

July 16, 2020

Mandy Weeks-Green
Washington State Office of the Insurance Commissioner
PO Box 40260
Olympia, WA 98504-2060

**RE: NATIONAL COMMUNITY PHARMACISTS ASSOCIATION COMMENTS ON MATTER R 2020-4
(HEALTH CARE BENEFIT MANAGERS)**

Dear Ms. Weeks-Green:

I am writing on behalf of the National Community Pharmacists Association to provide comments on Matter R 2020-4 (Health care benefit managers). NCPA urges the Office of the Insurance Commissioner (OIC) to implement SB 5601 (“the Act”) by adopting rules that will serve the legislature’s intent to protect patients, payers, and pharmacies from pharmacy benefit manager (PBM) practices. Below, NCPA has highlighted two issues addressing network participation requirements and untrue, deceptive, and misleading PBM practices.

NCPA represents the interest of America’s community pharmacists, including the owners of more than 21,000 independent community pharmacies across the United States and 280 independent community pharmacies in Washington that employ over 3,180 full-time employees. These Washington pharmacies filled over 16 million prescriptions last year, impacting the lives of thousands of patients in your state.

Network participation requirements

Under the Act, a PBM “may not require accreditation standards inconsistent with or more stringent than accreditation standards established by a national accreditation organization.”¹ NCPA urges OIC to adopt rules that will carry out the legislature’s intent to ensure patient choice is not hampered by onerous and arbitrary network participation requirements that have been used to omit qualified pharmacies from the network.

Suggested language: If, as a condition of network participation, a PBM requires a pharmacy to obtain accreditation, the PBM must allow a pharmacy to satisfy the condition by obtaining accreditation from any organization that accredits pharmacies nationwide. A PBM shall not require a pharmacy to obtain accreditation from more than one accrediting organization as a condition of network participation.

Untrue, deceptive, or misleading practices

The Act prohibits PBMs from engaging in “untrue, deceptive, or misleading” practices.² The legislature clearly intended to protect Washington patients and payers by requiring openness and honesty about PBM practices. Because of the pharmacist-patient relationship, the pharmacist is

¹ RCW 19.340.100(2)(j).

² RCW 19.340.100(2)(h).

the one player in the drug supply chain who often sees how deceptive PBM practices harm patients. Unfortunately, states have found “independent pharmacists do not file complaints [with the Insurance Administration] because they are then retaliated against by the PBMs through audits and increased scrutiny.”³ Such retaliatory tactics allow deceptive PBM practices to continue without consequence. Therefore, to align with the legislature’s goal of openness and honesty, NCPA urges OIC to adopt a rule allowing pharmacies and pharmacists to report and discuss potential violations without fear of retaliation from PBMs.

Suggested language: A pharmacy benefit manager contract with a participating pharmacist or pharmacy shall not prohibit, restrict, or limit disclosure of information to the commissioner, law enforcement or state and federal governmental officials regarding a pharmacy benefit manager’s compliance with the requirements under law.

Conclusion

NCPA appreciates the opportunity to share our comments. If you have any questions about the information in these comments, please do not hesitate to contact me at matthew.magner@ncpa.org.

Sincerely,



Matthew Magner, JD
Director, State Government Affairs

³ Maryland Insurance Administration. “Maryland Insurance Administration Pharmaceutical Services Workgroup Report” 13 (Jan. 21, 2018).