

State of Arkansas

As Engrossed: H2/27/25

95th General Assembly

A Bill

Regular Session, 2025

HOUSE BILL 1354

By: Representative Lundstrum

By: Senator K. Hammer

For An Act To Be Entitled

AN ACT TO REGULATE PHARMACY BENEFITS MANAGERS; TO
AMEND THE LAW CONCERNING THE STATE AND PUBLIC SCHOOL
LIFE AND HEALTH INSURANCE PROGRAM; TO AMEND THE LAW
CONCERNING CERTAIN HEALTH BENEFIT PLANS OFFERED BY
CERTAIN GOVERNMENTAL ENTITIES; AND FOR OTHER
PURPOSES.

Subtitle

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.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*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*



1 drugs covered by Medicaid;

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

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

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

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

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

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

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

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

28 (d) Filling a container with a prescription
29 drug;

30 (e) Beneficiary counseling;

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

33 (g) Delivery of a completed prescription drug;
34 and

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

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

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

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

8 (A) The Arkansas Municipal League;

9 (B) The Employee Benefits Division;

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

12 (D) The Division of Arkansas State Police;

13 (E) A municipality;

14 (F) A county; or

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

19
20 SECTION 2. Arkansas Code Title 23, Chapter 92, Subchapter 5, is
21 amended to add additional sections to read as follows:

22 23-92-512. Prohibited practices for contracts involving state
23 government and public plan sponsors – Contract requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 pharmacy services that are required or requested by a patient;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (A) Arkansas Legislative Audit;

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

14 (C) The Senate Committee on Insurance and Commerce.

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

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

29
30 23-92-513. Pharmaceutical manufacturers for Medicaid.

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

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

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

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

13 (A) Avoid paying rebates; or

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

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

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19 /s/Lundstrum
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