Express Scripts Holding Co.
Form 10-K
February 19, 2013
Table of Contents

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-K

x **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

FOR THE FISCAL YEAR ENDED DECEMBER 31, 2012, OR

¨ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

FOR THE TRANSITION PERIOD FROM _____ TO _____.

Commission File Number: 1-35490

EXPRESS SCRIPTS HOLDING COMPANY

(Exact name of registrant as specified in its charter)

Delaware	45-2884094
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
One Express Way, St. Louis, MO	63121
(Address of principal executive offices)	(Zip Code)

Registrant s telephone number, including area code: (314) 996-0900

Securities registered pursuant to Section 12(b) of the Act:

Title of Class	Name of each exchange on which registered
Common Stock $0.01 par value	Nasdaq Global Select Market

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes x No ¨

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ¨ No x

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No ¨

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation of S-K is not contained herein, and will not be contained, to the best of registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. x

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer x	Accelerated filer ¨
Non-accelerated filer ¨ (Do not check if a smaller reporting company)	Smaller reporting company ¨

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ¨ No x

The aggregate market value of Registrant s voting stock held by non-affiliates as of June 29, 2012, was $45,119,423,896 based on 808,157,333 such shares held on such date by non-affiliates and the last sale price for the Common Stock on such date of $55.83 as reported on the Nasdaq Global Select Market. Solely for purposes of this computation, the Registrant has assumed that all directors and executive officers of the Registrant are affiliates of the Registrant. The Registrant has no non-voting common equity.

Common stock outstanding as of January 31, 2013: 818,499,000 Shares

DOCUMENTS INCORPORATED BY REFERENCE

Part III incorporates by reference portions of the definitive proxy statement for the Registrant s 2013 Annual Meeting of Stockholders, which is expected to be filed with the Securities and Exchange Commission not later than 120 days after the registrant s fiscal year ended December 31, 2012.

Table of Contents

TABLE OF CONTENTS

Table of Contents

Information included in or incorporated by reference in this Annual Report on Form 10-K, other filings with the Securities and Exchange Commission (the SEC) and our press releases or other public statements, contain or may contain forward-looking statements. Please refer to a discussion of our forward-looking statements and associated risks in Part I Item 1 Business Forward-Looking Statements and Associated Risks and Part I Item 1A Risk Factors in this Annual Report on Form 10-K.

PART I

THE COMPANY

Item 1 Business

Industry Overview

Prescription drugs play a significant role in healthcare today and constitute the first line of treatment for many medical conditions. For millions of people, prescription drugs provide the hope of improved health and quality of life.

Total medical costs for employers continue to outpace the rate of overall inflation. National health expenditures as a percentage of Gross Domestic Product are expected to increase to 19.6% in 2021 from an estimated 17.9% in 2012 according to the Centers for Medicare & Medicaid Services (CMS). In response to cost pressures being exerted on health benefit providers such as managed care organizations, health insurers, employers and unions, pharmacy benefit management (PBM) companies work to develop innovative strategies designed to keep medications affordable.

PBM companies combine retail pharmacy claims processing, formulary management, utilization management and home delivery pharmacy services to create an integrated product offering to manage the prescription drug benefit for payors. Some PBMs also offer specialty services that deliver a more effective solution than many retail pharmacies in providing treatments for diseases that rely upon high-cost injectable, infused, oral or inhaled drugs. PBMs have also broadened their service offerings to include compliance programs, outcomes research, drug therapy management programs, sophisticated data analysis and other distribution services.

Company Overview

On July 20, 2011, Express Scripts, Inc. (ESI) entered into a definitive merger agreement (the Merger Agreement) with Medco Health Solutions, Inc. (Medco), which was amended by Amendment No. 1 thereto on November 7, 2011, providing for the combination of ESI and Medco under a new holding company named Aristotle Holding, Inc. The transactions contemplated by the Merger Agreement (the Merger) were consummated on April 2, 2012. Aristotle Holding, Inc. was renamed Express Scripts Holding Company (the Company or Express Scripts) concurrently with the consummation of the Merger. We, our or us refers to Express Scripts Holding Company and its subsidiaries for periods following the Merger and ESI and its subsidiaries for periods prior to the Merger, unless otherwise noted.

We are the largest PBM company, offering a full range of services to our clients, which include managed care organizations, health insurers, third-party administrators, employers, union-sponsored benefit plans, workers compensation plans and government health programs. We help health benefit providers address access and affordability concerns resulting from rising drug costs while helping to improve healthcare outcomes. We manage the cost of the drug benefit by performing the following functions:

- evaluating drugs for price, value and efficacy in order to assist clients in selecting a cost-effective formulary
- leveraging purchasing volume to deliver discounts to health benefit providers
- promoting the use of generics and low-cost brands

offering cost-effective home delivery pharmacy and specialty services which result in drug cost savings for plan sponsors and co-payment savings for members

We work with clients, manufacturers, pharmacists and physicians to increase efficiency in the drug distribution chain, to manage costs in the pharmacy benefit chain and to improve members health outcomes and satisfaction.

Suboptimal prescription-related decisions by patients, caregivers and providers continue to cause unhealthy clinical and financial outcomes. Healthier outcomes require better decisions. Express Scripts applies behavioral science, clinical specialization and insight from actionable data to address major healthcare challenges, an approach made possible from our proven legacy strengths as well as a new capability made possible since the Merger. Our legacy Express Scripts organization was known for Consumerology®, or the advanced application of the behavioral sciences to healthcare. Our

Table of Contents

legacy Medco organization was known for Therapeutic Resource Centers℠ (TRCs), or, more broadly, the strategic use of clinical specialization. Now, as a result of the Company s expanded member population and enhanced systems, Express Scripts offers a third capability: actionable data. The Company combines these three complementary capabilities behavioral sciences, clinical specialization and actionable data to create an innovative, proprietary approach to better decisions and healthier outcomes called Health Decision Science℠. Embedded throughout the Company s offerings, Health Decision Science is a blend of our most advanced capabilities to optimize current products and develop the next generation of solutions for patients and plan sponsors. Using Health Decision Science, Express Scripts has built practical solutions for three decision areas: drug choices, pharmacy choices and health choices.

Plan sponsors who are more aggressive in taking advantage of our effective tools to manage drug spend have seen reductions in their prescription drug trend while preserving healthcare outcomes. Greater use of generic drugs and lower-cost brand drugs has resulted in significant reductions in spending for commercially insured consumers and their employers.

We have organized our operations into two business segments based on products and services offered: PBM and Other Business Operations.

Our PBM segment primarily consists of the following services:

- domestic and Canadian retail network pharmacy management
- home delivery pharmacy services
- benefit design consultation
- drug utilization review
- drug formulary management, compliance and therapy management programs
- a flexible array of Medicare Part D and Medicaid products to support clients benefits
- specialty pharmacy, including the distribution of fertility pharmaceuticals requiring special handling or packaging
- bio-pharma services including reimbursement and customized logistics solutions
- administration of a group purchasing organization
- consumer health and drug information
- improved health outcomes through personalized medicine and application of pharmacogenomics

The Other Business Operations segment primarily consists of the following services:

distribution of pharmaceuticals and medical supplies to providers and clinics

scientific evidence to guide the safe, effective and affordable use of medicines

Our revenues are generated primarily from the delivery of prescription drugs through our contracted network of retail pharmacies, home delivery and specialty pharmacy services and Other Business Operations services. Revenues from the delivery of prescription drugs to our members represented 99.0% of revenues in 2012, 99.4% in 2011, and 99.4% in 2010. Revenues from services, such as the fees associated with the administration of retail pharmacy networks contracted by certain clients, medication counseling services, and certain specialty distribution services, comprised the remainder of our revenues.

Prescription drugs are dispensed to members of the health plans we serve primarily through networks of retail pharmacies that are under non-exclusive contracts with us and through home delivery fulfillment pharmacies, specialty drug pharmacies and fertility pharmacies we operated as of December 31, 2012. More than 67,000 retail pharmacies, which represent over 95% of all United States retail pharmacies, participated in one or more of our networks at December 31, 2012. The top ten retail pharmacy chains represent approximately 60% of the total number of stores in our largest network.

Express Scripts, Inc. was incorporated in Missouri in September 1986, and was reincorporated in Delaware in March 1992. Aristotle Holding, Inc. was incorporated in Delaware on July 15, 2011. Aristotle Holding, Inc. was renamed Express Scripts Holding Company concurrently with the consummation of the Merger.

Our principal executive offices are located at One Express Way, Saint Louis, Missouri, 63121. Our telephone number is 314.996.0900 and our web site is www.express-scripts.com. Information included on our web site is not part of this annual report.

Table of Contents

Products and Services

Pharmacy Benefit Management Services

Overview. Our PBM services involve the management of outpatient prescription drug utilization to foster high quality, cost-effective pharmaceutical care. We consult with our clients to assist them in selecting plan design features that balance clients requirements for cost control with member choice and convenience. Our direct relationship with patients also enables us to leverage the principles of Health Decision Science, our proprietary approach that combines the behavioral sciences, clinical specialization and actionable data to help patients make better decisions about their health and the cost of their care. As a result of these interactions, we believe we are able to deliver healthier outcomes, higher member satisfaction and a more affordable prescription drug benefit. During 2012, 97.6% of our revenue was derived by our PBM operations, compared to 97.2% and 97.4% during 2011 and 2010, respectively.

Retail Network Pharmacy Administration. We contract with retail pharmacies to provide prescription drugs to members of the pharmacy benefit plans we manage. In the United States, Puerto Rico and the Virgin Islands, we negotiate with pharmacies to discount the price at which they will provide drugs to members and manage national and regional networks that are responsive to client preferences related to cost containment, convenience of access for members and network performance. We also manage networks of pharmacies that are customized for or under direct contract with specific clients. In addition, we have contracted Medicare Part D provider networks to comply with CMS access requirements for the Medicare Part D Prescription Drug Program.

All retail pharmacies in our pharmacy networks communicate with us online and in real time to process prescription drug claims. When a member of a plan presents his or her identification card at a network pharmacy, the network pharmacist sends certain specified member, prescriber, and prescription information in an industry-standard format through our systems, which process the claim and send a response back to the pharmacy. The electronic processing of the claim includes, among other things, the following:

- confirming the member s eligibility for benefits under the applicable health benefit plan and any conditions or limitations on coverage
- performing a concurrent drug utilization review and alerting the pharmacist to possible drug interactions and reactions or other indications of inappropriate prescription drug usage
- updating the member s prescription drug claim record
- if the claim is accepted, confirming to the pharmacy that it will receive payment for the drug dispensed according to its provider agreement with us
- informing the pharmacy of the co-payment amount to be collected from the member based upon the client s plan design and the remaining payable amount due to the pharmacy

Home Delivery Services. As of December 31, 2012, we dispensed prescription drugs from our five high-volume automated dispensing home delivery pharmacies and one non-automated dispensing home delivery pharmacy. In addition to the order processing that occurs at these home delivery pharmacies, we also operate several non-dispensing order processing facilities and patient contact centers. We also maintain one non-dispensing home delivery fulfillment pharmacy for business continuity purposes. Our pharmacies provide patients with convenient access to maintenance medications and enable us to manage our clients drug costs through operating efficiencies and economies of scale as well as provide greater safety and accuracy. Through our home delivery pharmacies, we are directly involved with the prescriber and patient and, as a result, research shows we are generally able to achieve a higher level of generic substitutions, therapeutic interventions and better adherence than can be achieved through the retail pharmacy networks.

Benefit Design Consultation. We offer consultation and financial modeling to assist our clients in selecting benefit plan designs that meet their needs for member satisfaction and cost control. The most common benefit design options we offer to our clients are:

financial incentives and reimbursement limitations on the drugs covered by the plan, including drug formularies, tiered co-payments, deductibles or annual benefit maximums

generic drug utilization incentives

incentives or requirements to use only certain network pharmacies or to order certain maintenance drugs (e.g., therapies for diabetes, high blood pressure, etc.) only through our home delivery pharmacies

reimbursement limitations on the amount of a drug that can be obtained in a specific period

utilization management programs such as step therapy and prior authorization, which focus the use of medications according to clinically developed algorithms

Table of Contents

The client s choice of benefit design is entered into our electronic claims processing system, which applies the plan design parameters as claims are submitted and provides visibility to the financial performance of the plan.

Drug Utilization Review. Our electronic claims processing system enables us to implement sophisticated intervention programs to assist in managing prescription drug utilization. The system can alert the pharmacist to generic substitution and therapeutic intervention opportunities, as well as formulary compliance issues, and can also administer prior authorization and step therapy protocol programs at the time a claim is submitted for processing. Our claims processing system also creates a database of drug utilization information that can be accessed at the time the prescription is dispensed, on a retrospective basis to analyze utilization trends and prescribing patterns for more intensive management of the drug benefit, and on a prospective basis to help support pharmacists in drug therapy management decisions.

Drug Formulary Management, Compliance and Therapy Management Programs. Formularies are lists of drugs to which benefit design is applied under the applicable plan. We have many years of formulary development expertise and maintain an extensive clinical pharmacy department.

Our foremost consideration in the formulary development process is the clinical appropriateness of the particular drugs. In developing formularies, we first perform a rigorous assessment of the available evidence regarding each drug s safety and clinical effectiveness. No new drug is added to the formulary until it meets standards of quality established by our National Pharmacy & Therapeutics (P&T) Committee, a panel composed of 16 independent physicians and pharmacists in active clinical practice, representing a variety of specialties and practice settings, typically with major academic affiliations. We fully comply with the P&T Committee s clinical recommendations. In making its clinical recommendation, the P&T Committee has no information regarding the discount or rebate arrangement we might negotiate with the manufacturer. This is designed to ensure the clinical recommendation is not affected by our financial arrangements. After the clinical recommendation is made, the drugs are evaluated on an economic basis to determine optimal cost effectiveness.

We administer a number of different formularies for our clients. A majority of our clients select formularies that are designed to be used with various financial or other incentives, such as three-tier co-payments, which drive the selection of formulary drugs over their non-formulary alternatives. Some clients select closed formularies, in which benefits are available only for drugs listed on the formulary. Use of formulary drugs can be encouraged in the following ways:

- through plan design features, such as tiered co-payments, which require the member to pay a higher amount for a non-formulary drug
- by applying the principles of Consumerology®, our proprietary approach that combines principles of behavioral economics and consumer psychology with marketing strategies, to effect positive behavior change
- by using our clinical specialization to educate members and physicians with respect to benefit design implications
- by promoting the use of lower-cost generic alternatives
- by implementing utilization management programs such as step therapy and prior authorization, which focus the use of medications according to clinically developed algorithms

We also provide formulary compliance services to our clients. For example, if a doctor has prescribed a drug that is not on a client s formulary, we notify the pharmacist through our claims processing system. The pharmacist may then contact the doctor to attempt to obtain the doctor s consent to change the prescription to the appropriate formulary product. The doctor has the final decision-making authority in prescribing the medication.

