



Michael Preston
SECRETARY OF COMMERCE

Alan McClain
COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

BULLETIN # 10-2022

TO: ALL LICENSED PHARMACY BENEFIT MANAGERS ("PBMs")

FROM: ARKANSAS INSURANCE DEPARTMENT

DATE: AUGUST 17, 2022

RE: PBM FEES & CREDENTIALING FEES

The Arkansas Insurance Commissioner ("Commissioner") issues this Bulletin to all licensed PBMs transacting business in this State. The Arkansas Insurance Department ("Department") recently received several complaints from pharmacists inquiring or complaining of PBM fees charged to a pharmacy during credentialing or re-credentialing of the pharmacy by the PBM. The Commissioner would like to remind the PBM industry of the fee restrictions placed on PBMs by the PBM Licensure Act.

Ark. Code Ann. § 23-92-506(b) states:

(b) A pharmacy benefits manager or representative of a pharmacy benefits manager shall not:

- (1) Cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading;
- (2) Unless reviewed and approved by the commissioner, charge a pharmacist or pharmacy a fee related to the adjudication of a claim, including without limitation a fee for:
 - (A) The receipt and processing of a pharmacy claim;
 - (B) The development or management of claims processing services in a pharmacy benefits manager network; or
 - (C) Participation in a pharmacy benefits manager network.

The Commissioner advises the PBM industry that a PBM shall not charge a fee related to claims processing unless approved by the Commissioner. The Commissioner has observed many fees assessed by PBMs against pharmacies are prohibited by Ark. Code Ann. § 23-92-506(b)(2). The "including without limitation" language of subdivision (b)(2) makes it very clear that the listing of fees is not exhaustive. The Commissioner interprets subdivision (b)(2)(C), "[p]articipation in a pharmacy benefits manager network," to confirm the legislative intent to **also** include *fees for activities or transactions related to a pharmacy's participation in a PBM network* which go beyond PBM fees for claims processing. Activities or transactions related to a pharmacy's participation in a PBM network include activities or actions related to a PBM's review or evaluation of all aspects of a pharmacy's credentialing or re-credentialing qualifications to join or re-join a PBM's network.

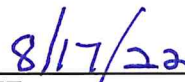
Examples of such fees include fees charged for changes of ownership or business reviews that are part of the credentialing or re-credentialing process of the PBM.

The Commissioner reiterates that the above described PBM fees, whether for claims processing or for participation in a PBM network, are prohibited unless first approved by the Commissioner. Because the Commissioner has never received a PBM request to review and approve any of these fees, the Commissioner advises the PBM industry not to charge unapproved fees. The Commissioner also advises the PBM industry that the Department will begin enforcement against unapproved fees, consistent with this Bulletin.

Please direct any questions or inquiries pertaining to this Bulletin, to Ms. Beth Barrington, AID PBM Director at (501)683-6587.



ALAN MCCLAIN
ARKANSAS INSURANCE COMMISSIONER



DATE