United States Senate

WASHINGTON, DC 20510

November 30, 2011

George Paz
Chairman and Chief Executive Officer
Express Scripts
One Express Way
St. Louis, Missouri, 63121

Dear Mr. Paz:

As Chairman of the Senate Committee on Finance, Ranking Member of the Senate Committee on the Judiciary, and Chairman of the Special Committee on Aging, we have a special responsibility to the more than 100 million Americans who receive health care under Medicare, Medicaid, and CHIP, including ensuring their access to affordable prescription drugs.

A November 11, 2011 *New York Times* article reported that Pfizer has entered into agreements with pharmaceutical benefit management companies (PBMs), including Medco Health Solutions (Medco) and Catalyst RX, aimed at undercutting the sale of a generic version of Lipitor (atorvastatin). Letters from PBMs to pharmacies show that the agreements will prevent customers enrolled in certain prescription drug plans from receiving generic atorvastatin.

While letters from PBMs to pharmacies indicate that a plan member's co-pay for Lipitor would be discounted and equal to the cost of a generic prescription, we are concerned that the PBMs may charge health plan sponsors, including employers and Medicare Part D, full price for brand name Lipitor from December 1, 2011 through May 31, 2012 and simply pocket the discount from Pfizer.

In addition, we are concerned that arrangements like this will hinder access to generic drugs today and in the future. Without the prospect of true competition, generic drug manufacturers will be hesitant to invest the time and resources required to bring low-cost generic drugs to the market. In the next four years, brand named drugs with approximately $100 billion in sales in the U.S. have patents that will expire. This heightens our concern that these types of arrangements will become a trend, ultimately compromising access to generic drugs and increasing overall health care costs.

Given concerns that these, and similar, agreements between pharmaceutical companies and PBMs, may increase health care costs for consumers and prevent generic competition, please provide the following information:

1. Provide a list of all agreements between Express Scripts and pharmaceutical companies in which pharmaceutical companies provide discounts in exchange for Express Scripts excluding a generic drug from plan coverage or favoring a brand-

name drug over a generic. For each agreement listed, provide the product names for the branded drug and generic drug, the average wholesale prices, the cost of a 30-day supply of the drugs, the discount amount from the manufacturer, the discount amount passed through to the plan member, the consumer co-payment amount, and number of plan members affected, including the number of Medicare plan members. In addition, please note any payments received from the manufacturer or any third party as part of an agreement, including but not limited to education grants, research, advertising, promotion, access fees, formulary management fees, and data collection fees.

2. Provide a copy of each agreement listed above with all attachments and addendums and related financial analyses or reports.

3. Provide all documents and communications pertaining to the agreements between Pfizer and Express Scripts to prevent the sale of generic atorvastatin during the exclusive marketing period

4. Provide all presentations to you and/or the Board of Directors describing agreements or contracts in which pharmaceutical companies provide discounts in exchange for Express Scripts excluding a generic drug from plan coverage.

In cooperating with the Committees' review, no documents, records, data, or other information related to these matters, either directly or indirectly, shall be destroyed, modified, removed, or otherwise made inaccessible to the Committees.

We look forward to hearing from you by no later than December 21, 2011. All documents responsive to this request should be produced electronically, on a disc, in searchable PDF format. If you have questions regarding this request, please contact Christopher Law with Chairman Baucus at (202) 224-4515, Erika Smith with Ranking Member Grassley at (202) 224-5225, or Sarah Levin with Chairman Kohl at (202) 224-5364.

Sincerely,

Chuck Grassley

Charles E. Grassley
Ranking Member
Senate Judiciary Committee

Herb Kohl

Herb Kohl
Chairman
Senate Aging Committee

Max Baucus

Max Baucus
Chairman
Senate Finance Committee