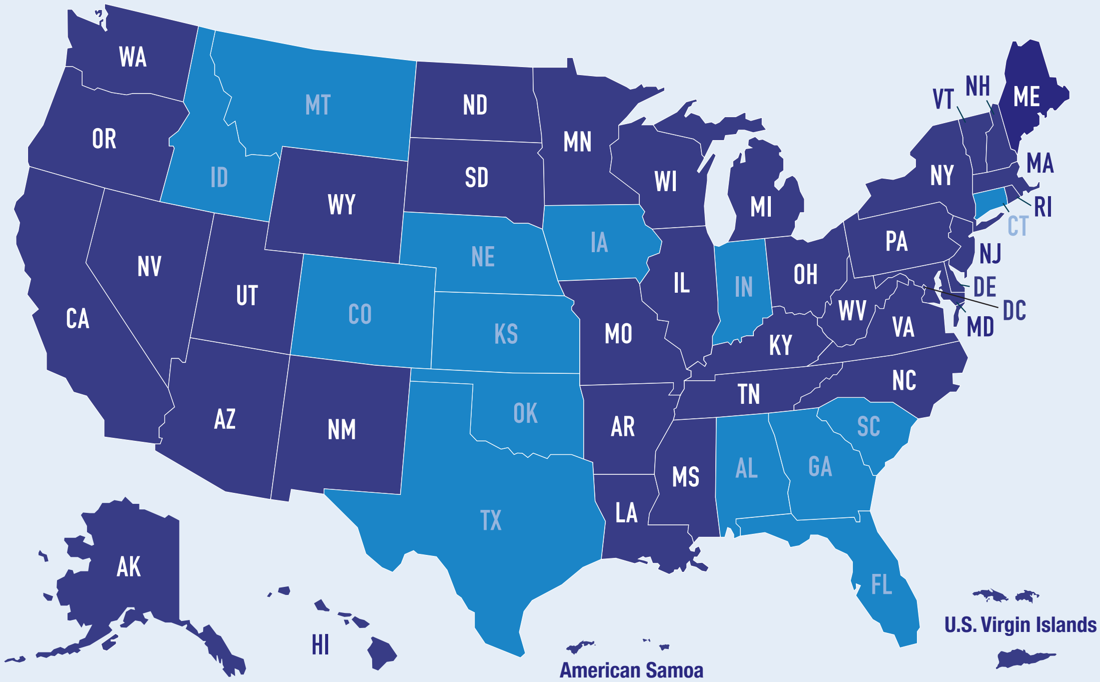
DOSE OF REALITY: States and Agencies Spill the Facts

April 2024 – April 2025

39 State and Territory Attorneys General Urge Passage of Federal PBM Reform Legislation



Denotes states or territories that have signed the AG letter

STATE SPOTLIGHTS ON PBM REGULATION ENFORCEMENT

AR ARKANSAS

Enforcement: The Arkansas Insurance Department is taking major enforcement action against four pharmacy benefit managers (PBMs) — Caremark, Express Scripts, Magellan, and MedImpact — for repeated violations of state insurance laws, seeking up to $1.47 million in penalties. The state alleges hundreds of instances where PBMs underpaid pharmacies, despite warnings, marking this Arkansas' largest pharmaceutical enforcement to date.

Legislation: Landmark legislation was passed to prohibit state permits to pharmacies owned by PBMs.

TN TENNESSEE

Enforcement: An audit by the state of Tennessee showed that none of the 116 randomly selected claims to low-volume pharmacies received the enhanced dispensing fee as required. Additionally, 85 percent of denied ESI reimbursement appeals were overturned by the state, with an average increase of $60.29 per claim.

OH OHIO

Report: Ohio found that it saved $140 million in just two years after switching to a single PBM model — even with dispensing fees rising from $0.73 to $9 per prescription.

WA WASHINGTON

Report: Between 2020 and 2023, plan sponsor (employer) costs for prescription medications increased by 30 percent, while commercial pharmacy reimbursement decreased by 3 percent during the same period.

A study found that PBMs charge employers vastly different amounts for the same prescription medications and inflate drug prices at PBM-affiliated mail-order pharmacies

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STATE SPOTLIGHTS ON PBM REGULATION ENFORCEMENT

DE DELAWARE

Enforcement: Delaware's Department of Insurance completed its first examinations of BMs, uncovering widespread noncompliance like unfair reimbursement practices and restrictive pharmacy access that contribute to rising prescription costs and pharmacy closures.

MS MISSISSIPPI

Enforcement: The Mississippi Board of Pharmacy uncovered widespread noncompliance by CVS Caremark, with many claims reimbursed below pharmacies' acquisition cost in violation of state law. In response, the board created a process for pharmacies to correct these underpaid claims and is offering a $200 payment per appeal to help offset administrative costs — an approach that could serve as a model for other states. Claims must be submitted by May 24, 2025.

OK OKLAHOMA

Enforcement: In a landmark case, Oklahoma Attorney General Gentner Drummond sued CVS Caremark for reimbursing 200 prescription claims across 15 pharmacies below the cost of acquisition, violating state law. This is the first case to be heard in Oklahoma's newly established PBM Administrative Court.

WV WEST VIRGINIA

Enforcement: West Virginia's rebate transparency law (HB 2263) reduced or stabilized patient premiums and lowered out-of-pocket drug costs by requiring PBMs to pass all rebates to patients and plan sponsors.

Scan the QR code below or go to **bit.ly/pbmbestpractices** to explore best practices for enforcement of PBM regulation in your state.

FTC

The Federal Trade Commission published two reports in the past year. The first, titled, **"Pharmacy Benefit Managers: The Powerful Middlemen Inflating Drug Costs and Squeezing Main Street Pharmacies,"** was published in July 2024. "The report finds that PBMs wield enormous power over patients' ability to access and afford their prescription drugs, allowing PBMs to significantly influence what drugs are available and at what price," says the FTC's news release. Additionally, it says, the agency "finds that PBMs hold substantial influence over independent pharmacies by imposing unfair, arbitrary, and harmful contractual terms that can impact independent pharmacies' ability to stay in business and serve their communities."

The second report, **"Specialty Generic Drugs: A Growing Profit Center for Vertically Integrated Pharmacy Benefit Managers,"** focused on specialty medications. It finds, among other things, that the big three PBMs – Caremark Rx, Express Scripts, and OptumRx, all owned by or affiliated with big insurance companies – controlled 44 percent of the commercial specialty generic 30-day market and 72 percent of those drugs were marked up more than $1,000 per prescription.