Express Scripts
By EVERNORTH

PBM Legislation Watch is not a complete list of all proposed PBM legislation that has been introduced. Rather, it is meant to bring awareness to the ~25 or so most unfavorable PBM bills that are considered in 2023. The Weekly SGA Extended tracker is inclusive of the ~25 most unfavorable bills plus other potentially impactful legislation SGA is tracking in the focused areas of ERISA erosion, PBM & pharmacy, prior authorization/gold carding and white bagging.

Please note the following regarding these documents:

- These are preliminary, informal, non-legal summaries. They have not been reviewed or approved since proposed bills are subject to frequent change.
- State Government Affairs often takes a conservative lens to legislation in an effort to educate stakeholders as to the impacts that *could* happen, though may not always happen.
- Final interpretation of a law belongs to the Regulatory team and multiple other stakeholders, but only after the law has passed. Running an impacted client list and determining what changes are needed (if any) for each client tend to be the final stages of the process after in-depth strategic collaboration.
- These charts were developed for internal tracking purposes and early awareness; clients and third parties should not rely on these summaries as final.

AT A GLANCE:			
Subject	**# States Proposed**	**# States Passed**	**# States Failed**
ERISA Erosion	25	2	23
GPO/Rebate Aggregator	5		5
Medicare Erosion	2		2
PBM Licensure	11	5	6
Transparency	32	11	21
340B Protections	28	8	20
Anti-Steering +/- AWP	25	6	19
Pharmacy Profitability	6	1	5
NADAC +/- Dispensing Fee	21	4	17
No Pharmacy Fees	13	3	10
No Spread	19	3	16
White Bagging	20	5	15
Biosimilar Coverage	9	1	8
Copay Accumulator	20	2	18
Copay Caps	23	4	19
Drug Importation	11	1	10
Fiduciary	9		9
Frozen Formulary	6	1	5
Gold Carding	12	2	10
PDAB	13		13
POS Rebates	18		18
Rebates Pass Through	10	3	7

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PBM Legislation Watch-List

12/27/2024

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State	Bill Number(s)	Key Elements	Current Status	Non-legal Review of Applicability	Comments/Engagement
AK	SB 121 and HB 226	• ~~NADAC + Medicaid FFS dispensing fee ($13.36 or higher in some instances)~~ • Spread ban • Any willing pharmacy for retail, mail and specialty networks • AMMO • ~~Anti-affiliate steering~~ • Affiliate reimbursement parity • No preferred networks • Potentially expands MAC lists to all drug types • Prohibition on affiliate marketing/promotional activity • ~~Limits PBM ability to define "specialty pharmacy" and "specialty drug"~~ • White bagging prohibition with site of care limits • Brown bagging • ~~Can't impose any additional cost on member for use of OON pharmacy~~ • ~~PBM must complete contracting within 30 days~~ • Permits retail pharmacies to engage in home delivery • ~~Prohibits use of credentialing criteria more stringent than the state Board of Pharmacy's credentialing criteria~~ • No pharmacy fees • PBMs owe duty of care (similar to fiduciary duty) to health plans • 100% Rebate pass-through • Rebate transparency requirement	Enacted	Fully insured + ~~public sector carve in, ASO non-ERISA ASO ERISA~~	Effective date: ~~7/1/24~~ 1/1/25 These bills are essentially the same bill, cross-filed in respective chambers. At this point is looks like HB 226 is the likely vehicle to be used for negotiations. Sen. Geisel just dropped an amendment on 2/8/24 that includes biennial renewal of registration and states that PBMs will have a fiduciary duty to plan sponsors. Some legislators are very concerned about the cost impact of both these bills as Alaska is running in a budget deficit. 5/10 - Has advanced out of the House and through the Senate Labor & Commerce Committee. SGA continues to oppose the bill. Alaska's legislative session is scheduled to adjourn on May 15. 5/17 – Advanced out of legislature and awaits action from the Governor. PCMA intends to request a veto. 6/1 – highlighted strikeouts in "key elements" section reflect version of the bill passed out of legislature that still awaits action by the governor.