We also offer innovative clinically-based intervention programs to assist and manage patient quality of life, client drug trend and physician communication/education. These programs encompass comprehensive point of service and retrospective drug utilization review, physician profiling, academic detailing, prior authorization, disease care management and clinical guideline dissemination to physicians.

Medicare Part D and Medicaid Products. We support clients by providing several program options: the Retiree Drug Subsidy program, which is offered by CMS to reimburse municipalities, unions and private employers for a portion of their eligible expenses for retiree prescription drug benefits; the Employer Group Waiver Plan, a group-enrolled Medicare Part D option for employers and labor groups; as well as serving as the PBM inside for a number of Medicare Part D sponsors that offer drug-only and integrated medical and Medicare Part D drug benefits. As a PBM supporting health plans, we provide prescription adjudication services in addition to a suite of required programmatic offerings such as a Medication Therapy Management program, Explanation of Benefits for members using prescription services and a variety of member communications related to their prescription benefit. We also offer an individual prescription drug plan which is offered to beneficiaries in all 34 Medicare regions across the U.S., as well as Puerto Rico.

Table of Contents

Our product revenues include premiums associated with our Medicare prescription drug program (PDP) risk-based products offerings. These products involve prescription dispensing for beneficiaries enrolled in the CMS-sponsored Medicare Part D prescription drug benefit. Three of our insurance company subsidiaries have been operating under contracts with CMS since 2006 and currently offer several Medicare PDP options. The products involve underwriting the benefit, charging enrollees applicable premiums, providing covered prescription drugs and administering the benefit as filed with CMS. We provide two Medicare drug benefit plan options for beneficiaries, including a standard Part D benefit plan as mandated by statute, and a benefit plan with enhanced coverage that exceeds the standard Part D benefit plan, available for an additional premium. We also offer numerous customized benefit plan designs to employer group retiree plans under the Medicare Part D prescription drug benefit.

Our member website also supports pre-enrollment and post-enrollment activities on behalf of our Medicare PDP and programs serving multiple clients. Prospective Medicare PDP participants and their caregivers can use the pre-enrollment site s Plan Compare tool to accurately project costs for all of their medications. The post-enrollment site allows members who have signed up to receive a Medicare Part D benefit from either Express Scripts or one of our clients to securely manage all aspects of their prescription program.

We support health plans that serve Medicaid populations by offering a pharmacy drug benefit. This business is driven by state requirements and we earn revenues based on transaction-related activity. Common services include transitioning members access to drugs as plan offerings change, generation of data to the state through encounter files and coordination of benefits between states and other payors. Medicaid populations are expected to grow in states that choose to expand Medicaid eligibility.

Specialty Benefit Services. Accredo Health Group and CuraScript Specialty Pharmacy provide an enhanced level of care and therapy management services to patients taking specialty medicines to treat complex or chronic conditions. CuraScript Specialty Pharmacy operates three specialty pharmacies with several other facilities throughout the United States. Accredo Health Group dispenses and ships from three specialty pharmacies and maintains branch and infusion pharmacies across the United States. Both CuraScript Specialty Pharmacy and Accredo Health Group pharmacies focus on dispensing infused, injectable, inhaled and oral drugs that require a higher level of clinical services and support compared to what typically is available from traditional pharmacies.

In some therapies, CuraScript Specialty Pharmacy and Accredo Health Group provide patient care and direct specialty home delivery services to our patients, including in-home nursing. In addition to offering a broad range of healthcare products, we offer services for individuals with chronic health conditions and provide comprehensive patient management services. These include services for physicians, health plan sponsors and pharmaceutical manufacturers to support the delivery of care, as well as fertility services to providers and patients.

Through the focus of these businesses on specialty drugs to treat specific chronic diseases, significant expertise has been developed in managing reimbursement issues related to the patient s condition and treatment program. Due to the long duration and high cost of therapy generally required to treat these chronic disorders, the availability of adequate health insurance is a constant concern for this patient population. Generally, the payor, such as an insurance provider under a medical benefit, is contacted prior to each shipment to determine the patient s health plan coverage and the portion of costs that the payor will reimburse. Reimbursement specialists review matters such as pre-authorization or other prior approval requirements, lifetime limits, pre-existing condition clauses and the availability of special state programs. By identifying coverage limitations as part of an initial consultation, we can assist the patient in planning for alternate coverage, if necessary. In addition, we accept assignment of benefits from numerous payors, which substantially eliminates the claims submission process for most patients. Historically, specialty drugs were primarily reimbursed by the patient s health insurance plan through a medical benefit. This has evolved where, based on the type of drug dispensed, an increasing percentage of transactions are reimbursed through a prescription card benefit, which typically accelerates reimbursement.

Bio-Pharma Services. Each year, more specialty drugs become available and the number of patients using these drugs rises. For new biopharmaceuticals being launched, we can provide biotech manufacturers product distribution management services. Our trend management programs allow us to assist our clients in an effort to drive out wasteful spend in the specialty pharmacy benefit. We design strategies tailored to each product s needs with a focus on identifying opportunities to educate the marketplace regarding drug effectiveness, proper utilization and payor acceptance.

Administration of a Group Purchasing Organization. We operate a group purchasing organization (GPO) that provides various administrative services to participants in the GPO. Services provided include coordination, negotiation and management of contracts for group participants to purchase generic pharmaceuticals and related goods and services from pharmaceutical manufacturers and suppliers, as well as providing strategic analysis and advice regarding pharmacy procurement contracts for the purchase and sale of goods and services.

Table of Contents

Consumer Health and Drug Information. We maintain a public website, www.DrugDigest.org, dedicated to helping consumers make informed decisions about using medications. Much of the information on DrugDigest.org is written by pharmacists primarily doctors of pharmacy who are also affiliated with academic institutions. The information on DrugDigest.org includes:

- a drug interaction checker
- a drug side effect comparison tool
- tools to check for less expensive generic and alternative drugs
- audible drug name pronunciations
- comparisons of different drugs used to treat the same health condition
- information on health conditions and treatments
- instructional videos showing administration of specific drug dosage forms
- monographs on drugs and dietary supplements
- photographs of pills and capsules

Many features of DrugDigest.org are also available in the limited-access member website at www.express-scripts.com. The member website gives our clients members access to personalized current and, in many cases, previous drug histories. Members can use the interactive tools from DrugDigest.org to check for drug interactions and find possible side effects for all of the drugs they take.

To facilitate communications between members and physicians, health condition information from DrugDigest.org has been compiled into For Your Doctor Visit, which is available on the member website. Members follow a step-by-step process to create a brief, customized packet of information they can share with their doctor. Discussing the completed checklists gives both the member and the physician a better understanding of the member s true health status. Information on DrugDigest.org and www.express-scripts.com does not constitute part of this document.

Personalized Medicine and Pharmacogenomics. We apply the behavioral sciences to prescription drug usage, quantifying both behavioral factors and market forces related to pharmaceutical spend. We view personalized medicine and pharmacogenomics as more than using a few genomic tests to predict the effectiveness of medications. Instead, personalized medicine requires an advanced understanding and application of medical, pharmacy, and behavioral data. A patient s age, lifestyle, overall health, and genes can all influence how the patient responds to medications. We utilize our capabilities in behavioral science principles and pharmacogenomics to offer our clients a comprehensive suite of programs.

Other Business Operations Services

Overview. Through our Other Business Operations segment, we operate integrated brands that service the patient through multiple paths. CuraScript Specialty Distribution provides specialty distribution of pharmaceuticals and medical supplies direct to providers and clinics and operates a Group Purchasing Organization for many of our clients. United BioSource Corporation (UBC) develops scientific evidence to guide

the safe, effective and affordable use of medicines. During 2012, 2.4% of our revenue was derived from Other Business Operations services, compared to 2.8% and 2.6% during 2011 and 2010, respectively.

Provider Services. CuraScript Specialty Distribution is a specialty distributor of pharmaceuticals and medical supplies direct to healthcare providers for office or clinic administration. Through our CuraScript Specialty Distribution business unit we provide distribution services primarily to office and clinic-based physicians treating chronic disease patients who regularly order high dollar-value pharmaceuticals. We are able to provide competitive pricing on pharmaceuticals and medical supplies. Headquartered in Lake Mary, Florida, CuraScript Specialty Distribution operates three distribution centers to ship most products overnight within the United States as well as provide distribution capabilities to Puerto Rico and Guam. CuraScript Specialty Distribution is also a contracted supplier with most major group purchasing organizations and can leverage our distribution platform to operate as a third-party logistics provider for pharmaceuticals.

Payor Services. We provide a comprehensive case management approach to manage care by fully integrating pre-certification, case management and discharge planning services for patients. We assist with eligibility review, prior authorization coordination, re-pricing, utilization management, monitoring and reporting.

Table of Contents

Segment Information

We report segments on the basis of services offered and have determined we have two reportable segments: PBM and Other Business Operations. Our integrated PBM services include domestic and Canadian network claims processing, home delivery pharmacy services, benefit design consultation, drug utilization review, drug formulary management, compliance and therapy management programs, Medicare Part D and Medicaid products, distribution of injectable drugs to patient homes and physician offices, fertility services to providers and patients, bio-pharma services, administration of a group purchasing organization, consumer health and drug information, improved health outcomes through personalized medicine and application of pharmacogenomics. Through our Other Business Operations segment, we provide services including distribution of pharmaceuticals and medical supplies to providers and clinics and scientific evidence to guide the safe, effective and affordable use of medicines. During the second quarter of 2012 we reorganized our other international retail network pharmacy management line of business (which has been substantially shut down as of December 31, 2012) from our PBM segment into our Other Business Operations segment. During the third quarter of 2011 we reorganized our FreedomFP line of business from our Other Business Operations segment into our PBM segment. All related segment disclosures have been reclassified, where appropriate, to reflect the new segment structure. Information regarding our segments appears in Note 13 Segment information of the notes to our consolidated financial statements and is incorporated by reference herein.

Suppliers

We maintain an inventory of brand name and generic pharmaceuticals in our home delivery pharmacies and biopharmaceutical products in our specialty pharmacies and distribution centers to meet the needs of our patients, including pharmaceuticals for the treatment of rare or chronic diseases. If a drug is not in our inventory, we can generally obtain it from a supplier within one business day. We purchase pharmaceuticals either directly from manufacturers or through authorized wholesalers. Generic pharmaceuticals are generally purchased directly from manufacturers.

Clients

We are a provider of PBM services to several market segments. Our clients include managed care organizations, health insurers, third-party administrators, employers, union-sponsored benefit plans, workers compensation plans and government health programs. We also provide specialty services to customers, which include managed care organizations, health insurers, third-party administrators, employers, union-sponsored benefit plans, government health programs, office-based oncologists, renal dialysis clinics, ambulatory surgery centers, primary care physicians, retina specialists, and others.

On July 21, 2011 Medco announced that its pharmacy benefit services agreement with UnitedHealth Group would not be renewed, although it continued to provide service under an agreement which expired on December 31, 2012. Beginning January 1, 2013, a transition agreement is in place during which time patients will move in tranches off of the Medco platform.

In November 2009, ESI implemented a contract with the United States Department of Defense (DoD) to provide pharmacy network services and home delivery and specialty pharmacy services. The DoD s TRICARE Pharmacy Program is the military healthcare program serving active-duty service members, National Guard and Reserve members, and retirees, as well as their dependents. Under the contract, we provide online claims adjudication, home delivery services, specialty pharmacy clinical services, claims processing and contact center support, and other services critical to managing pharmacy trend.

In December 2009, ESI completed the purchase of 100% of the shares and equity interests of certain subsidiaries of WellPoint, Inc. (WellPoint) that provide pharmacy benefit management services (NextRx or the NextRx PBM Business). ESI also entered into a 10-year contract under which ESI provides pharmacy benefits management services to members of the affiliated health plans of WellPoint (the PBM agreement). Subsequent to this acquisition, we integrated NextRx s PBM clients into our existing systems and operations.

Refer to Note 13 Segment information for a discussion of client concentration.

Medicare Prescription Drug Coverage

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (the MMA) created the federal Voluntary Prescription Drug Benefit Program under Part D of the Social Security Act. Eligible Medicare beneficiaries are able to obtain prescription drug coverage under Part D by enrolling in a prescription drug plan (PDP) or a Medicare Advantage plan that offers prescription drug coverage (an MA-PDP). In addition, the MMA created an opportunity for employers offering eligible prescription

8

Table of Contents

drug coverage for their Medicare-eligible members to receive a subsidy payment by enrolling in the Retiree Drug Subsidy (RDS) program. In order to claim the subsidy, the beneficiaries claimed by the employer cannot be enrolled in a PDP or MA-PDP.

Mergers and Acquisitions

On July 20, 2011, ESI entered into the Merger Agreement with Medco, which was amended by Amendment No. 1 thereto on November 7, 2011. The Merger was consummated on April 2, 2012. For financial reporting and accounting purposes, ESI was the acquirer of Medco. The consolidated financial statements reflect the results of operations and financial position of ESI for the years ended December 31, 2011 and 2010 and for the period beginning January 1, 2012 through April 1, 2012. References to amounts for periods after the closing of the Merger on April 2, 2012 relate to Express Scripts.

See Note 3 Changes in business for further discussion of our merger and acquisition activity.

We regularly review potential acquisitions and affiliation opportunities. We believe available cash resources, bank financing or the issuance of additional common stock or other securities could be used to finance future acquisitions or affiliations. There can be no assurance we will make new acquisitions or establish new affiliations in 2013 or thereafter (see Part II Item 7 Management s Discussion and Analysis of Financial Condition and Results of Operations Liquidity and Capital Resources Acquisitions and Related Transactions).

Company Operations

General. As of December 31, 2012, our U.S. PBM segment operated five high-volume automated dispensing home delivery pharmacies, one non-automated dispensing home delivery pharmacy, several non-dispensing order processing centers, patient contact centers, specialty drug pharmacies and fertility pharmacies, and one non-dispensing home delivery pharmacy maintained for business continuity purposes.

