

SNAPSHOT OF STATE REGULATION OF PBMs

There are six states that grant the covered entity or health plan the right to request the disclosure of certain information from their PBM; however, none of these states actually require the PBM to affirmatively make these disclosures on a regular basis. In addition, it is very likely that the health plans/covered entities are not well versed in what information to request and how to decipher it in practical terms.

A handful of states have been successful in passing some limited PBM regulation provisions. Most of these states have passed “fair audit” provisions that attempt to level the playing field between the PBM and the network pharmacies and ensure that pharmacies at least have access to an appeals process. A number of states require PBMs to register with the state Department of Insurance.

The underlined provisions highlight the states that allow the health plans to request data from their PBM:

ARKANSAS:	Fair audit provisions – “Pharmacy Audit Bill of Rights”
CONNECTICUT:	PBMs must register w/State Department of Insurance
FLORIDA:	Fair audit provisions re: Medicaid
GEORGIA:	Requires PBM to be licensed and fair audit provisions
INDIANA:	Fair audit provisions
IOWA:	Requires PBM to obtain certificate as third party administrator; fair audit provisions
KANSAS:	PBMs must register with State Department of Insurance
KENTUCKY:	Fair audit provisions
MARYLAND:	PBM must register with Department of Insurance; <u>PBM must offer to provide report detailing net revenue and manufacturer payments; fair audit provisions</u>
MISSISSIPPI:	Fair audit provisions; PBM must file certain financial statements with State Department of Insurance
MISSOURI:	Fair audit provisions
NEW MEXICO:	Fair audit provisions

- NORTH DAKOTA: Requires PBMs to be registered as third party administrator; requires disclosure of ownership interest in the PBM by an insurer or manufacturer; PBM must offer covered entity right to audit PBM documents/accounts; fair audit provisions
- RHODE ISLAND: Designates PBMs as third party administrators and filing of annual report
- SOUTH DAKOTA: PBM must be licensed as third party administrator; gives covered entity the option to request data from PBM on revenues, utilization discounts, discounts/rebates from manufacturers
- TENNESSEE: Fair audit provisions
- TEXAS: Requires that all state contracts for PBM services must include right to audit the PBM, access to cost and service information and independent audit of PBM mail order pharmacy
- VERMONT: Establishes that health insurer may specify in contract with PBM timely access to financial and utilization information as requested by insurer; manufacturer rebate provisions
- DISTRICT OF COLUMBIA: Imposes fiduciary duty on PBM; Upon request of covered entity PBM must disclose information on manufacturer rebates, discounts—note: implementation of this law is still subject of litigation.