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DEPARTMENT OF INSURANCE

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DATE: November 1, 2024

TO: All Pharmacy Benefit Managers, Health Insurers, and Interested Parties

FROM: Dean L. Cameron, Director

SUBJECT: H596 (2024) – Relating to Pharmacy Benefit Managers

This bulletin provides guidance to Pharmacy Benefit Managers (PBMs), including health insurers who perform the activities of a PBM, regarding the requirements of H596a (2024) and changes to Idaho Code § 41-349, effective January 1, 2025. Health insurers performing the activities of a PBM must also be registered as a PBM. This is not a comprehensive list of requirements and is intended as a reminder to affected entities about the new expectations. The Department seeks to provide clarifying information to support compliance.

PBMs are required to comply with the contract and reporting requirements of H596a (2024) beginning January 1, 2025. The requirements apply to the PBM's administration of prescription drug benefits to Idahoans and its contracts with Idaho pharmacies and pharmacy benefit plans or programs. These include, but are not limited to, the requirements that:

- A PBM pass along or return one hundred percent of any manufacturer rebate to a pharmacy benefits plan or program, including any payment, discount, incentive, fee, price concession, or other remuneration. *See Idaho Code §§ 41-349(5) and 41-349(11)(d).*
- All PBM contracts with pharmacy benefits plans or programs use a pass-through pricing model, as defined in code. *See Idaho Code §§ 41-349(1)(g) and 41-349(11)(a).*
- A PBM pay in-network pharmacies a dispensing fee “that reasonably covers the costs of dispensing medications”, where a dispensing fee is defined as “a fee intended to cover reasonable costs associated with providing a drug to a covered person. This cost includes but is not limited to the pharmacist’s services and the overhead associated with maintaining the facility and equipment necessary to operate the pharmacy.” *See Idaho Code §§ 41-349(1)(b) and 41-349(11)(i).*
- A PBM provide a reasonable administrative appeal process for pharmacies to challenge reimbursements and respond promptly to such appeals. *See Idaho Code § 41-349(13).*
- A PBM must not prohibit, restrict, terminate contract(s), or penalize pharmacies or pharmacists for disclosing information to authorized departments, law enforcement, or

government officials, provided the information is marked as confidential and the recipient can maintain its confidentiality as per state or federal law. *See* Idaho Code § 41-349(14).

All required reporting should be sent via email to pbm@doi.idaho.gov. Failure to submit timely reporting may result in administrative action, including penalties per Idaho Code § 41-349. The below list of reporting is not all encompassing. PBMs should review Idaho Code § 41-349 in its entirety for the specific requirements.

REPORTING REQUIREMENTS

Idaho Code § 41-349(10)

(a) PBMs are required to report to the Idaho Department of Insurance January 1, 2025, and then annually:

(i.) The difference in the amount paid to each pharmacy and the amount charged to health plans, aggregated by each pharmacy.

- Comparing what pharmacies are paid vs. what they charge health plans, helps understand financial dynamics and ensures transparency in drug pricing; reporting will be for but not limited to:
 - Amount paid to each pharmacy on behalf of the health plan for prescription drugs
 - This refers to how much money each pharmacy received for the prescription drugs they dispense
 - Amount charged to each health plan
 - This refers to the amount the PBM charged to the health plan for prescription drugs
 - Aggregated by each pharmacy
 - All financial data collected for prescription drugs, and
 - All financial data combined for each individual pharmacy for prescription drugs

(ii.) Transparently disclose why a drug was moved to a tier that results in higher costs to a consumer or lower reimbursement to a pharmacy.

(b) A PBM that owns, controls, or is affiliated with a pharmacy must report differences paid between affiliated and nonaffiliated pharmacies:

- in reimbursement rates or practices,
- direct and indirect remuneration fees or other price concessions, and
- the number and amount of clawbacks.

Idaho Code § 41-349(13)

(d) PBMs are required to submit quarterly reports to the Department of Insurance on appeals and denial outcomes including reasons for each denial, for each specific drug for which an appeal was submitted.

All information containing PII, PHI, and/or of a confidential nature should be transmitted securely and marked accordingly.

This Bulletin is not new law but is an agency interpretation of existing law, except as authorized by law or as incorporated into a contract. Requests for additional information or other inquiries regarding this Bulletin can be directed to Deputy Director Wes Trexler at 208-334-4214 or weston.trexler@doi.idaho.gov.