

## **BRIEF OVERVIEW OF PBM LEGISLATION IN THE 2007 STATE LEGISLATIVE SESSIONS**

### **ARKANSAS**

#### **House Bill 1821**

- PBM must act in good faith and in the best interests of the covered entity.
- PBM must notify the covered entity in writing of any conflict of interest.
- PBM must disclose to the covered entity, on the request of the covered entity, all financial terms for remuneration, directly or indirectly, of any kind that apply between the PBM and any drug manufacturer or labeler.
- If PBM receives payment or benefit from the dispensation of prescription drugs based on volume for certain drugs or classes or brands of drugs then that payment must be disclosed to the covered entity.
- PBM may designate the information provided as confidential.
- PBM may not disclose any data concerning a covered individual or entity without the consent of the covered entity – data considered as confidential.
- If PBM makes a substitution where the substitute prescription drug costs the covered entity more than the prescribed drug, the PBM must disclose the net cost to the covered entity of both drugs.
- PBM must disclose to the covered entity any benefit or payment directly or indirectly received in any form as a result of a substitution.
- If PBM reimburses pharmacies according to a formula that uses a reference price then that shall be disclosed to the covered entities and to the pharmacies (the methodology) and PBM must use the most current version of the reference.
- PBM must itemize by individual claim the amounts actually paid to the pharmacy on any invoice, statement or remittance seeking payment or reimbursement for the pharmacist's services.
- PBM must distribute all moneys received from the covered entity to the pharmacies within 30 days after the date that the pharmacist's services were rendered.
- PBM must disclose to the covered entity all amounts retroactively denied or adjusted after adjudication of claim.
- PBM must disclose to the covered entity all amounts that the PBM recoups in a pharmacy audit.
- PBM shall not terminate, suspend or otherwise limit a contract with a pharmacy or pharmacist or audit the pharmacy because the pharmacist communicated with a PBM on behalf of a patient.
- PBM shall not intervene with the prescriber's choice of therapy or prescribed drug.
- Any violation is considered a deceptive and unconscionable trade practice.
- **Introduced on 02/23/07 and referred to Committee on Public Health, Welfare and Labor – Hearing held on 03/08/07 – Died in Committee – Session adjourned 05/01/07**

#### **House Bill 2626**

- Pharmacy Audit Bill of Rights sets forth standards for audits by a managed care company, an insurance company, a third-party payor or any entity that represents such companies or groups.
- Pharmacy must be given at least 1 week advance notice of an audit.
- If clinical or professional judgment is required audit must be conducted by or in consultation with a pharmacist.
- Pharmacy may use records of a hospital, physician or other authorized practitioner to validate the pharmacy record.
- Recoupment of claims has to be based on actual overpayment unless it is part of a settlement with the pharmacy.
- Period covered by audit cannot exceed 24 months from the date the claim was submitted to or adjudicated by the entity.
- Unless consented to by the pharmacy, the audit cannot take place during the first 7 days of the month due to high volume of prescriptions filled during that time.
- Preliminary audit report must be delivered within 120 days after the conclusion of the audit - final report must be delivered within 6 months.
- Use of extrapolation audits for calculation of recoupments or penalties is prohibited.

- Copy of the final audit report to be provided to the plan sponsor.
- Applies to audits of claims submitted after January 1, 2008.
- **Introduced on 03/05/07 – Passed and signed by Governor on 04/02/07. Effective on 04/03/07**

## CONNECTICUT

### Senate Bill 57

- Statement of Purpose: To require the licensing of pharmacy benefit managers.
- **Introduced on 01/03/07 and referred to Joint Committee on Insurance and Real Estate. Hearing on 01/19/07. Session adjourned 06/06/07**

