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SECRETARY OF COMMERCE

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COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

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

FROM: Jimmy Harris, Commissioner; Daniel Holland, PBM General Counsel & Director
TO: Executive Committee & ALC
DATE: November 14, 2025
RE: Status Report on Implementation of Rule 128 & PBM Enforcement

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This is the November 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

AID's third-party consultants are examining the Rule 128 data submitted by plans identified as deficient in the January submissions that cited confusion regarding the reporting requirements. These exams will confirm which plans, along with their corresponding PBMs, currently meet the NADAC-minimum reimbursement requirement. The results of these exams will guide upcoming enforcement actions for plans and PBMs that continue to fall short of providing a fair and reasonable compensation program for Arkansas pharmacies.

Currently, the consultants have obtained and analyzed the transactional data used by PBMs to prepare their January submissions. The preliminary review indicates that the reported NADAC percentages are generally accurate, but significant variation exists beneath those averages. Early findings show that many plans reimbursed independent pharmacies at rates below the NADAC, while national chains tended to receive reimbursements at or above the NADAC. These disparities are significant because they may indicate weaknesses in a plan's overall compensation program and raise concerns about the adequacy and sustainability of the pharmacy network. The consultants are conducting further analysis to validate the reported percentages and provide precise information

needed to appropriately place a dispensing cost. A comprehensive summary of these findings will be completed within the next three weeks.

II. October PBM Enforcement Actions & Investigations

- The PBM division has issued a notice of public hearing to a Massachusetts-based PBM that was denied a license in 2021 but continued operating in Arkansas. The Department seeks a penalty of $5,000 for each claim the PBM adjudicated after its license denial, which totals approximately 5,956 claims and results in a potential maximum penalty of $29,780,000.

- The PBM Division has issued a notice of public hearing to an Iowa-based PBM that began operating in Arkansas without applying for or obtaining a PBM license. The Department seeks a penalty of $1,000 for each claim adjudicated while unlicensed, which totals approximately 37,881 claims and results in a maximum potential penalty of $37,881,000.

- The PBM Division has identified a third PBM that appears to be operating without a license and has opened an investigation to determine the scope of its non-compliance with the PBMLA's licensing requirements.

- As reported in October, the PBM Division initiated a reimbursement enforcement action against a PBM for multiple below-NADAC reimbursements to a specialty pharmacy and seeks a total penalty of $184,000. It appears this enforcement action will conclude with a consent order by the end of the year.

- The Division continues to investigate the three previously reported health plans and their PBMs for allegedly violating network admittance statutes by excluding a qualified independent pharmacy. During this process, a fourth health plan and its PBM were also identified and are now under investigation for similar allegations.

- The Division initiated enforcement actions against 6 PBMs for reimbursements below the NADAC, in violation of the PBMLA. These actions will likely result in consent orders or possibly hearings.

- As previously reported, the PBM Division initiated an enforcement action against a PBM who objects to certain data requests in the ongoing limited scope examination. The parties have agreed on a briefing schedule and will set the matter for hearing once briefing is complete.

III. PBM Licensing

Since the last report, the PBM Division has approved eight license applications. Eleven additional applications have been submitted. Six applications remain under review because they require further documentation or materials.

The most common reasons for placing an application under review are the absence of year-end audited financials or the failure to provide unique BIN, Group, and PCN combinations as required by the PBMLA. The PBM Division may issue a temporary license while awaiting audited financials and will extend deadlines, if reasonable, to allow PBMs to provide the information for its plans that cover Arkansas residents.

IV. Maximum Allowable Cost Appeal Reporting

The PBM Division continues to receive Maximum Allowable Cost ("MAC") reporting pursuant to Section 10 of AID Rule 118. Review of this data shows that Arkansas pharmacies submitted approximately 5,489 MAC appeals to various PBMs during Q3 of 2025. Of these appeals, approximately 2,767 resulted in increased reimbursement, while 3,174 were denied.