

PHARMACY BENEFIT MANAGER: KENTUCKY LICENSE PROCESS

Kentucky Department of Insurance

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Deputy Commissioner, Policy

October 3, 2019

KY LEGISLATIVE ACTIVITY RELATED TO PBMs

- 2016 Regular Session of the Kentucky General Assembly:
 - Senate Bill 117 (<https://apps.legislature.ky.gov/record/16rs/sb117.html>)
 - Two Primary Areas of Concentration:
 - Created framework for separate pharmacy benefit manager license in Kentucky within the Department of Insurance and to subject PBMs to civil penalties.
 - Pharmacy reimbursement transparency requirements and reimbursement appeal process to the PBM and the Department.
- 2018 Regular Session (SB 5) related specifically to Medicaid reimbursements.
 - SB5: <https://apps.legislature.ky.gov/record/18rs/sb5.html>
 - Broader, direct oversight and approval by the Kentucky Department of Medicaid Services, additional PBM reporting requirements, and heightened penalties for PBM violations.

PBM LICENSURE IN KENTUCKY

- Specific PBM license created(KRS 304.9-053) in lieu of administrator license.
- License Application:
 - Form created by Department and incorporated by reference (806 KAR 9:360)
 - Form available here: <http://insurance.ky.gov/ppc/Documents/pbmlicapp062017.pdf>
 - Requirements:
 - License application is renewed annually (submitted on or before March 31st).
 - \$1,000 non-refundable fee included.
 - Demonstrate evidence of financial responsibility in the amount of \$1,000,000 (Certificate of insurance covering legal liability or cash surety bond).
 - Registration with Secretary of State.
 - Written policies and procedures for:
 - Appeals dispute resolution process,
 - Maximum allowable cost appeal process,
 - Exceptions and override policy,
 - Pharmacy and Therapy Committee Membership Standards and Duties.
- Commissioner broad authority to request additional information as needed in license review.

PBM LICENSE PROCESS EXPERIENCE

- Due to broad definition of PBM (KRS 304.17A-161(4)), the Department has licensed more entities than originally anticipated.
 - For 2019, Kentucky has 45 active PBM licensees.
- PBM policy and procedures were not documented resulting in delays in license process.
 - Heavy focus on maximum allowable cost appeals process and transparency measures which companies did not have or undertake.
 - For example: How they handle Department inquiries, specific personnel, and timeframes for review.
- Discover unlicensed PBMs through the complaint process.
- Evidence of financial responsibility (authorized or surplus lines).
- Personnel expertise and resource challenges.

KENTUCKY SPECIFIC RESOURCES

- PBM Forms
 - Application: <http://insurance.ky.gov/ppc/Documents/pbmlicapp062017.pdf>
 - FAQ: <http://insurance.ky.gov/ppc/Documents/pbmfaqfinal071117.pdf>
- PBM Statutes and Regulations
 - License Statute: <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=45110>
 - License Review Statute: <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=45110>
 - License Regulation: <https://apps.legislature.ky.gov/law/kar/806/009/360.pdf>
 - PBM Definition Statute: <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=45113>
 - MAC/Reimbursement Statute: <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=45114>
 - MAC/Transparency Regulation: <https://apps.legislature.ky.gov/law/kar/806/017/575.pdf>

THANK YOU!

QUESTIONS TO:

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