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					9/6 – SGA has learned that Governor Dunleavy intends to sign this legislation into law on September 23.
ID	HB 596 SB 1389	• Spread ban • Rebate pass-through (100%) • New transparency requirements • Required to meet or exceed Medicare Part D network adequacy standards • Prohibits networks comprised exclusively of PBM-affiliated pharmacies • AMMO with exception for drugs not available at retail • Allows mail order if member opts in, but there can't be preferential cost-sharing rules or quantity limits for mail order as compared to retail • White bagging • Anti-affiliate steering • Accreditation standard restrictions • 60-day minimum continuity of care requirement following formulary changes • ~~Mandatory minimum dispensing fee of not less than Medicaid FFS program (ranges from $11.51 to $15.11 based on pharmacy claims volume)~~ • Dispense fee must "reasonably cover the cost of dispensing medications" • No pharmacy fees • Extends approved MAC appeals to all "similarly situated pharmacy or pharmacist"	Enacted	Fully insured, ASO non-ERISA, ASO ERISA and Worker's Comp are considered at risk due to vague and undefined terms (namely, "pharmacy benefits plan or program," which is the same term used in the Arkansas law *Rutledge* examined)	Advanced out of legislature and currently awaits action from the Governor. Signed by Governor on 4/1/24.
IL	HB 5395	• Bans step therapy • ~~Restricts plan ability to support formulary medications over non-formulary or non-covered drugs.~~	Enacted	Fully insured, ASO non-ERISA	Effective date: 1/1/26 This bill contains language from Gov. Pritzker's administration regarding all the issues he outlined in his State of

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		• Changes to provider directory and network adequacy rules			State speech, including: provider directories, Network adequacy, drug formulary, prohibition on step therapy. Subject Matter hearing held 3/13/24 - Governor's office has agreed to negotiate with insurance industry. The bill passed the House with a few changes. It received 25 no votes and the Senate leadership has indicated it will consider modifications to the bill. 5/21 Update: amended to allow medical exception process and step therapy for off-formulary medications. Extended effective date to 1/1/2026.
KY	SB 188	• Prohibits pharmacy effective rate reimbursement structure • Prohibits certain retroactive pharmacy reimbursement reductions • No pharmacy fees • Affiliate reimbursement parity • Limitations on what drugs can be designated as “specialty” • NADAC reimbursement floor • Mandatory minimum dispensing fee of *greater* of Medicaid DF or $10.64 • ~~White bagging prohibition~~ • AMMO • Prohibition against incentivizing utilization of mail order • Prohibition against incentivizing utilization of affiliated pharmacy • Must have same quantity limits and refill rules for affiliated and non-affiliated pharmacies	Enacted	Fully insured, ASO non-ERISA, ERISA. Carveout for Teacher Retirement System, hospital/health systems using in-house pharmacy and public university plans providing coverage to students.	2/22 Update: Client engagement campaign launched via SAM 148-24. Update: A substitute was introduced in the Senate Committee on Banking and Insurance to remove white bagging prohibition, carve certain public sector entities out of the bill, and to explicitly exempt Medicare Part D plans. PCMA testified at the hearing in opposition to the legislation. Update: On 3/29 the House passed the bill unanimously and it now moves to the Governor’s desk. A veto is considered unlikely given the Governor’s public opposition to PBMs. 4/19 Update: The legislature subsequently passed HB 190 (currently awaiting Governor action) that amends SB 188 by excluding “retail chain”

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		• Prohibits exclusive specialty networks using affiliated pharmacy • Any willing pharmacy			pharmacies from the NADAC + $10.64 dispensing fee requirement until at least 1/1/27.
OR	HB 4149	• ~~ERISA federal preemption erosion~~ • ~~Mandatory dispensing fee of $10.00 until a regulatory body establishes a permanent DF of their choosing (w/o constraints, and their decision is final/binding) for pharmacies with 9 or fewer locations in the state AND any pharmacies designated as a "critical access" pharmacy. The bill does not define "critical access pharmacy."~~ • PBM licensure • Expands MAC appeals to all drugs • ~~No pharmacy fees~~ • PBM transparency reporting to state • Pharmacy audit restrictions • ~~Pharmacy Any Willing Provider~~ • 340B nondiscrimination	Enacted	Fully Insured, ASO non-ERSIA, ~~ERISA~~, Medicaid.	The bill's sponsor also sponsored OR HB 3013, a similar bill that contained a mandatory minimum dispensing fee, pharmacy network provisions, and was drafted to apply to ERISA plans. That bill was defeated in the final hours of the 2023 session. … Client engagement materials were issued on 4/8 via SAM 105-24. … The bill was passed out of the Senate on 3/7 shortly before the legislative session adjourned for the year. It now moves to the Governor's desk. The final bill's provisions are reflected to the left. Many of the most problematic provisions, including applicability to ERISA plans and the mandatory minimum dispensing fee of at least $10 were amended out of the legislation. Signed by Governor on 4/4/24.
PA	HB 1993	• ~~Spread ban~~ • Affiliate reimbursement parity requirement • 340(B) reimbursement non-discrimination • 95% rebate pass-through requirement • PSAO registration	Enacted	Fully Insured, ASO non-ERSIA Effective 90 days following Governor's	… 6/28: A tentative agreement on favorable amendments was reached with the Senate. This Senate version removes the spread pricing prohibition,

