

2021 State Legislative Wins for Community Pharmacists

State-Funded Pharmacy Benefits Programs

Arkansas Report

Pursuant to a request for information into the regulation of PBMs and state funds going to PBMs, the Arkansas Department of Insurance issued a report finding that PBMs are not in full compliance with state law, and PBM drug formulary practices can create conflicts of interest.

Delaware Report

The Delaware State Auditor issued a report finding that State Benefits Office cost taxpayers millions after paying its PBM \$24.5 million more than they should have paid for state employees' prescription drugs.

New Jersey S249/A1259

Requires PBMs serving the state's Medicaid managed care program to disclose all sources and amounts of financial benefits received by the pharmacy benefits manager, all payments made by the PBM to pharmacies, and the PBM's payment model for administrative fees.

North Dakota Testimony

In testimony on the state's Medical Services Budget, North Dakota Medical Services staff released their findings that carving pharmacy benefits out of the managed care program for Medicaid Expansion and CHIP saved the state \$17.259 million, exceeding the projected savings of \$6.091 million.

PBM Reform

Alabama SB 227

Prohibits a PBM from steering a patient to its affiliated pharmacies; prohibits a PBM from reimbursing its affiliated pharmacies at higher rates than non-affiliated pharmacies; requires a PBM to contract with a pharmacy that is willing

to meet the terms and conditions for network participation.

Arizona SB 1356

Prohibits a PBM from holding a pharmacy responsible for a fee for any step, component, or mechanism related to the claims adjudication process.

Arkansas HB 1804

Makes changes to align existing law with the *Rutledge v. PCMA* decision, thereby granting the Insurance Department enforcement authority over existing fair pharmacy audit laws.

Arkansas HB 1881

Prohibits a PBM from mandating that a patient use a mail-order pharmacy or interfering with the patient's right to choose an in-network pharmacy; prohibits a PBM from discriminating against 340B entities by lowering reimbursement amounts or excluding from provider networks.

Arkansas HB 1852

Prohibits a pharmacy that is owned by an insurer/PBM or other similar entity from requiring a patient to receive prescriptions through home-delivery services.

Arkansas SB 617

Prohibits a pharmacy that is owned by an insurer/PBM or other similar entity from filling a prescription without express patient consent; requires the affiliated pharmacy to disclose the conflict of interest; prohibits an affiliated pharmacy from using patient data for solicitation purposes.

Colorado HB 21-1237

Directs the state to contract with a PBM for the administration of state employee health insurance through a reverse-auction process, and then use that platform to audit claims.

Maine LD 1450

Prohibits a PBM from using untrue, deceptive, or misleading advertising.

Maine LD 686

Requires PBMs and other drug supply chain entities to disclose certain drug pricing information to the state.

Maryland HB 601

Removes provisions exempting ERISA plans from regulations addressing the provision of pharmacy benefits, thereby increasing the number of patients protected by those regulations.

Montana SB 395

Requires PBMs to become licensed with the state; prohibits a PBM from using untrue, deceptive, or misleading advertising; requires a PBM to offer adequate pharmacy provider networks.

New Hampshire SB 97

Protects a pharmacy's authority to offer home delivery services from PBM interference.

New Mexico SB 124

Requires a health plan to reimburse a pharmacy within 14 days of receiving the claim.

North Carolina SB 257

Requires a PBM to become licensed with the state; prohibits a PBM from limiting the types of drugs that pharmacy may dispense; limits a PBMs authority to retroactively reduce or deny a claim; prohibits a PBM from preventing a pharmacy from offering home delivery services; protects a pharmacy from PBM retaliation; requires PBMs to establish an appeals process for reimbursement disputes; requires a PBM to contract with any pharmacy that is willing to terms and conditions of network participation.

North Dakota HB 1492

Prohibits a PBM from holding a pharmacy responsible for a fee for any step, component,

or mechanism related to the claims adjudication processing network.

Oklahoma HB 2123

Establishes the Pharmacy Choice Commission to assist with the enforcement of PBM regulations.

Oklahoma HB 2677

Strengthens existing fair pharmacy audit protections by limiting audit periods and allowing a pharmacy to reverse and rebill discrepant claims; strengthens existing MAC list appeal procedures by allowing a PSAO to file an appeal on a pharmacy's behalf and requiring a PBM to adjust a MAC price if a drug is not available from wholesalers at the original price; permits a pharmacy to refuse to dispense a prescription if the reimbursement would be lower than the pharmacy's cost of acquiring the drug.

Rhode Island SB 479

Prohibits a PBM from implementing gag clauses that prevent pharmacists from discussing a patient's cost-share or lower cost alternatives.

Tennessee HB 1398

Prohibits a PBM from interfering with a patient's right to choose an in-network pharmacy provider through steering, coercive copays, or other means; requires PBM reimbursement rates to reflect a pharmacy's actual acquisition costs on commercial claims; prohibits a PBM from discriminating against 340B entities by lowering reimbursement amounts or excluding from provider networks.

