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DAVID W. ECKHARDT
MILWAUKEE:
414.978.5414
DAVID.ECKHARDT@
HUSCHBLACKWELL.COM

DOL Finalizes PBM Fee Disclosure Rules: What Plan Sponsors Should Do Now

The Department of Labor (DOL) has finalized regulations requiring pharmacy benefit managers (PBMs) and certain related service providers to make expanded compensation disclosures to fiduciaries of large, self-insured Employee Retirement Income Security Act (ERISA) group health plans. The rules apply for plan years beginning on or after July 1, 2027.

The regulations are significant for plan sponsors because they are designed to provide fiduciaries with information needed to determine whether a PBM arrangement and its compensation are reasonable under ERISA section 408(b)(2). As a result, sponsors should focus not only on obtaining the required disclosures, but also on understanding the PBM's overall compensation and incorporating that information into PBM selection, contracting, and ongoing monitoring.

What Will Sponsors Learn?

Covered service providers generally must disclose the services they provide and the direct and indirect compensation they reasonably expect to receive. The rule addresses compensation beyond stated administrative fees, including manufacturer rebates, fees, alternative discounts, and other remuneration, spread compensation, and compensation involving affiliates and subcontractors. It also addresses indirect compensation received by brokers and consultants.

Disclosures are required in connection with entering into, extending, or renewing covered arrangements, with additional ongoing disclosure requirements. The rule also provides for reporting semiannually, or quarterly if requested by the plan.

Sponsors Should Review the Total Economics

The disclosures should give sponsors a better opportunity to understand how the PBM and related parties make money from the plan's pharmacy benefit, rather than focusing solely on administrative fees or headline rebate guarantees.

As a fiduciary best practice, sponsors should consider establishing a documented process for reviewing the disclosures, including:

Direct fees paid by the plan;

Spread compensation and drug-pricing methodologies;

Manufacturer rebates and other remuneration;

Compensation received by PBM affiliates and subcontractors; and

Compensation or potential conflicts involving brokers and consultants.

The goal should be to understand the total economics of the arrangement and use that information in evaluating whether the PBM's compensation and the overall arrangement are reasonable.

PBM Agreements Should Be Revisited

The new disclosure regime also creates an opportunity for sponsors to strengthen their PBM agreements. In upcoming RFPs, renewals, and contract negotiations, sponsors should consider provisions that:

Require the PBM to provide all disclosures required by ERISA section 408(b)(2) and represent that required disclosures are complete and accurate;

Clearly define rebates, fees, spread compensation, and other forms of remuneration;

Address compensation received by relevant affiliates and subcontractors;

Require notice of material changes to compensation arrangements;

Provide access to information needed to verify pricing and compensation;

Provide meaningful audit rights, including appropriate access to underlying records and data; and

Establish reconciliation and other contractual remedies for inaccurate payments or disclosures.

The DOL specifically discusses historical contractual limitations on PBM audits and includes audit provisions intended to allow responsible plan fiduciaries to verify required disclosures.

What Should Plan Sponsors Do Now?

Sponsors of potentially covered plans should:

1. Identify affected PBM arrangements and upcoming renewals or extensions.
2. Develop a process for reviewing PBM compensation disclosures and documenting the fiduciary's consideration of that information.
3. Update PBM RFPs so proposals disclose and permit comparison of the full economics of competing arrangements.
4. Review PBM, broker, and consultant agreements for compensation transparency and potential conflicts.
5. Strengthen contract language addressing disclosure obligations, audit rights, data access, reconciliation, and remedies.
6. Plan ahead for the additional statutory PBM requirements taking effect in 2028, including requirements concerning the pass-through of specified remuneration and additional reporting.

Bottom Line

For plan sponsors, the new rules are not simply another disclosure requirement. They provide fiduciaries with considerably more information about who is being paid, how much, and through what mechanisms. Sponsors should use that information to evaluate the reasonableness of their PBM arrangements and, importantly, ensure that their service agreements give them the information, audit rights, and contractual protections necessary to verify the economics of those arrangements.

Contact Us

If you have questions about how the DOL's new PBM fee disclosure rules may affect your organization's health plan arrangements, contact David Eckhardt or your Husch Blackwell attorney.

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