2024

STATE WINS FOR COMMUNITY PHARMACY

MEDICAID MANAGED CARE REFORM

Nebraska LB 204

Creates a managed Medicaid reimbursement floor for independent pharmacies with six or less locations based on the state's Medicaid fee-for-service methodology of NADAC plus a professional dispensing fee. The professional dispensing fee will be $10.38 until the Department of Insurance completes an initial cost of dispensing survey. The law requires a survey every two years.

New Mexico HB 165

Creates a reimbursement floor in the managed Medicaid program for community-based pharmacy providers using the state's Medicaid fee-for-service methodology of NADAC plus a professional dispensing fee of $10.30. Community-based pharmacies are defined, in part, as not: 1) government-owned; 2) hospital-owned; 3) owned by a corporation that owns hospitals; 4) an extension of a medical practice or special facility; 5) owned by a corporate chain of pharmacies with stores outside of the state; or 6) a mail-order pharmacy.

PBM REGULATION AND ENFORCEMENT

The National Association of Insurance Commissioners' (NAIC) PBM Regulatory Issues Subgroup adopted its 2024 charges, setting its direction for the upcoming year and beyond. Among other things, the subgroup will monitor, facilitate, and coordinate with the states and federal agencies regarding PBM compliance and enforcement. In addition, the subgroup will draft a new chapter for the NAIC market conduct manual with standards for examinations of PBMs.

Arkansas

The office of Gov. Sarah Huckabee Sanders (R) announced the Arkansas Insurance Department (AID) brought penalties and hearings against Caremark, Express Scripts, Magellan, and MedImpact. According to the press release, it was the state's largest penalty in a pharmaceutical enforcement action ever, with $1.47 million in possible penalties. In June, AID issued a bulletin advising PBMs to stop unfairly paying Arkansas pharmacies less than the national average drug acquisition cost in violation of state law. It's seeking $5,000 per violation for each payment made under NADAC amounts. Arkansas is alleging 19 violations by Express Scripts, 50 by Magellan, and a stunning 217 by Caremark.

PBM LEGISLATION

Arizona HB 165

Creates pharmacy audit protections, including limiting claim reversals when dispensed quantities are correct during wholesale invoice audits and limiting retroactive fees to claims that are fraudulent, duplicative, or incorrectly resulting in overpayment.

Idaho HB 596

Requires passthrough pricing and network adequacy standards at or above Medicare, limits patient steering, prohibits arbitrary accreditation standards, defines specialty drugs, and establishes reimbursement appeals processes.

Iowa HF 2099

Addresses PBM retaliation against pharmacies, prohibits fees such as claim processing fees, performance-based fees, network participation fees or accreditation fees, and updates MAC list policies.

Kentucky SB 188 and HB 190

Require pharmacy reimbursement in the commercial market and in most state employee plans of NADAC plus a professional dispensing fee effective Jan. 1, 2025 for independent pharmacies. Address network adequacy, limit mail order, prohibit retroactive fees, prohibit lower reimbursement to non-PBM owned or affiliated pharmacies, and limit what PBMs can deem specialty drugs.

Louisiana HB 603

Expands the definition of health insurance issuers to include PBMs and provides the Office of the Insurance Commissioner authority to promulgate standards for audits and reviews of pharmacies.

Louisiana HB 172

Creates transparency and reporting requirements for PBMs serving Office of Group Benefits enrollees.

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Louisiana SB 444
Prohibits PBMs from reimbursing pharmacies or pharmacists less than the acquisition cost for the drug, device or service. This applies to pharmacies and pharmacists that do not own more than five shares or five percent interest in a pharmaceutical wholesale purchasing group or vendor of covered drugs, devices, or services.

New Hampshire SB 555
Creates additional PBM transparency and reporting requirements.

New Mexico HB 33
Creates additional PBM transparency and reporting requirements.

Oklahoma SB 1670 and HB 3376
Establish additional PBM oversight and enforcement authority within the Office of the Attorney General.

Oregon HB 4149
Requires PBM licensure, transparency and reporting to identify spread pricing, adds audit protections, strengthens appeals processes, and prohibits reimbursement discrimination against 340b covered entities. Requires the Department of Consumer and Business Services to hire at least one additional full-time employee to assist in PBM regulation. Provides oversight of pharmacy services administrative organizations.

Pennsylvania HB 1993
For plans not subject to ERISA, addresses patient steering and reimbursement parity with PBM-owned or affiliated pharmacies, ensures network adequacy, limits audit error recoupment, strengthens PBM reporting, and provides broad oversight and enforcement authority to the Pennsylvania Department of Insurance.

Vermont H 233
Requires PBM certification; prohibits spread pricing, gag clauses, and making classifications of drugs beyond what is established by state and federal governments and the Board of Pharmacy; and creates fiduciary responsibility for the PBM to the payer. Broader authority for enforcement and rulemaking is given to the commissioner of the Department of Financial Regulation.

Virginia HB 1402 and SB 660
Require PBM licensure and rebate reporting and allow for examinations of PBMs.

Washington SB 5213
Creates network access protections, facilitates the Office of the Insurance Commissioner investigations of complaints against PBMs, and adds protections for pharmacies and pharmacists against retaliation if they disclose information when they believe there have been violations of state or federal law.

West Virginia SB 453
Creates transparency in the Public Employees Insurance Agency by requiring pharmacy reimbursement of NADAC plus a professional dispensing fee based on West Virginia's Medicaid pharmacy reimbursement.

DRUG PRICING AND REIMBURSEMENT

Maine
NCPA opposed LD 1829, which proposed to make it a violation for a pharmacy to purchase for sale or seek reimbursement for a prescription drug at a higher rate than the reference rate established by Medicare. The bill did not advance.