### Senate Bill 74

- PBM must obtain a certificate of registration from the Insurance Department.
- PBM must complete an application form which must include the name and address for an agent for service of process, pay a fee and provide evidence of a surety bond.
- PBM operating as a line of business or affiliate of a health insurer or other entity does not have to obtain a certificate of registration but must provide annual notification to the Commissioner of its status.
- Registration may be denied and a hearing process is provided for an appeal.
- Commissioner has the authority to suspend, revoke or refuse to issue or renew for conduct of a character likely to mislead, deceive or defraud the public or the commissioner, unfair or deceptive business practices or nonpayment of renewal fee.
- **Introduced on 01/03/07 and referred to Joint Committee on Insurance and Real Estate. Hearing on 01/19/07 and vote taken to draft on 01/30/07 – Drafted by Committee on 03/06/07 – Referred to Joint Committee on Insurance and Real Estate on 03/07/07 – Passed House and Senate. Signed by Governor on 07/06/07. Effective on 01/01/08**

## DELAWARE – House Bill 105

- PBM owes a fiduciary duty to the covered entity.
- PBM must reimburse pharmacy providers for claims within 20 days; however average number of days that PBM process and pays claims from its owned or operated mail order cannot exceed the number of days that it pays claims received from network retail pharmacies.
- PBM's records of payments have to be made available to the state in order to determine compliance.
- PBM must notify covered entity in writing of any conflict of interest.
- PBM must provide to the covered entity all financial and utilization information requested by the covered entity.
- PBM may designate information provided to covered entity as confidential.
- PBM must follow certain guidelines prior to substituting a drug.
- PBM must pass any payment or benefit on in full to the covered entity that it receives based on a substitution or sale for certain drugs.
- PBM must disclose to the covered entity all financial terms and arrangements for remuneration of any kind with a drug manufacturer and information can be designated as confidential.
- PBM shall not prevent a covered individual from choosing any pharmacy that participates in the PBM's network.
- PBM shall not require a covered individual to obtain drugs or pharmacy services from a mail order pharmacy.
- PBM shall not use any financial penalty or other disincentive to steer or coerce covered individuals toward a mail order pharmacy and away from a retail community pharmacy.
- PBM mat not use or enforce a limit on the quantity or days supply that a covered individual may obtain at any one time from a pharmacy unless the limit is applied uniformly to all pharmacy providers with the network including all mail order pharmacies.

- **Introduced on 03/29/07 and referred to Committee on Economic Development, Banking and Insurance. Hearing on 06/06/07. Died in Committee.-- Session adjourned on 06/30/07**

### **GEORGIA – House Bill 798**

- PBM must have a certificate of registration.
- PBM cannot intervene in the delivery or transmission of a prescription from the prescriber to the pharmacy and cannot switch a medication without the prescriber's authority.
- PBM must disclose to the covered entity and covered person the cost of both drugs and any benefit or payment to the PBM as a result of any substitution.
- PBM must transfer the benefit or payment in full to the covered entity.
- PBM owes a fiduciary duty to a covered entity.
- PBM must perform its duty with care, skill and prudence.
- PBM must notify the covered entity of any conflict of interest.
- PBM must provide any utilization or financial information requested by the covered entity.
- PBM must disclose terms of its financial arrangements with any manufacturer to the covered entity.
- PBM may designate information provided as confidential.
- PBM cannot require record keeping that is more stringent than state or federal law.
- Private right of action is provided.
- **Introduced on 04/10/07 and referred to Committee on Regulated Industries – Session adjourned on 04/20/07**

### **INDIANA -- House Bill 1390**

- PBM owes a fiduciary duty to a health care provider.
- PBM must make its claims payment records available to the Department of Insurance upon request.
- PBM may not substitute a prescription without the consent of the provider. and must notify the covered individual that the provider has approved the substitution.
- If the substitution costs more than the prescribed drug, the PBM must disclose that information and the full benefit of that substitution must be passed to the covered entity.
- PBM must pass to the covered entity all benefits received based on sales, substitutions or for prescriptions of particular drugs or classes or brands of drugs.
- PBM must disclose all financial terms and arrangements for payment between the PBM and a drug manufacturer or labeler.
- PBM may designate information provided as confidential.
- Violation of the Act is an unfair and deceptive act or practice.
- **Introduced on 01/16/07, referred to Committee on Insurance, Hearing on 01/25/07— Session adjourned on 04/13/07**

