

1 ENGROSSED HOUSE AMENDMENT

2 TO

2 ENGROSSED SENATE BILL NO. 993

By: Gollihare and Jech of the
Senate

3 and

4 Stinson of the House

5
6
7 An Act relating to pharmacy benefits managers;
8 amending 59 O.S. 2021, Sections 356.1, 356.2, 356.3,
9 as amended by Sections 1, 2, and 3, Chapter 332,
10 O.S.L. 2024, and 356.4 (59 O.S. Supp. 2024, Sections
11 356.1, 356.2, and 356.3), which relate to
12 definitions, pharmacy audit requirements, appeals
process, and prohibited extrapolation audit;
13 modifying notice contents; prohibiting assessment of
certain fines under certain circumstances; expanding
certain claim limits; establishing requirements for
14 preliminary audit findings reports; requiring
provision of certain final audit results within a
certain time period; updating statutory reference;
15 requiring certain notification to Attorney General in
certain circumstances; expanding requirement for
initiation of certain audit; lengthening time period
for certain preliminary report; allowing certain
16 extension request; shortening certain time period for
certain final report; establishing requirements for
audit findings report; modifying definition; defining
terms; requiring certain tolling in certain declared
17 disaster; providing certain exceptions; amending 59
O.S. 2021, Sections 357, 358, and 360, as amended by
Sections 4, 5, and 6, Chapter 332, O.S.L. 2024 (59
18 O.S. Supp. 2024, Sections 357, 358, and 360), which
relate to definitions, pharmacy benefits management
licensure, and pharmacy benefits manager contractual
20 duties; modifying notice contents; defining terms;
updating statutory references; requiring certain time
period of tolling in certain declared disaster;
22 requiring certain documented proof by certain
pharmacy benefits managers; establishing certain
denial for certain appeals; prohibiting certain
collection of additional monies by certain pharmacy
24 benefits managers; establishing certain filing period

1 after lifting of disaster declaration; prohibiting
2 certain denials; updating statutory language;
3 providing for codification; and declaring an
4 emergency.
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7 AMENDMENT NO. 1. Strike the title, enacting clause, and entire bill
8 and insert:
9

10 "An Act relating to pharmacy benefits managers;
11 amending 59 O.S. 2021, Sections 356.1, 356.2, 356.3,
12 as amended by Sections 1, 2, and 3, Chapter 332,
13 O.S.L. 2024, and 356.4 (59 O.S. Supp. 2024, Sections
14 356.1, 356.2, and 356.3), which relate to
15 definitions, pharmacy audit requirements, appeals
16 process, and prohibited extrapolation audit;
17 modifying notice contents; prohibiting assessment of
18 certain fines under certain circumstances; expanding
19 certain claim limits; establishing requirements for
20 preliminary audit findings reports; requiring
21 provision of certain final audit results within a
22 certain time period; updating statutory reference;
23 requiring certain notification to Attorney General in
24 certain circumstances; expanding requirement for
initiation of certain audit; lengthening time period
for certain preliminary report; allowing certain
extension request; shortening certain time period for
certain final report; establishing requirements for
audit findings report; modifying definition; defining
terms; requiring certain tolling in certain declared
disaster; providing certain exceptions; amending 59
O.S. 2021, Sections 357, 358, and 360, as amended by
Sections 4, 5, and 6, Chapter 332, O.S.L. 2024 (59
O.S. Supp. 2024, Sections 357, 358, and 360), which
relate to definitions, pharmacy benefits management
licensure, and pharmacy benefits manager contractual
duties; modifying notice contents; defining terms;
updating statutory references; requiring certain time

1 period of tolling in certain declared disaster;
2 requiring certain documented proof by certain
3 pharmacy benefits managers; establishing certain
4 denial for certain appeals; prohibiting certain
5 collection of additional monies by certain pharmacy
6 benefits managers; establishing certain filing period
7 after lifting of disaster declaration; prohibiting
8 certain denials; updating statutory language;
9 providing for codification; and declaring an
10 emergency.

