



## West Virginia Independent Pharmacy Association

Charleston Office: 2017 Quarrier Street, Charleston, WV 25311

Barboursville Office: 650 Main Street, Barboursville, WV 25504

Phone: (304) 654 - 4214

Fax: (681) 265 - 9024 or (304) 733 - 6486

Web: [www.WVIPA.com](http://www.WVIPA.com)

Email: [matt@walkerandstevens.com](mailto:matt@walkerandstevens.com)

December 10, 2018

Peter Mucchetti, Chief

Healthcare and Consumer Products Section, Antitrust Division

450 Fifth Street N.W.

Suite 4100

Washington, DC 20530

The Honorable Richard J. Leon, Senior Judge

U.S. District Court for the District of Columbia

333 Constitution Avenue N.W.

Washington, DC 20001

Dear Judge Leon and Mr. Mucchetti:

My name is Matthew Walker. I am the Executive Director of the West Virginia Independent Pharmacy Association ("WVIPA"), a non-profit organization representing independent pharmacies in the Mountain State. I am writing on behalf of the 45 WVIPA members operating 60 pharmacy sites in West Virginia, although there are approximately 200 independent pharmacies in West Virginia. I want to express the WVIPA's strong opposition to the CVS - Aetna merger. Thank you for carefully considering the merger and the potential negative impact it will have on West Virginia pharmacies and patients.

CVS, along with Express Scripts and OptumRx, control nearly 80% of all prescriptions filled in the U.S. All three are either owned, or poised to be owned, by extremely large health insurance companies, which seek to control and serve as gatekeepers between patients and pharmacies, medical providers, and other sectors of the health care system. These three pharmacy benefit managers

("PBMs") have become a threat to the existence of West Virginia's proud pharmacies – locally-owned businesses that hire hard-working West Virginians, pay taxes, and provide high-quality pharmacy services to their communities.

The WVIPA and its members realize you have received thousands of letters opposing this merger, each illustrating detailed accounts of the negative impact the merger will have on pharmacies across the U.S. and the health care system in general because of issues surrounding reimbursement, rebates, networks, etc. West Virginia is no different – this merger will have a tremendously negative impact.

One point the WVIPA would like to stress – in addition to its other functions as a PBM, CVS owns retail pharmacies that compete with the other pharmacies in the pharmacy networks it creates through its PBM business. It is a clear conflict of interest to allow the architect of a patient's pharmacy benefit plan to also provide plan prescriptions. CVS both fills plan prescriptions through its own massive retail chains, mail-order, and specialty pharmacies, and uses its proprietary platform as the plan designer to steer patients through financial incentives or misleading fear tactics into its stores or mail-order programs. There is no defense of this conflict, and it should not be allowed.

CVS has been the subject of several states' investigations into questionable pricing practices, especially with regard to Medicaid managed care. These below-cost reimbursements hit independent pharmacies hardest and drove many out of business. West Virginia Medicaid responded in 2017 by carving the pharmacy benefits out of its managed care system, effectively removing PBMs like CVS from the West Virginia Medicaid pharmacy space entirely. The WVIPA applauded this swift, decisive action, which likely saved many independent pharmacies from closing. We ask you to please take similar action regarding this potential merger.

Thank you for your time and careful consideration. The WVIPA and pharmacies across the nation urge you to rule against the merger and protect the relationships between patients and their community pharmacies.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Matthew Walker".

---

Matthew Walker, Executive Director  
West Virginia Independent Pharmacy Association