### **IOWA**

#### **Senate Study Bill 1047**

- PBM must have a certificate of authority to operate from the Board of Pharmacy (must be renewed every 4 years) and an annual license from the Department of Insurance.
- PBM must file an annual statement to include a financial statement.
- If PBM is audited by an independent certified public accountant a copy of the certified audit report must be filed annually.
- Commissioner shall conduct a financial exam of a PBM; however in lieu of or in addition to the Commissioner may accept a financial examination prepared by another state.
- PBMs subject to assessment to pay for the expenses of regulation.
- PBM contracts with pharmacies are subject to review and approval by the Board.
- Board will develop criteria for the approval/disapproval of PBM contracts.
- Board will develop formal investigation and compliance procedures for responding to complaints by enrollees, employers and pharmacists.

- Board may examine PBMs to determine their quality of service.
- PBM must provide to the enrollee a list of all pharmacies in the network, information on how to file a complaint and notice that PBMs are subject to regulation by the Board and Commissioner.
- If PBM becomes insolvent it remains liable for certain obligations.
- Fund set up to include assessments and an escrow account for the benefit of enrollees of insolvent PBMs.
- **Introduced 01/17/07 and referred to Committee on State Government --Session adjourned on 04/29/07**

### **Senate Study Bill 1089/ House Study Bill 109**

- PBM must obtain an annual license from the Commissioner.
- PBM must exercise good faith and fair dealing toward the covered entity and covered individuals.
- PBM must notify the covered entity in writing of any conflicts of interest.
- A covered entity may request certain financial information from the PBM concerning rebates, utilization discounts and revenue received from a manufacturer or labeler.
- PBM cannot contact the covered individual without express written permission of the covered entity.
- PBM can designate information provided as confidential.
- A covered entity may audit the PBM's rebate records.
- Guidelines set for substitutions including the requirement that the PBM obtain the approval of the prescriber before substituting a drug and that any cost benefit must be paid to the covered entity.
- Covered entity can bring a civil action to enforce the provisions of this Act.
- PBM cannot require more stringent record keeping than that required by state or federal law or regulation.
- PBM must notify the pharmacy when it receives notice from a covered entity of a contract cancellation within 10 working days.
- Within 24 hours of a price increase notification by a manufacturer or supplier the PBM must adjust its payment to the pharmacy consistent with the price increase.
- **Introduced on 01/24/07 and referred to Senate State Government - Introduced on 01/29/07 and referred to House State Government - Passed out of House Committee by vote of 13-8. Session adjourned on 04/29/07**

### **Senate File 512 (successor to Senate Study Bill 1089)**

- PBM must obtain a certificate as a third party administrator.
- PBM must perform its duties exercising good faith and fair dealing.
- PBM must notify the covered entity in writing of any conflicts.
- PBM cannot contact a covered individual without permission of the covered entity.
- PBM cannot require more stringent record keeping than that required by state or federal law or regulation.
- PBM must notify the pharmacy when it receives notice from a covered entity of a contract cancellation within 10 working days.
- Within three business days of a price increase notification by a manufacturer or supplier the PBM must adjust its payment to the pharmacy consistent with the price increase.
- Commissioner must enforce the provisions and adopt rules concerning timely payment of pharmacy claims and a process for adjudication of complaints and settlement of disputes between a PBM and a pharmacy related to auditing practices and termination of pharmacy agreements.
- Legislative Council is directed to establish an interim committee on PBMs to review transparency, disclosure, confidentiality protections, ability of covered entities to audit PBMs and appropriate remedies for covered entities to enforce the provisions in the Act.
- **Passed Senate and House - Enrolled on 04/27/07 – Signed by Governor. Effective on 01/01/08**

## KANSAS -- Senate Bill 272

- Provides that a PBM owes a fiduciary duty to the covered entity.
- PBM must perform its duties with care, skill, prudence and diligence.
- PBM must notify the covered entity in writing of any conflicts of interest.
- PBM must provide all financial and utilization information to the covered entity including all payments from a drug manufacturer or labeler.
- PBM may designate information provided as confidential.
- PBM must comply with certain requirements when substituting a drug including passing to the covered entity any benefit or payment when the drug substituted costs more than the prescribed drug.
- Violation of the Act is considered an unfair or deceptive act.
- **Introduced 02/05/07 and referred to Committee on Financial Institutions and Insurance. Session adjourned on 05/22/07**

