



North Carolina Enacts PBM Law

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On July 10, 2025, North Carolina Governor Josh Stein signed the Act Supporting Community Retail Pharmacies and Improving Transparency (“the SCRIPT Act”) into law. The SCRIPT Act is the latest in a series of state laws that seek to regulate the business practices of pharmacy benefit managers (“PBMs”). The Act imposes new reporting obligations on PBMs, limits their ability to steer patients to certain pharmacy providers, and requires rebates and discounts to be passed directly to participants. Most SCRIPT Act provisions go into effect October 1, 2025, while others are not effective until 2026 or 2027.

■ Summary

The pharmacy choice provisions of the Act prohibit PBMs from:

- Prohibiting insured participants from selecting a pharmacy that has agreed to participate in the health plan,
- Denying a pharmacy that has agreed to the terms of reimbursement the opportunity to participate as a contract provider,
- Imposing any cost sharing on any covered benefit that is not equally imposed on contract providers,
- Imposing any monetary incentive that would affect an insured’s choice of provider,
- Reducing reimbursement for insured pharmacy services where the participant selects a pharmacy of his or her choice, and
- Requiring participants to purchase pharmacy products through a mail-order pharmacy.

The pharmacy choice provisions apply to insurance contracts entered into on or after October 1, 2025.

Pharmacy Services Administrative Organizations

The SCRIPT Act regulates pharmacy services administrative organizations (“PSAOs”), which are organizations that represent independent pharmacies in negotiations with PBMs and other third-party payers. The Act prohibits PSAOs from requiring independent pharmacies to buy more expensive drugs from certain wholesalers and to disclose ownership interests to the state. The PSAO provisions are effective for contracts entered into or renewed on or after October 1, 2026.

Reporting Requirements

The Act adopts new reporting requirements for PBMs. Among other things, the Act requires PBMs to report to the Commissioner of Insurance the aggregate amount of rebates paid, amounts retained through spread pricing, the aggregate amount of fees imposed on contracted pharmacies, and the aggregate amount of rebates passed on to the insurer or insured participant. The reporting requirements are effective for contracts entered into on or after October 1, 2025.

Pharmacy Reimbursement Rates

The Act prohibits PBMs from reimbursing pharmacies less than the amount it reimburses its affiliate pharmacies for the same item or service. This provision is effective for pharmacist services dispensed on or after October 1, 2025.

Additionally, PBM contracts may not require independent pharmacies and those in pharmacy deserts to be reimbursed at rates lower than acquisition cost.

PBM Rebates Shared with Consumers

The Act requires that 90% of all rebates received in connection with dispensing a drug be used to offset the patient's cost-sharing. This means that 90% of all rebates will be required to be passed along to consumers at the point of sale. This provision will require insurers to submit an attestation of compliance by January 1 of each year to the Commissioner of Insurance. The consumer rebate provisions apply to prescription drugs purchased on or after January 1, 2027.

Prescription Drug Transparency

For prescription drugs priced at \$100 or more for a 30-day supply, the Act requires manufacturers to notify interested parties by January 1 of each year as to price increases of 15% or greater that occurred in the prior calendar year. Drug manufacturers must also notify interested parties of the price of any new prescription within 3 days after it is made available for purchase. The requirement to notify interested parties of cost increases is effective January 1, 2026; the requirement to notify of costs of new drugs is effective immediately.

■ **Applicability**

The SCRIPT Act applies to health benefit plans in the state, which means accident and health insurance policies, nonprofit hospital service corporation contracts, health maintenance organizations, multiple employer welfare arrangements, or other benefit arrangements, to the extent permitted under ERISA. While fully insured coverage written in the state will be subject to the new requirements, it is not yet clear which provisions, if any, will apply to self-funded plans.

In 2020, the U.S. Supreme Court held in *Rutledge v. Pharmaceutical Care Management Association* that state PBM laws that merely regulate reimbursements to pharmacies are not preempted by ERISA. However, state laws that regulate the structure of employee health benefit plans will generally be preempted. In 2023, the 10th Circuit Court of Appeals found an Oklahoma law that regulated PBM networks to effectively regulate benefit plan design and was partially preempted by ERISA. In June of 2025, the Supreme Court declined to review the appeal, so the 10th Circuit opinion stands.

To the extent that state laws and regulations are preempted under ERISA, they will not apply to self-funded plans, whether they are established in North Carolina or any other state. Given the evolving ERISA preemption landscape, it is not clear which provisions of the SCRIPT Act will apply to self-funded plans.

■ **Employer Action**

Employers who sponsor fully insured plans can expect their insurance carrier to comply with the new requirements and do not need to take any action. Sponsors of self-insured plans should reach out to their TPA or PBM to determine if the North Carolina law requires any benefit design changes.

In addition, the bill adjusts the methodology for calculating inflation when indexing the maximum amount of fringe benefits excludable for parking or public transit.

■ Extension and Enhancement of the Tax Credit for Paid Family and Medical Leave

OBBBA makes permanent paid family medical leave tax credits under Code § 45S, with three modifications:

- Expands the credit allowing employers to claim the credit for a portion of paid family and medical leave insurance premiums.
- It makes the credit available in all states.

■ Establishment of Trump Accounts and Employer Contributions

For tax years beginning after December 31, 2025, the law establishes a new type of retirement account called a “Trump Account,” which will be treated in a similar manner to Individual Retirement Accounts (“IRAs”) but is specifically designed for minors. The accounts are subject to various rules, including:

- The account must be established for the exclusive benefit of an eligible individual under the age of 18 or the individual's children under the age of 18.
- Contributions are limited to up to \$5,000 per year (indexed for inflation for years after 2027), and funds must be invested in “eligible investments.” Contributions can begin July 4, 2026.
- With limited exceptions, the amounts in the Trump Account must not be distributed before the first day of the year that the beneficiary turns 18.

Employers may contribute up to \$2,500 (indexed for inflation for years after 2028) to an employee's Trump Account or that of their dependent(s). Amounts contributed by an employer are excludable from the employee's taxable income provided they are made in accordance with a separate, written plan document and subject to nondiscrimination requirements like those that apply to DCAPs.

■ Employer Action

Employers should review the benefit related provisions of OBBBA. Employers may want to consider:

- With respect to HDHP/HSA plans, whether to offer:
 - Free or reduced cost telehealth (or other remote care services).
 - A DPC arrangement.
- Increasing the DCAP limit for 2026 to reflect the larger salary reduction of \$7,500.
- Whether to take advantage of other tax favored offerings, including:
 - A qualified education assistance program that will permanently include student loan payments; or
 - Contributions to employees' own (or their dependents') Trump Account for future investment (available beginning July 4, 2026).