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		• Restricts exclusive use of PBM-affiliated pharmacies, including specialty and home delivery pharmacies • Restricts use of preferred networks • Restricts use of mandatory mail order, with an exception for maintenance drugs (with member opt-out requirement) • PBM transparency reporting • Authorizes a state study on the potential impact of a spread pricing prohibition, steering prohibition, and mandatory minimum dispensing fee of $10.49. • Defines specialty drugs		signature (for most key provisions) and applies to any PBM contract with clients or network pharmacies "issued, renewed or amended" after that effective date.	and permits preferred networks, exclusive specialty and mail order if it results in lower costs to the health plan clients or consumers and contains a requirement that Medicaid MCOs pay a mandatory minimum dispensing fee of $8 to "community pharmacies." On 6/28, the House passed their version of the bill, which does not match the current Senate version or the favorable provisions contained in the tentative agreement reached with the Senate as described above. The House bill will now go back to the Senate for consideration but they are not expected to move this version. SGA continues to work with industry partners and clients to advocate for defeat or favorable amendments. 7/11: An amended version of the bill passed the Senate and then was promptly passed by the House. The bill now moves to the Governor's desk, where SGA anticipates that it will be signed. The current version of the bill applies to fully-insured and ASO non-ERISA clients and contains provisions that require PBM-affiliate reimbursement parity, restricts use of mail order, potentially restricts preferred networks, creates a state definition for "specialty drug" that PBMs must adhere to, and authorizes a study of future potential legislation containing a spread pricing prohibition and a mandatory minimum dispensing fee of $10.49.

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					In an effort to defeat or improve the bill SGA has worked closely with trade associations and the PA Chamber of Commerce to lobby key legislators, leadership and directly appealing to the Senate Leader and Gov. Shapiro. PCMA and other industry partners activated grasstops/grassroots advocacy campaigns. SGA launched a client engagement campaign in early June.
VT	H 233	• No spread[‡] • PBM Licensure • ~~Requirement to pass rebates to members at least annually with exact per-claim rebate amounts up to their net out of pocket costs for the claim at issue, with any remainder passing to the health plan~~ • Copay lesser of logic[‡] (duplicative of existing law) • Copay accumulator[‡] • New state PBM audit • ~~Private right of action for pharmacy, pharmacist, or "other person" injured by PBM's violation of statute~~ • Plan audit of PBM + PBM reporting to plan • PBM fiduciary duty to plan (duplicative of existing law) • Formulary may not be updated solely by PBM more frequently than two times per year (duplicative of existing law) • 14-day prompt pay requirement for clean claims (duplicative of existing law) • ~~Requires identification of source used to determine MAC price to be "readily available"~~ • ~~Non-affiliate pay parity~~	Enacted	Fully insured, ASO non-ERISA, ~~ASO ERISA~~	Was defeated in 2023 and carried over unchanged. A revised version of this bill was introduced this week making the changes reflected in the key elements column to the left. After receiving testimony from SGA and others in the industry the committee the bill is with currently agreed to favorably amend in various ways, including removing the rebate provision requiring retroactive per-claim rebate pass through directly to members. [‡] effective for contracts issued, offered, or renewed on or after Jan. 1, 2025. Any contract that is in place prior to 1/1/25 can avoid these provisions until the earliest of 7/1/29 or the contract being renewed. … Client engagement materials were issued for on 3/8 via SAM 239-24.

