

Hall of the House of Representatives

95th General Assembly - Regular Session, 2025

Amendment Form

Subtitle of House Bill 1354

TO REGULATE PHARMACY BENEFITS MANAGERS; TO AMEND THE LAW
CONCERNING THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE
PROGRAM; AND TO AMEND THE LAW CONCERNING CERTAIN HEALTH BENEFIT
PLANS.

Amendment No. 1 to House Bill 1354

Amend House Bill 1354 as originally introduced:

Add Representative Lundstrum

AND

Delete Representative Achor

AND

Delete everything after the enacting clause, and substitute the following:

"SECTION 1. Arkansas Code § 23-92-503, concerning definitions used under the Arkansas Pharmacy Benefits Manager Licensure Act, is amended to add additional subdivisions to read as follows:

(16) "Medicaid" means the state-federal medical assistance program established by Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq.;

(17) "Pharmaceutical manufacturer for Medicaid" means a person that is engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a prescription drug that is eligible in the Medicaid Drug Rebate Program or agrees to participate in the Medicaid Drug Rebate Program to pay a rebate to states for prescription



drugs covered by Medicaid;

(18)(A) "Pharmacy benefits manager national contract to pharmacies" means a standardized agreement entered into by a pharmacy benefits manager and a network of pharmacies across the United States where a pharmacy is, either directly or indirectly, passed through a pharmacy services administrative organization messenger model to agree to certain pricing terms and conditions for a patient if that pharmacy is managed or represented by a pharmacy benefits manager network.

(B) "Pharmacy benefits manager national contract to pharmacies" includes a nationwide network of pharmacies that have entered into a contract for national reimbursement rates, terms and conditions that are not Arkansas specific with a pharmacy benefits manager to provide pharmacist services including without limitation dispensing medications to a patient within the pharmacy benefits manager network;

(19)(A) "Professional dispensing fee" means a fee approved by the Centers for Medicare & Medicaid Services for the fee-for-service Arkansas Medicaid Program for preferred brand drugs and generic drugs.

(B) "Professional dispensing fee" includes without limitation:

(i) Pharmacy costs and expenses related to a pharmacist's:

(a) Time spent checking a computer for information about an individual's coverage for health or pharmacy benefits;

(b) Performing prescription drug utilization review and preferred prescription drug list review activities;

(c) Measurement or mixing of a covered outpatient prescription drug;

(d) Filling a container with a prescription drug;

(e) Beneficiary counseling;

(f) Physically providing a completed prescription drug to a patient;

(g) Delivery of a completed prescription drug;
and

(h) Special packaging of a completed prescription drug; and

(ii) Overhead costs associated with maintaining a facility and equipment necessary to operate a pharmacy;

(20) "Publicly traded company" means an entity that is publicly traded on a nationally recognized stock exchange; and

(21) "State government and public plan sponsor" means an employer sponsor of a health benefit plan for employees that is established or maintained by:

(A) The Arkansas Municipal League;

(B) The Employee Benefits Division;

(C) A public two-year or four-year institution of higher education, including a community college or technical college;

(D) The Division of Arkansas State Police;

(E) A municipality;

(F) A county; or

(G) Any other plan or program that is directly or indirectly funded by a state appropriation to furnish, cover the cost of, or otherwise provide for pharmacist services to an individual who resides in or is employed in this state.

SECTION 2. Arkansas Code Title 23, Chapter 92, Subchapter 5, is amended to add additional sections to read as follows:

23-92-512. Prohibited practices for contracts involving state government and public plan sponsors – Contract requirements.

(a) On and after January 1, 2026, a state government and public plan sponsor that offers, issues, or renews a health benefit plan in this state shall not enter into a contract with a pharmacy benefits manager if that pharmacy benefits manager utilizes a pharmacy benefits manager national contract to pharmacies either directly or indirectly with a pharmacist or a pharmacy for pharmacist services through a pharmacy services administrative organization.

(b) If a pharmacy benefits manager contracts with a state government and public plan sponsor, the pharmacy benefits manager shall not:

(1) Use a pharmacy benefits manager national contract to pharmacies that may otherwise have rates, compensation, terms, and conditions that do not comply with Arkansas law;

(2) Pay a pharmacy or pharmacist who also has a direct or

indirect interest or ownership in a publicly traded company a higher dispensing fee or ingredient cost compared to an Arkansas pharmacy that does not have a direct or indirect interest or ownership in a publicly traded company;

(3) Utilize contract terms that provide no choice for a pharmacy or pharmacist or offer an adhesion contract that violates the bulletins or rules issued by the Insurance Commissioner;

(4) Charge a fee, percentage, or service charge to manage a prescription drug manufacturer coupon, copay accumulator, or copay maximizer program that is more expensive than a similar program offered by the Evidence-Based Prescription Drug Program of the College of Pharmacy of the University of Arkansas for Medical Sciences;

(5) Charge or collect a fee from a percentage of a prescription drug manufacturer coupon;

(6)(A) Except as provided in subdivision (b)(6)(B) of this section, directly or indirectly reimburse a pharmacy or pharmacist for a drug or medication dispensed to a covered person an amount less than:

(i) The national average drug acquisition cost on the day of the claim administration or, if unavailable, the wholesale acquisition cost on the day of the claim administration for the ingredient drug product component of pharmacist services;

(ii) An amount equal to five percent (5%) of the amount determined according to subdivision (b)(6)(A)(i) of this section or two hundred fifty dollars (\$250), whichever is less; or

(iii) A professional dispensing fee that is not less than the professional dispensing fee paid by the Arkansas Medicaid Program.

