

EXHIBIT E



Michael Preston
SECRETARY OF COMMERCE

Allen Kerr
COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

January 14, 2020

The Honorable Jason Rapert, Chair
Senate Committee on Insurance and Commerce
The Honorable Mark Lowery, Chair
House Committee on Insurance and Commerce
State Capitol Building
Little Rock, AR 72201

Dear Chairmen Rapert and Lowery:

At the request of your Committees, please accept this letter for purposes of discussion on the agenda item concerning Pharmacy Benefit Managers in your meeting scheduled for January 16, 2020.

As you know, the Department began fully implementing the provisions of the Arkansas Pharmacy Benefit Manager Licensure Act (PBMLA) in January 2019. I am happy to share with you the following information about our efforts through December 31, 2019.

AID ended 2019 with 171 complaint files alleging violations of the PBMLA. Of those, 112 were closed for the following reasons:

- Lack of jurisdiction due to benefit plans organized under the federal ERISA law. (70)
- Lack of jurisdiction due to being a Medicare Part D plan. (6)
- Closed due to lack of further action/response of complainant. (36)

The Department did close 57 complaint files where recoveries totaling \$202,928.64 were made on behalf of pharmacists either under the Maximum Allowable Cost (MAC) or National Average Drug Acquisition Cost (NADAC) reimbursement requirements of the PBMLA.

Additionally, AID received a \$50,000 fine payment from one company for violation of the NADAC requirement.

In 2019, the Department licensed 17 PBMs, all of which are in the process of being renewed for 2020. Additionally, AID has received two applications for 2020 from new entities.

Arkansas Department of Commerce
Arkansas Insurance Department
One Commerce Way, Suite 102 • Little Rock, AR 72202
INSURANCE.ARKANSAS.GOV



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The Department also continues to be engaged with PBM regulation at the national level. In 2019, the National Association of Insurance Commissioners chose to begin crafting a national model PBM licensing law.

Our staff worked with other state regulators to advocate for a licensing model by sharing our experiences with the implementation of the state's PBMLA over the last year.

As such, I am pleased to inform the committee that the Department will be involved in the drafting of the NAIC PBM Licensure Model and that it will use the statutory language written here in Arkansas as its foundation.

Should your Committees require additional information, the Department will be pleased to provide it.

Thank for your attention to this information.

Sincerely,

Allen Kerr
Commissioner
Arkansas Insurance Department