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		• Cannot impose requirements on pharmacies "in excess of those set forth by the VT BoP" (duplicative of existing law) • 340B anti-discrimination (duplicative of existing law) • Prohibits PBMs from using definitions of drugs beyond those established by VT BoP (would potentially prohibit specialty drug classification) • Limits PBM/pharmacy outreach to members • Patient consent required to substitute drug or pharmacy (duplicative of existing law) • ~~Dispensing fee not less than Medicaid program~~ • ~~POS Rebates~~			4/17: legislative counsel for the VT Senate Health and Welfare Committee testified on record that the expanded definition of "health insurer" in the bill does *not* include self-funded ERISA plans. 5/9: passed out of Senate Finance committee. This bill continues to receive significant attention with ongoing discussions about potential amendments. 5/31: Signed by Governor
WA	SB 5213	• PBM registration • Anti-mandatory mail order ~~(specialty carve out)~~ + affirmative opt in • Spread prohibition • Anti-exclusive affiliate • Prohibition on certain preferred network designs • ~~White bagging~~ • Cannot use claim information to steer patients to affiliated pharmacies • Declination • Affiliate reimbursement parity • ~~No preferred networks (equalization)~~ • Permit retail to mail drugs • Mail drugs OK to fill at retail in certain instances • Expands pharmacy price appeals to all drug types • Requires PBMs to appoint WA Insurance Commissioner as "attorney" for purpose of accepting service of legal process for any legal	Enacted	Fully insured, Medicaid, ASO non-ERISA (state employees and schools), and ASO ERISA (opt-in only)	Effective January 1, 2026 … UPDATE: The Senate voted the bill out and it has moved to the Governor's desk. The Governor has up to 20 days to act. SGA is working, along with industry partners, to seek a veto. On 3/25 Governor Inslee signed the bill without vetoing any portion. The bill takes effect on 1/1/26, except as noted in the "Key Elements" column to the left.

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		action in the state (effective June 7, 2024 – i.e., 90 days after the conclusion of the legislative session)			

Failed to Pass in 2024

State	Bill Number(s)	Key Elements	Current Status	Non-legal Review of Applicability	Comments/Engagement
AL	HB 238	• Applies new provisions to ERISA and removes ERISA exemption from existing statutory requirements, including anti-mandatory mail order, anti-exclusive affiliate, and any willing pharmacy requirements • Spread prohibition • AAC + $10.64 dispensing fee • 100% rebate pass-through requirement with requirement to make POS rebate option available to clients • GPO/rebate aggregator reporting to state • No pharmacy fees • Removes specialty drug exemption from existing law • Copay lesser of logic rules • Requires pharmacy notification and insurance commissioner approval *before* initiating of FWA investigation • Creates rules related to transition of PBM business from one PBM to another that specify the nature, manner and timing of data the outgoing PBM must make available to client	Defeated	Fully insured, ASO non-ERISA, ERISA.	Introduced on 2/27 Client engagement materials were issued for on 3/8 via SAM 204-24. 3/22 Update: House Speaker announced this week that AL HB 238 would *not* move in 2024 session and instead would be the focus of a study over the summer to determine whether to bring it back in the same or an amended form in 2025.
CA	SB 966	• ~~PBM oversight and enforcement authority granted to Board of Pharmacy~~	VETOED	Fully insured, ASO non-ERISA, ASO ERISA (Taft-	… Client engagement materials were issued on 4/8 via SAM 301-24.

		• ~~Private right of action created for violations of the bill~~ • PBM licensure • PBM transparency reporting • Reporting by PBMs about GPOs • Anti-affiliate steering • ~~Spread ban~~ • ~~Requirement to make pass-through option available~~ • ~~PBM compensation "de-linking" requirement~~ • 100% rebate pass through to reduce premiums or offset cost sharing • Prohibits certain pharmacy fees • ~~Requirement that PBMs act in "best interests of" clients~~ • ~~Fiduciary duty owed to individual enrollees~~ • PBMs owe duty and obligation to clients and enrollees to "perform services with care, skill, prudence, diligence and professionalism" • Prohibits and penalizes "untrue, deceptive, or misleading" statements • ~~No claims processing fees may be collected from pharmacies~~ • Prohibits PBMs from contracting with pharmaceutical manufacturers in a manner "that expressly or implicitly restrict[s], or implements implicit or express exclusivity for, those manufacturer's drugs, medical devices or other products."		Hartley Plans exempt)	… 8/7: Second client engagement campaign launched via SAM 729-24. … 8/22: Assembly amendment adopted that removes requirement to offer pass-through alternative to spread pricing, removed de-linking language, modified PBM reporting, established explicit carve out for Taft-Hartley plans (which indicates other types of ERISA-subject plans are in scope). The session adjourns 8/31 and 8/26 is the final day amendments may be introduced. SGA is pushing with clients and industry partners to defeat or improve the bill, and is prepared to pursue a veto strategy in the event the legislation is enacted. 9/6: The amended bill (see 8/22 update above) was passed out of the legislature and has moved to Governor Newsom's desk. The Governor has until September 30 to sign or veto the law. If he does not act the bill becomes law without his signature. SGA is pursuing a veto strategy. 9/28: Vetoed by Governor Newsom. PBM legislation will return in 2025 with Cigna and others committing to working toward a compromise bill.

