



HEALTH WATCH

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Dr. Rochelle Walensky, MD, MPH
Director
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30329

August 12th, 2022

Dear Dr. Walensky,

On behalf of the Board of Directors of *9/11 Health Watch, Inc.* I am writing regarding the abysmal performance of Express Scripts in fulfilling its contract obligations as the new Pharmacy Benefit Manager (PBM), for the World Trade Center Health Program (WTCHP).

9/11 Health Watch, Inc. was created by the stakeholder unions and others that fought diligently to get health care and compensation for those impacted by the toxins at Ground Zero. We are dedicated to ensuring that the contracts implemented under the James Zadroga 9/11 Health and Compensation Act — the September 11th Victim Compensation Fund and the World Trade Center Health Program — provide optimal care for injured and ill 9/11 Responders and Survivors as the law intended.

We hope you are aware of the extent of the problems that the WTCHP Members are having with Express Scripts. We know that the staff of the program are working to try to fix the problems, but given the sub-par performance of the company as compared to the prior provider, Optum, additional urgent action is needed by CDC to force Express Scripts to address the gross deficiencies in their delivery of services under the contract, and to hold the company accountable for its failure to provide reliable, timely fulfillment of pharmacy benefits to program members.

There are too many members, especially in the WTCHP National Program, who are not able to access their medications and for whom Express Scripts, even after 10 weeks as the PBM, is showing no real effort to resolve member problems in accessing their medications. Moreover, it appears that Express Scripts is not being held accountable.

We want to know: what actions the CDC is planning to take to hold Express Scripts accountable and to make them deliver on their contract obligations?

The following is an outline of problems that 911 Health Watch has become aware of that WTCHP members have experienced under Express Scripts short tenure. It is by no means an exhaustive list.

1. WTCHP members who have Medicaid and/or Medicare as their private insurance are being denied medications for their non-9/11 related conditions.

Currently, there are hundreds of members who were denied medications for their *non-9/11* conditions because of Express Scripts, yet Express Scripts reportedly refused for weeks to admit that they were the cause of the problem.

While the issue of WTCHP members being blocked from receiving their non-program related medications through Medicaid and Medicare appears to be on the way to being fixed -- 10 weeks into the new contract -- what are the consequences to Express Scripts for creating these problems in the first place?

2. Communication with the Program Clinics.

The prior PBM, Optum, designated a Point of Contact (POC) for each WTCHP Clinical Center of Excellence (CCE) to resolve individual pharmacy problems. Resolutions were reached in most cases using that POC who was responsible for navigating internally within the company and for communicating with the CCE.

Express Scripts has stated that a point of contact for the clinics would not be available for individual CCEs. Instead of a dedicated point of contact, the CCEs are given a directory listing of Express Scripts departments. The CCEs find themselves calling a person listed in the directory, only to be told to call another person and they continue to be shunted from person to person with no one Express Scripts representative taking responsibility.

The phone calls with Express Scripts are not productive. Clinic staff report having to explain problems to Express Scripts staff who do not seem to have been adequately trained about the WTCHP, do not understand the program and the medication needs of the members and why a member's medication requires approval at the pharmacy. Some clinic staff calls to Express Scripts have resulted in calls being transferred between departments and usually the conversation ends with the case having to be escalated to NIOSH.

Express Scripts appear to be only able to help with basic tasks such as re-processing medication after new Prior Authorizations have been approved, taking phone calls to clarify prescription questions, and verbal Prior Authorizations over the phone.

It is troubling that Express Scripts apparently doesn't reach out to retail pharmacies to notify the pharmacy about prescriptions needing to be re-processed, which is something the prior PBM would routinely do. This responsibility ends up falling on the CCE, the provider's office, or members themselves, which has caused frustration and delay in getting prescriptions filled.

Pharmacy issues are typically not resolved via phone calls to Express Scripts. Issues continually need to be escalated to NIOSH in order to get action on matters that used to be easily resolved by the previous PBM.

Given the success of having Optum POC's available to the clinics under the prior contract, it is not at all clear why this was not a contract requirement for the current contract.

3. Courtesy Fill/Emergency medications

Under Optum, courtesy fills were processed to ensure WTC patients had medications for a short period of time while any issues were being resolved.

Since the beginning of the contract, Express Scripts has said that it could not provide courtesy refills, creating a health risk for the WTCHP's responders and survivors, who are delayed in getting their medications, including inhalers, chemotherapy and mental health medications.

While it now appears, after ten weeks, and many complaints that Express Scripts reportedly will be providing courtesy refills there is no explanation as to why that was not provided during the beginning of this transition when it was most needed.

However, it appears that Express Scripts is NOT informing the pharmacy that an emergency 3-day refill was made; it is now up to the CCE or the member's provider to inform the pharmacy.

4. Automatic Refills

Also, it appears that there is no automatic refill option available under Express Scripts that was offered by the previous PBM. This change in process was not communicated openly with the CCEs. The CCEs became aware of the issue as members reached out to clinics worried about delay because their medications were not shipped. This auto-fill option was helpful especially for members who are struggling with multiple challenges. Clinics and members had to discover on their own that responder members need to call Accredo Specialty Pharmacy to confirm the address and initiate refill of medication every month.

