

PBM Complaints to the Arkansas Insurance Department (AID) from Community Pharmacies:

Reference: Act 3 of 2018 (PBM Licensure Act, Act 769 of 2009 (spread pricing in state funded plans), Act 1025 of 2015 (clawbacks), Act 1486 of 1999 (preferential copays to mail order or other narrow network arrangements), Act 994 of 2019 (SB 520 - MAC and PBM licensure updates)

Complaints should be emailed or mailed to the AID physical address:

Email: Marjorie.Farmer@arkansas.gov

Marjorie Farmer

Phone:(501) 683-6587

Mail Address: 1200 West Third Street
Little Rock, AR 72201-1904

Bin: _____

PCN: _____

Group: _____

PBM: CVS Caremark Express Scripts MedImpact OptumRx Other: _____

Insurance Carrier:

- Arkansas Blue Cross and Blue Shield Ambetter of Arkansas QualChoice
 Arkansas Total Care Empower Healthcare Solutions Summit Community Care
 Other: _____

Plan Type:

- Arkansas Works Exchange PASSE (managed care Medicaid) Commercial Private Insurance
 Other: _____

Employer name sponsoring or paying the premiums for the health plan (if this applies) _____

Pharmacy Name: _____

Pharmacy Address: _____

Pharmacy NCPDP number: _____

2019 PBM licensure updates - Act 994 / SB 520: (July 24, 2019)

- Below NADAC / WAC cost reimbursement: Prohibition on paying or reimbursing a pharmacy or pharmacist for the ingredient drug product component of pharmacist services less than the national average drug acquisition cost (NADAC) or, if the national average drug acquisition cost is unavailable, the wholesale acquisition cost (WAC).
- Utilization of spread pricing in an Arkansas regulated plan is prohibited - "Spread pricing" means the model of prescription drug pricing in which the pharmacy benefits manager charges a health benefit plan a contracted price for prescription drugs, and the contracted price for the prescription drugs differs from the amount the pharmacy benefits manager directly or indirectly pays the pharmacist or pharmacy for pharmacist services.
- Generic effective rates prohibited (and other aggregate claims reconciliation that results in retroactive financial clawbacks): Make or permit any reduction of payment for pharmacist services by a pharmacy benefits manager or a healthcare insurer directly or indirectly to a pharmacy under a reconciliation process to an effective rate of reimbursement, including without limitation generic effective rates, brand effective rates, direct and indirect remuneration fees, or any other reduction or aggregate reduction of payment.

MAC Law (2015 Act 900 and 2019 Act 994)

- PBM did not give the pharmacy at least 30 days to file a MAC appeal (updated July 24, 2019)
- PBM did not respond to a MAC appeal within 30 days (updated July 24, 2019)
- PBM did not respond appropriately to a MAC appeal (provide specific details in freeform section below)
- The PBM did not comply with: If the National Drug Code (NDC) number provided by the pharmacy benefits manager (back from the appeal response) is not available below the pharmacy acquisition cost (invoice price) from the pharmaceutical wholesaler from whom the pharmacy or pharmacist purchases the majority of prescription drugs for resale, then the pharmacy benefits manager shall adjust the Maximum Allowable Cost List above the challenging pharmacy's pharmacy acquisition cost and permit the pharmacy to reverse and rebill each claim affected by the inability to procure the drug at a cost that is equal to or less than the previously challenged maximum allowable cost.
- Reimbursed below the acquisition cost on MAC priced generic drug(s) and the pharmacy makes the difficult decision to refuse to fill the prescription resulting in the patient being turned away from services (ACT 900 of 2015)
- The PBM did not provide a dedicated telephone number, email address, and website for the purpose of submitting administrative appeals (updated July 24, 2019)

PBM Licensure of 2018

Pharmacy benefits manager network adequacy

- Overall reimbursement rates are below operating costs and your pharmacy opts out of the contract
- Overall reimbursement rates are below operating costs and your PSAO opts out of the contract all together
- Reimbursed under acquisition cost on MAC priced generic drug(s) and appeal process was not responded to by the PBM in a timely manner (30 days) (ACT 900 of 2015 and ACT 994 of 2019)
- Reimbursed under acquisition cost on MAC priced generic drug(s) and the appeal process was not responded to by the PBM in a manner that identified a generic drug and NDC available at a purchase price below the PBM MAC price from the pharmaceutical wholesaler from whom the pharmacy or pharmacist purchases the majority of prescription drugs for resale to the pharmacy filing the complaint. (ACT 900 of 2015)
- Reimbursed below the acquisition cost on MAC priced generic drug(s) and the pharmacy makes the difficult decision to refuse to fill the prescription resulting in the patient being turned away from services (ACT 900 of 2015)

Compensation — Prohibited practices

- Drastic cuts to individual or overall generic MAC prices to the pharmacist or pharmacy at the beginning or in the middle of a plan year resulting in a financial crisis that is not fair and reasonable to provide an adequate pharmacy benefits manager network for a health benefit plan
- A pharmacy benefits manager or representative of a pharmacy benefits manager uses any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading
- Charged a pharmacist or pharmacy an unapproved fee for the receipt and processing of a pharmacy claim
- Charged a pharmacist or pharmacy an unapproved fee for the development or management of claims processing services in a pharmacy benefits manager network
- Charged a pharmacist or pharmacy an unapproved fee for participation in a pharmacy benefits manager network
- Require unapproved pharmacy accreditation standards or certification requirements inconsistent with, more stringent than, or in addition to requirements of the Arkansas State Board of Pharmacy
- Reimbursed the pharmacy or pharmacist an amount less than the amount that the pharmacy benefits manager reimburses a pharmacy benefits manager affiliate (pays itself) for providing the same pharmacist services (This would need to be verified with patient claims data or patient explanation of benefits from both pharmacies in question)
- Implemented clawbacks, retroactive state based DIRs (direct and indirect remuneration), GERs (generic effective rates, BERs (brand effective rates): A claim for pharmacist services shall not be retroactively denied or reduced after adjudication of the claim unless the claim was submitted fraudulently, or the original claim payment was incorrect because the pharmacy or pharmacist had already been paid for the pharmacist services; or the pharmacist services were not properly rendered by the pharmacy or pharmacist.
- The pharmacy or pharmacists were not properly reimbursed for services properly rendered prior to being terminated from a pharmacy benefits manager network

Gag clauses prohibited

- A pharmacy benefits manager threatened, denied payment, terminated from the network, increased audits, or took other punitive actions against a pharmacy or pharmacist related to the pharmacist or pharmacy providing to an insured information regarding:
 - the insured's total cost for pharmacist services for a prescription drug
 - discussed information regarding the total cost for pharmacist services for a prescription drug or from selling a more affordable alternative to the insured if a more affordable alternative is available
 - disclosed information to the Insurance Commissioner, law enforcement, or state and federal governmental officials investigating or examining a complaint or conducting a review of a pharmacy benefits manager's compliance with the requirements

Other:

- Act 1025 of 2015 (Clawbacks): A PBM asked or made a patient pay for pharmacist services in an amount greater than the pharmacist or pharmacy providing the pharmacists services may retain from all payment sources (the PBM and copay combined)
- Act 769 of 2009: The PBM utilized spread pricing in a state funded plan and did not provide accurate itemized data to the state on what the pharmacist was actually paid.