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IL	[HB 4548]	• Requires MAC list updates every 7 days • Requires PBMs to make MAC lists available to pharmacies online • PBMs must apply reimbursement adjustments made as a result of a successful pharmacy MAC appeal applicable across all "similarly situated" pharmacies • MAC'd drugs must be available for purchase by "each pharmacy in the state" • 340B reimbursement parity requirement • Spread pricing ban • Affiliate steering prohibition • NADAC + $10.49 dispensing fee • PBM may not "unreasonably" designate a drug as a specialty drug • Requires copy of client-specific annual reports to be sent to the state along with a summary, which will be publicly available.	Defeated	Fully insured, ASO non-ERISA, ~~ASO ERISA at risk~~, Medicaid (w/ exception of 340B section) Likely has Extraterritorial impact	Effective July 1, 2024; would render contradictory PBM agreement provisions entered into, amended or renewed after 7/1/2020 "void and unenforceable." Client engagement materials were issued on 2/28 via SAM 162-24. *This is the IL DOI's bill and DOI indicated this week that they do not intend for this bill to have applicability to self-funded ERISA plans. The bill's language is vague, however, so we have proposed amended language that would remove ambiguity. Bill has been amended to explicitly carve out ERISA plans. Update: On 5/7 ESI participated in a committee hearing to discuss the bill and PBM issues generally. 5/29 Update: Illinois' legislative session has adjourned and the bill was defeated.
MA	HB 4891	• PhARMA transparency reporting to the state • Copay caps • Modifies network adequacy rules (excludes mail order from calculation) • Any willing pharmacy • MAC rules • Spread pricing prohibition	Defeated	Fully insured, ASO non-ERISA	Introduced on 7/22 as the long-awaited House version of the Senate's PBM bill (SB 2520). 43 amendments were filed on 7/23 and on 7/24 the amendments were consolidated into a single amendment which the House quickly adopted via unanimous vote. The bill now heads to conference committee to see if the House and Senate can reach

		• 80% POS rebates • Pharmacy audit limitations • PBM licensure			an agreement between HB 4891 and SB 2520. With only a few days remaining in the formal session (adjourns on 7/31) and other priorities they must address we are working with industry partners and business trade organizations to advocate that the legislature not rush to pass a compromise bill likely to result in unintended consequences and increased costs, or if they do, that they take out some of the most problematic provisions. Moved to conference along with SB 2520 but despite working through the night, no compromise was reached prior to the adjournment of the legislative session.
MA	[SB 2520]()	• PhARMA transparency reporting to state • Copay caps • Licensure for specialty pharmacy with definition of "specialty" established by Board of Pharmacy • 340B nondiscrimination • Any willing pharmacy extended to Mail Order and Specialty (i.e., would prohibit networks that preferred or required use of ESI Home Delivery or Accredo) • White bagging • Copay accumulator prohibition • Lesser of copay requirement • PBM licensure • Establishes committee to study: (1) feasibility of bulk drug purchasing by state; (2) drug supply chain; (3) expansion of pharmacy scope of practice	Defeated	Fully insured, ASO non-ERISA Former version applied to ASO ERISA, and other third party payors (possibly Medicare, Medicaid, and workers comp). That language was removed before Senate vote	Union and employer sponsored plans have created a coalition in Massachusetts focused on preserving ERISA protections in the state and pushing back on harmful pharmacy benefit proposals. More information is available at https://www.saveourbenefitsma.org/. Opposition efforts underway by PCMA and Massachusetts Association of Health Plans. The bill now heads to conference committee to see if the House and Senate can reach an agreement between HB 4891 and SB 2520. With only a few days remaining in the formal session (adjourns on 7/31) and other priorities they must address we are