At our Canadian facilities we provide a full range of integrated PBM services to insurers, third-party administrators, plan sponsors and the public sector, to facilitate better health decisions and lower costs. These services include health-claims adjudication and processing services, benefit-design consultation, drug-utilization review, formulary management and medical and drug-data analysis services. In December 2011, we launched an active PBM service in Canada, which included home delivery of maintenance prescription medications from a Member Contact Center and regional dispensing pharmacies four locations.

Sales and Marketing. In the United States, our sales managers and directors market and sell PBM services and are supported by a team of client-service representatives, clinical pharmacy managers, and benefit analysis consultants. This team works with clients to make prescription drug use safer and more affordable. In addition, sales personnel dedicated to our Other Business Operations segment use direct marketing to generate new customers and solidify existing customer relationships. In Canada, marketing and sales efforts are conducted by our staff based in Mississauga, Ontario and Montreal, Quebec.

Supply Chain. Our Supply Chain pharmacy contracting group is responsible for contracting and administering our pharmacy networks. To participate in our retail pharmacy networks, pharmacies must meet certain qualifications, including the requirement that all applicable state credentialing and/or licensing requirements are being maintained. Pharmacies can contact our pharmacy help desk toll free or access our online pharmacy portal 24 hours a day, 7 days a week, for information and assistance in filling prescriptions for our clients members. In addition, our Fraud, Waste & Abuse Services team audits pharmacies in our retail pharmacy networks to determine compliance with the terms of their contracts.

Clinical Support. Our staff of highly trained pharmacists and physicians provides clinical support for our PBM services. These healthcare professionals are responsible for a wide range of activities including tracking the drug pipeline; identifying emerging medication-related safety issues and notifying physicians, clients, and patients (if appropriate); providing drug information services; formulary management; development of utilization management, safety (concurrent and retrospective drug utilization review) and other clinical interventions; and/or contacting physicians, pharmacists or patients.

Our clinical staff works closely with the P&T Committee during the development of our formulary and selected utilization management programs. The P&T Committee s goal is to ensure our decisions are evidence-based, clinically sound and aligned with the current standard of medical practice. The P&T Committee s guidance is designed to ensure decisions are clinically appropriate and not superseded by financial considerations.

9

Table of Contents

We have a research team whose mission is to conduct timely, rigorous and objective research that supports evidence-based pharmacy benefit management. Using pharmacy and medical claims data together with member surveys, the research department conducts studies to evaluate the clinical, economic and member impact of pharmacy benefits. The release of our *2011 Annual Drug Trend Report* in April 2012 marked our nineteenth consecutive year of tracking prescription drug trends. Based on a large sample of our membership, the annual *Drug Trend Report* examined trends in pharmaceutical utilization and cost as well as the factors that triggered those trends, including behaviors that resulted in wasteful spending in the pharmacy benefit. In November 2012, we published the inaugural *Drug Trend Quarterly*, which marked the first quarterly report on drug spend and healthcare trends quarter by quarter. These reports and the results of our other studies are shared at our annual Outcomes Conference and are available on our website. We also present at other client forums, speak at professional meetings and publish in health-related journals.

Information Technology. Our Information Technology department supports our pharmacy claims processing systems, our specialty pharmacy systems and other management information systems that are essential to our operations. Following the Merger, this department began movement toward a consolidated IT platform.

Uninterrupted point-of-sale electronic retail pharmacy claims processing is a significant operational requirement for us. Claims for our PBM segment are presently processed in the United States through systems that are managed and operated domestically by internal resources and an outsourced vendor. Canadian claims are processed through systems maintained and operated by IBM in Canada and managed by us. We believe we have substantial capacity for growth in our United States and Canadian claims processing facilities.

Specialty pharmacy operations are supported by multiple pharmacy systems that are managed and operated internally.

We leverage outsourced vendor services to provide certain disaster recovery services for systems located at our data centers. For systems not covered by a third-party vendor arrangement, such as our specialty pharmacy data centers, our corporate disaster recovery organization manages internal recovery services.

Competition

There are a number of other PBMs in the United States against which we compete. Some of these are independent PBMs, such as Catamaran and MedImpact. Others are owned by managed care organizations such as Aetna Inc., CIGNA Corporation, OptumRx (owned by UnitedHealthcare) and Prime Therapeutics (owned by a collection of Blue Cross Blue Shield Plans). Some are owned by retail pharmacies, such as Caremark (owned by CVS). Wal-Mart Stores, Inc. may continue to engage in certain activities competitive with PBMs. We also compete against adjudicators, such as Argus. Some of these competitors may have greater financial, marketing and technological resources. In addition, other companies may enter into the business and become increasingly competitive as there are no meaningful barriers to entry. We believe the primary competitive factors in the industry include the ability to contract with retail pharmacies to ensure our retail pharmacy networks meet the needs of our clients and their members, the ability to negotiate discounts on prescription drugs with drug manufacturers, the ability to navigate the complexities of governmental reimbursed business, including Medicare Part D, the ability to manage cost and quality of specialty drugs, the ability to utilize the information we obtain about drug utilization patterns and consumer behavior to reduce costs for our clients and members, and the level of service we provide.

Government Regulation and Compliance

Many aspects of our businesses are regulated by federal and state laws and regulations. Since sanctions may be imposed for violations of these laws, compliance is a significant operational requirement and we maintain a comprehensive compliance program. We believe we are operating our business in substantial compliance with all existing legal requirements material to the operation of our businesses. There are, however, significant uncertainties involving the application of many of these legal requirements to our business. In addition, there are numerous proposed healthcare laws and regulations at the federal and state levels, many of which could adversely affect our business or financial position. We are unable to predict what additional federal or state legislation, regulations or enforcement initiatives may be enacted or taken in the future relating to our business or the healthcare industry in general, or what effect any such legislation, regulations or actions might have on us. We cannot provide any assurance that federal or state governments will not impose additional restrictions or adopt interpretations of existing laws that could have a material adverse effect on our consolidated results of operations, consolidated financial position and/or consolidated cash flow from operations.

Table of Contents

Pharmacy Benefit Management Regulation Generally. Certain federal and state laws and regulations affect or may affect aspects of our PBM business. Among the laws and regulations that may impact our business are the following:

Federal Healthcare Reform. In March 2010, the federal government enacted the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010 (Health Reform Laws). The Health Reform Laws include numerous changes to many aspects of the United States healthcare system, including, but not limited to, additional enforcement mechanisms and rules related to healthcare fraud and abuse enforcement activities, health plan coverage mandates, additional rules and obligations for health insurance providers, certain PBM transparency requirements related to the new healthcare insurance exchanges and expanded healthcare coverage for more Americans. While uncertainties still exist regarding implementation of many components of the Health Reform Laws and numerous anticipated regulations are yet to be issued, the Health Reform Laws may impact our business in a variety of ways. Impacts may include, but are not limited to, an increase in utilization of the pharmacy benefit by a newly enrolled population with an unknown risk profile, additional compliance obligations stemming from increased state and federal government involvement in the healthcare marketplace, increased data reporting obligations to support health plan issuers and insurers operating in the healthcare exchanges, the impact of general market reforms that prohibit the use of many factors traditionally used to establish premiums and other adjustments implemented by health plan sponsors and health insurance providers in response to marketplace changes arising in connection with the Health Reform Laws.

Medicare Part D. We participate in various ways in the federal Medicare Part D program created under MMA, and its implementing regulations and sub-regulatory program guidance (the Part D Rules) issued by CMS. Through our licensed insurance subsidiaries (i.e., Express Scripts Insurance Company (ESIC), Medco Containment Life Insurance Company of Pennsylvania and Medco Containment Life Insurance Company of New York), we operate as Part D PDP sponsors offering PDP coverage and services to our clients and Part D beneficiaries. We also, through our core PBM business, provide Part D-related products and services to other PDP sponsors, MA-PDPs and other employers and clients offering Part D benefits to Part D eligible beneficiaries.

Medicare Part B and Medicaid. We participate in the Medicare Part B program, which covers certain costs for services provided by Medicare participating physicians and suppliers and durable medical equipment. We also participate in many state Medicaid programs directly or indirectly through our clients that are Medicaid managed care contractors. We also perform certain Medicaid subrogation services for clients, which are regulated by federal and state laws.

Anti-Kickback Laws. Subject to certain exceptions and safe harbors, the federal anti-kickback statute generally prohibits, among other things, knowingly and willfully paying or offering any payment or other remuneration to induce a person to purchase, lease, order or arrange for (or recommend purchasing, leasing or ordering) items (including prescription drugs) or services reimbursable in whole or in part under Medicare, Medicaid or another federal healthcare program. Several states also have similar laws, some of which apply similar anti-kickback prohibitions to items or services reimbursable by non-governmental payors. Sanctions for violating these federal and state anti-kickback laws may include criminal and civil fines and exclusion from participation in the federal and state healthcare programs.

The federal anti-kickback statute has been interpreted broadly by courts, the Office of Inspector General (OIG) within the Department of Health and Human Services (HHS), and administrative bodies. Because of the federal statute s broad scope, federal regulations establish certain safe harbors from liability. A practice that does not fall within a safe harbor is not necessarily unlawful, but may be subject to scrutiny and challenge. Anti-kickback laws have been cited as a partial basis, along with state consumer protection laws discussed below, for investigations and multi-state settlements relating to financial incentives provided by drug manufacturers to pharmacies in connection with product conversion programs.

There are other anti-kickback laws that may be applicable, such as the Public Contracts Antikickback Act, the ERISA Health Plan Antikickback Statute and various other state anti-kickback restrictions.

Federal Civil Monetary Penalties Law. The federal civil monetary penalty statute provides for civil monetary penalties against any person who gives something of value to a Medicare or Medicaid program beneficiary that the person knows or should know is likely to influence the beneficiary s selection of a particular provider for Medicare or Medicaid items or services. Under this law, our wholly-owned home delivery, specialty pharmacies, infusion pharmacies and home health providers are restricted from offering certain items of value to influence a Medicare or Medicaid patient s use of services. The Health Reform Laws also include several new civil monetary provisions, such as penalties for the failure to report and return a known overpayment and failure to grant timely access to the OIG under certain circumstances.

Table of Contents

Prompt Pay Laws. Under Medicare Part D and certain state laws, PBMs or certain PBM clients are required to pay retail pharmacy providers within established time periods that may be shorter than existing contracted terms and/or via electronic transfer instead of by check. Changes that require faster payment may have a negative impact on our cash flow from operations. It is anticipated that additional states will consider prompt pay legislation and we cannot predict which states will adopt such legislation or what effect it will have.

False Claims Act and Related Criminal Provisions. The federal False Claims Act (the False Claims Act) imposes civil penalties for knowingly making or causing to be made false claims or false records or statements with respect to governmental programs, such as Medicare and Medicaid, in order to obtain reimbursement or failure to return overpayments. Private individuals may bring qui tam or whistle blower suits against providers under the False Claims Act, which authorizes the payment of a portion of any recovery to the individual bringing suit. The Health Reform Laws also amended the federal anti-kickback laws to state that any claim submitted to a federal or state healthcare program which violates the anti-kickback law is also a false claim under the False Claims Act. The False Claims Act generally provides for the imposition of civil penalties and for treble damages, resulting in the possibility of substantial financial penalties. Criminal statutes that are similar to the False Claims Act provide that if a corporation is convicted of presenting a claim or making a statement that it knows to be false, fictitious or fraudulent to any federal agency it may be fined. Conviction under these statutes also may result in exclusion from participation in federal and state healthcare programs. Some states have also enacted laws similar to the False Claims Act which may include criminal penalties, substantial fines, and treble damages.

Government Procurement Regulations. As discussed above, we have a contract with the DoD, which subjects us to all of the applicable Federal Acquisition Regulations and Department of Defense FAR Supplement which govern federal government contracts. Further, there are other federal and state laws applicable to our DoD arrangement and other clients that may be subject to government procurement regulations. In addition, certain of our clients participate as contracting carriers in the Federal Employees Health Benefits Program which is administered by the Office of Personnel Management and contains various PBM standards, including PBM transparency standards.

Antitrust. The antitrust laws generally prohibit competitors from fixing prices, dividing markets and boycotting competitors, regardless of the size or market power of the companies involved. Further, antitrust laws generally prohibit other conduct that is found to restrain competition unreasonably, such as certain attempts to tie or bundle services together and certain exclusive dealing arrangements.

ERISA Regulation. The Employee Retirement Income Security Act of 1974 (ERISA) regulates certain aspects of employee pension and health benefit plans, including self-funded corporate health plans with respect to which we have agreements to provide PBM services. We believe that the conduct of our business is not generally subject to the fiduciary obligations of ERISA. However, there can be no assurance that the U.S. Department of Labor (the DOL), which is the agency that enforces ERISA, would not assert that the fiduciary obligations imposed by ERISA apply to certain aspects of our operations or that courts would not reach such a ruling in private ERISA litigation.

In addition to its fiduciary provisions, federal law related to ERISA health plans imposes civil and criminal liability on service providers to health plans and certain other persons if certain forms of illegal remuneration are made or received. These provisions of ERISA are similar, but not identical, to the healthcare anti-kickback statutes discussed above, although ERISA lacks the statutory and regulatory safe harbor exceptions incorporated into the healthcare statutes. Like the healthcare anti-kickback laws, the corresponding provisions of ERISA are broadly written and their application to particular cases is often uncertain.

Employee benefit plans subject to ERISA are subject to certain rules, published by the DOL, relating to annual Form 5500 reporting obligations. The rules include reporting requirements for direct and indirect compensation received by plan service providers such as PBMs. However, on February 4, 2010, the DOL issued two frequently asked questions that provide that discount and rebate revenue paid to PBMs by drug manufacturers generally need not be reported on a plan s Form 5500 as indirect compensation, pending further guidance.

On December 7, 2010, the DOL held a public hearing regarding the disclosure obligations of service providers to welfare plans under section 408(b)(2) of ERISA. At this time, we are unable to predict whether regulations will be issued, the form of such regulations or the possible impact of such changes on our business practices.

State Fiduciary Legislation. Statutes have been introduced in several states that purport to declare that a PBM is a fiduciary with respect to its clients. We believe that the fiduciary obligations that such statutes would impose would be similar, but not identical, to the scope of fiduciary obligations under ERISA. To date only two jurisdictions Maine and the District of Columbia have enacted such a statute. Our trade association, Pharmaceutical Care Management Association (PCMA), filed suits in federal courts in Maine and the District of Columbia alleging, among other things, that the statutes are preempted by ERISA with respect to welfare plans that are subject to ERISA. In 2011, Maine s fiduciary law was repealed. In the District of Columbia case, the court granted in part PCMA s motion for summary judgment finding that the

12

Table of Contents

District of Columbia law was preempted by ERISA and that decision was affirmed by the United States Court of Appeals for the D.C. Circuit. Widespread enactment of such statutes could have a material adverse effect upon our financial condition, results of operations and cash flows.

