advances PBM Kickback Prohibition Act

Overview

On May 21, 2026, the House Committee on Education and the Workforce held a [markup](#) of several bills, including the PBM Kickback Prohibition Act ([H.R. 7895](#)). The bill would amend Section 408 of the Employee Retirement Income Security Act (ERISA) to prohibit pharmacy benefit managers (PBMs) from providing direct or indirect compensation to insurance brokers or consultants who serve group health plans with which the PBM contracts for pharmacy benefit management services. Rep. Rick Allen (R-GA), Chairman of the Education and the Workforce Subcommittee on Health, Education, Labor, and Pensions, sponsors H.R. 7895. Rep. Allen highlighted that the bill aligns with President Trump's [Great Healthcare Plan](#), which calls for ending kickbacks from PBMs to brokerages.

ERISA broadly prohibits plan fiduciaries from entering into transactions that may create conflicts of interest, including with covered service providers. [Section 408\(b\)\(2\)\(B\)](#) requires that covered service providers disclose information related to compensation and arrangements with affiliates and subcontractors to plan fiduciaries. While the statute requires disclosure of compensation related to brokerage services, the bill's sponsor highlighted the need for additional transparency into arrangements between PBMs and brokers or consultants.

The committee unanimously reported H.R. 7895 favorably after adopting an [amendment in the nature of a substitute](#) offered by Rep. Allen. The amendment specifies what types of arrangements between PBMs and brokers, consultants, advisors, or related entities are prohibited. PBMs may not provide compensation to such entities in exchange for 1) referring or recommending the PBM to a covered plan or the health insurance issuer offering health insurance for the covered plan, or 2) providing access to or influencing contracting processes, such as a request for proposal or a market check. Any compensation paid by a PBM to such entities shall be presumed to be a violation unless the parties provide evidence that the compensation is not tied to a prohibited activity and reflects fair market value for bona fide services actually rendered. The amended bill also addresses concerns raised by lawmakers that PBMs would skirt the kickback prohibition by mischaracterizing their arrangements with insurance brokers or consultants.

The committee rejected another amendment offered by Rep. Mark DeSaulnier (D-CA) that would have broadened the prohibition to include health insurance issuers and other covered service providers for group health plans.

Committee Leadership

- Full Committee Chair – Tim Walberg (R-MI)
- Full Committee Ranking Member – Bobby Scott (D-VA)

Markup Highlights

Amendment in the Nature of a Substitute ([AINS](#)): Adopted by voice vote and considered original text for the purpose of further amendments.

Rep. Allen – PBMs are third-party intermediaries with enormous power over the prescription drug supply chain, but their system of fees and rebates is complex and opaque, and it drives up costs for patients and employers while lining PBMs' pockets. Employers often hire consultants or brokers to help design their health plans, but they are often incentivized to steer employers to a specific PBM in exchange for a kickback. Employers deserve to know they are receiving unbiased guidance, so this bill prohibits kickbacks from PBMs to brokers in exchange for steering health plans. This is a key element of President Trump's Great Healthcare Plan. The AINS strengthens the bill and ensures PBMs cannot evade the legislation by calling a kickback by a different name.

Ranking Member Scott (D-VA) – The AINS makes extensive changes, which I assume is in response to prior warnings from Democrats about loopholes that would allow entities to mischaracterize referral fees to evade compliance. I support these changes. Confirmed by investigation, PBMs commonly pay referral fees to brokers and consultants to influence recommendations as employers design their healthcare plans, and this raises costs for plan sponsors. The bill, however, remains an incomplete product because similar practices are common throughout the entire healthcare system; this bill could be strengthened by applying the requirements to all covered service providers.

Covered Service Providers ([Link](#)): Rejected 15-19

Rep. Mark DeSaulnier (D-CA) – I generally support the AINS for addressing a well-documented problem, but I worry the legislation is too narrow because it only focuses on PBMs, omitting a vast range of other middlemen who might engage in similar practices. The bill does not address insurance companies or third-party administrators (TPAs) who might attempt to influence brokers or consultants with similar payments; we have known about this issue for several years, including through ProPublica's 2019 report detailing payments to brokers and consultants from insurance companies, such as luxury vacations, large cash payments, and other compensation. Choosing which insurance company to contract with has substantial impacts on employers. Congress sought to address this issue in 2021 through transparency requirements in the Consolidated Appropriations Act, but it did not prohibit the payments. My amendment eliminates language in the underlying text that limits the kickback prohibition to PBMs; this would apply it to all covered service providers under ERISA, including insurers, TPAs, and more.

Rep. Allen – PBMs hold immense power and operate through a convoluted system of rebates, fees, and pricing mechanisms that drive up costs. Some PBMs pay brokers and consultants to steer

employers toward decisions that make more money for the PBMs while harming patients. This policy is a key pillar of Trump's plan for healthcare. While other entities might also be making steering payments, we must limit this bill's scope to PBMs to address their pharmaceutical monopoly and lower costs as part of the president's plan.