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					working with industry partners and business trade organizations to advocate that the legislature not rush to pass a compromise bill likely to result in unintended consequences and increased costs, or if they do, that they take out some of the most problematic provisions. Moved to conference along with HB 4891 but despite working through the night, no compromise was reached prior to the adjournment of the legislative session.
MO	HB 1627 SB 843 SB 1105	• Fiduciary • Spread prohibition • Declination • Affiliate reimbursement parity	Defeated	Fully insured, ASO non-ERISA, possibly Medicaid; Medicare Part D[ǂ]	Defines "pharmacy benefits manager rebate aggregator" and requires anyone entering "into a contract to sell, provide, pay, negotiate rebates for, or reimburse a pharmacy, [PBM], [PBM] affiliate, or pharmacy benefits manager rebate aggregator" to use the bill's definition of "rebate." [ǂ]Eliminates Medicare carve out for section on PBM agreement requirements and prohibitions, which includes "PBM rebate aggregator" provision. Client engagement materials were distributed for HB 1976/SB 983, HB 1627/SB 843, HB 1628/SB 844, and HB 2267 collectively on 5-1 via SAM 378-24.
MO	SB 1213	• Rebate reporting • Fiduciary • Pharmacy guaranteed profitability • Affiliate reimbursement parity	Defeated	Fully insured, ASO non-ERISA	

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		• 340B nondiscrimination			
MS	[HB 1265]	• Grants Board of Pharmacy oversight and enforcement authority over PBM rules • Spread ban • Prohibits certain retroactive pharmacy reimbursement adjustments • PBM transparency reporting requirements that will be published online • PBM licensure • MAC appeal rules • Copay lesser of rules • Requires PSAOs member pharmacies to receive to contract between PSAO and PBM • Anti-exclusive affiliate (extends application of existing law to affiliate of *any* PBM) • Anti-affiliate steering (extends application of existing law to affiliate of *any* PBM) • Communications regarding affiliated pharmacies are permitted if the same information about non-affiliated pharmacies is also shared	Defeated	Fully insured, ASO non-ERISA	Amended via voice vote to include the majority of the provisions from the defeated MS HB 1612 (see defeated bills section below) as well as a spread pricing prohibition and a transparency provision requiring PBMs to provide certain transparency reporting to the state that would then be published online. Mississippi's session ends May 5. SGA has initiated a targeted client engagement campaign for clients potentially in-scope. The bill's effective date is 7/1/24 and would apply to contracts "entered into, renewed, or amended" on or after that date.
MS	[HB 1612]	• Prohibits certain retroactive pharmacy reimbursement adjustments • MAC appeal rules • Copay lesser of rules • Requires PSAOs member pharmacies to receive to contract between PSAO and PBM • Anti-exclusive affiliate (extends application of existing law to affiliate of *any* PBM) • Anti-affiliate steering (extends application of existing law to affiliate of *any* PBM)	Defeated	Fully insured, ASO non-ERISA	Effective date: July 1, 2024. 3/22 Update: defeated on 3/15 when it failed to advance before deadline.

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		• Communications regarding affiliated pharmacies are permitted if the same information about non-affiliated pharmacies is also shared • Extends state PBM oversight authority to Department of Insurance.			
NC	H.246	• NADAC + Medicaid FFS DF ($10.24) • Non affiliate pay parity • Cannot base pharmacy reimbursement on quality or performance metrics • Prohibits pharmacy fees & PBMs deriving revenue • Pharmacies must be permitted to dispense any drug • Pharmacies must be permitted to dispense specialty if have specialty accreditation • Cannot recoup payment for purposes of overpayment recovery efforts • Bans spread • Any willing pharmacy, including enhanced Any willing pharmacy for specialty • Transparency rebate reporting to state • Retail equalization with mail • Carves out HDHPs from copay accumulator unless member has exhausted deductible • Limits pharmacy audits to 25 Rx • Pharmacy audit recoupment notice requirements	Defeated	Fully insured, ASO non ERISA ASO ERISA potentially at risk	Carried over from 2023 session, where it did not move. While the lead sponsor's early statements indicated he did not intend for the bill to govern ERISA plans, there has been some concern the sponsor could change his mind or that the Department of Insurance could decide to enforce the law broadly, which could implicate ERISA plans. 12/13: North Carolina's legislature adjourned for the year this week without this bill advancing out of the legislature. SGA will monitor to see if it returns in the 2025 legislative session.
NJ	A4953 S 3842	• Higher cost drugs can't be preferred over lower cost generic drugs on formulary • Possible de-linking language • Spread prohibition • PBMs owe a "fiduciary duty to the long term health outcomes of covered persons"*	Defeated	Fully-insured, ASO non-ERISA and ASO ERISA for portions indicated with * in "key elements"	Effective date: 1st day of the 7th month after enactment and applicable to "contracts and agreements entered into, renewed, modified, or amended on or after the effective date." Client activation campaign launched on 11/1/2024 via SAM 1052-24 for clients

