

Pharmaceutical Benefit Management: Roles and Regulation as seen by States

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PBMs: Why are Legislatures Involved?

- PBMs are a recent legislative focus. Very little awareness or activity before 2002. Was seen as a contract "detail."
- Initial focus: "Level the playing field" with retail druggists initiating state bills to regulate PBMs
 - Licensing and financial stability (GA 2002 law)
 - Regular reporting to state agency
 - Inspection of facilities or operation.
- Latest interests:
 - Requiring fiduciary role and responsibility
 - Disclosure and "transparency"
 - Pass-through of rebate or discounts

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Expanding State-related Role for PBMs, '05-'06

- *Now*: Design and manage state PDLs
- Operate mail-order pharmacies
- State Employee plans
- *Now*: MMA Drug discount card programs
- Medicare Advantage plans
- *2006 and Beyond*: Medicare drug benefit
 - "PDPs" Rx-only programs
- Medicaid changes caused by loss of dual-eligible enrollees

Source: NCSL; National Medicare Prescription Drug Congress

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A PBM Industry Self-Analysis

PBM News, Summer 2004

Table: Opportunities for Greater Plan Sponsor Involvement

Cost or Utilization Management Strategy	Opportunities for Action	Key Decision Makers		Economic Impact SSS=High S=Low
		Current	Future	
Detained Claims Analysis	Develop targeted interventions for specific cost drivers	Sponsor	Sponsor	SSS
Plan Design	Align incentives for use of lowest-cost effective drugs	Sponsor	Sponsor	SSS
PBM Audit	Increase contract compliance; sentinel effect for future	PBM or Sponsor	Sponsor	SS
Clinical Programs	Provide coverage for medically necessary treatments	Clinical organization or PBM	Sponsor and Clinical organization	SS
Service Contract Negotiation	Align incentives with sponsor interests	PBM	Sponsor and PBM	SS
Customer Service Training	Improve member compliance	PBM	Sponsor and PBM	SS
Formulary Assessment	Develop custom formulary to support benefit objectives	PBM	Sponsor	SS
Large Case Management	Manage high prescribers and high utilizing members	Clinical organization or PBM	Sponsor and Clinical organization	SS
MAC Assessment	Improve value of MAC List	PBM	Sponsor and PBM	SS
Network Management	Align incentives with sponsor interests	PBM	Sponsor and PBM	SS
Rebate Management	Align incentives with sponsor interests	PBM	Sponsor and PBM	SS
Stakeholder Communication	Improve compliance	PBM	Sponsor and PBM	SS
Eligibility Management	Manage coverage and disenrollment	Sponsor	Sponsor	S
Total Impact				SSSSSS

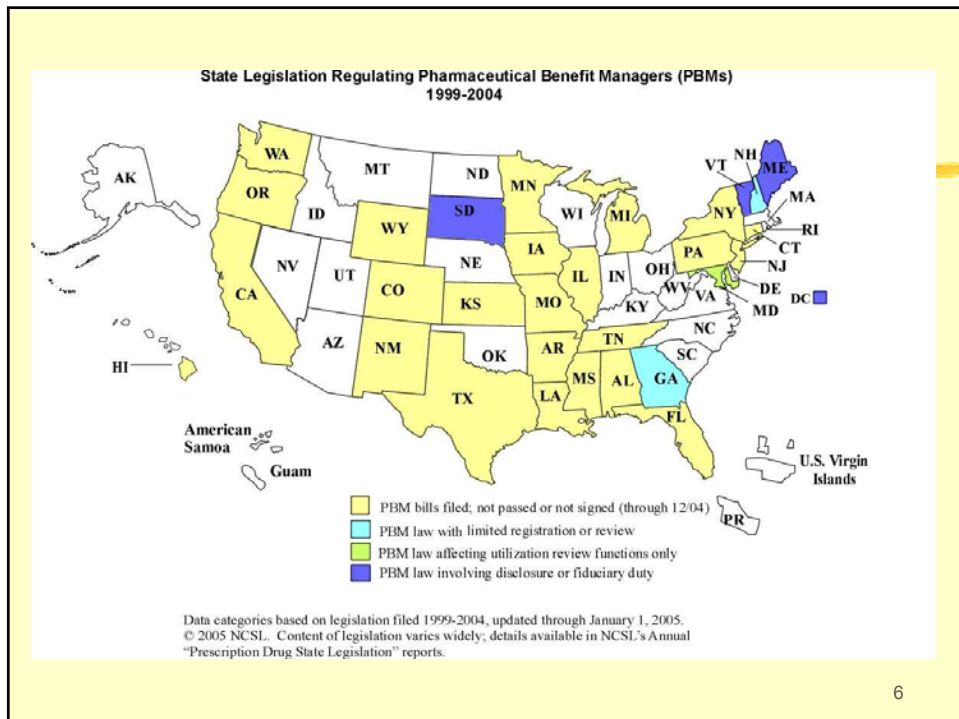
Source: "Following the Drug Benefit Dollar" a presentation developed by Jim Baxter of Mellon Human Resources and Investor Solutions (formerly Buck Consultants) and given by Ken Anderson of Independent Pharmaceutical Consultants, Inc. at PBM's annual conference in April 2004.

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PBM State Bills and Laws

- 2001-2004: at least 32 states have considered PBM bills.
- 6 states + D.C. have enacted and signed PBM laws; content varies widely.
- 24 states: bills filed but not enacted (as of 1/1/05)

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PBM State Laws - Examples

South Dakota

- Requires licensing
- “exercise good faith and fair dealing” toward customers
- Customers may request rebate and revenue disclosure; May obtain audits.
- PBMs must treat utilization as confidential
- Law signed March 2004

Maine

- Requires “full disclosure of contracted activities” between PBM & Rx makers.
- Pricing discounts and rebates to be passed through to payers.
- Violations enforceable by private action by the AG.
- Law signed June 2003
- US District Court injunction March '04

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PBM State Actions

Vermont

- Applies to any PBM contract with State of Vermont.
- Establishes detailed disclosure and financial reporting.
- Annual reports to “analyze success...” on costs & savings.
- Accounting of all payments, fees, offsets, savings, etc.
- Law signed June 2002

California bill

- Establishes a “fiduciary duty” of PBMs to customers
- Requires disclosure or “transparency” of rebates and discounts.
- Passed Assembly & Senate August 2004, but vetoed by Governor

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Resources



NCSL's Rx reports (updated January 2005)

Overview:

www.ncsl.org/programs/health/pharm.htm

2004 Prescription Drug State Legislation:

www.ncsl.org/programs/health/drugdisc04.htm

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