

Update on the End of Indiana's 2025 Legislative Session

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As is typical at the end of a legislative session, there was a flurry of activity and passage of multiple bills in Indiana. Two bills touching on benefits have become law; this article summarizes key aspects of each. Overall, the day-to-day impact of these bills to plan sponsors is minimal. However, we anticipate that the bills will allow plan sponsors to:

- Have more options when selecting pharmacy benefit managers (“PBMs”), especially for self-funded plans, and
- Hold PBMs and third-party administrators (“TPAs”) more accountable by extending the same fiduciary duties to those entities.

Senate Bill 3 – Now Public Law 69

Effective July 1, 2025, Public Law 69 extends state fiduciary duties to TPAs and PBMs “acting on behalf of a plan sponsor.” The law defines plan sponsor as “an employer or organization that offers health insurance coverage to its employees or members through an insurer or a self-funded health benefit plan” and therefore, the law appears to apply to both fully insured and self-funded ERISA plans. The four key fiduciary duties that TPAs and PBMs must follow are:

1. Act with loyalty and care in the best interests of the plan sponsor;
2. Ensure that all fees, costs, and commissions are reasonably and fully disclosed;
3. Avoid self-dealing and conflicts of interest; and
4. Maintain transparency in all financial and contractual arrangements related to the plan sponsor’s health insurance coverage, including prescription drug benefits.

Senate Bill 140 – Now Public Law 189

Public Law 189 applies broadly to insurers and pharmacy benefit managers. It sets forth requirements relating to network adequacy, fee/compensation disclosures, cost/reimbursement guidelines, and some contractual limitations. These requirements are effective for any policies or contracts delivered, entered into, renewed, or amended after December 31, 2025.

Network Adequacy

The law mandates that any insurer, PBM, or other administrator of pharmacy benefits “ensure that the network is reasonably adequate and accessible.” There are two key requirements to be considered adequate:

1. Offer an adequate number of accessible pharmacies that are not mail-order pharmacies; and
2. Provide convenient access to pharmacies that are not mail-order pharmacies within a reasonable distance of not more than 30 miles from each insured’s residence, to the extent that pharmacy or pharmacist services are available.

It is important to note that the distance is based upon the individual employee’s address – not the employer’s location.

General Restrictions for PBMs

PBMs or TPAs administering pharmacy services are prohibited from engaging in the following behaviors:

- Preventing a pharmacy or pharmacist from selling or providing information about a lower cost alternative;
- Imposing limits, including quantity limits or refill frequency limits, on an insured’s access to medication from a pharmacy that is more restrictive than those existing for a pharmacy affiliate;
- Requiring a pharmacy or pharmacist to enter into an additional contract with an affiliate of the insurer, pharmacy benefit manager, or other administrator of pharmacy benefits as a condition of entering into a contract with this insurer, pharmacy benefit manager, or administrator; or
- Requiring a pharmacy or pharmacist to, as a condition of contract, agree to payment rates for any affiliate of the insurer, pharmacy benefit manager, or other administrator of pharmacy benefits that is not a party to the contract.

These restrictions should help expand the inclusion of independent pharmacies as being in-network for plans and thus expand network availability and adequacy to improve participant experience.

Contracting with a Particular PBM or Pharmacy Prohibited for Self-Funded Plans

The law prohibits a TPA from requiring a plan sponsor to:

- Require as a pre-condition or condition of a contract with the TPA that the plan sponsor contract with a particular PBM; or
- Charge a different rate or fee for services if the plan sponsor based upon the plan sponsor’s PBM selection.

Employer Action

- Employers should review policies and procedures relating to monitoring of vendors and update any questions relating to:
 - Rates and commissions,
 - Network adequacy, and
 - Conflicts of interest.
- Continue to monitor for further communications from TPAs and PBMs regarding, as applicable, their compensation, rebates, conflicts of interest, and updated contractual terms.