		• Prohibition on marketing activity using "inaccurate or misleading information" to encourage members to utilize an in-network pharmacy* • Invalidates rebate agreements with PhRMA if the contract "conditions any rebate on the exclusion of generic drugs from coverage"* • Designates PBM pharmacy network contracts as "contracts of adhesion"* • Guaranteed profitability for both in-network and out-of-network pharmacies* • OON pharmacy reimbursement may not be more than 5% below lowest in-network reimbursement (along with guaranteed profitability requirement above)* • OON pharmacies must be permitted to offer prescription drugs to a covered person "in the same quantity and at the same price as" an in-network pharmacy*		column to the left	located in or with covered lives in New Jersey. 12/13: SGA met with Senate leadership last week and was informed that there is no intention of moving this (or any of the other NJ PBM legislation we're tracking) during the 2024 session. The session is scheduled to adjourn on 12/19 and SGA will continue to closely monitor this bill. We will wait until the session adjourns before designating it as "defeated." 12/23: The final day for votes on bills concluded on 12/19 without the bill advancing, thus defeating it for 2024.
NY	A 10327 S 9570	• NADAC + $10.18 dispensing fee	Defeated	Fully insured, ASO non-ERISA, ASO ERISA, Medicare Part D. Applies to the above-mentioned plan types if 50% or more of their members live in or work in New York.	Effective date: immediately upon passage. House sponsor is a pharmacist. Senate sponsor is retiring and that may help the Senate bill move. SGA is told House version is unlikely to move but that could change quickly. NY's legislative session ends on June 6. SGA is preparing full client engagement campaign and is already working with certain labor clients. This appears to be an effort to push through, at the 11th hour, some of the provisions pharmacists were unable to win in the DFS proposed regs that were withdrawn in 2023.

					6/7 Update: NY's legislative session will conclude today or possibly tomorrow. At this juncture we are optimistic this bill will not advance, however we are closely monitoring developments. 6/10 Update: NY's two year legislative session adjourned over the weekend with this bill failing to advance.
OH	HB 505	• Creates new PBM transparency reporting requirements • Requires pharmacies be reimbursed for their "actual acquisition cost" as well as monthly reporting to the state related to the "actual acquisition cost" for all claims • Affiliate reimbursement parity requirement • Permits pharmacies to decline to dispense if MAC reimbursement is below the pharmacy's actual acquisition cost • Mandatory minimum dispensing fee at an amount determined by the state after studying the cost to dispense medications in the Medicaid program • Prohibits PBMs from establishing credentialing standards beyond those established by the state Board of Pharmacy • ~~Establishes a private right of action for pharmacies and individuals related to alleged violations of the credentialing rule above.~~ • Permits covered individuals and pharmacies to file complaints with the superintendent of insurance related to alleged violations of the credentialing rule above.	Defeated	Fully-insured, ASO non-ERISA, Self-funded Multiple Employer Welfare Arrangement, other ASO ERISA at risk	This bill was introduced on 4/24. 11/1: A hearing is expected to be heard in the House Insurance Committee upon the return of the General Assembly on November 13. The Sponsor has indicated an intention to amend the bill, although no amended language has been circulated. The Senate has not introduced a companion bill and has not indicated an interest in pursuing this topic in 2024, but SGA is closely monitoring developments. 11/15: A House Substitute bill was introduced on 11/13 (see substantive changes reflected in Key Elements column to the left). The House Insurance Committee will hold a public hearing on the bill on 11/20. SGA is working closely with PCMA to oppose the bill. 11/27: The House is preparing for a possible vote on the bill next week. Although the Senate has indicated that they have no appetite to consider this legislation during the 2024 session, SGA

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					is preparing for a potential client activation campaign. 12/13: We were able to hold off a committee vote this week, which should effectively defeat the bill for 2024. The sponsor is still trying to move the bill to a different committee this session, but with the session scheduled to adjourn on 12/19 and no indication of leadership appetite to move the bill to a different committee it appears as though HB 505 is dead. SGA will continue to monitor the situation and will wait until the session officially adjourns before designating it "defeated." 12/19: Session adjourned without the bill advancing.
PA	SB 1000	• Spread ban • NADAC + dispensing fee equal to or greater than $10.49 for the state employee health plan • State-mandated maximum PBM claims processing fees and administrative fees	Defeated	Fully Insured, ASO non-ERSIA, ~~ERISA~~	PCMA is engaging legislative leadership to advocate that this is not needed - PBM issues in PA tend to be in the Medicaid space. We do not expect movement at this time. The House will likely be in stalemate for next few months
RI	HB 7139	• PBMs "carved out" of Medicaid Managed Care Organization contacts renewed on or after 7/1/2024 • Spread prohibition • Requires PBMs to set a "per-member-per- month … fee that is the sole compensation for services performed" • 100&% rebate pass-through • De-linking	Defeated	Fully Insured, ASO non-ERSIA, ASO ERISA at risk, Medicaid at risk, Medicare Part D at risk, Workers Comp. at risk.	Same bill was filed in 2023 and was defeated. Provides broad rules and prohibitions regarding PBM activity and tasks the Executive Office of Health and Human Services (EOHHS), the Department of Business Regulations (DBR), and the Office of Health Insurance Commissioner (OHIC) with developing implementing regulations.