Consumer Protection Laws. Most states have consumer protection laws that previously have been the basis for investigations and multi-state settlements relating to financial incentives provided by drug manufacturers to retail pharmacies in connection with drug switching programs. Such statutes have also been cited as the basis for claims against PBMs either in civil litigation or pursuant to investigations by state Attorneys General. See Part I Item 3 Legal Proceedings for discussion of current proceedings relating to these laws or regulations.

Network Access Legislation. A majority of states now have some form of legislation affecting our ability, or our clients ability, to limit access to a pharmacy provider network or remove a provider from the network. Such legislation may require us or our clients to admit any retail pharmacy willing to meet the plan s price and other terms for network participation (any willing provider legislation) or may provide that a provider may not be removed from a network except in compliance with certain procedures (due process legislation). We have not been materially affected by these statutes.

Certain states have also enacted legislation prohibiting certain PBM clients from imposing additional co-payments, deductibles, limitation on benefits, or other conditions (Conditions) on covered individuals utilizing a retail pharmacy when the same Conditions are not otherwise imposed on covered individuals utilizing home delivery pharmacies. However, the legislation requires that the retail pharmacy agree to the same reimbursement amounts and terms and conditions as are imposed on the home delivery pharmacies. An increase in the number of prescriptions filled at retail pharmacies may have a negative impact on the amount of prescriptions filled through home delivery. It is anticipated that additional states will consider similar legislation and we cannot predict which states will adopt such legislation or what effect it will have.

Legislation Affecting Plan Design. Some states have enacted legislation that prohibits managed care plan sponsors from implementing certain restrictive benefit plan design features, and many states have introduced legislation to regulate various aspects of managed care plans, including provisions relating to the pharmacy benefit. For example, some states, under so-called freedom of choice legislation, provide that members of the plan may not be required to use network providers, but must instead be provided with benefits even if they choose to use non-network providers. Other states have enacted legislation purporting to prohibit health plans from offering members financial incentives for use of home delivery pharmacies. Legislation has been introduced in some states to prohibit or restrict therapeutic intervention, or to require coverage of all FDA approved drugs. Other states mandate coverage of certain benefits or conditions, and require health plan coverage of specific drugs if deemed medically necessary by the prescribing physician. Such legislation does not generally apply to us directly, but it may apply to certain of our clients, such as managed care organizations and health insurers. If such legislation were to become widely adopted and broad in scope, it could have the effect of limiting the economic benefits achievable through pharmacy benefit management.

Legislation and Regulation Affecting Drug Prices. Some states have adopted so-called most favored nation legislation providing that a pharmacy participating in the state Medicaid program must give the state the best price that the pharmacy makes available to any third-party plan. Such legislation may adversely affect our ability to negotiate discounts in the future from network pharmacies.

In addition, federal and state agencies and enforcement officials from time to time investigate pharmaceutical industry pricing practices such as how average wholesale price (AWP) is calculated and how pharmaceutical manufacturers report their best price on a drug under the federal Medicaid rebate program. AWP is a standard pricing benchmark (published by a third party) used throughout the industry, including by us, as a basis for calculating drug prices under contracts with health plans and pharmacies. First DataBank and Medi-Span, two third-party AWP providers, were defendants in a class action suit in federal court in Boston alleging a conspiracy in the setting of AWP. The parties entered into a settlement agreement which received final approval by the court, and a roll-back of AWP prices for many drugs went into effect on September 26, 2009. First DataBank discontinued publishing AWP information in 2011, at which time we transitioned to use of Medi-Span information. This change did not materially impact our consolidated results of operations, consolidated financial position or consolidated cash flows from operations. Additional changes to or discontinuation of the AWP standard could alter the calculation of drug prices for federal programs and other contracts that use the standard. We are unable to predict whether any such changes will actually occur, and if so, whether such changes would have a material adverse impact on our consolidated results of operations, consolidated financial position and/or consolidated cash flow from operations.

Further, the federal Medicaid rebate program requires participating drug manufacturers to provide rebates on all drugs reimbursed through state Medicaid programs, including through Medicaid managed care organizations. Manufacturers of brand name products must provide a rebate equivalent to the greater of (a) 23.1% of the average manufacturer price (AMP) paid by retail

Table of Contents

community pharmacies or by wholesalers for products distributed to retail community pharmacies, or (b) the difference between AMP and the best price available to essentially any customer other than the Medicaid program and certain other government programs, with certain exceptions. We negotiate rebates with drug manufacturers and, in certain circumstances, sell services to drug manufacturers. Investigations have been commenced by certain governmental entities which call into question whether a drug s best price was properly calculated and reported with respect to rebates paid by the manufacturers to the Medicaid programs. We are not responsible for such calculations, reports or payments. There can be no assurance, however, that our ability to negotiate rebates with, or sell services to, drug manufacturers will not be materially adversely affected by such investigations or regulations in the future.

Regulation of Financial Risk Plans. Fee-for-service prescription drug plans generally are not subject to financial regulation by the states. However, if a PBM offers to provide prescription drug coverage on a capitated basis or otherwise accepts material financial risk in providing the benefit various state and federal laws may regulate the PBM or its subsidiaries. Such laws may require, among other things that the party at risk establish reserves or otherwise demonstrate financial responsibility. Laws that may apply in such cases include, for example, insurance laws, managed care organization laws and limited prepaid health service plan laws. These may apply, for example, to our licensed Medicare Part D subsidiaries (i.e., ESIC, Medco Containment Life Insurance Company of Pennsylvania and Medco Containment Life Insurance Company of New York) and other subsidiary insurance businesses.

Pharmacy Regulation. Our home delivery, specialty and infusion pharmacies are licensed to do business as a pharmacy in the state in which they are located. Most of the states into which we deliver pharmaceuticals have laws that require out-of-state home delivery pharmacies to register with, or be licensed by, the board of pharmacy or similar regulatory body in the state. These states generally permit the pharmacy to follow the laws of the state in which the home delivery service is located, although some states require that we also comply with certain laws in that state. We believe we have registered each of our pharmacies in every state in which such registration is required and that we comply in all material respects with all required laws and regulations. In addition, our pharmacists and nurses are licensed in those states where we believe their activity requires it. Our various pharmacy facilities also maintain certain Medicare and state Medicaid provider numbers as pharmacies providing services under these programs. Participation in these programs requires our pharmacies to comply with the applicable Medicare and Medicaid provider rules and regulations, and exposes the pharmacies to various changes the federal and state governments may impose regarding reimbursement methodologies and amounts to be paid to participating providers under these programs. In addition, several of our pharmacy facilities are participating providers under Medicare Part D and, as a condition to becoming a participating provider under Medicare Part D, the pharmacies are required to adhere to certain requirements applicable to the Medicare Part D program.

Other statutes and regulations affect our home delivery, specialty and infusion pharmacy operations, including the federal and state anti-kickback laws and the federal civil monetary penalty law described above. Federal and state statutes and regulations govern the labeling, packaging, advertising and adulteration of prescription drugs and the dispensing of controlled substances. The Federal Trade Commission requires mail order sellers of goods generally to engage in truthful advertising, to stock a reasonable supply of the product to be sold, to fill mail orders within thirty days and to provide clients with refunds when appropriate. The United States Postal Service has statutory authority to restrict the delivery of drugs and medicines through the mail to a degree that could have an adverse effect on our home delivery operations.

Other Licensure Laws. Many states have licensure or registration laws governing PBMs and certain types of managed care organizations and insurance companies, including, but not limited to, preferred provider organizations, third-party administrators and companies that provide utilization review services. The scope of these laws differs from state to state, and the application of such laws to the activities of PBMs and insurance companies is often unclear. We have registered under such laws in those states in which we have concluded that such registration is required either due to our various PBM services or the activities of our licensed insurance subsidiaries. Moreover, we have received full accreditation for URAC Pharmacy Benefit Management version 2.0 Standards, which includes quality standards for drug utilization management. In addition, accreditation agencies requirements for managed care organizations such as the National Committee on Quality Assurance and Medicare Part D regulations for PDP and MA-PDPs may affect the services we provide to such organizations.

Table of Contents

Legislation regulating PBM activities in a comprehensive manner has been and continues to be considered in a number of states. In the past, certain organizations, such as the National Association of Insurance Commissioners (NAIC), an organization of state insurance regulators, have considered proposals to regulate PBMs and/or certain PBM activities, such as formulary development and utilization management. While the actions of the NAIC would not have the force of law, they may influence states to adopt model legislation that such organizations promulgate. Certain states have adopted PBM registration and/or disclosure laws and we have registered under such laws and are complying with applicable disclosure requirements. In addition to registration laws, some states have adopted legislation mandating disclosure of various aspects of our financial practices, including those concerning pharmaceutical company revenue, as well as prescribing processes for prescription switching programs and client and provider audit terms. Other states are considering similar legislation, and as more states consider these bills it will be difficult to manage the distinct requirements of each.

FDA Regulations. The Health Reform Laws create a regulatory approval pathway for biosimilars (alternatively known as generics) for biological products and provide that an innovator biological product will be granted 12 years of exclusivity. At this time, we are unable to fully evaluate the impact of the changes to biosimilars to our business.

Our clinical research activities are also subject to a number of complex and stringent regulations affecting the biotechnology and pharmaceutical industries. We offer services relating to the conduct of clinical trials and the preparation of marketing applications and are required to comply with applicable regulatory requirements governing, among other things, the design, conduct, performance, monitoring, auditing, recording, analysis and reporting of these trials. In the United States, the Food and Drug Administration (FDA) governs these activities pursuant to the agency s Good Clinical Practice regulations.

HIPAA and Other Privacy Legislation. Most of our activities involve the receipt or use of confidential health information concerning individuals. In addition, we use aggregated and anonymized data for research and analysis purposes and, in some cases, provide access to such data to pharmaceutical manufacturers and third-party data aggregators. Various federal and state laws, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA), regulate and restrict the use, disclosure and security of confidential health information, and new legislation is proposed from time to time in various states.

The HHS privacy and security regulations included as part of HIPAA impose restrictions on the use and disclosure of individually identifiable health information by certain entities. The security regulations relate to the security of protected health information when it is maintained or transmitted electronically. Other HIPAA requirements relate to electronic transaction standards and code sets for processing of pharmacy claims. We are required to comply with certain aspects of the privacy, security and transaction standard regulations under HIPAA. As part of the American Recovery and Reinvestment Act signed into law on February 17, 2009, Congress adopted the Health Information Technology for Economic and Clinical Health Act (HITECH). HITECH significantly broadens many of the existing federal and security requirements under HIPAA and introduces more vigorous enforcement provisions and penalties for HIPAA violations. Like many other companies subject to HIPAA, the HITECH standards may have significant operational and legal consequences for our business.

We believe that we are in compliance in all material respects with HIPAA and other state privacy laws, to the extent they apply to us. To date, no patient privacy laws have been adopted that materially impact our ability to provide PBM and pharmacy services, but there can be no assurance that federal or state governments will not enact legislation, impose restrictions or adopt interpretations of existing laws that could have a material adverse effect on our business and financial results.

Other Business Operations Services. Many of the laws and regulations cited above with respect to our PBM activities also apply with respect to our various Other Business Operations services. Of particular relevance are the federal and state anti-kickback laws, state pharmacy regulations and HIPAA, which are described above. In addition, as a condition to conducting our wholesale business, we must maintain various permits and licenses with the appropriate state and federal agencies and we are subject to various wholesale distributor laws that regulate the conduct of wholesale distributors, including, but not limited to, maintaining pedigree papers in certain instances.

Service Marks and Trademarks

We, and our subsidiaries, have registered certain service marks including EXPRESS SCRIPTS®, MEDCO® CURASCRIPT® ACCREDO® CONSUMEROLOGY®, UBC® MY RX CHOICES® and RATIONALMED® with the United States Patent and Trademark Office. Our rights to these marks will continue so long as we comply with the usage, renewal filings and other legal requirements relating to the usage and renewal of service marks.

Table of Contents

Insurance

Our PBM operations, including the dispensing of pharmaceutical products by our home delivery pharmacies, our Other Business Operations, including the distribution of specialty drugs, and the services rendered in connection with our disease management operations, may subject us to litigation and liability for damages. Commercial insurance coverage is difficult to obtain and cost prohibitive, particularly for certain types of claims. As such, we may maintain significant self-insured retentions when deemed most appropriate and cost effective. We have established certain self-insurance accruals to cover potential claims. There can be no assurance we will be able to maintain our general, professional or managed care errors and omissions liability insurance coverage in the future or that such insurance coverage, together with our self-insurance accruals, will be adequate to cover potential future claims. A claim, or claims, in excess of our insurance coverage could have a material adverse effect upon our consolidated results of operations, consolidated financial position and/or consolidated cash flow from operations.

Employees

As of December 31, 2012 and 2011, we employed approximately 30,215 and 13,120 employees, respectively, worldwide. Approximately 19.4% of the employees are members of collective bargaining units at December 31, 2012. Specifically, we employ members of the following unions:

Service Employees International Union

American Federation of State, County and Municipal Employees

United Food and Commercial Workers Union

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial & Service Workers International Union, American Federation of Labor Congress of Industrial Organizations

Association of Managed Care Pharmacists

Guild for Professional Pharmacists

International Union of Operating Engineers

Retail, Wholesale and Department Store Union, United Food and Commercial Workers

Collective bargaining agreements covering these employees expire at various dates through December 2015. Nine collective bargaining agreements with various labor organizations will expire during 2013.

Executive Officers of the Registrant

Our executive officers and their ages as of February 1, 2013 are as follows:

Name	Age	Position
George Paz	57	Chairman, President and Chief Executive Officer
Jeffrey Hall	46	Executive Vice President and Chief Financial Officer

Keith Ebling	44	Executive Vice President, General Counsel and Secretary
Edward Ignaczak	47	Executive Vice President, Sales and Marketing
Patrick McNamee	53	Executive Vice President, Chief Operating Officer

Mr. Paz was elected a director of the Company in January 2004 and has served as Chairman of the Board since May 2006. Mr. Paz was elected President in October 2003 and also assumed the role Chief Executive Officer on April 1, 2005. Mr. Paz joined us and was elected Senior Vice President and Chief Financial Officer in January 1998 and continued to serve as our Chief Financial Officer following his election to the office of President until his successor joined us in April 2004.

