



2023

STATE WINS FOR COMMUNITY PHARMACY

MEDICAID MANAGED CARE REFORM

New York

The New York Medicaid Pharmacy Program (NYRx) was successfully implemented on April 1, 2023, carving out the pharmacy benefit from Medicaid managed care. The state expected to save \$400 million from the change.

Ohio

Retail pharmacy providers enrolled with Ohio Department of Medicaid and contracted with the Single Pharmacy Benefit Manger were eligible for a tiered dispensing fee for all eligible prescriptions dispensed between Oct. 1, 2022, and June 30, 2023, amounting to a nearly 6 percent increase.

Oregon SB 608

Requires the Oregon Health Authority to conduct a cost of dispensing survey of Medicaid pharmacy providers every three years and to request a state plan amendment to change the professional dispensing fee for reimbursement. The first survey is to begin no later than Jan. 2, 2024.

PBM ENFORCEMENT

NCPA submitted comments to the National Association of Insurance Commissioners in response to a draft PBM white paper. Supported by 78 allied organizations, the comments urged greater enforcement of existing PBM laws and offered recommendations for making state-level oversight more effective. Among the key points, NCPA recommended NAIC assist its members to develop PBM-specific expertise in state departments of insurance and to create a uniform PBM-specific complaint form that could be used nationwide.

Minnesota

The Department of Commerce levied a \$500,000 penalty against Caremark after alleging that Caremark violated state law prohibiting the steering of patients to pharmacies or mail-order prescription services in which Caremark had an ownership interest. Under that practice, some Caremark enrollees complained of being forced to drive up to 130 miles to fill prescriptions.

Oklahoma

Insurance Commissioner Glen Mulready filed an administrative action to penalize Caremark for directing its patients to use the company's in-person and mail-order pharmacies instead of other drugstores, despite previously being sanctioned for such practices. Mulready said Caremark also knowingly spread misinformation to its Oklahoma customers in violation of state law.

West Virginia

Caremark agreed to a Consent Order with Insurance Commissioner Allan L. McVey to pay a fine of \$270,000 for not complying with state code requiring reimbursement of no less NADAC plus a \$10.49 dispensing fee. Per the \$10,000 per week penalty found in state code, the commissioner identified violations spanning the 27-week period of Jan. 1-July 13, 2022.

PBM REGULATION

Arizona HB 1382

Requires PBM certification and creates responsibilities and authority for the Department of Insurance and Financial Institution to enforce certification, including investigation into PBM officers, owners, and directors and to issue penalties such as fines, suspension, and revocation.

Arkansas SB 94

Creates greater enforcement of PBM laws through the Office of the Insurance Commissioner, allowing the office to review the books and records of PBMs regarding drug rebates and payment to pharmacies for products and services and issue fines for a range of violations, including under-reimbursement.

Colorado HB 23-1227

Creates PBM enforcement authority for the commissioner of insurance in the Division of Insurance. Requires all PBMs to register and pay fees to the DOI Cash Fund to fund the division's costs to enforce PBM laws. Authorizes the commissioner to deny, suspend, revoke, or refuse PBM registration and promulgate rules to implement, and appropriates funds for implementation.



THE VOICE OF THE COMMUNITY PHARMACIST®

100 Daingerfield Road
Alexandria, VA 22314-2888
703.683.8200 PHONE
703.683.3619 FAX

PBM REGULATION (CONT.)

Florida SB 1550

Improves transparency as it relates to PBM-owned or affiliated pharmacies, addresses patient steering by prohibiting the mandating or incentivizing of a patient to use mail order or a PBM affiliated pharmacy, requires pass-through pricing, ensures network adequacy, prohibits clawbacks, and creates reimbursement appeals procedures. Further, it prohibits PBMs from requiring accreditation standards more stringent than state or federal law, strengthens enforcement authority for the commissioner of insurance regulation and provides appropriations for implementation.

Idaho HB 215

Gives authority to the director of the Department of Insurance to enforce existing PBM laws.

Idaho HB 291

Addresses PBM audit practices, including a prohibition of extrapolation audits, and creates an appeals process.

Illinois HB 3631

Prohibits PBMs from retaliating against pharmacists or pharmacies that disclose information in courts, administrative hearings, or legislative committees when the pharmacist or pharmacy believes laws, rules, or regulations have been violated.

Indiana HB 1445

Provides authority to the attorney general for conducting audits of PBMs for both the Medicaid program and state employee health plans.