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		• Copay accumulator language • Affiliate steering prohibition • 340B non-discrimination • Prohibition of Utilization Management “strategies that delay and discourage patient care, and adversely affect clinical outcomes, including, prior authorizations, step therapy and non-medical drug switching”			PCMA and AHIP have submitted comments opposing.
UT	HB 425	• If PSAO agrees to DIR for pharmacy, PSAO must make reimbursement report available to pharmacy • Prohibits DIR and certain post POS claims adjustments • Bans trans fee • Anti-gag clause • Lesser of copay requirements • Requires PBMs to make pass-through pricing model available as alternative to spread pricing • Rebate pass through to reduce premiums or offset cost sharing • PBM may not penalize pharmacy or condition enrollment in another network for not participating in certain network • Pharmacy audit restrictions	Defeated	Fully insured, ASO non-ERISA, ASO ERISA	Expands current PBM law to self-funded plans and adds new requirements. This bill currently has a $5.8M fiscal note attached to it. Rep. Thurston is working with PCMA and PBMs to amend the bill and remove cost drivers. DEAD
VA	HB 1041	• Spread ban • De-linking • Possible fiduciary duty • 100% rebate pass-through • POS rebates (80%) • Private right of action for breach of duty	Defeated	Fully insured, ASO non-ERISA, possibly ASO ERISA and Medicaid. State employee plan exempted.	The House Subcommittee on Labor and Commerce voted to continue the legislation to the 2025 legislative session. For the bill to be considered in 2025, the committee would have to act on the proposal over the interim. The committee has not indicated a plan to take the bill up during the interim making the bill effectively dead.

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WI	SB 737	632.861 • Formulary and drug costs shall be made available to individuals prior to enrollment • Cannot require a member to use or penalize a member for using/not using a particular network pharmacy • Cannot impose any different conditions on member based on choice of preferred network pharmacy • PBM must reimburse pharmacies in the same preferred network the same • 90 days' advanced written notice of negative formulary change to impacted members • Frozen formulary 632.862 • Copay accumulator † 632.865 • Updated requirements for MAC'd drugs • MAC must include 8 data points: AMP, NADAC, etc. • MAC list update and disclosure requirements • Updated MAC appeal guidelines • Guaranteed profitability MAC'd drugs • Non-affiliate pay parity* • Declination • Dispense fee no less than $10.51 for pharmacies dispensing $\geq$ 35,000 Rx per year* • Dispense fee of no less than $15.69 for pharmacies dispensing < 35,000 Rx per year* • No pharmacy fees* • PBM fiduciary duty to plan† • Transparency disclosures to client:†	Defeated	Fully insured, ASO non-ERISA, ASO ERISA, Medicaid, Medicare, workers' compensation, FEHB, DOD – any entity providing Rx benefits to resident of WI is at risk	* Effective immediately † effective first day of the 4th month after publication. If a contract in effect is consistent with this provision, effective date is January 1 the year following enactment Remainder effective the day after publication. If a PBM contract in effect is inconsistent with these provisions, effective date is the day on which the contract expires, extends, modifies, or renews. Identical assembly version (Assembly Bill 773) referred to the Committee on Health, Aging and Long-Term Care. Update: The bill died when it failed to pass prior to the legislative session adjourning.

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		• Indirect profit of affiliated pharmacies • Payments by PBM to consultant • Retained pharma revenue • Amounts received from pharmacies & retained • No enhanced credentialing or accreditation • 340B anti-discrimination† • Any willing pharmacy • Any willing pharmacy preferred networks • Cannot incentivize/penalize member to use a pharmacy in a particular network • Anti gag-clause • Cannot exclude pharmacy based on claims volume or serves a population with certain health conditions† • Restrictions on pharmacy audit and recoupment • Limits on PBMs' quality program pharmacy criteria • Pharmacy entitled to injunctive relief for retaliation			