PBM Complaints to the Arkansas Insurance Department (AID)

As a general rule, potential violations of state law by PBMs and/or insurance carriers should be attempted to be resolved either directly with the PBM / insurance carrier or through the Pharmacy Services Administration Organization (PSAO) prior to submitting unresolved complaints to the Insurance Department. Complaints should be scanned and emailed or copied and mailed to the AID physical address:

Email: Booth Rand - booth.rand@arkansas.gov
Marjorie Farmer - marjorie.farmer@arkansas.gov

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

Bin: ______________________________ **Group:** ______________________________

PBM: ☐ CVS Caremark ☐ OptumRx ☐ Other: ________________________

Insurance Carrier: ☐ Arkansas BCBS ☐ Ambetter ☐ QualChoice ☐ Other: _____________________

Plan Type: ☐ Arkansas Works ☐ Exchange ☐ 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: ____

Patient Name (when applicable): ____

<u>Pharmacy benefits manager network adequacy</u>

☐ 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 (7 days) (ACT 900 of 2015)

☐ 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 in the Arkansas market to the pharmacy filing the complaint. (ACT 900 of 2015)

Example: If generic Tamiflu (oseltamivir) is hypothetically available through Cardinal below $36 and the pharmacy filing the appeal contacts Cardinal and Cardinal tells the pharmacy their best price available to the pharmacy is $82.

☐ Reimbursed well 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
☐ Brand name drug reimbursement is set with take it or leave it terms that is drastically below standard acquisition costs in the major wholesalers in the Arkansas market
☐ 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

Description and more details of the complaint: This information should include as much detail as possible and may include claims (Rx numbers), NDCs of drugs impacted, drug name/strength/quantity, patient name and date of birth:

Note: The Arkansas Insurance Department is a governmental entity and public health oversight agency. Public health information (PHI) disclosures to this agency is a permitted disclosure under HIPPA. The public health information (PHI) that the Arkansas Insurance Department receives is not subject to public disclosure.

Additional Comments: