Hugh McDonald
SECRETARY OF COMMERCE

Jimmy Harris
COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

REPORT FROM AID CONCERNING RULE 128: FAIR AND REASONABLE PHARMACY REIMBURSEMENTS

FROM: Jimmy Harris, Interim Commissioner; Daniel Holland, PBM General Counsel & Director
TO: Executive Committee & ALC

DATE: October 10, 2025

RE: Status Report on Implementation of Rule 128 & PBM Enforcement

---

This is the October report, as required by ALC and the Executive Committee, which approved AID Rule 128: *Fair and Reasonable Pharmacy Reimbursements* (Rule 128). Pursuant to an oral motion in the Executive Committee, AID now offers this report on activities related to the implementation of Rule 128, recently initiated enforcement efforts, ongoing audits, and licensing activity related to pharmacy benefit managers ("PBM").

I. Rule 128: Fair and Reasonable Reimbursement Rates

A. Rule 128 Audits

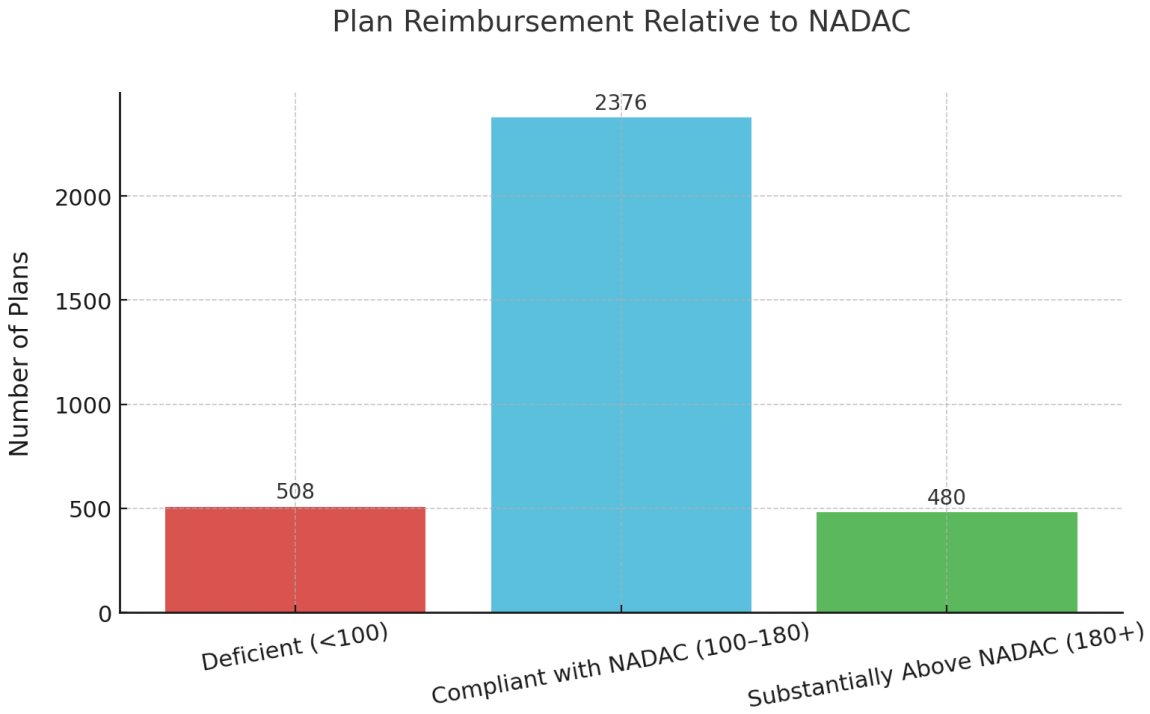
AID's third-party consultants are examining a group of plans marked as deficient in the first round of reporting received in January. These plans attributed their deficiencies to a misunderstanding of the data requests. As noted in earlier reports, the examinations are intended to verify the accuracy of submissions from plans and PBMs that cited confusion over the requested data. These audits will be completed by the end of October.

Plans classified as deficient in the first round of reporting, and that did not cite confusion or error in their Rule 128 reports, were required to submit corrective action plans to AID. The results show these plans and PBMs increased reimbursements for generic drugs by approximately 7% overall, bringing those plans into compliance with Arkansas's NADAC minimum for generics. For brand-name drugs, reimbursements rose roughly 18%, likewise bringing the plans and PBMs into compliance with Arkansas's NADAC minimum for most prescription refills.

B. July 2025 Report Data

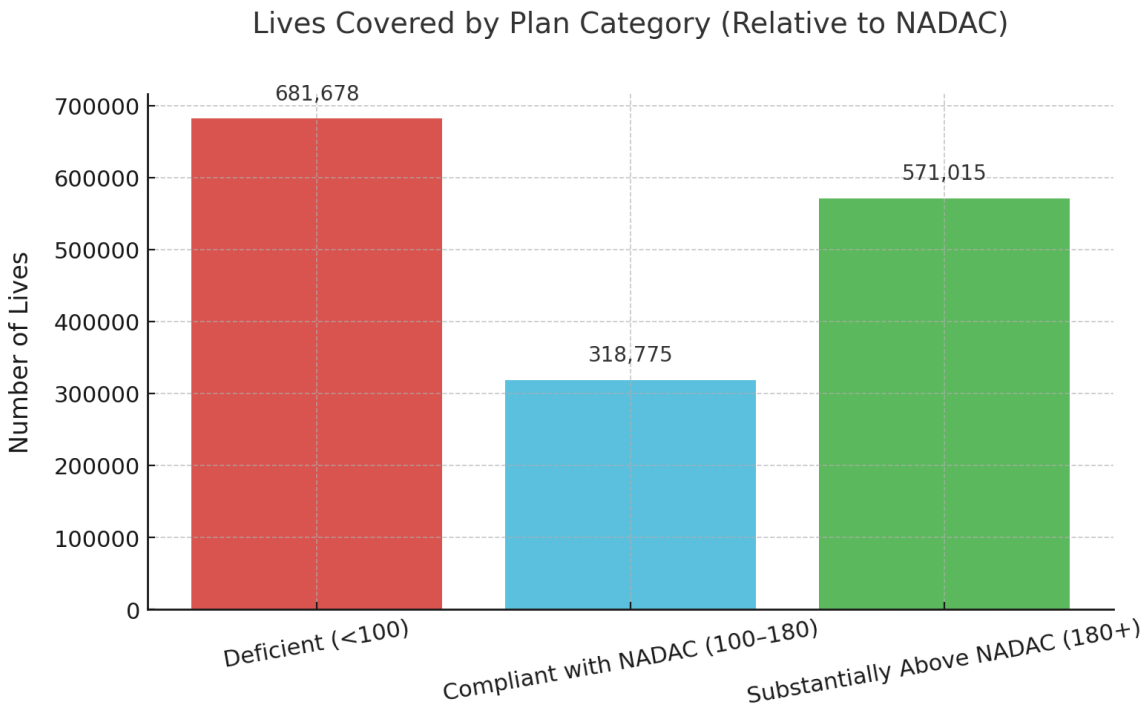
From the data submitted on July 31, 2025, 508 plans were classified as deficient, meaning they reimbursed Arkansas pharmacies below the NADAC on average. This represents 146 fewer deficient plans when compared to the first reporting period in January 2025. At the other end of the spectrum, 480 plans reported reimbursements exceeding 180% of NADAC.

AID will begin enforcement actions against deficient plans and their PBMs upon completion of the Rule 128 audits in late October. Figure 1 below shows a breakdown of the plans based on the data they reported on July 31:



(Figure 1)

Figure 2 below shows a breakdown of the number of lives covered within each category:



(Figure 2)

II. September PBM Enforcement Actions & Investigations

- In September, the PBM Division entered a consent order with a PBM that admitted to violating the NADAC minimum and paid a $30,000 penalty for multiple below-NADAC reimbursements. The Division has also reached an agreement with another PBM that likewise admitted to below-NADAC reimbursements and will pay a penalty for each violation.

- The PBM Division has initiated an enforcement action against one PBM for multiple below-NADAC reimbursements to a specialty pharmacy. AID seeks a penalty of $184,000 for these alleged violations. The matter will conclude through either a hearing or a consent order.

- The PBM Division has initiated enforcement actions against two PBMs believed to be operating in Arkansas without a license. If confirmed, each PBM will be penalized for each reimbursement made without a license.

- The PBM Division initiated an enforcement action against a single PBM who objected to providing certain data pursuant to the ongoing Limited Scope Examination. This enforcement action will result in an administrative hearing at AID.

- The PBM Division is investigating three health plans and their corresponding PBMs for alleged violations of Arkansas's network admittance statutes. These investigations are ongoing and may result in administrative hearings or consent orders.

III. Limited Scope Examinations – Affiliate Pricing

As previously reported, AID is conducting limited scope examinations of the top five PBMs operating in Arkansas. These examinations seek to determine whether these PBMs reimburse their affiliate pharmacies at a higher rate than independent pharmacies. The subject PBMs have provided large quantities of data to AID's consultants, who should complete their examinations in early 2026.

To date, AID has received one substantial objection to providing data under the limited-scope examination. The PBM objected to producing data from plans domiciled outside Arkansas and from self-funded ERISA plans. The PBM Division will hold an administrative hearing on the objection, but the PBM has submitted data from its fully insured plans, which AID consultants are now reviewing.

IV. PBM Licensing

Since the last report, eleven PBMs have submitted renewal applications for licensure. Each application includes updated bank identification numbers (BINs), processor control numbers (PCNs), and group identifiers for every plan covering Arkansas residents. These data points, required by statutes enacted during the 2025 legislative session, have proven useful to the PBM Division.

V. Maximum Allowable Cost Appeal Reporting

Under Section 10 of AID Rule 118, the PBM Division has established a reporting mechanism and schedule for maximum allow cost (MAC) appeals. Pursuant to Ark. Code Ann. § 17-92-507, a pharmacy must first appeal to the PBM when reimbursed below that PBM's MAC rate. If the PBM denies the appeal or fails to respond, the pharmacy may file a complaint with AID. Each quarter, PBMs must now report the following data to AID:

1. The number of appeals the PBM received;
2. The outcomes of those appeals;
3. The number of demonstrated instances in which a PBM informed a pharmacy a drug could be acquired at a price below MAC;
4. The total amount of reimbursement re-adjustment that occurred each quarter.

Beginning September 12, 2025, each PBM must submit its MAC report to AID by the 15th day of the month following the end of each calendar quarter. The PBM Division has received seven reports to date and expects the remaining submissions by October 15, 2025.