## MARYLAND -- Senate Bill 677/House Bill 734

- PBM must register with the Commissioner before operating in the state.
- PBM may renew registration every two years.
- PBM must register as a third party administrator if it processes prescription drug claims or administers payments related to prescription drug claims.
- Commissioner authorized to examine the affairs, transactions, accounts, records and assets of a PBM.
- PBM must disclose to a prospective purchaser, in writing, certain information including, all rebates, administrative fees, educational payments and other retrospective discounts as well as a list of any drugs that the PBM directly or indirectly repackaged and assigned new or different NDC numbers.
- Disclosure of the same information provided to prospective purchasers is required on a quarterly basis, in writing, to purchasers of PBM services.
- PBM must also provide, in writing, to purchasers, a list of prescriptions where the pharmacist was paid one price and the purchaser was billed a different price.
- Prior to disclosure the party must agree to keep the information confidential; however the authority of the Attorney General or Commissioner to obtain or use information is not limited by the confidentiality requirement.
- Provides that PBM may not establish the amount of reimbursement to the insured, including co-payments and deductibles, based on the identity, practicing specialty or occupation of the prescriber.
- PBM contracts must include the amount of total revenues, rebates and discounts, the MAC and AWP resources used to determine the price paid to a pharmacy and billed to the purchaser.
- Establishes guidelines for the PBM's pharmacy and therapeutics committee.
- Guidelines provided for substitutions by the PBM which include requirements that authorization of the prescriber be obtained except in certain limited circumstances, differences in co-payments or other out of pocket costs paid by the consumer must be disclosed and the substitution's potential side effects on the consumer's health must be disclosed.
- Guidelines provided that PBMs must follow when auditing pharmacies.
- PBM cannot require consumer to use mail order if the retail pharmacy can meet the same terms and conditions as mail order and cannot limit quantity purchased at any one time unless the limit applies to all pharmacy providers.
- PBM cannot require a pharmacy to agree to a contract which requires an extrapolation audit.
- PBM must maintain a toll free number, 24 hours per day, for prescribers, pharmacy providers and beneficiaries.
- A nonresident pharmacy is defined and required to obtain a license from the state Board of Pharmacy
- **Introduced on 02/02/07 and referred to Senate Finance Committee -Introduced on 02/08/07 and referred to House Health and Government Operations Committee -- Hearing held on 03/06/07 in House Health and Government Operations Committee- Hearing held on 03/14/07 in Senate Finance Committee -- Session adjourned on 04/09/07**

## **MINNESOTA – Senate Files 896**

- Extends the 30 day, clean claims prompt payment requirement to claims paid by PBMs to pharmacies.
- **Introduced on 02/15/07 and referred to Health, Housing and Family Security. Session adjourned on 05/21/07**

## **MISSISSIPPI – House Bill 1128**

- For the purposes of calculating reimbursement, a PBM, their agents and any other party responsible for a contract for prescription drugs must include reasonable costs incurred by pharmacists in dispensing and labeling drugs.
- Reasonable costs are defined as, but not limited to, labels, vials, transmission fees and insurance computer software required by the PBM.
- State Board of Pharmacy to adopt rules to ensure compliance.
- **Introduced on 01/15/07 and referred to Public Health and Human Services Committee –Session adjourned on 03/30/07**

