Table of Contents

Comments Submitted by the Public to the State Employee Benefits Committee

Barbara Philbin 2

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Dear Members of the State Employee Benefits Committee,

We are submitting this formal comment on behalf of the SEBC Observer Group regarding the Pharmacy Benefit Manager vendor selection scheduled for your October 27 meeting.

We are deeply concerned about the structure of this process. The Committee will meet in Executive Session at 10:10 AM, report only a recommendation, and schedule a vote from 11:48 to 11:50 AM — with a two-minute public comment window in between during which the public has no access to vendor proposals, evaluation scorecards, selection criteria, or pricing information. We are being asked to comment on a three-year contract in a complete information vacuum.

A three-year commitment affecting the pharmacy coverage of tens of thousands of state employees and retirees deserves far more than a two-minute public window with no access to the underlying information.

This is not a new concern. The SEBC's response to SJR 7 — the General Assembly's directive to reform how Delaware negotiates pharmaceutical prices — followed the same pattern. Rather than implementing the nine transparency and cost-containment points the legislature requested, the SEBC's 18-page response argued that its hands were tied, that pushing for transparency might cause drug companies to retaliate, and that the standard RFP process prevented meaningful reform. The result was a complete operational stalemate — ten corporate PBMs rejected the state's terms, and Delaware was left with only two choices: cancel the pharmacy plan or extend the old opaque contract for another year. Delaware taxpayers and retirees paid the price for that outcome. We cannot afford to repeat it.

We are also on notice that this PBM process appears to be a trial run for the upcoming Medicfill TPA RFP — a contract that will affect the healthcare coverage of tens of thousands of state retirees. The closed-loop process being piloted here, if left unchallenged, will become the template for that far more consequential decision.

Please be advised that the SEBC Observer Group will be exercising its full rights under the Freedom of Information Act following the formal award of this contract. We will be requesting the winning proposal with redactions, evaluation scorecards, price breakdowns, and agency grading summaries. The data obtained will be shared directly with our legislative partners to inform statutory policy development for the 2027 legislative session.

The General Assembly is watching this process. The legislation Senator Siegfried envisioned — turning committee study into binding legal mandate that PBMs cannot evade — will almost certainly be introduced in 2027. How this Committee conducts itself between now and then will be part of that record.

We respectfully urge the Committee to introduce a mechanism for genuine public review of vendor criteria before finalizing agreements of this magnitude — and to recognize that transparency is not an obstacle to good procurement. It is the foundation of it.