



Illinois PBM Law Takes Effect January 1, 2026

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New legislation, the Prescription Drug Affordability Act (the “Act”), expands requirements on pharmacy benefits in Illinois. The law joins a trend across the country in regulating pharmacy benefit managers (“PBMs”) to prevent certain common industry practices, including spread pricing, steering to PBM owned or affiliated pharmacies, as well as retention of prescription drug rebates. In addition, the law imposes a new fee on PBMs that is likely to be passed on to carriers and employer-sponsored group health plans.

The provisions of the Act are summarized below. Unless stated otherwise, all the reforms take effect for all plans that are amended, delivered, issued, or renewed on or after January 1, 2026.

■ Prohibition on Spread Pricing

Spread pricing is a practice where a pharmacy benefit manager supplies prescription drugs to a retail pharmacy for one price and then charges the health plan a greater price. The difference between the two prices, or the “spread” is retained by the PBM as a revenue stream. The Act prohibits PBMs from engaging in spread pricing. A violation of this provision is considered an unfair and deceptive practice and may be subject to civil penalties and/or license revocation.

■ Steering Prohibited

At times, PBMs and health insurers will offer more advantageous pricing to plans and members to fill prescriptions at pharmacies that are owned or affiliated with the PBM. This can negatively impact independent and rural pharmacies by reducing their volume. Under the Act, insurers and PBMs are prohibited from requiring participants to fill prescriptions exclusively through a mail-order or specialty pharmacy that is affiliated with the PBM, designating drugs as specialty medications solely for the purpose of limiting access, and requiring individuals to use a PBM-affiliated retail pharmacy if it would result in an increased cost to participants.

■ Prescription Rebates

Many prescription drug manufacturers issue rebates to PBMs when their brand name drug is filled, making the brand drug relatively more attractive and competitive when compared to a generic therapeutic equivalent. Depending on market segment and contract, the PBM may not pass through all of the rebates to the health insurer or the plan sponsor, retaining those rebates as an additional revenue stream. The Act requires the PBM to remit 100% of all prescription drug manufacturer rebates to the health benefit plan sponsor, covered individual, or employer. Records demonstrating compliance must be remitted to the Illinois Department of Insurance annually.

■ Transparency Rights and Reporting

All contracts between a PBM and a plan sponsor or an insurer must now contain a term that permits the sponsor or insurer the right to audit compliance with the terms of the contract at least once per year. The PBM must pay for the cost of the audit. The audit may be performed by an auditor selected by the plan sponsor, the insurer, or a designee. The plan must then give a copy of the audit to the PBM, which will remit a copy to the IL Department of Insurance within 60 days.

In addition, PBMs must annually submit reports to the IL Department of Insurance, health benefit plan sponsors, and each insurer no later than September 1st. The report must include the following information, amongst other data:

- List of drugs including therapeutic class, brand name, generic name, or specialty drug name;
- Number of covered individuals;
- Number of drug-related claims;
- Average wholesale acquisition cost per drug;
- Amount received by the plan in rebates, fees, or discounts related to drug utilization or spending;
- Total gross and net spending by health benefit plan;
- Any information collected by drug manufacturers pertaining to copayment assistance;
- And any compensation paid to brokers, consultants, advisors or any other individual or firm for referrals, consideration, or retention by the health benefit plan.

If the PBM fails to provide all required elements to the Department of Insurance, a fine up to \$10,000 per day, per offense may apply.

■ Tax

On or before September 1st, 2025, and annually thereafter, all PBMs licensed to do business in Illinois must remit the IL Department of Insurance \$15 (or an alternate amount determined by the Director of the Department of Insurance) per covered individual enrolled by the pharmacy benefit manager in Illinois. These amounts will be placed in a Prescription Drug Affordability Fund in the State Treasury. The first \$25m collected annually shall be placed into a Department of Commerce and Economic Opportunity Projects Fund for grants to pharmacies. While the fee per covered individual must be paid by the PBM, it is likely that those amounts will be passed on to plans or insurers for reimbursement.

■ Who Does the Act Apply To?

These new requirements apply to PBMs that administer both fully insured and self-funded programs in Illinois.

Certain aspects of this PBM law could be preempted as to self-funded plans under ERISA (for example the prohibition on steering). ERISA preempts state laws that have a substantial impact on employer-sponsored health plans. At this time, there do not seem to be any legal challenges to this law, but we will continue to monitor developments.

ERISA does not apply to plans administered by state or local governments or church plans.

Employers should discuss the implication of these new requirements with carriers, third-party administrators, and PBMs.