

INTERIM STUDY PROPOSAL 2025-065

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: H2/27/25

A Bill

HOUSE BILL 1354

By: *Representative Lundstrum*
By: Senator K. Hammer

Filed with: House Committee on Insurance and Commerce
pursuant to A.C.A. §10-3-217.

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 drugs covered by Medicaid;

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

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

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

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

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

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

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

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

(d) Filling a container with a prescription drug;

(e) Beneficiary counseling;

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

(g) Delivery of a completed prescription drug;

and

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

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

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

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

(A) The Arkansas Municipal League;

(B) The Employee Benefits Division;

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

(D) The Division of Arkansas State Police;

(E) A municipality;

(F) A county; or

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

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

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

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

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

(1) Use a pharmacy benefits manager national contract to

pharmacies that may otherwise have rates, compensation, terms, and conditions that do not comply with Arkansas law;

(2) Pay a pharmacy or pharmacist who also has a direct or indirect interest or ownership in a publicly traded company a higher dispensing fee or ingredient cost compared to an Arkansas pharmacy that does not have a direct or indirect interest or ownership in a publicly traded company;

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

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

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

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

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

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

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

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

1 to provide pharmacist services.

2 (C) This subdivision (b)(6) does not prevent a pharmacy or
3 pharmacist from charging a delivery fee or shipping and handling fee for
4 pharmacy services that are required or requested by a patient;

5 (7) Prohibit a pharmacist or pharmacy from mailing prescription
6 drugs to patients;

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

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

19 (c)(1) The contracted rates allowable under this subchapter shall be
20 Arkansas-specific to ensure that the contracted rates comply with this
21 subchapter.

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

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

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

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

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

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

3 (2) Be prohibited from passing along the cost of the
4 professional dispensing fee to a beneficiary through a cost share,
5 deductible, or any other out-of-pocket payment by the beneficiary.

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

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

15 (A) Arkansas Legislative Audit;

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

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

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

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

32
33 23-92-513. Pharmaceutical manufacturers for Medicaid.

34 (a) A pharmaceutical manufacturer for Medicaid shall pay a state
35 government and public plan sponsor rebates as defined under this subchapter
36 and § 23-79-2502 or those rebates and negotiated supplemental rebates as

1 defined in the Arkansas Medicaid Program at rates and discounts that are
2 equal to or greater than those required by Medicaid drug rebates and those
3 supplemental rebates negotiated by the Arkansas Medicaid Program based on
4 prescription drug claims paid for pharmacist services by a pharmacy and a
5 pharmacist by a state government and public plan sponsor through a pharmacy
6 benefits manager.

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

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

16 (A) Avoid paying rebates; or

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

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

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22 /s/Lundstrum
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25 Referred requested by the Arkansas House of Representatives

26 Prepared by: ANS/AMS
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