## **MISSOURI – Senate Bill 680/House Bill 544**

- PBM must inform a pharmacy in writing of the number of and any other relevant information concerning patients eligible under the contract before an initial or renewal contract is signed.
- PBM must also provide information to the pharmacy on the benchmark and rate used to compute reimbursement of the pharmacy and any schedule or other listing of maximum allowable costs.
- PBM cannot require a pharmacy to participate in one PBM contract in order to participate in another contract.
- PBM shall establish rural payment rates for pharmacies that do not have competition within 15 miles.
- PBM shall not discriminate between pharmacies on the basis of co-payments or days of supply.
- PBM contracts must provide specific time limits for payment of pharmacist services.
- PBM contract cannot require pharmacy to change a patient's drug unless the prescriber orders the change.
- PBM shall not mandate basic record keeping by a pharmacy that is more stringent than required by state or federal laws or regulations.
- PBM contracts shall require use of uniform prescription cards.
- PBM must file its contracts with the commissioner 30 days before the first use of the contracts.
- PBM shall serve as a fiduciary for the covered entity.
- PBM must give pharmacy 30 days notice before termination of the contract.
- Restrictions on PBM's ability to audit a pharmacy or terminate a contract for certain reasons including because a pharmacy disagrees with a PBM's decision to deny or limit benefits to a patient, a pharmacy advocates on behalf of a patient and a pharmacy complains to the board or commissioner that a PBM has failed to comply with the act.
- If PBM processes claims electronically then it shall electronically transmit payment within 7 calendar days to the pharmacist.
- Within 24 hours of a price increase, the PBM must adjust its payments to the pharmacy consistent with the price increase.
- Limits are placed on retroactive denial of claims paid to the pharmacy.
- PBM must list its audit procedures and the basis for audits and must notify the pharmacy in writing of any changes.
- Extrapolation audits are prohibited.
- Guidelines are provided for substitutions by PBMs.
- PBM must provide financial and utilization information to the covered entity.
- PBM cannot discriminate on the basis of copayments or days of supply.
- Provides for audits by the covered entity of the PBM.
- PBMs must provide medication therapy management services.

- **Introduced on 03/01/07 and referred to Senate Seniors, Families and Public Health Committee – Hearing held on 04/24/07 and committee voted “do pass” on 04/24/07**
- **Introduced on 01/23/07 and referred to House Special Committee on Professional Registration and Licensing- Hearing held on 03/08/07 -- Session adjourned on 05/30/07**

#### **NEW HAMPSHIRE – House Bill 561**

- PBM owes fiduciary duty to covered entity.
- PBM must perform its duties with care, skill, prudence and diligence.
- PBM must notify covered entity in writing of any conflict of interest.
- PBM must provide covered entity with all financial and utilization information requested by the covered entity.
- PBM may designate information provided as confidential.
- Guidelines are provided for substitution.
- PBM must pass on any payment or benefit from sales of drug based on volume in full to the covered entity.
- PBM must disclose financial arrangements with any drug manufacturer.
- Violation of the act is considered an unfair or deceptive act or practice.
- **Introduced on 01/04/07 and referred to Executive Departments and Administration Committee – Hearing on 03/26/07 – retained in Committee. Session adjourned on 07/01/07**

#### **NEW JERSEY -- Senate Bill 1291 and Assembly Bill 320**

- PBM must apply to the Insurance Commissioner for a certificate to do business.
- PBM must have a complaint resolution mechanism to provide for resolution of complaints by pharmacists, health care practitioners and covered persons.
- PBM must file an annual statement with the Commissioner.
- If PBM is audited by an independent auditor a copy of that report must be filed with the Commissioner.
- Commissioner may conduct financial examination of PBM.
- PBM must provide a written notice to each covered person which includes a list of pharmacies included in the network.
- PBM must disclose certain financial arrangements to a purchaser, in writing, including the amount of all rebates and other discounts that the PBM receives from drug manufacturers and the nature, type and amount of any other revenue that the PBM receives from a drug manufacturer.
- PBM must disclose the information no less frequently than quarterly and the purchaser must keep the information confidential.
- PBM must disclose certain financial information to prospective purchasers.
- Guidelines established for substitutions by PBMs including the requirement that the cost savings and any known differences in side effects have to be disclosed.
- The prescriber has to authorize the substitution unless PBM is substituting a generic for a brand, it is for safety reasons, the drug is no longer available or it is not on the formulary.
- The commissioner and the State Board of Pharmacy shall adopt rules to implement the act.
- **Referred to Assembly Financial Institutions and Insurance Committee on 01/10/06. Reported as an Assembly Committee Substitute (substitute not summarized)**
- **Referred to Senate Commerce Committee on 02/06/06 and hearing on 02/08/07**

#### **NEW MEXICO – House Bill 482**

- Requires a managed care company, insurance company, third-party payor or representative of the managed care company, insurance company or third-party payor to conduct audits according to certain criteria.
- Must give pharmacy at least 2 weeks notice prior to conducting an initial on-site audit.
- An audit that requires clinical or professional judgment must be conducted by or in consultation with a pharmacist.

