

## **A Summary of the Arkansas Pharmacy Benefits Manager Licensure Act**

The bill places comprehensive licensure and oversight over PBMs operating in Arkansas. It does this by empowering the Arkansas Insurance Department and the Arkansas Insurance Commissioner to serve as the regulator for PBMs. (Think of the Insurance Department as serving a role for PBMs much like the State Board of Pharmacy does for pharmacies and pharmacists)

A PBM must have an active license to do business in Arkansas and if a PBM violates any statutes or rules pertaining to PBMs, their license can be fined, suspended or revoked.

The PBM Licensure Act will not interfere with Any Willing Provider (AWP), the Pharmacy Audit Bill of Rights, the Maximum Allowable Cost Act, or other statutory protections already in the law.

Under the new law, a PBM would be required to:

- Provide an adequate and accessible pharmacy benefits manager network for health benefits plans (mail order pharmacies are not allowed to ensure an adequate network);
- Provide for a compensation program for the reimbursement of pharmacist services that are paid to a pharmacist or pharmacy that is “fair and reasonable” to be able to maintain an adequate network;
- The Insurance Commissioner can write Rules and Regulations to put more specific parameters around the network adequacy and compensation requirements.

The PBMs will also be prohibited from doing the following acts:

- Using untrue, deceptive or misleading solicitations or advertisements;
- Charging a pharmacy or pharmacist fees related to adjudication of a claim, without review and approval by the Insurance Commissioner;
- Requiring accreditation or certification requirements more stringent than the Arkansas State Board of Pharmacy without approval from the Insurance Commissioner, in coordination with the Arkansas State Board of Pharmacy;
- Paying a PBM’s own pharmacy or pharmacist more than they pay an Arkansas pharmacy or pharmacist for providing the same pharmacist service;
- Denying or reducing a paid claim retroactively, unless it was fraudulently submitted or the service was not properly rendered;
- Keeping money from a pharmacy in the event the pharmacy is terminated from a network;
- Placing a gag over the pharmacist or pharmacy from sharing data with the patient or government entities.

The Insurance Commissioner gets broad authority to write the Rules and Regulations necessary to enforce the Licensure Act.

***Employers that have health plans that are “self-insured” cannot be governed by state law, so the law was crafted very carefully to avoid potential Constitutional, case law, federal preemption and other legal issues.***