Mr. Hall was named Executive Vice President and Chief Financial Officer in April 2008. Prior to joining us, Mr. Hall worked for KLA-Tencor, a leading supplier of process control and yield management solutions. Mr. Hall joined KLA-Tencor in January 2000, serving in various positions including Senior Vice President and Chief Financial Officer.

Table of Contents

Mr. Ebling was named Executive Vice President, General Counsel and Secretary in December 2008. Mr. Ebling served as Vice President of Business Development from April 2002 to December 2004 and from October 2007 to December 2008 and as Vice President and General Counsel of our CuraScript subsidiary from January 2005 to October 2007.

Mr. Ignaczak was named Executive Vice President, Sales and Marketing in May 2008. From November 2007, he served as Executive Vice President, Sales and Account Management. He was elected Senior Vice President, Sales and Account Management in December 2002. Mr. Ignaczak joined us in April 1998 and served as the Vice President and General Manager of our National Employer Division from April 1998 to December 2002.

Mr. McNamee was named Executive Vice President and Chief Operating Officer in January 2010. Prior to this role, he served as Executive Vice President, Operations & Technology beginning in November 2007. He was elected Senior Vice President, Operations & Technology, with responsibility for Client & Patient Services and Information Technology in May 2007. Mr. McNamee joined us and was elected Senior Vice President and Chief Information Officer in February 2005. Prior to joining us, Mr. McNamee worked for Misys Healthcare Systems, a healthcare technology company, as President and General Manager, Physician Systems, from September 2003 to February 2005.

Available Information

We make available through our website (www.express-scripts.com) access to our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, all amendments to those reports (when applicable), and other filings with the SEC. Such access is free of charge and is available as soon as reasonably practicable after such information is filed with the SEC. In addition, the SEC maintains an Internet site (www.sec.gov) containing reports, proxy and information statements, and other information regarding issuers filing electronically with the SEC (which includes us). Information included on our website is not part of this annual report.

Forward Looking Statements and Associated Risks

Information we have included or incorporated by reference in this Annual Report on Form 10-K, and information which may be contained in our other filings with the Securities and Exchange Commission (the SEC) and our press releases or other public statements, contain or may contain forward-looking statements. These forward-looking statements include, among others, statements of our plans, objectives, expectations (financial or otherwise) or intentions.

Our forward-looking statements involve risks and uncertainties. Our actual results may differ significantly from those projected or suggested in any forward-looking statements. We do not undertake any obligation to release publicly any revisions to such forward-looking statements to reflect events or circumstances occurring after the date hereof or to reflect the occurrence of unanticipated events. Any number of factors could cause our actual results to differ materially from those contemplated by any forward looking statements, including, but not limited to, the risks associated with the following:

STANDARD OPERATING FACTORS

our ability to remain profitable in a very competitive marketplace depends upon our continued ability to attract and retain clients while maintaining our margins, to differentiate our products and services from those of our competitors in the marketplace, and to develop and cross-sell new products and services to our existing clients

our failure to anticipate and appropriately adapt to changes or trends within the rapidly changing healthcare industry

changes in applicable laws, rules or regulations, or their interpretation or enforcement, or the enactment of new laws, rules or regulations, which apply to our business practices (past, present or future) or require us to spend significant resources in order to comply or to make significant changes to our business operations

unfavorable or uncertain economic conditions, including high rates of unemployment, diminished health care benefits, lower levels of consumer expenditures on health care related expenses, increased client demands with respect to pricing or service

levels, or disruptions in the credit markets

changes to the healthcare industry designed to manage healthcare costs or alter healthcare financing practices

uncertainties regarding the implementation of Health Reform Laws

significant changes within the pharmacy provider marketplace, including the loss of or adverse change in our relationship with one or more key pharmacy providers

Table of Contents

our failure to execute on, or other issues arising under, certain key client contracts

changes relating to our participation in Medicare Part D, the loss of Medicare Part D eligible members, or our failure to otherwise execute on our strategies related to Medicare Part D

our failure to effectively execute on strategic transactions or successfully integrate the business operations or achieve the anticipated benefits from any acquired businesses

uncertainty around realization of the anticipated benefits of the transaction with Medco, including the expected amount and timing of cost savings and operating synergies and a delay or difficulty in integrating the businesses of Express Scripts, Inc. and Medco or in retaining clients of the respective companies

the impact of our debt service obligations on the availability of funds for other business purposes, and the terms of and our required compliance with covenants relating to our indebtedness

a failure in the security or stability of our technology infrastructure, or the infrastructure of one or more of our key vendors, or a significant failure or disruption in service within our operations or the operations of such vendors

a failure to adequately protect confidential health information received and used in our business operations

the termination, or an unfavorable modification, of our relationship with one or more key pharmaceutical manufacturers, or the significant reduction in payments made or discounts provided by pharmaceutical manufacturers

changes in industry pricing benchmarks

results in pending and future litigation or other proceedings which could subject us to significant monetary damages or penalties and/or require us to change our business practices, or the costs incurred in connection with such proceedings

our failure to attract and retain talented employees, or to manage succession and retention for our Chief Executive Officer or other key executives

regulatory, compliance, competition and tax risks inherent in our international operations

other risks described from time to time in our filings with the SEC

These and other relevant factors, including those risk factors in Part I Item 1A Risk Factors in this Annual Report and any other information included or incorporated by reference in this Report, and information which may be contained in our other filings with the SEC, should be carefully considered when reviewing any forward-looking statement. We note these factors for investors as permitted under the Private Securities Litigation Reform Act of 1995. Investors should understand that it is impossible to predict or identify all such factors or risks. As such, you should not consider either foregoing lists, or the risks identified in our SEC filings, to be a complete discussion of all potential risks or uncertainties.

Item 1A Risk Factors

General Risk Factors

We operate in a very competitive industry, which could compress our margins and impair our ability to attract and retain clients. Our failure to effectively differentiate our products and services from those of our competitors in the marketplace could magnify the impact of the competitive environment.

Our ability to remain competitive depends upon our continued ability to attract new clients and retain existing clients, as well as cross-sell additional products and services to our clients. We operate in a highly competitive environment and in an industry that is subject to significant market pressures brought about by customer demands, legislative and regulatory developments and other market factors. Competition in the PBM marketplace has historically caused many PBMs, including us, to reduce the prices charged for core services while sharing a greater portion of the formulary fees and related revenues received from pharmaceutical manufacturers with clients. Increased client demand for lower pricing, increased revenue sharing, enhanced service offerings and higher service levels create pressure on our operating margins. We cannot assume that positive trends such as lower drug purchasing costs, increased generic usage, drug price inflation and increased rebates would offset these pressures in the future. Our inability to maintain these positive trends, or failure to identify and implement new ways to mitigate pricing pressures, could negatively impact our ability to attract or retain clients which could negatively impact our margins and have a material adverse effect on our business and results of operations.

In addition, our clients are well informed and organized and can easily move between us and our competitors. Our client contracts are generally three years and our larger clients generally seek competing bids prior to the expiration of their contract. These factors together with the impact of the competitive marketplace or other significant differentiating factors between our products and services and those of our competitors may make it difficult for us to attract new clients, retain existing clients and cross-sell additional services, which could materially and adversely affect our business and results of operations.

Table of Contents

In the highly competitive PBM marketplace, the business offerings and reputations of our competitors can have a substantial impact on their ability to attract and retain clients. In order to remain competitive, we must therefore differentiate our business offerings by innovating and delivering products and services that demonstrate enhanced value to our clients, particularly in response to market changes from public policy. Furthermore, the reputational impact of a service-related event, or our failure to innovate and deliver products and services that demonstrate greater value to our clients, could affect our ability to grow and retain profitable clients which could have a material adverse effect on our business and results of operations.

The managed care industry has undergone periods of substantial consolidation and may continue to consolidate in the future. If one or more of our managed care clients is acquired, and the acquiring entity is not a client, then we may be unable to retain all or a portion of the acquired business. If such acquisitions, individually or in the aggregate, are material, they could have a material adverse effect on our business and results of operations.

The delivery of healthcare-related products and services is an evolving and rapidly changing industry. Our failure to anticipate or appropriately adapt to changes or trends within the industry could have a negative impact on our ability to compete and adversely affect our business and the results of our operations.

We have designed our business model to compete within the current industry structure. However, any significant shifts in the structure of the PBM industry would likely affect the environment in which we compete. Our client contracts are generally three years and our pharmaceutical manufacturer and retail contracts are generally non-exclusive and terminable on relatively short notice by either party. Consequently, a large intra- or inter-industry merger, a new entrant or a new business model could alter the industry dynamics and adversely affect our ability to attract or retain clients. Our failure to anticipate or appropriately adapt to changes in the industry could negatively impact our competitive position and adversely affect our business and results of operations.

We operate in a complex and rapidly evolving regulatory environment. Changes in applicable laws, rules or regulations, or their interpretation or enforcement, or the enactment of new laws, rules or regulations, could require us to make significant changes to our business operations or result in the imposition of fines or penalties. Further, we may be required to spend significant resources in order to comply with new, changing or existing laws, rules and regulations.

Numerous state and federal laws, rules and regulations affect our business and operations and include, among others, the following:

- healthcare fraud and abuse laws and regulations, which prohibit certain types of payments and referrals as well as false claims made in connection with health benefit programs
- ERISA and related regulations, which regulate many aspects of healthcare plan arrangements
- state legislation regulating PBMs or imposing fiduciary status on PBMs
- consumer protection and unfair trade practice laws and regulations
- network pharmacy access laws, including any willing provider and due process legislation, that affect aspects of our pharmacy network contracts
- wholesale distributor laws
- legislation imposing benefit plan design restrictions, which limit how our clients can design their drug benefit plans

various licensure laws, such as managed care and third party administrator licensure laws

drug pricing legislation, including most favored nation pricing

pharmacy laws and regulations

state insurance regulations applicable to our insurance subsidiaries

privacy and security laws and regulations, including those under HIPAA and HITECH

the Medicare prescription drug coverage rules

other Medicare and Medicaid reimbursement regulations, including subrogation

the federal Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010 (the Health Reform Laws)

federal laws related to our Department of Defense arrangement

federal antitrust laws related to our pharmacy, pharmaceutical manufacturer and client relationships

international laws

These and other regulatory matters are discussed in more detail under Part I Item 1 Business Government Regulation and Compliance above.

Table of Contents

We believe that we are operating our business in substantial compliance with all existing material legal requirements applicable to us. However, significant uncertainties exist regarding the application of many of these legal requirements to our business. From time to time, state and federal law enforcement agencies and regulatory agencies have initiated investigations or litigation involving certain aspects of our business or our competitors businesses and, consequently, we cannot provide any assurance that one or more of these agencies will not interpret or apply these legal requirements in a manner adverse to our business, or, if there is an enforcement action brought against us, that our interpretation would prevail. In addition, there are numerous proposed healthcare laws, rules and regulations at the federal and state levels, many of which could materially affect aspects of our business or adversely affect our financial results. We are unable to predict whether additional federal or state legislation or regulatory initiatives relating to our business or the healthcare industry in general will be enacted in the future or what effect, if any, such legislation or regulations may have on us. Due to these uncertainties, we may be required to spend significant resources in connection with any such investigation or litigation or to comply with new or existing laws and regulations.

Various governmental agencies have conducted investigations and audits into certain PBM business practices. Many of these investigations and audits have resulted in other PBMs agreeing to civil penalties, including the payment of money and corporate integrity agreements. We cannot predict what effect, if any, such governmental investigations and audits may ultimately have on us or on the PBM industry in general (see Part I Item 3 Legal Proceedings). However, we may experience additional government scrutiny and audit activity related to Medco s government program services, including audits that Accredo Health Group face or may face which result in payment or offset of prior reimbursement from the government.

The federal court in the District of Columbia recently overturned a previously enacted statute by the District of Columbia that purports to declare that a PBM is a fiduciary with respect to its clients (see Part I Item 1 Business Government Regulations and Compliance State Fiduciary Legislation). However, other states are considering but have not yet enacted similar fiduciary statutes, and we cannot predict what effect, if any, these and similar statutes, if enacted, may have on our business and financial results, nor can we predict how other courts may view such laws.

We face risks associated with general economic conditions.

Unfavorable and uncertain economic conditions may significantly and adversely affect our businesses and profitability in a variety of respects including:

- our clients, or employers or other benefit providers served by our clients, may reduce or slow the growth of their workforce or covered membership, or may elect to discontinue or diminish provided benefits, which would result in a reduction in the number of members we serve
- consumers may be less willing or able to incur health care related expenses, whether due to personal economic circumstances, reduction in the level of the health care benefit provided to the consumer or otherwise, which would result in lower than anticipated utilization
- our clients, or potential clients, may increase demands and expectations with respect to pricing, rebates or service levels (including with respect to performance guarantees), which would impact margins, or our ability to obtain new clients or retain existing clients
- our clients, or potential clients, may be less willing to purchase additional products and services from us, which would impact our financial performance

Unfavorable and uncertain economic conditions may also cause disruptions in the credit markets which could increase our cost of borrowing or make credit unavailable on acceptable terms to the extent we need additional funds. Such developments may adversely affect our business and results of operations.

Policies designed to manage healthcare costs or alter healthcare financing practices may adversely impact our business and our financial results.

From time to time, certain legislative and/or regulatory proposals are made which seek to manage the cost of healthcare, including prescription drug cost. Such proposals include single-payer government funded healthcare, changes in reimbursement rates, restrictions on access or

therapeutic substitution, limits on more efficient delivery channels, taxes on goods and services, price controls on prescription drugs and other significant healthcare reform proposals. We are unable to predict whether any such proposals will be enacted, or the specific terms thereof. Certain of these proposals, however, if enacted, may adversely impact our business and results of operations.

Table of Contents

The implementation of the Health Reform Laws could have an adverse effect on our business and results of operations.