- Pharmacy can use the records of a hospital, physician or other authorized practitioner for the purposes of validating the pharmacy record.
- A finding of overpayment or underpayment cannot be based on a projection and recoupment of claims must be based on actual overpayment or underpayment unless a statistically justifiable method of projection is part of an agreed settlement.
- Pharmacy must be allowed at least 21 days, with reasonable extensions, to produce documentation to address any discrepancies.
- Audit period cannot exceed 2 years, unless agreed by contract, from the date that the claim was submitted or adjudicated.
- Audit may not be initiated or scheduled during the first 5 calendar days of a month unless consented to by the pharmacy.
- Preliminary audit report must be delivered within 120 days, with reasonable extensions allowed, after the conclusion of the audit.
- Final report must be delivered within 6 months after receipt of the preliminary audit report or final appeal, whichever is later.
- Audit criteria apply to all audits of claims submitted after July 1, 2007.
- Extrapolation audits are prohibited in calculating recoupments or penalties.
- Each entity conducting an audit must have an appeals process. If the discrepancy exceeds \$25,000 future payments to the pharmacy may be withheld pending finalization of the audit.
- Law does not apply to any investigative audit that involves fraud or willful misrepresentation.
- **Effective: 07/01/07**

#### **NEW YORK – Senate Bill 2642/Assembly Bill 6341**

- PBM owes fiduciary duty to covered entity.
- PBM must perform its duties with care, skill, prudence and diligence.
- Funds received by the PBM must be kept in trust for the health plan or provider and provides for accountability of such funds.
- Health plan must have access to all financial and utilization information maintained by the PBM.
- PBM must disclose in writing all agreements and arrangements between it and any other party relating to management provided to the health plan or provider.
- PBM must disclose in writing to the covered entity the nature of any conflicts of interest.
- Information provided shall be kept confidential by the health plan or provider.
- PBM may not substitute without the approval of the prescriber.
- **Introduced on 02/08/07 and referred to Senate Committee on Health.**
- **Introduced on 03/07/07 and referred to Assembly Committee on Public Health -- Reported to House Codes 04/17/07 and Reported from House Codes and referred to House Ways and Means 05/08/07**

#### **NORTH DAKOTA – House Bill 1366**

- PBM may not impose any condition or limitation on the dispensing of a drug by a pharmacy or pharmacist licensed in the state that it does not impose on any other person providing pharmacy services.
- **\*\*\*\*\*Introduced on 01/12/07 and referred to Human Services, passed House and referred to Senate Committee on Human Services – Senate failed to pass. Session adjourned on 04/25/07.**

#### **OKLAHOMA – House Concurrent Resolution 1012**

- Created the Task Force on Pharmacy Benefit Management Services.
- Task Force must study and make recommendations concerning the need for state regulation of contractual relationships between PBMs and the public and private sector entities that purchase their services.

- Task Force report of findings and recommendations is due by February 1, 2008 and may include recommendations for any resulting legislation.
- **Introduced on 02/05/05 and referred to Public Health, passed house on 03/15/07 and referred to Senate Health and Human Resources on 04/2/07. Session adjourned on 05/25/07.**