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 59 O.S. 2021, Section 356.1, as
13 amended by Section 1, Chapter 332, O.S.L. 2024 (59 O.S. Supp. 2024,
14 Section 356.1), is amended to read as follows:

15 Section 356.1. A. For purposes of the Pharmacy Audit Integrity
16 Act, "pharmacy benefits manager":

17 1. "Audit" means any review, inspection, or analysis conducted
18 by a pharmacy benefits manager (PBM) or its representative of a
19 pharmacy's records, practices, or compliance with contractual
20 obligations;

21 2. "Disaster declaration" and "declared disaster" mean a
22 declaration issued by the Governor or the President of the United
23 States for an event that qualifies as a disaster including, but not
24 limited to, a flood, tornado, earthquake, wildfire, terrorist
25 attack, or other catastrophic event; and

26 3. "Pharmacy benefits manager" or "PBM" shall have the same
27 meaning as in Section 6960 of Title 36 of the Oklahoma Statutes.

1 B. The purpose of the Pharmacy Audit Integrity Act is to
2 establish minimum and uniform standards and criteria for the audit
3 of pharmacy records by or on behalf of certain entities.

4 C. The Pharmacy Audit Integrity Act shall apply to any audit of
5 the records of a pharmacy conducted by a managed care company,
6 nonprofit hospital, medical service organization, insurance company,
7 third-party payor, pharmacy benefits manager, a health program
8 administered by a department of this state, or any entity that
9 represents these companies, groups, or departments.

10 D. The Attorney General may promulgate rules to implement the
11 provisions of the Pharmacy Audit Integrity Act.

12 SECTION 2. AMENDATORY 59 O.S. 2021, Section 356.2, as
13 amended by Section 2, Chapter 332, O.S.L. 2024 (59 O.S. Supp. 2024,
14 Section 356.2), is amended to read as follows:

15 Section 356.2. A. The entity conducting an audit of a pharmacy
16 shall:

17 1. Identify and specifically describe the audit and appeal
18 procedures in the pharmacy contract. Prescription claim
19 documentation and ~~record-keeping~~ recordkeeping requirements shall
20 not exceed the requirements set forth by the Oklahoma Pharmacy Act
21 or other applicable state or federal laws or regulations;

22 2. Give the pharmacy written notice by certified letter to the
23 pharmacy and the pharmacy's contracting agent, including
24 identification of specific prescription numbers and, fill dates,

1 drug names, and National Drug Code (NDC) numbers to be audited, at
2 least fourteen (14) calendar days prior to conducting the audit,
3 including, but not limited to, an on-site audit, a desk audit, or a
4 wholesale purchase audit, request for documentation related to the
5 dispensing of a prescription drug, or any reimbursed activity by a
6 pharmacy provider; provided, however, that wholesale purchase audits
7 shall require a minimum of thirty (30) calendar days' written
8 notice. For an on-site audit, the audit date shall be the date the
9 on-site audit occurs. For all other audit types, the audit date
10 shall be the date the pharmacy provides the documentation requested
11 in the audit notice. The pharmacy shall have the opportunity to
12 reschedule the audit no more than seven (7) calendar days from the
13 date designated on the original audit notification;

14 3. Not interfere with the delivery of pharmacist services to a
15 patient and shall utilize every reasonable effort to minimize
16 inconvenience and disruption to pharmacy operations during the audit
17 process;

18 4. Conduct any audit involving clinical or professional
19 judgment by means of or in consultation with a licensed pharmacist;

20 5. Not consider as fraud any clerical or ~~record-keeping~~
21 recordkeeping error, such as a typographical error, scrivener's
22 error or computer error, including, but not limited to, a
23 miscalculated day supply, incorrectly billed prescription written
24 date or prescription origin code, and such errors shall not be

1 subject to recoupment. The pharmacy shall have the right to submit
2 amended claims electronically to correct clerical or ~~record-keeping~~
3 recordkeeping errors in lieu of recoupment. To the extent that an
4 audit results in the identification of any clerical or ~~record-~~
5 ~~keeping~~ recordkeeping errors such as typographical errors,
6 scrivener's errors or computer errors in a required document or
7 record, the pharmacy shall not be subject to recoupment of funds by
8 the pharmacy benefits manager unless the pharmacy benefits manager
9 can provide proof of intent to commit fraud. A person shall not be
10 subject to criminal penalties for errors provided for in this
11 paragraph without proof of intent to commit fraud;

12 6. Permit a pharmacy to use the records of a hospital,
13 physician, or other authorized practitioner of the healing arts for
14 drugs or medicinal supplies written or transmitted by any means of
15 communication for purposes of validating the pharmacy record with
16 respect to orders or refills of a legend or narcotic drug;

17 7. Not include the dispensing fee amount or the actual invoice
18 cost of the prescription dispensed in a finding of an audit
19 recoupment unless a prescription was not actually dispensed or a
20 physician denied authorization of a dispensing order;

21 8. Audit each pharmacy under identical standards, regularity
22 and parameters as other similarly situated pharmacies and all
23 pharmacies owned or managed by the pharmacy benefits manager
24 conducting or having conducted the audit;

1 9. Not exceed one (1) year from the date the claim was
2 submitted to or adjudicated by a managed care company, nonprofit
3 hospital or medical service organization, insurance company, third-
4 party payor, pharmacy benefits manager, a health program
5 administered by a department of this state, or any entity that
6 represents the companies, groups, or departments for the period
7 covered by an audit;

8 10. Not schedule or initiate an audit during the first seven
9 (7) calendar days of any month unless otherwise consented to by the
10 pharmacy;

11 11. Disclose to any plan sponsor whose claims were included in
12 the audit any money recouped in the audit;

13 12. Not require pharmacists to break open packaging labeled
14 "for single-patient-use only". Packaging labeled "for single-
15 patient-use only" shall be deemed to be the smallest package size
16 available; and

17 13. Upon recoupment of funds from a pharmacy, refund first to
18 the patient the portion of the recovered funds that were originally
19 paid by the patient, provided such funds were part of the
20 recoupment; and

21 14. Not assess a fine, penalty, or any other financial
22 requirement on the pharmacy or pharmacist for any prescription
23 audited unless there is a valid recoupment under the Pharmacy Audit
24 Integrity Act.

1 B. 1. Any entity that conducts wholesale purchase review
2 during an audit of a pharmacist or pharmacy shall not require the
3 pharmacist or pharmacy to provide a full dispensing report.

4 Wholesaler invoice reviews shall be limited to verification of
5 purchase inventory specific to the pharmacy claims paid by the
6 health benefits plan or pharmacy benefits manager conducting the
7 audit.

8 2. Any entity conducting an audit shall not identify or label a
9 prescription claim as an audit discrepancy when:

- 10 a. the National Drug Code for the dispensed drug is in a
11 quantity that is a subunit or multiple of the drug
12 purchased by the pharmacist or pharmacy as supported
13 by a wholesale invoice,
- 14 b. the pharmacist or pharmacy dispensed the correct
15 quantity of the drug according to the prescription,
16 and
- 17 c. the drug dispensed by the pharmacist or pharmacy
18 shares all but the last two digits of the National
19 Drug Code of the drug reflected on the supplier
20 invoice.

21 3. An entity conducting an audit shall accept as evidence,
22 subject to validation, to support the validity of a pharmacy claim
23 related to a dispensed drug:

- a. redacted copies of supplier invoices in the pharmacist's or pharmacy's possession, or
 - b. invoices and any supporting documents from any supplier as authorized by federal or state law to transfer ownership of the drug acquired by the pharmacist or pharmacy.

7 4. An entity conducting an audit shall provide, no later than
8 five (5) calendar days after the date of a request by the pharmacist
9 or pharmacy, all supporting documents the pharmacist's or pharmacy's
10 purchase suppliers provided to the health benefits plan issuer or
11 pharmacy benefits manager.

12 C. A pharmacy shall be allowed to provide the pharmacy's
13 computerized patterned medical records or the records of a hospital,
14 physician, or other authorized practitioner of the healing arts for
15 drugs or medicinal supplies written or transmitted by any means of
16 communication for purposes of supporting the pharmacy record with
17 respect to orders or refills of a legend or narcotic drug.