In March 2010, the federal government enacted the Health Reform Laws, which will be gradually phased in through 2020 (see Part I Item 1 Business Government Regulation and Compliance Federal Healthcare Reform). The Health Reform Laws contain many provisions that directly or indirectly apply to us, our clients, employers and benefit providers, pharmaceutical manufacturers, healthcare providers and others with whom we do business, including:

- PBM disclosure requirements in the context of Medicare Part D and the anticipated health benefit exchanges
- creation of government-regulated health benefits exchanges and new requirements for health plans offered by insurance companies, employers and other plan sponsors
- medical loss ratio requirements, which require insurers to spend a specified percentage of premium revenues on incurred claims or healthcare quality improvements, and require some of our clients to report certain types of PBM proprietary information
- various health insurance taxes and fees
- changes to the calculation of average manufacturer price (AMP) of drugs and an increase in the rebate amounts drug manufacturers must pay to states for drugs reimbursed by state Medicaid programs, including through Medicaid managed care organizations
- imposition of new fees on pharmaceutical manufacturers and importers of brand-name prescription drugs
- expansion of the 340B drug discount program, which limits the costs of certain outpatient drugs to qualified health centers and hospitals
- risk adjustments, risk corridors and reinsurance requirements that affect certain of our clients
- closing of the so-called donut hole under Medicare Part D by lowering beneficiary coinsurance amounts
- elimination of the tax deduction for employers who receive Medicare Part D retiree drug subsidy payments
- mandated changes to client plan designs
- changes to certain healthcare fraud and abuse laws

The scope and ultimate effect of such provisions remains uncertain and we cannot predict the impact that any final implementation will have on our business and results of operations.

If significant changes occur within the pharmacy provider marketplace, or if other issues arise with respect to our pharmacy networks, including the loss of or adverse change in our relationship with one or more key pharmacy providers, our business and financial results could be

impaired.

More than 67,000 retail pharmacies, which represent over 95% of all United States retail pharmacies, participated in one or more of our networks at December 31, 2012. The ten largest retail pharmacy chains represent approximately 60% of the total number of stores in our largest network. In certain geographic areas of the United States, our networks may be comprised of higher concentrations of one or more large pharmacy chains. Contracts with retail pharmacies are generally non-exclusive and are terminable on relatively short notice by either party. If one or more of the larger pharmacy chains terminates its relationship with us, or is able to renegotiate terms that are substantially less favorable to us, our members access to retail pharmacies and/or our business could be materially adversely affected. In addition, the entry of one or more large pharmacy chains into the PBM business, in addition to the current pharmacy chain competitors, could increase the likelihood of negative changes in our relationship with such pharmacies. Changes in the overall composition of our pharmacy networks, or reduced pharmacy access under our networks, could have a negative impact on our claims volume and/or our competitiveness in the marketplace, which could cause us to fall short of certain guarantees in our contracts with clients or otherwise impair our business or results of operations.

A substantial portion of our revenue is concentrated in certain significant client contracts and our failure to execute on, or other issues arising under, such contracts could adversely affect our financial results. Further, conditions or trends impacting certain of our key clients could result in a negative impact on our financial performance.

As described in greater detail in the discussion of our business in Item 1 above (see Part I Item 1 Business Clients), we have long-term contracts with WellPoint, Inc. (WellPoint) and the United States Department of Defense (DoD). Our top 5 clients, including WellPoint and DoD, collectively represented 39.3% and 56.7% of our revenue during 2012 and 2011, respectively.

On July 21, 2011, Medco announced that its pharmacy benefit services agreement with UnitedHealth Group would not be renewed, although Medco continued to provide services under an agreement, which expired on December 31, 2012. A transition agreement will be in place throughout 2013, during which time patients will move in tranches off of the Medco platform. In addition to UnitedHealth Group, other major clients representing approximately 13% of Medco s net revenues for 2011 did not renew their contracts with Medco for 2012 as a result of acquisitions by competitors or transitioning in the normal course of business.

Table of Contents

If one or more of our large clients either terminates or does not renew a contract for any reason or otherwise renews a contract on terms that are less favorable to us, our financial results could be materially adversely affected and we could experience a negative reaction in the investment community resulting in stock price declines or other adverse effects.

If we are not able to replace lost business by generating new sales with comparable operating margins or successfully executing other corporate strategies, our revenues and results of operations could suffer. In addition, if certain of our key clients are negatively impacted by business conditions or other economic trends, or if such clients otherwise fail to successfully maintain or grow their business, our business and results of operations could be adversely impacted.

Regulatory or business changes relating to our participation in Medicare Part D, the loss of Medicare Part D eligible members, or our failure to otherwise execute on our strategies related to Medicare Part D, may adversely impact our business and our financial results.

Certain of our subsidiaries have been approved to function as a Part-D prescription drug plan (PDP) sponsor for the purpose of making employer/union-only group waiver plans available for eligible clients and Medco s insurance subsidiaries have been approved by CMS to participate in the Medicare Part D program as a national PDP sponsor that provides direct services to Medicare Part D eligible members. We also provide other products and services in support of our clients Medicare Part D plans or federal Retiree Drug Subsidy. We have made, and may be required to make further, substantial investments in the personnel and technology necessary to administer our Medicare Part D strategy and operations. There are many uncertainties about the financial and regulatory risks of participating in the Medicare Part D program, and we can give no assurance that these risks will not materially adversely impact our business and results of operations.

Certain of our subsidiaries are subject to various contractual and regulatory compliance requirements associated with participating in Medicare Part D. As insurers organized and licensed under applicable state laws, these subsidiaries are subject to certain aspects of state laws regulating the business of insurance in all jurisdictions in which they offer PDP services. As PDP sponsors, certain of our subsidiaries are required to comply with certain federal Medicare Part D laws and regulations applicable to PDP sponsors. Additionally, the receipt of federal funds made available through the Part D program by us, our affiliates or clients is subject to compliance with the Part D regulations and established laws and regulations governing the federal government s payment for healthcare goods and services, including the anti-kickback laws and the federal False Claims Act. If material contractual or regulatory non-compliance was to be identified, including, for example, during CMS audits or client audits in cases where we service PDP sponsors, recoupment, monetary penalties and/or applicable sanctions, including suspension of enrollment and marketing or debarment from participation in Medicare programs, could be imposed. Further, the adoption or promulgation of new or more complex regulatory requirements or changes in the interpretation of existing regulatory requirements, in each case, associated with Medicare may require us to incur significant compliance-related costs which could adversely impact our business and our financial results.

In addition, due to the availability of Medicare Part D, some of our employer clients may stop providing pharmacy benefit coverage to retirees, instead allowing retirees to choose their own Part D plans, which could cause a reduction in utilization for our services. Extensive competition among Medicare Part D plans could also result in the loss of Medicare members by our managed care customers, which would cause a decline in our membership base. Further, Medco s Part D product offerings require premium payment from members for the ongoing benefit, as well as amounts due from CMS, and as a result of the demographics of the calculations, as well as the potential magnitude and timing of settlement for amounts due from CMS, these accounts receivable are subject to billing and realization risk in excess of what is experienced in the core PBM business.

Like many aspects of our business, the administration of the Medicare Part D program is complex and any failure to effectively execute the provisions of the Medicare Part D program may have an adverse effect on our financial position results of operations or cash flows. As discussed above, in March 2010, comprehensive healthcare reform was enacted into federal law through the passage of the Health Reform Laws. Additionally, as described above, the Health Reform Laws contain various changes to the Part D program and could have a financial impact on our PDP and our clients demand for our other Part D products and services.

We have historically engaged in strategic transactions, including the acquisition of other companies or businesses, and will likely engage in similar transactions in the future. Our failure to effectively execute on such transactions or to integrate any acquired businesses could adversely impact our operating results. Any such transactions will create significant transaction costs and require significant resources and management attention.

Table of Contents

We have historically engaged in strategic transactions, including the acquisition of other companies and businesses. These transactions typically involve the integration of core business operations and technology infrastructure platforms that require significant management attention and resources. A failure or delay in the integration process could have a material adverse affect on our financial results. In addition, such transactions may yield higher operating costs, greater customer attrition or more significant business disruption than anticipated. Further, even if we successfully integrate the business operations, there can be no assurance that a transaction will result in the realization of the expected benefits of synergies, cost savings, innovation and operational efficiencies, or that any realized benefits will be achieved within the anticipated time frame or an otherwise reasonable period of time.

Strategic transactions, including the pursuit of such transactions, often require us to incur significant up-front costs. These costs are typically non-recurring expenses related to the assessment, due diligence, negotiation and execution of the transaction. We may also incur additional costs to retain key employees as well as transaction fees and costs related to executing our integration plans. Although we would generally pursue the realization of efficiencies related to the integration of a business to offset incremental transaction and acquisition-related costs over time, this net benefit may not be achieved in the near term, or at all.

Difficulty in integrating the business of Express Scripts, Inc. and Medco or uncertainty around realization of the anticipated benefits of the Merger, including the expected amount and timing of cost savings and operating synergies and difficulty in retaining clients of the respective companies, could have a material adverse effect on our business and results of operations as well as a decline of our stock price.

The success of the Merger will depend, in part, on our ability to successfully complete the combination of ESI and Medco, and to fully realize the anticipated benefits from the combination, including synergies, cost savings, innovation and operational efficiencies. If we are unable to fully achieve these objectives within a reasonable amount of time, or at all, the anticipated benefits may not be fully realized or at all, or may take longer to fully realize than expected and the value of our common stock may decline.

The combination of Medco s business and ESI s business is a complex, costly and time-consuming process. The ongoing integration of the two companies has resulted, and may continue to result, in challenges, some of which may be material, including, without limitation:

- the diversion of management s attention from ongoing business concerns and performance shortfalls at one or both of the companies as a result of the devotion of management s attention to the completion of the integration
- managing a larger combined company
- maintaining employee morale and retaining key management and other employees
- the continuing integration of two unique corporate cultures
- the possibility of faulty assumptions underlying expectations regarding the integration process
- retaining existing clients and attracting new clients on profitable terms
- retaining long-term client relationships which comprise a substantial portion of our revenues
- consolidating corporate and administrative infrastructures and eliminating duplicative operations

coordinating geographically separate organizations

unanticipated issues in integrating information technology, communications and other systems

managing tax costs or inefficiencies associated with integrating the operations of the combined company

unforeseen expenses or delays associated with the Merger

making any necessary modifications to internal financial control standards to comply with the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated thereunder

Many of these factors will be outside of our control and any one of them could result in increased costs, decreases in the amount of expected revenues and diversion of management s time and energy. Delays or issues encountered in the ongoing integration process could have a material adverse effect on the revenues, expenses, operating results and financial condition of the combined company and there can be no assurance that we will fully realize these anticipated benefits.

Further, we have incurred and will continue to incur significant costs in connection with the integration process. The substantial majority of these costs are non-recurring expenses related to the facilities and systems consolidation costs. We may also incur other unanticipated integration costs as well as costs to maintain employee morale and to retain key employees and additional costs related to formulating and revising integration plans.

If, among other things, we are unable to fully achieve the expected growth in earnings, or if our operational cost savings estimates are not fully realized, or if the integration costs are greater than expected, the market price of our common stock may decline. The market price also may decline if we do not fully achieve the perceived benefits of the Merger as rapidly or to the extent anticipated by financial or industry analysts or if the financial results of the combined company are not consistent with the expectations of financial or industry analysts.

Table of Contents

Our debt service obligations reduce the funds available for other business purposes, and the terms and covenants relating to our indebtedness could adversely impact our financial performance and liquidity.

We currently have debt outstanding (see summary of indebtedness within Note 7 Financing), including indebtedness of ESI and Medco guaranteed by us. Our debt service obligations reduce the funds available for other business purposes. Increases in interest rates on variable rate indebtedness would increase our interest expense and could materially adversely affect our financial results. At December 31, 2012, we had $2,631.6 million of obligations which were subject to variable rates of interest under our credit agreements. A hypothetical increase in interest rates of 1% would result in an increase in annual interest expense of approximately $26.3 million (pre-tax), presuming that obligations subject to variable interest rates remained constant. Note, however, that as of December 31, 2012, cash on hand exceeds our variable rate obligations by $162.3 million.

We are subject to risks normally associated with debt financing, such as the insufficiency of cash flow to meet required debt service payment obligations and the inability to refinance existing indebtedness. In addition, certain of our debt instruments contain covenants which include limitations on our ability to incur additional indebtedness, create or permit liens on assets, and engage in mergers, consolidations or disposals. The covenants under our credit agreement also include, among others, a minimum interest coverage ratio and a maximum leverage ratio. If we fail to satisfy one or more of the covenants under our credit agreement or the senior notes indentures, we would be in default under the credit agreement and/or the senior notes indentures, and may be required to repay such debt with capital from other sources or otherwise not be able to draw down against our revolving credit facility. Under such circumstances, other sources of capital may not be available to us, or be available only on unattractive terms. See Note 7 Financing to our consolidated financial statements included in Part II Item 8 of this Annual Report on Form 10-K.

Our ability to conduct operations depends on the security and stability of our technology infrastructure as well as the effectiveness of, and our ability to execute, business continuity plans across our operations. A failure in the security of our technology infrastructure or a significant disruption in service within our operations could materially adversely affect our business and results of operations.

We maintain, and are dependent on, a technology infrastructure platform that is essential for many aspects of our business operations. We have many different information systems and have acquired additional information systems as a result of the Merger. It is imperative that we securely store and transmit confidential data, including personal health information, while maintaining the integrity of our confidential information. However, any failure to protect against a security breach or a disruption in service could negatively impact our reputation and materially adversely impact our business operations and our results of operations. Our technology infrastructure platform requires significant resources to maintain and enhance systems in order to keep pace with continuing changes as well as evolving industry and regulatory standards. Emerging and advanced security threats, including coordinated attacks, require additional layers of security which may disrupt or impact efficiency of operations. From time to time, we may obtain significant portions of our systems-related or other services or facilities from independent third parties, which may make our operations vulnerable to such third parties failure to adequately perform or protect against a security breach or service disruption. In the event we or our vendors experience:

- a malfunction in business processes
- security breaches (including from cyber- or phishing-attacks)
- failure to maintain effective and up-to-date information systems or
- otherwise experience unauthorized or non-compliant actions by any individual

We could incur disruptions to our business operations or negative impacts to patient safety, customer and member disputes, damage to our reputation, exposures to risk of loss, litigation or regulatory violations, increased administrative expenses or other adverse consequences.

We operate dispensing pharmacies, call centers, data centers and corporate facilities that depend on the security and stability of our technology infrastructure. Our technology infrastructure could be disrupted by any number of events including a general failure of the technology, malfunction of business process or a disaster or other catastrophic event. Such disruptions could, temporarily or indefinitely, significantly reduce, or partially or totally eliminate our ability to process and dispense prescriptions and provide products and services to our clients and

members. Any such service disruption at these facilities or to this infrastructure could have a material adverse effect on our business and results of operations.

Table of Contents

Our business operations involve the substantial receipt and use of confidential health information concerning individuals and a failure to adequately protect such information could have a material adverse effect on our business and results of operations.

Most of our activities involve the receipt or use of protected health information concerning individuals. In addition, we use aggregated and anonymized data for research and analysis purposes, and in some cases, provide access to such data to pharmaceutical manufacturers and third party data aggregators. There is currently substantial regulation at the federal and state levels addressing the use, disclosure and security of patient identifiable health information. At the federal level, the Health Insurance Portability and Accountability Act of 1996 and the regulations issued thereunder (collectively HIPAA) impose extensive requirements governing the transmission, use and disclosure of health information by all participants in health care delivery, including physicians, hospitals, insurers and other payors. Many of these obligations were expanded under the Health Information and Technology for Economic and Clinical Health Act (the HITECH Act), passed as part of the American Recovery and Reinvestment Act of 2009. Failure to comply with standards issued pursuant to state or federal statutes or regulations may result in criminal penalties and civil sanctions. These and future regulations and legislation severely restricting or prohibiting our use of patient identifiable or other information could limit our ability to use information critical to the operation of our business. If we violate a patient s privacy or are found to have violated any state or federal statute or regulation with regard to confidentiality or dissemination or use of protected health information, we could be liable for significant damages, fines or penalties and suffer reputational harm, any one of which could have a material adverse effect on our business and results of operations.

If we lose our relationship with one or more key pharmaceutical manufacturers, or if the payments made or discounts provided by pharmaceutical manufacturers decline, our business and results of operations could be adversely affected.

We maintain contractual relationships with numerous pharmaceutical manufacturers which provide us with, among other things:

- discounts for drugs we purchase to be dispensed from our home delivery pharmacies
- rebates based upon distributions of drugs from our home delivery pharmacies and through pharmacies in our retail networks
- administrative fees for managing rebate programs, including the development and maintenance of formularies which include the particular manufacturer s products
- access to limited distribution specialty pharmaceuticals

If several of these contractual relationships are terminated or materially altered by the pharmaceutical manufacturers or we are otherwise unable to renew such contracts on favorable terms, our business and results of operations could be materially adversely affected. In addition, formulary fee programs have been the subject of debate in federal and state legislatures and various other public and governmental forums. Adoption of new laws, rules or regulations or changes in, or new interpretations of, existing laws, rules or regulations, relating to any of these programs could materially adversely affect our business and results of operations.

Changes in industry pricing benchmarks could materially impact our financial performance.

Contracts in the prescription drug industry, including our contracts with retail pharmacy networks and with PBM and specialty pharmacy clients, generally use average wholesale price or AWP, which is published by a third party as a benchmark to establish pricing for prescription drugs. In 2011, First DataBank, a significant provider of AWP information, discontinued publishing such information. This and other recent events have raised uncertainties as to whether certain third parties will continue to publish AWP, which may result in the inability of payors, pharmacy providers, PBMs and others in the prescription drug industry to continue to utilize AWP as a pricing benchmark as it has previously been calculated. In the event that AWP is no longer published or if we adopt other pricing benchmarks for establishing prices within the industry, we can give no assurance that the short- or long-term impact of such changes to industry pricing benchmarks will not have a material adverse effect on our business and results of operations.

Legislation and other regulations affecting drug prices are discussed in more detail under Part I Item 1 Business Government Regulation and Compliance Legislation and Regulation Affecting Drug Prices above.

25

Table of Contents

Pending and future litigation or other proceedings could subject us to significant monetary damages or penalties and/or require us to change our business practices, either of which could have a material adverse effect on our business and results of operations.

We are subject to risks relating to litigation, enforcement action, regulatory proceedings, and other similar actions in connection with our business operations, including without limitation the dispensing of pharmaceutical products by our home delivery pharmacies, services rendered in connection with our disease management offering and our pharmaceutical services operations. A list of the significant proceedings pending against us is included under Part I Item 3 Legal Proceedings, including certain proceedings that purport to be class action lawsuits. These proceedings seek unspecified monetary damages and/or injunctive relief. While we believe these proceedings are without merit and intend to contest them vigorously, we cannot predict with certainty the outcome of any such proceedings. If one or more of these proceedings has an unfavorable outcome, we cannot provide any assurance that it would not have a material adverse effect on our business and results of operations, including our ability to attract and retain clients as a result of the negative reputational impact of such an outcome. Further, while certain costs are covered by insurance, we may incur uninsured costs that are material to our financial performance in the defense of such proceedings.

Commercial liability insurance coverage continues to be difficult to obtain for companies in our business sector, as such insurance can cause unexpected volatility in premiums and/or retention requirements dictated by insurance carriers. We have established certain self-insurance accruals to cover anticipated losses within our retained liability for previously reported claims and the cost to defend these claims. However, there can be no assurance that such accruals will cover actual losses or that general, professional, managed care errors and omissions, and/or other liability insurance coverage will be reasonably available in the future or such insurance coverage, together with our self-insurance accruals, will be adequate to cover future claims. A claim, or claims, in excess of our insurance coverage could have a material adverse effect on our business and results of operations.

We face significant competition in attracting and retaining talented employees. Further, managing succession and retention for our Chief Executive Officer and other key executives is critical to our success, and our failure to do so could have an adverse impact on our future performance.

We believe that our ability to attract and retain a qualified and experienced workforce is essential to meet current and future goals and objectives. There is no guarantee that we will be able to attract and retain such employees or that competition among potential employers will not result in increased salaries or other benefits. An inability to retain existing employees or attract additional employees could have a material adverse effect on our business and results of operations.

Our failure to adequately plan for succession of our Chief Executive Officer, senior management and other key employees could have a material adverse effect on our business and results of operations. While we have succession plans in place and employment arrangements with certain key executives, these do not guarantee that the services of these executives will continue to be available to us.

Our international operations subject us to certain regulatory, compliance, competition, tax and other risks, which could have a material adverse effect on our business.

UBC operates in various countries throughout the world and our other international operations include operations in Canada and nursing and other clinical services provided in Europe. The clinical research services provided by UBC depend on the willingness of companies in the pharmaceutical and biotechnology industries to continue to outsource clinical development and our reputation for independent, high-quality scientific research and evidence development. In addition, there are risks inherent in our international operations, including, without limitation (1) vigorous regulation of the biotechnology and pharmaceutical industries; (2) compliance with a variety of ever-changing foreign laws and regulations, some of which may conflict with one another; (3) difficulty of enforcing agreements, intellectual property rights and collection of receivables abroad; (4) tax rates, withholding requirements, the imposition of tariffs, exchange controls or other restrictions, including restrictions on repatriation; (5) complexities of managing a multinational organization; (6) general economic and political conditions or terrorist activities in foreign countries; (7) exchange rate fluctuations; and (8) longer payment cycles of foreign customers. Further, there can be no assurance that foreign governments will not enact legislation, impose restrictions or adopt interpretations of existing laws, rules or regulations that could have a material adverse effect on our business and results of operations.

Item 1B Unresolved Staff Comments

There are no unresolved written comments that were received from the SEC Staff 180 days or more before the end of our fiscal year relating to our periodic or current reports under the Securities Exchange Act of 1934.

26

Table of Contents

Item 2 Properties

We operate our United States and Canadian PBM and Other Business Operations segments out of leased and owned facilities throughout the United States and Canada. As of December 31, 2012, our PBM segment consists of 132 owned or leased facilities throughout the United States and 4 owned or leased facilities throughout Canada. For our Other Business Operations segment, as of December 31, 2012, we owned or leased 39 facilities throughout the United States, and owned or leased 4 facilities in Europe. Our existing facilities from continuing operations comprise approximately 6.4 million square feet in the aggregate.

Our St. Louis, Missouri facility houses our corporate headquarters offices and accommodates our executive and corporate functions.

Our PBM home delivery pharmacy operations consist of 14 prescription order processing pharmacies that are located throughout the United States, 8 contact centers and 8 mail order dispensing pharmacies. We also have 11 Specialty Pharmacy home delivery pharmacies and 77 specialty branch pharmacies.

In the first quarter of 2011, we ceased fulfilling prescriptions from our home delivery dispensing pharmacy in Bensalem, Pennsylvania. We currently maintain the location and all necessary permits and licenses to be able to utilize the facility for business continuity purposes.

We believe our facilities generally have been well maintained, are in good operating condition and have adequate capacity to meet our current business needs.

Table of Contents

Item 3 Legal Proceedings

We and/or our subsidiaries are defendants in a number of lawsuits. We cannot ascertain with any certainty at this time the monetary damages or injunctive relief that any of the plaintiffs may recover. We also cannot provide any assurance that the outcome of any of these matters, or some number of them in the aggregate, will not be materially adverse to our financial condition, consolidated results of operations, cash flows or business prospects. In addition, the expenses of defending these cases may have a material adverse effect on our financial results.

These matters are:

Multi-District Litigation On April 29, 2005, the Judicial Panel on Multi-District Litigation transferred a number of previously disclosed cases to the Eastern District of Missouri for coordinated or consolidated pretrial proceedings, including the following remaining cases: Lynch v. National Prescription Administrators, et al. (Case No. 03 CV 1303, United States District Court for the Southern District of New York) (filed February 26, 2003); Wagner et al. v. Express Scripts (Case No.04cv01018 (WHP), United States District Court for the Southern District of New York) (filed December 31, 2003); Scheuerman, et al v. Express Scripts (Case No.04-CV-0626 (FIS) (RFT), United States District Court for the Southern District of New York) (filed April 27, 2004); Correction Officers Benevolent Association of the City of New York, et al. v. Express Scripts, Inc. (Case No.04-Civ-7098 (WHP), United States District Court for the Southern District of New York) (filed August 5, 2004); 1978 Retired Construction Workers Benefit Plan (Nagle) v. Express Scripts, Inc. (Civil Action No. 4:06-CV01156 for the United States District Court for the Eastern District of Missouri) (filed August 1, 2006); Fulton Fish Market Welfare Fund (Circillo) v. Express Scripts, Inc. (Civil Action No. 4:06-cv-01458 for United States District Court for the Eastern District of Missouri) (filed October 3, 2006); Philadelphia Corporation for the Aging v. Benecard Services, Inc., et al. (Civil Action No. 06CV2331 for the United States District Court Eastern District of Pennsylvania) (filed June 2, 2006); Local 153 Health Fund, et al. v. Express Scripts Inc. and ESI Mail Pharmacy Service, Inc. (Case No.B05-1004036, United States District Court for the Eastern District of Missouri) (filed May 27, 2005); and Brynien, et al. v. Express Scripts, Inc. and ESI Mail Services, Inc. (Case No. 1:08-cv-323 (GLS/DRH), United States District Court for the Northern District of New York) (filed February 18, 2008) . Under these cases, the plaintiffs assert that certain of the business practices of Express Scripts, Inc. and its subsidiaries (ESI), including those relating to ESI s contracts with pharmaceutical manufacturers for retrospective discounts on pharmaceuticals and those related to ESI s retail pharmacy network contracts, constitute violations of various legal obligations including fiduciary duties under the Federal Employee Retirement Income Security Act (ERISA), common law fiduciary duties, state common law, state consumer protection statutes, breach of contract, and deceptive trade practices. The putative classes consist of both ERISA and non-ERISA health benefit plans as well as beneficiaries. The various complaints seek money damages and injunctive relief. On July 30, 2008, the plaintiffs motion for class certification of certain of the ERISA plans for which we were the PBM was denied by the Court in its entirety. Additionally, ESI s motion for partial summary judgment on the issue of our ERISA fiduciary status was granted in part in Minshew v. Express Scripts, Inc., et al. (No. 4:02-cv-1503-HEA, United States District Court for the Eastern District of Missouri) (filed December 12, 2001), which was subsequently dismissed on July 21, 2011. The Court found that ESI was not an ERISA fiduciary with respect to MAC (generic drug) pricing, selecting the source for AWP (Average Wholesale Price) pricing, establishing formularies and negotiating rebates, or interest earned on rebates before the payment of the contracted client share. The Court, in partially granting plaintiffs motion for summary judgment, found that ESI was an ERISA fiduciary only with respect to the calculation of certain amounts due to clients under a therapeutic substitution program that is no longer in effect. On December 18, 2009, ESI filed a motion for partial summary judgment on the remaining ERISA claims and breach of contract claims on the cases brought against ESI on behalf of ERISA plans. On February 16, 2010, in accordance with the schedule under the case management order, plaintiffs in the Correction Officers and Lynch matters filed a motion for summary judgment alleging that National Prescription Administrators (NPA) was a fiduciary to the plaintiffs and breached its fiduciary duty. Plaintiffs also filed a class certification motion on behalf of self-funded non-ERISA plans residing in New York, New Jersey, and Pennsylvania for which NPA was the PBM and which used the NPASelect Formulary from January 1, 1996 through April 13, 2002. On July 2, 2010, ESI filed a motion for partial summary judgment as to certain non-ERISA claims being made in various cases. On January 28, 2011, NPA filed a cross motion for summary judgment seeking a ruling that it was not a fiduciary under common law. We are awaiting the court s ruling on these pending motions.

Jerry Beeman, et al. v. Caremark, et al. (Case No.021327, United States District Court for the Central District of California). On December 12, 2002, a complaint was filed against ESI and NextRX LLC f/k/a Anthem Prescription Management LLC and several other pharmacy benefit management companies. The complaint, filed by several California pharmacies as a putative class action, alleges rights to sue as a private attorney general under California law. The complaint

28

Table of Contents

alleges that ESI and the other defendants failed to comply with statutory obligations under California Civil Code Section 2527 to provide California clients with the results of a bi-annual survey of retail drug prices. On July 12, 2004, the case was dismissed with prejudice on the grounds that the plaintiffs lacked standing to bring the action. On June 2, 2006, the U.S. Court of Appeals for the Ninth Circuit reversed the district court s opinion on standing and remanded the case to the district court. The district court s denial of defendants motion to dismiss on first amendment constitutionality grounds is currently on appeal to the Ninth Circuit. Plaintiffs have filed a motion for class certification, but that motion has not been briefed pending the outcome of the appeal. On July 19, 2011, the Ninth Circuit affirmed the district court s denial of defendants motion to dismiss. On August 16, 2011, ESI filed a petition for rehearing *en banc* requesting the Ninth Circuit reconsider its ruling on defendants motion to dismiss, which was granted on October 31, 2011. On June 6, 2012, an *en banc* panel of the Ninth Circuit Court of Appeals issued a decision certifying the question of constitutionality of California Civil Code Section 2527 to the California Supreme Court, requesting the Supreme Court of California to consider the issue and make a ruling. On July 18, 2012, the California Supreme Court granted the certification request. We await a ruling by the state s highest court.

