

Department of Commerce, State Insurance Department
June 2022

AID has now filed a rule implementing Act 665 of 2021 on an emergency and permanent basis. The rule governs our PBM regulation for implementing Act 665; it is our PBM Rule 118, "Pharmacy Benefits Managers Regulation." We filed this on an emergency basis a few days ago [June 7, 2022], and have scheduled a permanent rule hearing for this Rule, set for July 19th, 2022.

Act 665 of 2021 did indeed require a rule on or before January 1, 2021. The Department was promulgating a rule to implement Act 665 of 2021 during the fall and winter of 2021, and we held two public hearings on the rule, the last public hearing during the promulgation was in December, but we could not obtain consensus on the reporting data obligations of PBMs. Secondly, we also had difficulties in getting a consensus on language issues in developing language consistent with the Rutledge decision and with Act 665 of 2021 about applying that Act to other sections of our PBM rule without infringing upon ERISA plans. So we recently conferred with the AG's office for the appropriate language to avoid potential future litigation. For these two reasons, there was a delay in promulgating a rule before 1-1-2022. At any rate, we have filed a rule implementing the Act on an emergency basis a few days ago, and it is being promulgated as well on a permanent basis.