D. The entity conducting the audit shall not audit more than fifty prescriptions, with specific date of service, per calendar year PBM or its agent shall not exceed an annual limit of fifty prescription claims with a specific prescription number and date of fill per calendar year. The annual limit to the number of prescription claims audited shall be inclusive of all audits by a PBM or its agent, including any prescription-related documentation

1 requests from the health insurer, pharmacy benefits manager or any
2 third-party company conducting audits on behalf of any health
3 insurer or pharmacy benefits manager during a calendar year.

4 E. If paper copies of records are requested by the entity
5 conducting the audit, the entity shall pay twenty-five cents (\$0.25)
6 per page to cover the costs incurred by the pharmacy. The entity
7 conducting the audit shall provide the pharmacy with accurate
8 instructions, including any required form for obtaining
9 reimbursement for the copied records.

10 F. The entity conducting the audit shall:

11 1. Deliver a preliminary audit findings report to the pharmacy
12 and the pharmacy's contracting agent within forty-five (45) calendar
13 days of conducting the audit;

14 2. Allow the pharmacy at least ninety (90) calendar days
15 following receipt of the preliminary audit findings report in which
16 to produce documentation to address any discrepancy found during the
17 audit; provided, however, a pharmacy may request an extension, not
18 to exceed an additional forty-five (45) calendar days;

19 3. Deliver a final audit findings report to the pharmacy and
20 the pharmacy's contracting agent signed by the auditor within ten
21 (10) calendar days after receipt of additional documentation
22 provided by the pharmacy, as provided for in Section 356.3 of this
23 title;

1 4. Allow the pharmacy to reverse and resubmit claims
2 electronically within thirty (30) calendar days of receipt of the
3 final audit report in lieu of the auditing entity recouping
4 discrepant claim amounts from the pharmacy;

5 5. Not recoup any disputed funds until after final disposition
6 of the audit findings, including the appeals process as provided for
7 in Section 356.3 of this title; and

8 6. Not accrue interest during the audit and appeal period;

9 7. Ensure that each preliminary audit findings report required
10 by this section includes:

11 a. specific prescription numbers, fill dates, drug names,
12 and NDC numbers, and

13 b. the date of receipt of documents from the pharmacy,
14 the pharmacy's contracting agent, or any other source
15 associated with the audit.

16 G. Each entity conducting an audit shall provide a copy of the
17 final audit results, and a final audit report upon request, after
18 completion of any review process to the plan sponsor

19 In addition to the requirements for a preliminary audit findings
20 report in this paragraph, the final audit findings report shall
21 include any additional documentation that was submitted to the
22 auditing entity;

1 8. Provide the plan sponsor a copy of the final audit results
2 within thirty (30) calendar days of the final disposition of the
3 audit; and

4 9. At the request of the plan sponsor, provide a copy of the
5 final audit findings report within thirty (30) calendar days of the
6 request.

7 H. G. 1. The full amount of any recoupmment on an audit shall
8 be refunded to the plan sponsor. Except as provided for in
9 paragraph 2 of this subsection, a charge or assessment for an audit
10 shall not be based, directly or indirectly, on amounts recouped.

11 2. This subsection does not prevent the entity conducting the
12 audit from charging or assessing the responsible party, directly or
13 indirectly, based on amounts recouped if both of the following
14 conditions are met:

- 15 a. the plan sponsor and the entity conducting the audit
16 have a contract that explicitly states the percentage
17 charge or assessment to the plan sponsor, and
- 18 b. a commission to an agent or employee of the entity
19 conducting the audit is not based, directly or
20 indirectly, on amounts recouped.

21 I. H. Unless superseded by state or federal law, auditors shall
22 only have access to previous audit reports on a particular pharmacy
23 conducted by the auditing entity for the same pharmacy benefits
24 manager, health plan or insurer. An auditing vendor contracting

1 with multiple pharmacy benefits managers or health insurance plans
2 shall not use audit reports or other information gained from an
3 audit on a pharmacy to conduct another audit for a different
4 pharmacy benefits manager or health insurance plan.