In re: PBM Antitrust Litigation (Civ. No. 2:06-MD-1782-JF, United States District Court for the Eastern District of Pennsylvania). In August 2003, Brady Enterprises, Inc., et al. v. Medco Health Solutions, Inc. (Civ. No. 2:03-4730, United States District Court for the Eastern District of Pennsylvania) was filed against Merck & Co., Inc. (Merck) and Medco. Plaintiffs moved for class certification to represent a national class of retail pharmacies and allege that Medco conspired with, acted as the common agent for, and used the combined bargaining power of plan sponsors to restrain competition in the market for the dispensing and sale of prescription drugs. Plaintiffs allege that, through conspiracy, Medco has engaged in various forms of anticompetitive conduct including, among other things, setting artificially low pharmacy reimbursement rates. Plaintiffs assert claims for violation of the Sherman Act and seek treble damages and injunctive relief. North Jackson Pharmacy, Inc., et al. v. Medco Health Solutions, Inc., et al. (Civil Action No. 2:06-MD-1782-JF, United States District Court for the Northern District of Alabama), consolidated with North Jackson Pharmacy, Inc., et al. v. Express Scripts, Inc., et al. (Civil Action No. CV-03-B-2696-NE, United States District Court for the Northern District of Alabama) (filed October 1, 2003). This case purports to be a class action against ESI and Medco on behalf of independent pharmacies within the United States. The complaint alleges that certain of ESI s and Medco s business practices violate the Sherman Antitrust Act, 15 U.S.C §1, et. seq. Plaintiffs seek unspecified monetary damages (including treble damages) and injunctive relief. Plaintiffs motion for class certification against ESI and Medco was granted on March 3, 2006. ESI filed a motion to decertify the class on January 16, 2007, which has been fully briefed and argued. The case remained dormant until April 19, 2011, when it was reassigned to a new judge and the parties were ordered to submit supplemental briefing on the issue of class certification. Supplemental briefing was completed on August 26, 2011. Oral argument of all the class certification motions was heard on January 26, 2012, and the court took ESI s motion under submission. Mike s Medical Center Pharmacy, et al. v. Medco Health Solutions, Inc., et al. (Civ. No. 3:05-5108, United States District Court for the Northern District of California) (filed December 9, 2005) was filed against Medco and Merck. Plaintiffs seek to represent a class of all pharmacies and pharmacists that contracted with Medco and California pharmacies that indirectly purchased prescription drugs from Merck and make factual allegations similar to those in the Alameda Drug Company action discussed below. Plaintiffs assert claims for violation of the Sherman Act, California antitrust law and California law prohibiting unfair business practices. Relief demanded includes, among other things, treble damages, restitution, disgorgement of unlawfully obtained profits and injunctive relief. The Brady Enterprises, North Jackson Pharmacy, and Mike s Medical Center Pharmacy cases were transferred to the Eastern District of Pennsylvania before the Judicial Panel on Multi-District Litigation on August 24, 2006.

Alameda Drug Company, Inc., et al. v. Medco Health Solutions, Inc., et al. (Case No. CGC-04-428109, Superior Court of San Francisco, California) (filed January 20, 2004). Plaintiffs filed this lawsuit against Medco and Merck seeking certification of a class of all California pharmacies that contracted with Medco and that indirectly purchased prescription drugs from Merck. Plaintiffs allege, among other things, that since at least the expiration of a 1995 consent injunction entered by the United States District Court for the Northern District of California, Medco failed to maintain an Open Formulary (as defined in the consent injunction), and that Medco and Merck failed to prevent nonpublic information received from competitors of Medco and Merck from being disclosed to each other. Plaintiffs further claim that, as a result of these alleged practices, Medco increased its market share and artificially reduced the level of reimbursement to the retail pharmacy class members and that the prices of prescription drugs from Merck and other pharmaceutical manufacturers that do business with Medco were fixed above competitive levels. Plaintiffs assert claims for violation of California antitrust law and California law prohibiting unfair business practices and assert that Medco acted as a purchasing agent for its plan sponsor customers in order to suppress competition. Plaintiffs demand, among other things, compensatory damages, restitution, disgorgement of unlawfully obtained profits and injunctive relief. This case has been stayed pending a ruling on the class certification issues pending before the court in the consolidated action, In re: PBM Antitrust Litigation, discussed above.

29

Table of Contents

National Association of Chain Drug Stores, et al. v. Express Scripts, Inc. and Medco Health Solutions, Inc. (Case No. 2:05-mc-02025, United States District Court for the Western District of Pennsylvania). On March 29, 2012, two pharmacy trade groups and several retail pharmacies filed a lawsuit seeking a preliminary injunction to prohibit the merger between ESI and Medco. The Court held a hearing on plaintiffs motion for preliminary injunction and ESI s motion to dismiss on April 10, 2012. On April 25, 2012, the Court denied plaintiffs motion for preliminary injunction. On August 27, 2012, the Court granted ESI s motion to dismiss in part and denied it in part, allowing plaintiffs to re-file. On September 10, 2012, a pharmacy association, a specialty pharmacy and a pharmacy wholesaler filed an amended complaint alleging antitrust violations as a result of the merger between Express Scripts and Medco. On October 29, 2012, ESI filed a motion to dismiss the amended complaint, which plaintiffs opposed in briefings filed on December 3, 2012.

United States of America ex. rel. Lucas W. Matheny and Deborah Loveland vs. Medco Health Solutions, Inc., et al. (Cause No. 08-14201-CIV-Graham/Lynch, United States District Court for the Southern District of Florida) (filed June 9, 2008). This is an unsealed, *qui tam* matter which relates to PolyMedica Corporation, a former Medco subsidiary, in which the government has declined to intervene. The case is proceeding as a civil lawsuit, although the government could decide to intervene at any point during the course of the litigation. The complaint alleges that the Polymedica companies violated the False Claims Act through its accounting practices of applying invoice payments to accounts receivable. On July 21, 2010, the United States District Court for the Southern District of Florida dismissed the action without prejudice. The plaintiffs filed an amended complaint that was dismissed with prejudice on October 22, 2010. Plaintiffs appealed the dismissal of two counts of the complaint and, on February 22, 2012, the Eleventh Circuit Court of Appeals reversed the dismissal and directed the United States District Court for the Southern District of Florida to reinstate those two claims. On December 3, 2012, Medco sold the PolyMedica Corporation and its subsidiaries, including all its assets and liabilities, to FGST Investments, Inc. The case is set for trial on May 27, 2013.

United States ex rel. David Morgan v. Express Scripts, Inc. and Medco Health Solutions, Inc. et al. (Case No. 05-cv-1714 (HAA) (United States District Court for the District of New Jersey). This is an unsealed *qui tam* matter against ESI, Medco and other defendants. The government has declined to intervene against defendants and the matter was unsealed on December 21, 2012. The *qui tam* relator served the Third Amended Complaint on the Company on January 3, 2013. Relator alleges claims under the federal False Claims Act and the false claims acts of twenty-two states. The allegations asserted by relator deal primarily with an alleged conspiracy among other defendants to inflate the published Average Wholesale Price (AWP) of certain drugs. Relator generally alleges that ESI and Medco were aware of the alleged AWP inflation and submitted false claims to the government, or caused false claims to be submitted to the government, by failing to disclose the alleged AWP inflation to their government health care program customers in violation of an alleged fiduciary duty and/or in violation of alleged contractual obligations. Relator also alleges that ESI and Medco failed to properly process and/or adjudicate claims for payment for prescription drugs dispensed to federal healthcare beneficiaries, which allegedly resulted in the submission to the government of false claims for payment.

In July 2011, Medco received a subpoena *duces tecum* from the United States Department of Justice, District of Delaware, requesting information from Medco concerning its arrangements with Astra Zeneca concerning four Astra Zeneca drugs. The Company is cooperating with the inquiry. The Company is not able to predict with certainty the timing or outcome of this matter.

On October 1, 2012, Accredo Health Group Inc., a Medco subsidiary, received a subpoena *duces tecum* from the United States Department of Justice, Southern District of New York, requesting information from Accredo concerning its arrangements with Novartis Pharmaceuticals Corporation pertaining to the drug Exjade. The Company is cooperating with the inquiry and is not able to predict with certainty the timing or outcome of this matter.

In addition to the foregoing matters, in the ordinary course of our business, there have arisen various legal proceedings, investigations or claims now pending against us or our subsidiaries. The effect of these actions on future financial results is not subject to reasonable estimation because the proceedings are in early stages and/or considerable uncertainty exists about the outcomes. Where insurance coverage is not available for such claims, or in our judgment, is not cost-effective, we maintain self-insurance accruals to reduce our exposure to future legal costs, settlements and judgments related to uninsured claims. Our self-insured accruals are based upon estimates of the aggregate liability for the costs of uninsured claims incurred and the retained portion of insured claims using certain actuarial assumptions followed in the insurance industry and our historical experience. It is not possible to predict with certainty the outcome of these claims, and we can give no assurance that any losses in excess of our insurance and any self-insurance accruals will not be material.

30

Table of Contents

Item 4 Mine Safety Disclosures

Not applicable.

Table of Contents

PART II

Item 5 Market For Registrant s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Market Price of and Dividends on the Registrant s Common Equity and Related Stockholder Matters

Market Information. Our common stock is traded on the Nasdaq Global Select Market (Nasdaq) under the symbol ESRX. The high and low prices, as reported by the Nasdaq, are set forth below for the periods indicated. Note that prices for the period before April 2, 2012 relate to the common stock of ESI and the prices for the period after April 2, 2012 relate to the common stock of Express Scripts.

	Fiscal Year 2012		Fiscal Year 2011	
	High	Low	High	Low
Common Stock				
First Quarter	$ 55.34	$ 45.66	$ 58.77	$ 50.91
Second Quarter	58.98	50.31	60.89	52.27
Third Quarter	64.46	53.61	57.47	37.06
Fourth Quarter	66.06	49.79	48.39	34.47

Holders. As of December 31, 2012, there were 63,776 stockholders of record of our common stock. We estimate that there are approximately 677,224 beneficial owners of our common stock.

Dividends. The Board of Directors has not declared any cash dividends on our common stock since our initial public offering and does not currently intend to declare any cash dividends in the foreseeable future. The terms of our existing credit facility contain certain restrictions on our ability to declare or pay cash dividends, as discussed in Part II Item 7 Management s Discussion and Analysis of Financial Condition and Results of Operations Liquidity and Capital Resources Bank Credit Facility.

Recent Sales of Unregistered Securities

None.

Issuer Purchases of Equity Securities

ESI had a stock repurchase program, originally announced on October 25, 1996. Treasury shares were carried at first in, first out cost.

Upon consummation of the Merger on April 2, 2012, all ESI shares held in treasury were no longer outstanding and were cancelled and retired and ceased to exist. The Board of Directors of the Company has not adopted a stock repurchase program to allow for the repurchase of shares of Express Scripts.

Table of Contents

Item 6 Selected Financial Data

The following selected financial data should be read in conjunction with our consolidated financial statements, including the related notes, and Part II Item 7 Management s Discussion and Analysis of Financial Condition and Results of Operations. Results for the year ended December 31, 2012 reflect the discontinued operations of Europa Apotheek Venlo B.V. (EAV), United BioSource Corporation (UBC) and our operations in Europe. Results for the years ended December 31, 2009 and 2008 have been adjusted for the discontinued operations of Phoenix Marketing Group (PMG).

(in millions, except per share data)	**2012**[1]	**2011**	**2010**	**2009**[2]	**2008**[3]
Statement of Operations Data (for the Year Ended December 31):					
Revenues[4]	$ 93,858.1	$ 46,128.3	$ 44,973.2	$ 24,722.3	$ 21,941.2
Cost of revenues[4]	86,527.9	42,918.4	42,015.0	22,298.3	19,910.6
Gross profit	7,330.2	3,209.9	2,958.2	2,424.0	2,030.6
Selling, general and administrative	4,545.7	895.5	887.3	926.5	756.3
Operating income	2,784.5	2,314.4	2,070.9	1,497.5	1,274.3
Other expense, net	(593.5)	(287.3)	(162.2)	(189.1)	(66.9)
Income before income taxes	2,191.0	2,027.1	1,908.7	1,308.4	1,207.4
Provision for income taxes	833.3	748.6	704.1	481.8	431.5
Net income from continuing operations	1,357.7	1,278.5	1,204.6	826.6	775.9
Net (loss) income from discontinued operations, net of tax[5]	(27.6)		(23.4)	1.0	0.2
Net income	1,330.1	1,278.5	1,181.2	827.6	776.1
Less: Net income attributable to non-controlling interest	17.2	2.7			
Net income attributable to Express Scripts	$ 1,312.9	$ 1,275.8	$ 1,181.2	$ 827.6	$ 776.1
Weighted-average shares outstanding:[6]					
Basic:	731.3	500.9	538.5	527.0	497.8
Diluted:	747.3	505.0	544.0	532.2	503.6
Basic earnings (loss) per share:[6]					
Continuing operations attributable to Express Scripts	$ 1.83	$ 2.55	$ 2.24	$ 1.57	$ 1.56
Discontinued operations attributable to Express Scripts[5]	(0.04)		(0.04)		
Net earnings attributable to Express Scripts	1.80	2.55	2.19	1.57	1.56
Diluted earnings (loss) per share:[6]					
Continuing operations attributable to Express Scripts	$ 1.79	$ 2.53	$ 2.21	$ 1.55	$ 1.54
Discontinued operations attributable to Express Scripts[5]	(0.04)		(0.04)		
Net earnings attributable to Express Scripts	1.76	2.53	2.17	1.56	1.54
Amounts attributable to Express Scripts shareholders:					
Income from continuing operations, net of tax	$ 1,340.5	$ 1,275.8	$ 1,204.6	$ 826.6	$ 775.9
Discontinued operations, net of tax	(27.6)		(23.4)	1.0	0.2
Net income attributable to Express Scripts shareholders	$ 1,312.9	$ 1,275.8	$ 1,181.2	$ 827.6	$ 776.1
Balance Sheet Data (as of December 31):					
Cash and cash equivalents	$ 2,793.9	$ 5,620.1	$ 523.7	$ 1,070.4	$ 530.7
Working (deficit) capital	(2,300.5)	2,599.9	(975.9)	(1,313.3)	(677.9)
Total assets	58,111.2	15,607.0	10,557.8	11,931.2	5,509.2
Debt:					