Texas HB 1763

Prohibits a PBM from retroactively reducing claim amounts through effective rates, quality assurance programs, or other means; prohibits a PBM from reimbursing its affiliated pharmacies at higher rates than non-affiliated pharmacies; protects a pharmacy's right to offer home-delivery services; prohibits a PBM from requiring accreditation requirements that are more stringent than those required by the state

or federal government; protects a pharmacy from PBM retaliation for exercising its rights under the bill.

Texas HB 1919

Prohibits a PBM/insurer or its affiliate from transferring patient data for a commercial purpose; prohibits a PBM/insurer from steering patients to, or requiring a patient to use, an affiliated pharmacy.

Utah SB 140

Prohibits a PBM from restricting access to a pharmacy network or adjusting reimbursement rates based on a pharmacy's participation in a 340B contract pharmacy arrangement.

Utah SB 177

Strengthens existing fair pharmacy audit laws by increasing the number of acceptable documents that may be used to validate a claim.

Vermont H 349

Prohibits a PBM from restricting access to a pharmacy network or adjusting reimbursement rates based on a pharmacy's participation in a 340B contract pharmacy arrangement.

Virginia HB 2219

Makes existing patient choice and "any willing pharmacy" provisions applicable to PBMs, instead of just insurers.

West Virginia HB 2263

Requires a PBM to reimburse a claim in an amount that is not less than the drug's National Average Drug Acquisition Cost (NADAC) plus a professional dispensing fee of \$10.49 on commercial claims; prohibits PBMs from charging a pharmacy a retroactive fee or from deriving revenue from a pharmacy or an insured; prohibits a PBM from reimbursing non-affiliated pharmacies at lower rates than it reimburses its affiliated pharmacies; prohibits a PBM from interfering with a patient's right to choose an in-network pharmacy and from

denying a pharmacy the opportunity to become an in-network provider, if the pharmacy is willing to agree to the network's terms and conditions; removes a provision exempting PBMs serving ERISA plans from existing regulations.

Wisconsin SB 3

Requires PBMs to become licensed with the state; prohibits a PBM from implementing a gag clause; requires a PBM to provide notice of accreditation requirements for network participation; establishes fair pharmacy audit procedures.

State Provider Status

Arkansas HB 1134

Allows pharmacists to prescribe, administer, deliver, distribute, or dispense vaccines and medications to treat adverse reactions to administered vaccines to individuals 3 years old and up.

California AB 133

Requires the Department of Health Care Services to implement a medication therapy management benefit and reimbursement methodology for covered pharmacist services related to the dispensing of qualified specialty drugs.

California AB 1064

Authorizes to initiate and administer immunizations to include any vaccine approved or authorized by the United States Food and Drug Administration (FDA) for persons three years of age and older.

Colorado HB 21-1275

Modifies Colorado's Medicaid program to include payments to pharmacists when working in a collaborative practice agreement with a physician and allows clinical pharmacist services to be reimbursed at federally qualified health centers.

Florida SB 768

Authorizes certified pharmacists to administer vaccines to adults and to administer influenza vaccines to children seven years of age or older.

Illinois SB 2017

Allows pharmacists to administer all vaccines recommended on CDC schedules and travel vaccines for those 7 and older; requires reimbursement at the physician rate.

Iowa SB 296

Allows pharmacists to engage in collaborative pharmacy practice and makes them eligible to receive payment or reimbursement under a health benefits plan.

Kentucky HB 48

Requires insurers to reimburse a pharmacist for a service or procedure at a rate no less than that provided to other nonphysician practitioners.

Maryland SB 736

Authorizes pharmacists to administer FDA approved vaccines to individuals 3-17 years old from July 1, 2021, until June 30, 2022.

New Hampshire HB 479

Provides reimbursement for pharmacy services and pharmacy technician authority to administer vaccinations

New York SB 4807

Authorizes pharmacists to provide specific vaccinations such as measles, mumps, and the COVID-19 vaccine for individuals over the age of 18.

Ohio HB 6

Authorizes pharmacists to administer any vaccine to individuals 13 and older and both influenza & COVID-19 vaccines to individuals 7-13 years old without a prescription.

Oklahoma SB 392

Requires an insurer to compensate pharmacists for services provided to enrollees if the health

benefit plan covers the service when provided by another provider.

Oklahoma SB 398

Authorizes pharmacists to administer any FDA approved or authorized vaccine without a prescription.

Oregon HB 2958

Requires insurance plans with prescription drug benefits to cover the cost of drugs prescribed and dispensed for preexposure & post-exposure prophylactic antiretroviral therapies.

Virginia HB 2333 and SB 1445

Allows pharmacies to volunteer their facilities as COVID-19 vaccination sites.

Wisconsin AB 4

Allows certified pharmacy technicians to administer vaccines and pharmacy students to administer vaccines under the supervision of a pharmacist or other authorized provider.

Wisconsin SB 255

Provides Medicaid reimbursement to pharmacists for services within their scope of practice.