

1 **SENATE FLOOR VERSION**

2 February 20, 2025

3 **AS AMENDED**

4 SENATE BILL NO. 161

5 By: Hicks

6 **[pharmacy benefits management - compliance -**
7 **fiduciary duty - effective date]**

8
9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. AMENDATORY 36 O.S. 2021, Section 6962, as
11 last amended by Section 2, Chapter 306, O.S.L. 2024 (36 O.S. Supp.
12 2024, Section 6962), is amended to read as follows:

13 Section 6962. A. The Attorney General shall review and approve
14 retail pharmacy network access for all pharmacy benefits managers
15 (PBMs) to ensure compliance with Section 6961 of this title.

16 B. A PBM, or an agent of a PBM, shall not:

17 1. Cause or knowingly permit the use of advertisement,
18 promotion, solicitation, representation, proposal or offer that is
19 untrue, deceptive or misleading;

20 2. Charge a pharmacist or pharmacy a fee related to the
21 adjudication of a claim including without limitation a fee for:

22 a. the submission of a claim,

23 b. enrollment or participation in a retail pharmacy
24 network, or

1 c. the development or management of claims processing
2 services or claims payment services related to
3 participation in a retail pharmacy network;

4 3. Reimburse a pharmacy or pharmacist in the state an amount
5 less than the amount that the PBM reimburses a pharmacy owned by or
6 under common ownership with a PBM for providing the same covered
7 services. The reimbursement amount paid to the pharmacy shall be
8 equal to the reimbursement amount calculated on a per-unit basis
9 using the same generic product identifier or generic code number
10 paid to the PBM-owned or PBM-affiliated pharmacy;

11 4. Deny a provider the opportunity to participate in any
12 pharmacy network at preferred participation status if the provider
13 is willing to accept the terms and conditions that the PBM has
14 established for other providers as a condition of preferred network
15 participation status;

16 5. Deny, limit or terminate a provider's contract based on
17 employment status of any employee who has an active license to
18 dispense, despite probation status, with the State Board of
19 Pharmacy;

20 6. Retroactively deny or reduce reimbursement for a covered
21 service claim after returning a paid claim response as part of the
22 adjudication of the claim, unless:

23 a. the original claim was submitted fraudulently, or
24

1 b. to correct errors identified in an audit, so long as
2 the audit was conducted in compliance with Sections
3 356.2 and 356.3 of Title 59 of the Oklahoma Statutes;

4 7. Fail to make any payment due to a pharmacy or pharmacist for
5 covered services properly rendered in the event a PBM terminates a
6 provider from a pharmacy benefits manager network;

7 8. Conduct or practice spread pricing, as defined in Section
8 6960 of this title, in this state; or

9 9. Charge a pharmacist or pharmacy a fee related to
10 participation in a retail pharmacy network including, but not
11 limited to, the following:

12 a. an application fee,

13 b. an enrollment or participation fee,

14 c. a credentialing or re-credentialing fee,

15 d. a change of ownership fee, or

16 e. a fee for the development or management of claims
17 processing services or claims payment services.

18 C. The prohibitions under this section shall apply to contracts
19 between pharmacy benefits managers and providers for participation
20 in retail pharmacy networks.

21 1. A PBM contract shall:

22 a. not restrict, directly or indirectly, any pharmacy

23 that dispenses a prescription drug from informing, or

24 penalize such pharmacy for informing, an individual of

1 any differential between the individual's out-of-
2 pocket cost or coverage with respect to acquisition of
3 the drug and the amount an individual would pay to
4 purchase the drug directly, and

5 b. ensure that any entity that provides pharmacy benefits
6 management services under a contract with any such
7 health plan or health insurance coverage does not,
8 with respect to such plan or coverage, restrict,
9 directly or indirectly, a pharmacy that dispenses a
10 prescription drug from informing, or penalize such
11 pharmacy for informing, a covered individual of any
12 differential between the individual's out-of-pocket
13 cost under the plan or coverage with respect to
14 acquisition of the drug and the amount an individual
15 would pay for acquisition of the drug without using
16 any health plan or health insurance coverage.

17 2. A pharmacy benefits manager's contract with a provider shall
18 not prohibit, restrict, or limit disclosure of information or
19 documents to the Attorney General, law enforcement or state and
20 federal governmental officials investigating or examining a
21 complaint or conducting a review of a pharmacy benefits manager's
22 compliance with the requirements under the Patient's Right to
23 Pharmacy Choice Act, the Pharmacy Audit Integrity Act, and Sections
24 357 through 360 of Title 59 of the Oklahoma Statutes.

1 D. A pharmacy benefits manager shall:

2 1. Establish and maintain an electronic claim inquiry
3 processing system using the National Council for Prescription Drug
4 ~~Programs'~~ Programs's current standards to communicate information to
5 pharmacies submitting claim inquiries;

6 2. Fully disclose to insurers, self-funded employers, unions or
7 other PBM clients the existence of the respective aggregate
8 prescription drug discounts, rebates received from drug
9 manufacturers and pharmacy audit recoupments;

10 3. Provide the Attorney General, insurers, self-funded employer
11 plans and unions unrestricted audit rights of and access to the
12 respective PBM pharmaceutical manufacturer and provider contracts,
13 plan utilization data, plan pricing data, pharmacy utilization data
14 and pharmacy pricing data;

15 4. Maintain, for no less than three (3) years, documentation of
16 all network development activities including, but not limited to,
17 contract negotiations and any denials to providers to join networks.
18 This documentation shall be made available to the Attorney General
19 upon request; and

20 5. Report to the Attorney General, on a quarterly basis for
21 each health insurer payor, on the following information:

- 22 a. the aggregate amount of rebates received by the PBM,
23 b. the aggregate amount of rebates distributed to the
24 appropriate health insurer payor,

- 1 c. the aggregate amount of rebates passed on to the
2 enrollees of each health insurer payor at the point of
3 sale that reduced the applicable deductible,
4 copayment, coinsure or other cost sharing amount of
5 the enrollee,
- 6 d. the individual and aggregate amount paid by the health
7 insurer payor to the PBM for pharmacy services
8 itemized by pharmacy, drug product and service
9 provided, and
- 10 e. the individual and aggregate amount a PBM paid a
11 provider for pharmacy services itemized by pharmacy,
12 drug product and service provided; and

13 6. Maintain a fiduciary duty to insurers and insureds served by
14 the PBM.

15 E. Nothing in the Patient's Right to Pharmacy Choice Act shall
16 prohibit the Attorney General from requesting and obtaining detailed
17 data, including raw data, in response to the information provided by
18 a PBM in the quarterly reports required by this section. The
19 Attorney General may alter the frequency of the reports required by
20 this section at his or her sole discretion.

21 F. The Attorney General may promulgate rules to implement the
22 provisions of the Patient's Right to Pharmacy Choice Act, the
23 Pharmacy Audit Integrity Act, and Sections 357 through 360 of Title
24 59 of the Oklahoma Statutes.

1 SECTION 2. This act shall become effective November 1, 2025.

2 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND INSURANCE
3 February 20, 2025 - DO PASS AS AMENDED
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