

Pharmacy Benefit Managers (PBM) TPA Requirements

Consumers 1-800-686-1526 | **Medicare** 1-800-686-1578 | **Fraud & Enforcement** 1-800-686-1527

Effective September 29, 2015, Ohio Revised Code (ORC) Chapter 3959 establishes licensing, contractual and disclosure requirements for Pharmacy Benefit Managers (PBMs). Below is a general overview of those requirements and the Ohio Department of Insurance's (ODI) oversight procedures.

TPA license required

Ohio statute requires PBMs to maintain an active Third Party Administrator (TPA) license from ODI. License application procedures remain the same as current TPA licensing processes. Those PBMs already holding a TPA license are not required to renew until the regular license renewal date of June 30, 2016. Current license holders must, however, be in compliance with the statutory requirements upon the law's effective date of September 29, 2015.

Any PBM not already licensed must apply and can access a license application on the ODI website at <http://insurance.ohio.gov/Agent/Pages/TPALic.aspx>.

PBMs must provide pharmacies current pricing information

Statute requires all PBM contracts with pharmacies to include a means by which pharmacies can promptly utilize current information on Maximum Allowable Cost (MAC) pricing. The MAC pricing lists must be updated every seven (7) days, and sources used to determine MAC pricing must be made available within ten (10) days of any contracted pharmacy's request. Additionally, PBMs are required to follow statutorily defined conditions when placing drugs on a MAC list and maintain a written procedure to remove drugs subject to MAC pricing in a timely manner.

PBMs must provide pharmacies access to and timely resolution of appeals

Statute also requires PBMs to establish a written appeals process for pharmacies to access in the event of pricing disputes. The PBM must also provide a phone number where a pharmacy can contact the PBM to speak to a person responsible for handling the appeal. Appeals must be filed within 21 days of a claim, and then resolved within 21 days after the appeal.

If an appeal is denied, the PBM must provide a reason for the denial, as well as the National Drug Code (NDC) that shows availability of the drug in Ohio at or below the PBM's benchmarked price. If an appeal is approved, the price adjustment must occur within one day after the determination, and be retroactive to the date of the appeal.

PBMs must disclose to plan sponsors if using multiple MAC pricing lists

In the event a PBM uses multiple MAC pricing lists—a price list for reimbursing pharmacies that differs from the price list used for plan costs—the PBM is required to disclose to the plan sponsor any differences in pricing. Statute requires this disclosure within ten (10) days of signing a contract with a plan sponsor or within ten (10) days of any applicable update to a MAC list.

Oversight of PBM contract and disclosure compliance

ODI is authorized to license PBMs and investigate compliance with pharmacy contract and plan sponsor disclosure requirements. ODI may take enforcement action, including license suspension or revocation, in the event of noncompliance with the requirements of ORC 3959.111.

Statute does not require the PBMs to file copies of pharmacy contracts with ODI or obtain review or approval prior to use of those contracts. ODI will monitor compliance by review or investigation of inquiries or concerns from pharmacies or plan sponsors. The Consumer Services Division at ODI is the primary point of contact for pharmacies or plan sponsors to raise concerns. Complaints can be filed on the ODI website or by calling 1-800-686-1526.

Additional Information on Ohio Agent Licensing is available on the ODI website at insurance.ohio.gov. We also encourage you to contact our Licensing Division at (614) 644-2665 anytime you have questions.