

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

TO: Executive Committee & ALC  
FROM: Booth Rand, General Counsel, Arkansas Insurance Department (“AID”)  
DATE: 12-12-2024  
RE: Status and Update Report on Implementation of Emergency Rule 128 & PBM Activities  
CC: Marty Garrity, Jill Thayer, Alan McClain

This is an update or report as required by the ALC/Executive Committee which approved AID Emergency Rule 128: Fair and Reasonable Pharmacy Reimbursements (“Emergency Rule 128”). Pursuant to Motion in Executive Committee, AID is required to report its activities on Rule 128, “Fair and Reasonable Pharmacy Reimbursements, as well as report its enforcement and complaints activities related to PBM regulation.

As noted in the last monthly report, AID held a public hearing on the permanent version of this Rule on October 22, 2024. AID received public comments on the proposed permanent Rule 128 at the public hearing. AID has also received written public comments. AID has now finalized a final version of Rule 128 and Bulletin 18-2024, the final rule is up for review next week in Insurance and Commerce Committee, on December 16, 2024 as well as separately to be reviewed by the Rules Subcommittee on December 19, 2024. All rule and bulletin drafts, hearing transcript and public comments are available for review at this link: <https://portal.insurance.arkansas.gov/LegalPubsPublic/web/proposed-rules/index>. Please scroll to the proposed Rule 128 heading.

In response to the motion for reports other requirements. We continue to have three pending enforcement actions against the PBMs: Express Scripts, CVS, and Magellan, these are ongoing. We also involved in a limited scope examination on Navitus PBM related to affiliate reimbursement complaints.

As to complaints we have received or adjusted, I will use data from complaints we have received or adjusted from November, or last month.

Total prescription claims filed for reimbursements paid below NADAC: 637

\*\*ADJUSTED TOTAL COMPLETED NADAC CLAIMS FILED: 18

Number of reimbursements increased for NADAC complaints: 17.