#### **SOUTH CAROLINA – Senate Bill 260**

- PBM must obtain a certificate of authority to operate in the state.
- Application for certificate requires various information including a PBM's organizational documents, annual statements to indicate financial condition and a detailed description of its processing services.
- PBM has to submit its plan of operation to the Board of Pharmacy and receive a certificate of compliance to include in its filing for a certificate of authority.
- PBM contracts are subject to review and approval by the Department.
- Department has authority to audit PBM books and records.
- PBM must disclose financial arrangements with drug companies.
- PBM cannot require pharmacist to participate in one contract in order to participate in another contract.
- PBM may not discriminate when contracting with pharmacies based on co-payments or days of supply.
- PBM cannot mandate record keeping more stringent than state or federal laws.
- PBM must use a current and nationally recognized benchmark to set reimbursements.
- If PBM electronically processes claims then PBM shall transmit payment within 7 calendar days of the claim transmission to the pharmacy.
- Extrapolation audits are prohibited.
- PBM must provide written notices to covered persons.
- Any benefit or payment that PBM receives as a result of a drug substitution must be passed on in full to the covered entity.
- Guidelines are established for substitution including that PBM must have approval of the prescriber.
- PBM must disclose all financial and utilization information to the covered entity.
- PBM must perform its duties exercising good faith and fair dealing toward the covered entity.
- **Prefiled on 12/13/06 and assigned to Commerce and Banking on 01/09/07. Session adjourned on 06/29/07**

#### **TENNESSEE – Senate Bill 1112/House Bill 1343**

- PBM has a fiduciary duty to the covered entity and covered individuals.
- PBM must perform its duties with care, skill and prudence.
- PBM must notify covered entity of any conflict of interest.
- PBM must provide financial and utilization review information requested by the covered entity.
- Information provided must be maintained as confidential.
- PBM must disclose all terms and arrangements for payment between the PBM and drug manufacturers.
- Payments from a manufacturer based on volume of sale or classes or brands of drugs must be passed on in full to the covered entity or covered individuals.
- Standards are set for pharmacy audits including that audits may not exceed 2 years from the date the claim was submitted or adjudicated and cannot take place during the first 7 days of any month.
- Extrapolation audits are prohibited.
- Reimbursements must be calculated using a nationally recognized price reference and price must be updated every 3 days.
- A violation of the act is an unfair practice and a violation of the Consumer Protection Act.
- **Senate Bill amended and House concurred to include only audit provisions and requirement that nationally recognized price reference be used. (Introduced on 02/08/07 and referred to Senate Commerce, Labor and Agriculture Committee. Introduced on 02/12/07 and referred to House Commerce Committee. Senate Bill passed on 05/09/07.)Effective on 07/01/07**

## TEXAS

### Senate Bill 1582

- PBM must pay claims submitted electronically no later than the 14<sup>th</sup> day after the date the claim was adjudicated.
- Extrapolation audits are prohibited.
- Pharmacy must receive reasonable notice of an audit.
- Pharmacist may submit a complaint to the department concerning noncompliance and department will review and enter a written order. An appeals process is provided.
- **Introduced on 03/08/07 and referred to State Affairs and passed Senate on 05/03/07 – Referred to House Committee on Insurance on 05/09/07. Session adjourned on 05/28/07**

### Senate Bill 1834/House Bill 3280

- PBM contracts with governmental entities for specialty and mail order services must provide 100 percent pass through of any revenue paid by a manufacturer to the PBM.
- PBM must agree to charge on an acquisition cost basis, which may include a dispensing fee, based on actual inventory costs or wholesale acquisition cost.
- PBM must allow an audit which can include the claims, contracts with manufacturers and invoices.
- PBM may designate information provided as confidential.
- **Introduced on 03/08/07 and referred to Senate Health and Human Services – Passed Senate on 05/01/07 – Reported favorable out of House Committee on Government Reform – sent to Calendars on 05/10/07**
- **Introduced on 03/09/07 and referred to House Public Health. Session adjourned on 05/28/07**