The mail order pharmacy also requires a call from the member to initiate the filling of a prescription when a provider sends a new prescription to Express Scripts mail order pharmacy. This was not the case with the prior PBM.

5. Provider Block Queue

According to the CCEs, non-WTC prescriptions, which should be filtered out by the Express Scripts block queue, are moving past the filter and clogging the WTCHP processing system. Optum's system worked well to prevent this failure. Why are the number of Express Scripts provider blocks so voluminous?

6. Formulary

Express Scripts formulary or its processing system has reportedly generated rejections and fill limits different than Optum's formulary. This has contributed to unexpected rejections and demands for new Prior Authorizations even when a current Prior Authorization exists, denying patients from receiving their WTC medications.

There are an exceedingly greater number of medications that require Prior Authorization compared to the previous formulary with Optum. This is causing confusion among doctors' offices and members who were previously receiving the same medication without prior authorization being required.

Previously, the formulary listed clear directions regarding which certifications members needed in order for certain medications to be approved. However, with Express Scripts, directions are vague, simply stating that a medication needs Prior Authorization.

There are also new limits to the days' supply of medications that members can receive through Express Scripts WTCHP formulary. This impacts members who previously received a 90-day supply of specialty medication who are now only able to receive a 30-day supply.

CCEs were apparently not notified of these formulary changes in advance. Instead, clinics are finding out about these changes in real time as medications are getting rejected at the pharmacy or members are calling with frustrations.

Why is Express Scripts using a new formulary rule; why isn't it using the previous rules or at least explaining the new rules to the WTCHP members and providers?

7. Prescriptions and Prior Authorizations not transferred to Express Scripts.

It appears that Optum's information concerning home delivery prescriptions and pre-existing Prior Authorizations were NOT transferred to Express Scripts, causing major problems for program members and their ability to access their medications.

Why didn't Express Scripts obtain this critical information and why didn't Express Scripts act when it realized its system was inadequate?

8. Express Scripts telling members to use their own insurance.

Apparently, Express Scripts call center staff, have been incorrectly advising members who could not get their prescriptions to utilize their own insurance and pay the copays.

What will be done to see that members who were told this can seek reimbursement?

9. Coordination of Benefits.

It appears that the ability of Express Scripts to manage coordination of benefits (COB) was NOT tested before the contract's go live date. CVS and Walgreens appear unable to process prescriptions with the coordination of benefits required for all survivor members. COB is basic to any health care contract.

Why wasn't Express Scripts, as a contractor who bid on this PBM contract, required to show that they could in fact perform this basic function?

10. Express Scripts Call Centers.

It appears that the Express Scripts call center has been unable to handle the complexities and uniqueness of the Program, making the learning curve difficult for staff unfamiliar with the Program. Now, more than two months into the new contract, it appears that hundreds of Express Scripts staff that answer various phone lines are still not up to speed.

These are just ten of the issues that we have identified where Express Scripts does not seem to be able to provide the services that the prior PBM was able to provide.

When members have issues and call the Express Scripts call center, it does not appear that their problems are resolved during their phone calls as occurred under Optum.

- a. Does CDC contract staff administering the program have any data from Express Scripts showing that when someone calls them with a problem that the problems are being resolved?
- b. Does the CDC contracting office have any data on how many prescriptions have been filled this last month compared to last year for the same time period?
- c. Is there any performance data comparing the new PBM with the performance of the prior PBM?
- d. Does the CDC contract staff know what the resolution rate is for those in the National Provider Network (NPN) and how that compares to the resolution rate at the CCEs?

We have been informed that inadequate contract performance has been brought to the "highest level" at Express Scripts, the President of the company, and that "new additional resources" are being applied to resolve the problems.

That begs the question, why wasn't Express Scripts prepared to carry out the contract from the start? Why are resources only now, in the third month of the contract, being made available by Express Scripts to fulfill its contract obligations? What exactly are these new "additional resources"?

Will Express Scripts be seeking reimbursement or additional funds from the CDC for utilizing these “additional resources” that they should have had in place to begin with?

What is the quality assurance surveillance plan for the contract?

Are the metrics for a quality assurance plan available?

If so, can you provide them?

Why hasn't the CDC implemented a corrective action plan?

What if any are the consequences for Express Scripts for its multiple service delivery failures?

Have any ‘cure or show cause’ notices been issued?


If so, will the CDC make them available as well as any company responses to these notices?

While the lack of performance is the responsibility of Express Scripts, it also raises questions about the CDC's contracting office's award process, its contract administration, insufficient penalties built into the contract for failure to meet the contract terms, and the CDC's obligations to provide quality care to the World Trade Center Health Program's (WTCHP) members. We are extremely concerned about the CDC's contracting office's ability to hold the contractor, Express Scripts, accountable and the considerable impact of Express Scripts' inability to provide medications to thousands of injured and ill 9/11 responders and survivors.

We understand that program transitions to new contractors are difficult, but despite the best efforts at preparation by the Program, it is evident that Express Scripts was and remains woefully unprepared to perform the contract that they bid on and were awarded.

We look forward to your response.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Benjamin Chevat', with a stylized flourish at the end.

Benjamin Chevat
Executive Director