Rhode Island
NCPA joined coalition efforts to defeat S. 2013 and H 7443, which would have prohibited pharmacy reimbursement above a maximum fair price benchmark regardless of the price a pharmacy paid to obtain the drug. The coalition also defeated S. 2719 and H 8220, legislation to create a Rhode Island Drug Cost Review Commission that would have had powers to set reimbursement rate limits.

Virginia
NCPA joined coalition efforts to successful secure a veto by Gov. Glenn Youngkin (R) of SB 274, legislation to create a Prescription Drug Affordability Board with the power to create upper payment limits without regard to the price paid by the pharmacy to obtain the drug.

PREP ACT

DC B 25-0545
Authorizes pharmacists to administer all CDC-recommended immunizations to patients 3 years and older and allows pharmacists to delegate vaccine administration to a pharmacy technician or intern.

Hawaii HB 2553
Authorizes licensed pharmacists to order and administer all FDA-approved and ACIP-recommended vaccines to patients 3 years and older without a prescription.

Kentucky HB 274
Allows licensed pharmacists to administer ACIP-recommended immunizations to individuals 5 years and older.

Maryland HB 76
Allows licensed pharmacists to order and administer flu and COVID-19 vaccines to patients 3 years old and up, and all other ACIP-recommended vaccines to patients 6 years old and up.

New Hampshire SB 402
Authorizes pharmacists to administer all FDA-approved vaccines to individuals 18 years or older.

New York S 8920
Extends pharmacists' authority to administer COVID-19 and influenza tests to 2026.

Ohio SB 144
Allows licensed pharmacists and pharmacy technicians to administer immunizations to patients 5 years of age.

Oregon SB 1506
Authorizes pharmacists to test and treat for SARS-CoV-2.

Pennsylvania HB 1993
Authorizes pharmacists to administer all ACIP-recommended vaccines to patients 8 years and older and COVID-19 and influenza vaccines to patients 5 years and older; and permits pharmacy technicians to administer COVID-19 and flu vaccines to patients 13 years and older.

South Carolina H 3988
Authorizes pharmacists to administer vaccines to individuals 16 years of age and older pursuant to a statewide protocol authorized by the Board of Medical Examiners without an order or prescription of a provider.

Tennessee SB 869
Makes permanent the federal emergency authorities for COVID-19 and influenza immunization and testing and includes permissions to dispense under certain conditions: opioid antagonists, epinephrine auto injectors, PEP for exposure to HIV infection, and hormonal contraception.

SCOPE OF PRACTICE

DC B 25-0545
Authorizes pharmacists to initiate HIV PEP/PrEP pursuant to a board-approved protocol.

Florida HB 159
Permits licensed pharmacists to screen adults for HIV exposure and provide results and creates a process for pharmacists to be certified to order and dispense PEP under a collaborative practice agreement with a physician.

Idaho H 527
Authorizes pharmacists to prescribe, distribute, dispense, and administer emergency medications including opioid antagonists and epinephrine auto injectors.

Iowa HF 555
Authorizes pharmacists to independently order and administer prescription drugs and biological products in accordance with pharmacists' standard of care pursuant to a statewide board-approved protocol.

Louisiana HB 579
Authorizes pharmacists to perform and order rapid HIV tests for patients at least 17 years old and allows pharmacists to administer up to a 30-day supply of PrEP and 28-day supply of PEP.

Maryland HB 127
Authorizes pharmacists to dispense non-occupational PEP pursuant to a standing order.

Tennessee SB 869
Authorizes pharmacists to dispense the following under certain conditions: opioid antagonists, epinephrine auto injectors, PEP for exposure to HIV infection, and hormonal contraception.

PAYMENT FOR NON-DISPENSING SERVICES

California SB 339
Requires health plans to cover HIV PrEP administered by a pharmacist, including related services and tests ordered by the pharmacist.

Illinois SB 3268
Prohibits health benefit plans from denying reimbursement for testing, screening, and treatment ordered by a pharmacist within their scope of practice if the services were otherwise covered if performed by other practitioners.

Oregon SB 1506
Requires health benefit plans to provide payment to pharmacists the same way as for other health care providers testing for SARS-CoV-2 and administering treatments.

MISCELLANEOUS

Arkansas
The U.S. Court of Appeals for the Eighth Circuit ruled that Arkansas' law preventing reimbursement discrimination against contract pharmacies serving 340b covered entities was not preempted by federal law. The Pharmaceutical Research and Manufacturers of America sued Arkansas Insurance Commissioner Alan McClain after the enactment of Act 1103 in 2021. With this ruling, the insurance commissioner can continue enforcing these anti-discrimination provisions as authorized in the 2021 law.

Montana
Troy Downing, Montana state auditor and commissioner of securities and insurance, issued the state's annual "Pharmacy Benefit Manager Aggregated Rebate and Fee Transparency Report" as required by state law. Reviewing 2022 data, the report identified 3.1 percent of Montana's drug spend as spread pricing. While spread pricing is not against state law at this time, the spread amounted to nearly $9 million that was potentially uncompensated to pharmacies.

South Carolina
Attorney General Alan Wilson announced a settlement with Centene for $25,898,070, making it the 18th state to be compensated for Centene overcharges. The settlement agreement also resolves allegations that Centene misrepresented the true cost of pharmacy services, failed to disclose discounts to the state, and filed improper reporting to the state about its pharmacy benefit services. In the last 2 years, Centene's settlements with those states total almost $1 billion for overcharges to taxpayer-funded state Medicaid programs.