## VERMONT – Senate Bill 115

- PBM must discharge its duties with reasonable care and diligence.
- PBM must give notice to the health insurer that certain terms may be included in its contract with the PBM, e.g., PBM must provide all financial and utilization information requested by the health insurer (PBM may designate the information as confidential), PBM must disclose any conflicts of interest, with regard to substitutions the PBM must disclose any payment or benefit that the PBM receives as a result of a substitution, if PBM receives payment or benefit based on volume of sales that payment must be passed on in full to the health insurer and PBM must disclose all financial terms and arrangements between the PBM and any drug manufacturer.
- Violation of the Act shall be considered a violation of the Consumer Fraud Act.
- Commissioner may examine and investigate PBMs.
- PBM must register to do business in the state.
- When soliciting business the PBM must notify health insurers of the option that a quotation is available for an administrative-services-only (ASO) contract but PBMs are not required to offer an ASO contract.
- Commissioner has the authority to conduct periodic verification of pricing arrangements in ASO contracts through an audit process.
- Department's expenses to conduct audits will be assessed by allocation of expenses to all PBMs based on the number of lives covered.
- **Introduced on 02/23/07 and referred to Committee on Finance – Passed both Houses and Committee of Conference recommended that Senate adopt House amendments on 05/10/07. Effective on 07/01/07**

## VIRGINIA

### Senate Bill 1084

- Requires PBMs to pay all clean claims submitted electronically to be paid electronically.
- **Prefiled and referred to Committee on Commerce and Labor 01/09/07. Passed Senate on 02/06/07 and referred to House Committee on Commerce and Labor on 02/07/07 – Session adjourned on 02/24/07 - Enrolled on 03/08/07 – Became law without Governor’s signature**

### House Bill 1954

- PBM owes a fiduciary duty to the covered entity.
- PBM must perform its duties with care, skill, prudence and diligence.
- Requires PBM to make prompt electronic payments for clean claims within 15 days of receipt.
- PBM must notify covered entity of any conflicts of interest.
- PBM must provide covered entity with all financial and utilization information requested by the covered entity.
- PBM may designate information provided as confidential.
- If PBM makes a substitute, it must provide the cost of both drugs and any benefit received by the PBM.
- The full benefit for the transferred drug must be transferred to the covered entity.
- PBM must disclose all financial arrangements and financial terms with any drug manufacturer or labeler to the covered entity.
- PBM must pass the benefit of a substitution in full to the covered entity.
- **Prefiled on 01/05/07. Referred to Committee on Health, Welfare and Institutions and referred from that Committee to House Committee on Commerce and Labor on 01/16/07. Session adjourned on 02/24/07**

### WASHINGTON – House Bill 1348

- PBM must notify the covered entity in writing of any conflict of interest.
- PBM must provide all financial and utilization information to covered entity.
- PBM may designate the information as confidential.
- If PBM derives any benefit from substituting a drug, it must be passed to the covered entity.
- Guidelines are established for any substitutions by PBMs and PBM must disclose that payment or benefit in full to the covered entity.
- Agreement between the PBM and the covered entity must allow for an audit of the PBM.
- Violations of the act are an unfair trade practice or a violation of the consumer protection act.
- **Introduced on 01/17/07 and referred to Health Care and Wellness Committee – Session adjourned on 04/22/07**

### WEST VIRGINIA -- House Bill 2328

- PBM must obtain a certificate of licensure from the Commissioner and renew it annually.
- PBM must file certain documents in order to obtain the license.
- PBM must make available for inspection by the Commissioner, copies of all contracts with insurers and pharmaceutical manufacturers.
- Commissioner may require a surety bond.
- PBM must disclose to the Commissioner any ownership interest or affiliation with any insurance company or a pharmaceutical manufacturer.
- PBM must disclose any incentive arrangements such as rebates or discounts that it has with any pharmaceutical company.
- PBM must disclose any agreement with a pharmaceutical company to share rebates and discounts.

- PBM must maintain books and records for 3 years and Commissioner shall have access to said books and records.
- PBM must file an annual audited statement and that statement must disclose all incentive arrangements.
- Any information submitted by PBMs that the PBM believes to be proprietary must be marked and only information that can be disclosed by Commissioner must be in accordance with state and federal law.
- Special revenue account set up to be funded by filling fees and other funds received during the regulatory process from PBMs and any funds appropriated by the legislature.
- Commissioner must report to the legislature and the governor on or before January 2009 on the implementation of the licensure process.
- **Introduced on 01/19/07 and referred to Committee on Health and Human Resources. Hearing on 01/29/07. Received do pass with amendment vote on 02/01/07 and sent to Judiciary Committee. Session adjourned on 03/10/07**