(B) A pharmacist or pharmacy contracted with a pharmacy benefits manager for pharmacist services may submit and charge a lower amount than the requirements of the pharmacy benefits manager allowable or minimum in this subdivision (b)(6) by voluntarily using or setting the pharmacist's or pharmacy's usual and customary charges at a competitive market rate where the pharmacist or pharmacy competes with other pharmacists or pharmacies to more efficiently serve patients at an efficient, fair, and safe price point to provide pharmacist services.

(C) This subdivision (b)(6) does not prevent a pharmacy or pharmacist from charging a delivery fee or shipping and handling fee for

pharmacy services that are required or requested by a patient;

(7) Prohibit a pharmacist or pharmacy from mailing prescription drugs to patients;

(8) Prohibit a pharmacist or a pharmacy from charging an additional shipping fee, care coordination fee, or handling cash fee if the patient requests the prescription drug to be mailed or delivered or prior authorization coordination help with the prescriber and pharmacy benefits manager is requested by the patient and needed for pharmacist services by a pharmacist or pharmacy; or

(9) Contract with a pharmacy benefits manager to negotiate rebates under this subchapter or rebates as defined under § 23-79-2502 from the manufacturer either directly or indirectly through a group purchasing organization or other middleman entity directly or indirectly affiliated with a pharmacy benefits manager and located in the United States or in another country.

(c)(1) The contracted rates allowable under this subchapter shall be Arkansas-specific to ensure that the contracted rates comply with this subchapter.

(2) A statement in a contract that the pharmacy benefits manager will comply with Arkansas law is not sufficient to satisfy subdivision (c)(1) of this section unless the contract has Arkansas-specific negotiated compensation terms that are negotiated and contain specific explanations as to how the contract complies with Arkansas law.

(3) The execution of a contract under this section may be negotiated with a pharmacy or pharmacist or signed by a pharmacy services administrative organization.

(d)(1) Any amount of savings from a prescription drug manufacturer coupon shall be passed through to either the patient or the state government and public plan sponsor.

(2) A fee or charge shall be negotiated separately in a transparent manner without consideration of the savings allowed or achieved by a prescription drug manufacturer coupon.

(e) A state government and public plan sponsor shall:

(1) Calculate a beneficiary's cost share or deductible based solely on the ingredient cost of a prescription drug; and

(2) Be prohibited from passing along the cost of the

professional dispensing fee to a beneficiary through a cost share, deductible, or any other out-of-pocket payment by the beneficiary.

(f)(1) The commissioner shall require a pharmacy benefits manager to disclose any instance or contract term in which a pharmacy that is affiliated with the pharmacy benefits manager that has any direct or indirect interest in, or is owned by the pharmacy benefits manager, has been paid more in real processed claims, on dispensing fees, on ingredient costs, or for pharmacist services than any pharmacy or pharmacist that is located in Arkansas in the last three (3) years for individual claims.

(2) A limited examination or audit shall be conducted by the State Insurance Department, and the results shall be shared with:

(A) Arkansas Legislative Audit;

(B) The House Committee on Insurance and Commerce; and

(C) The Senate Committee on Insurance and Commerce.

(3) A pharmacy benefits manager who was contracted as the pharmacy benefits manager for a state government and public plan sponsor that either negotiated and contracted a higher payment rate for a pharmacy with a direct or indirect interest in a pharmacy benefits manager, that paid higher dispensing fees, professional dispensing fees or ingredient costs to a pharmacy with direct or indirect interest with a pharmacy benefits manager, or that paid a pharmacy benefits manager affiliate pharmacy at rates that violated § 17-92-101 et seq. within the last three (3) years, is not eligible to bid on or continue to serve as a pharmacy benefits manager in a contract for at least three (3) years from January 1, 2026.

(4) The request for proposal process for state government and public plan sponsor pharmacy benefits manager claims processing and services contract shall be open to all Arkansas-licensed pharmacy benefits managers that comply with these requirements.

23-92-513. Pharmaceutical manufacturers for Medicaid.

(a) A pharmaceutical manufacturer for Medicaid shall pay a state government and public plan sponsor rebates as defined under this subchapter and § 23-79-2502 or those rebates and negotiated supplemental rebates as defined in the Arkansas Medicaid Program at rates and discounts that are equal to or greater than those required by Medicaid drug rebates and those supplemental rebates negotiated by the Arkansas Medicaid Program based on

prescription drug claims paid for pharmacist services by a pharmacy and a pharmacist by a state government and public plan sponsor through a pharmacy benefits manager.

(b) A pharmaceutical manufacturer for Medicaid shall pay these rebates to a state government and public plan sponsor or the pharmaceutical manufacturers for Medicaid's prescription drugs will not be eligible for payment or coverage by a state government and public plan sponsor.

(c)(1) If patient harm would occur or unreasonable financial harm would occur to a pharmaceutical manufacturer for Medicaid that prevents the pharmaceutical manufacturer for Medicaid from participating, the pharmaceutical manufacturer for Medicaid may appeal to the Insurance Commissioner and Arkansas State Board of Pharmacy to:

(A) Avoid paying rebates; or

(B) Petition for a reduction in rebate paid to a state government and public plan sponsors.

(2) The commissioner, in consultation with the board, may approve or deny the appeal under subdivision (c)(1) of this section."

The Amendment was read _____
By: Representative Achor
ANS/ANS - 02-26-2025 11:16:49
ANS206 _____ Chief Clerk