Maryland HB 374

Strengthens pharmacy protections in the face of PBM audits.

Montana HB 156

Adds identical regulation of pharmacy services administrative organizations to the current PBM statute.

New Jersey A. 536/2841

Requires licensure of PBMs and registration of pharmacy services administrative organization with the Department of Banking and Insurance, improves transparency of PBM compensation, clarifies definitions and reimbursement benchmarks, and strengthens the appeals process for reimbursement disputes.

Oklahoma HB 1843

Moves PBM enforcement authority from the Office of the Insurance Commissioner to the attorney general.

Oregon HB 2728

Requires PBMs to notify pharmacies about claims denials or reductions at the point of sale and prohibits retroactive fees.

South Carolina SB 520

Addresses pharmacy audits, requires biannual audits of Medicaid managed care pharmacy pricing, prohibits retroactive fees, limits patient steering, and creates an external review process for reimbursement. The law also defines and adds pharmacy services administrative organizations to the state statutes.

South Dakota HB 1135

Enhances transparency, creates oversight, prohibits retroactive and other types of fees, adds MAC pricing protections, and prohibits reimbursement discrimination against pharmacies not owned by or affiliated with PBMs.

Wyoming SF 151

Allows pharmacies or pharmacists to decline services to a patient or PBM if the pharmacy or pharmacist is to be paid less than the pharmacy acquisition cost.

PREP AUTHORITIES

Georgia HB 416

Allows pharmacy technicians to administer vaccinations to individuals 18 or older under the supervision of a licensed pharmacist.

Michigan SB 219

Permits pharmacists to independently administer ACIP-recommended immunizations to patients 3 years and older; allows pharmacists to order and administer CLIA-waived tests.

Montana HB 710

Allows pharmacists to administer CDC-recommended immunizations to individuals 7 years and older.

Oregon HB 2278

Authorizes pharmacists to administer flu vaccines to persons six months or older.

Oregon HB 2486

Allows pharmacy technicians under the supervision of a pharmacist to administer vaccines.

West Virginia HB 2754

Allows pharmacy technicians to administer vaccinations to individuals 18 years or older under the supervision of a licensed pharmacist.

EXPANDED SCOPE OF PRACTICE

Arkansas HB 1007

Authorizes pharmacists to initiate and administer HIV PrEP and PEP under a statewide protocol.

Connecticut HB 6768

Authorizes pharmacists to prescribe emergency or hormonal contraception after completion of educational training program accredited by the ACPE.

Connecticut SB 1102

Allows pharmacists to order and administer tests for COVID-19, HIV, and influenza; allows pharmacists to prescribe and dispense HIV PEP/PrEP; authorizes pharmacy technicians to administer vaccinations.

Indiana HB 1568

Allows pharmacists to prescribe and dispense hormonal contraceptive patches and self-administered contraception.

Hawaii SB 602

Authorizes pharmacists to order, perform, and report the results of CLIA-waived tests

New Mexico SB 92

Modifies pharmacy practice act to include ordering and administration of CLIA-waived tests for COVID-19, flu, strep, UTIs, and HIV.

Rhode Island SB 103

Authorizes pharmacists to prescribed and administer all FDA-approved hormonal contraceptives and requires coverage from insurers and health plans.

Rhode Island SB 563

Allows pharmacists to prescribe, dispense and administer HIV PEP/PrEP drugs and allows health plans to cover for HIV treatment.

Virginia SB 948

Allows pharmacists to initiate treatment pursuant to CLIA-waived tests for COVID-19, strep, flu and other health minor conditions.

PROVIDER STATUS AND PAYMENT FOR SERVICE

Colorado SB 23-162

Authorizes pharmacists to delegate certain testing and tasks to pharmacy technicians and allows pharmacies enrolled in the Vaccines for Children Program to receive reimbursement through Medicaid for vaccines rendered to children under 19.

Maryland HB 1151

Requires Medicaid, nonprofit health service plans, and HMOs to provide coverage for services rendered by pharmacists within their scope of practice to the same extent as services rendered by any other provider.

North Dakota HB 1095

Requires health insurance plans to provide coverage for pharmacists providing comprehensive medication management.

Virginia HB 2274

Requires state the Medicaid plan to reimburse services performed by pharmacists, pharmacy technicians, and pharmacy interns.

Wyoming SF 9

Authorizes the state Medicaid program to pay pharmacists for services rendered within their scope of practice.