

AMENDED MEMORANDUM REPORT FROM AID CONCERNING
EMERGENCY RULE 128 FAIR AND REASONABLE PHARMACY REIMBURSEMENTS

TO: Executive Committee
FROM: Booth Rand, General Counsel, Arkansas Insurance Department (“AID”)
DATE: 10-10-2024
RE: Status and Update Report on Implementation of Emergency Rule 128
CC: Marty Garrity, Jill Thayer, Alan McClain

This is an update or report to the Executive Committee which approved AID Emergency Rule 128: Fair and Reasonable Pharmacy Reimbursements (“Emergency Rule 128”).

Following approval of Emergency Rule 128 by the Executive Committee in the last meeting, notice of the approval by the Executive Committee and a copy of the rule was, pursuant to Ark. Code Ann. § 23-92-509(c)(3), was provided to the Speaker of the House, President Pro Tempore of the Senate, and Chairs of Joint Insurance and Commerce Committee. The emergency rule was also filed last week to be reviewed by Joint Insurance and Commerce within forty-five (45) days after filing by Joint Insurance under Ark. Code Ann. § 23-92-509(c)(3)(B). A review of the emergency rule by Joint Insurance has not yet been scheduled, but we will update the Executive Committee as to the time and date of review.

Currently, AID is finalizing a draft of a Bulletin, Bulletin 18-2024, the bulletin is currently in draft form but implements the data filing requirements and regulatory processes by health benefit plans to comply with Emergency Rule 128. AID shall provide and explain this draft bulletin to Executive Committee at its next meeting.

In response to the motion for reports other requirements. We have three pending enforcement actions against the PBMs: Express Scripts, CVS, and Magellan, these are ongoing.

As to complaints we have received or adjusted, I will use data from complaints we have received or adjusted from October 1, 2024:

Total below NADAC reimbursement complaints received by the PBM Division since OCTOBER 1, 2024: 4,528; Medicare: 3019, Federal Employee 118, EBD: 1. OCTOBER ADJUSTED TOTAL: 1390. NADAC reimbursement required increases: 10