

New DOL PBM Transparency Rule Raises the Bar for Employer Health Plan Oversight

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The Department of Labor (DOL) has finalized a significant new transparency rule requiring pharmacy benefit managers (PBMs) to disclose detailed information about fees, rebates, spread pricing, and other compensation arrangements to ERISA-covered group health plans. The final rule is designed to help plan fiduciaries better evaluate PBM contracts, identify potential conflicts of interest, and ensure plan assets are being used prudently.

Background

The DOL's final PBM transparency rule builds on amendments included in the Consolidated Appropriations Act, 2026 (CAA 2026), which clarified that pharmacy benefit managers (PBMs) are covered service providers under ERISA's disclosure rules.

Responding to concerns about rising prescription drug costs and potential conflicts of interest within the prescription drug supply chain, the DOL was directed under Executive Order 14273 to strengthen transparency requirements.

Applicability

The rule applies to plan years beginning on or after July 1, 2027, and primarily affects large, self-insured (and level-funded) group health plans sponsored by employers with 100 or more employees.

Covered service provider is defined as any entity that contracts with the plan to provide PBM services and reasonably expects $1,000 or more in direct or indirect compensation; and PBMs or PBM affiliates that provide advice, recommendations, or referrals about PBM services. If a third-party administrator (TPA), carrier, or other entity contracts to provide PBM services, that entity is the covered service provider and must obtain the required information from the PBM that actually performs the services.

PBM services include rebate negotiation and aggregation, formulary management, pharmacy networks, and utilization management (including generic and biosimilar substitution). Claims processing, appeals, recordkeeping, and compliance also count when provided together with any of these services.

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Compensation means anything of monetary value, other than items worth $250 or less in the aggregate.

Key Requirements Under the New Rule

Enhanced Compensation Disclosures

Before entering into, renewing, or extending a contract, a covered service providers must provide detailed written disclosures describing:

- Administrative fees and other direct compensation paid by the plan
- Manufacturer rebates, discounts, and other indirect compensation
- Spread pricing arrangements, including the difference between what the plan pays and what pharmacies receive
- Pharmacy recoupments and copay clawbacks
- Formulary placement incentives and other manufacturer-driven arrangements
- Expected termination-related compensation
- Drug pricing methodologies and net drug costs
- Whether the PBM expects to act in a fiduciary capacity
- Statement explaining plan's right to audit and procedures for requesting an audit

For contract renewals and extensions, disclosures provided at least 90 days in advance will generally be considered timely.

Ongoing Reporting Requirements

After services begin, PBMs must provide semiannual reports, or quarterly reports if requested by the plan, showing the compensation actually received during the reporting period. If compensation exceeds initial estimates by 5% or more, the PBM must explain the variance.

Expanded Audit Rights

The final rule gives plan fiduciaries the right to audit PBM disclosures at least annually. PBMs must provide claims-level and transaction-level data, as well as relevant contracts with pharmacies, manufacturers, and rebate aggregators necessary to verify the accuracy of disclosures.

Fiduciary Responsibilities Increase

The new rule is not focused solely on PBMs. It also places important responsibilities on plan fiduciaries.

Before entering into or renewing a PBM arrangement, fiduciaries must review the disclosures and determine that both the contract and compensation are reasonable. Ongoing monitoring is also required through review of periodic reports and, when appropriate, audit activities.

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If a PBM fails to provide required information, fiduciaries must take corrective action, which may include requesting corrections, notifying the DOL, and evaluating whether the relationship should be terminated. Importantly, fiduciaries should document their analysis and decision-making process to demonstrate compliance with ERISA's fiduciary standards.

Employer Action

With the July 2027 applicability date approaching, employers should begin preparing now:

- Identify PBM agreements scheduled for renewal or extension in 2027 and ensure sufficient lead time exists to receive and evaluate required disclosures before contract execution.
- Work with legal counsel and consultants to review PBM agreements for audit rights, transparency provisions, termination rights on short notice, disclosure obligations, access to rebate and compensation information
- Develop a documented procedure for reviewing PBM disclosures, evaluating compensation arrangements, and addressing discrepancies or compliance concerns.
- Employers should understand the new disclosure requirements, their oversight responsibilities, and the potential fiduciary implications of failing to monitor PBM arrangements appropriately.
- Employers should also keep an eye on additional PBM requirements under the CAA 2026.

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