5 ~~J. Sections A through I~~

6 I. Paragraph 2 of subsection A of this section through
7 subsection D of this section, and paragraph 1 through paragraph 7 of
8 subsection F of this section shall not apply to any audit initiated
9 based on ~~or that involves suspicion of~~ fraud, willful
10 misrepresentation, or abuse.

11 ~~K. J.~~ If the Attorney General, after notice and opportunity for
12 hearing, finds that the entity conducting the audit failed to follow
13 any of the requirements pursuant to the Pharmacy Audit Integrity
14 Act, the audit shall be considered null and void. Any monies
15 recouped from a null and void audit shall be returned to the
16 affected pharmacy within fourteen (14) calendar days. Any violation
17 of this section by a pharmacy benefits manager or auditing entity
18 shall be deemed a violation of the Pharmacy Audit Integrity Act.

19 SECTION 3. AMENDATORY 59 O.S. 2021, Section 356.3, as
20 amended by Section 3, Chapter 332, O.S.L. 2024 (59 O.S. Supp. 2024,
21 Section 356.3), is amended to read as follows:

22 Section 356.3. A. Each entity conducting an audit shall
23 establish a written appeals process under which a pharmacy may
24

1 appeal an unfavorable preliminary audit report and/or final audit
2 report to the entity.

3 B. Following an appeal, if the entity finds that an unfavorable
4 audit report or any portion thereof is unsubstantiated, the entity
5 shall dismiss the audit report or the unsubstantiated portion of the
6 audit report without any further action.

7 C. Any final audit report, following the final audit appeal
8 period, with a finding of fraud or willful misrepresentation shall
9 be referred to the district attorney having proper jurisdiction or
10 the Attorney General for prosecution upon completion of the appeals
11 process. If a finding of fraud or willful misrepresentation is
12 referred to a district attorney under this subsection, the auditing
13 entity shall notify the Attorney General as to whom the referral was
14 made and the date the referral was made.

15 D. For any audit initiated based on ~~or that involves suspicion~~
16 of fraud, willful misrepresentation, or abuse, the auditing entity
17 shall provide, in writing, at the time of the audit, a clear and
18 conspicuous declaration to the pharmacy being audited that the audit
19 is being conducted under suspicion of fraud, willful
20 misrepresentation, or abuse and a statement of facts that supports
21 the reasonable suspicion. The entity conducting an audit based on
22 suspicion of fraud, willful misrepresentation, or abuse shall
23 provide a copy of the clear and conspicuous declaration required by
24 this subsection to the pharmacy's contracting agent by certified

1 mail within five (5) business days of notifying the pharmacy of an
2 audit pursuant to this section.

3 E. The entity conducting an audit based on suspicion of fraud,
4 willful misrepresentation, or abuse shall:

5 1. Deliver a preliminary findings report to the pharmacy and
6 the pharmacy's contracting agent within ninety (90) calendar days of
7 notification of the audit;

8 2. Allow the pharmacy at least ninety (90) calendar days
9 following the receipt of the preliminary audit findings report in
10 which to produce documentation to address any discrepancy found
11 during the audit. A pharmacy may request an extension, not to
12 exceed an additional forty-five (45) calendar days;

13 3. Deliver a final audit findings report to the pharmacy and
14 the pharmacy's contracting agent signed by the auditor within thirty
15 (30) calendar days after receipt of additional documentation
16 provided by the pharmacy;

17 4. Allow the pharmacy to reverse and resubmit claims
18 electronically within thirty (30) calendar days of receipt of the
19 final audit report in lieu of the auditing entity recouping
20 discrepant claim amounts from the pharmacy;

21 5. Not recoup any disputed funds until after the final
22 disposition of the audit findings, including the appeals process
23 pursuant to this section;

24 6. Not accrue interest during the audit and appeal period;

1 7. Ensure that each preliminary audit findings report submitted
2 pursuant to this section includes:

- 3 a. specific prescription numbers, fill dates, drug names,
4 and NDC numbers, and
5 b. the date of receipt of documents from the pharmacy,
6 the pharmacy's contracting agent, or any other source
7 associated with the audit;

8 8. Ensure that each final audit findings report includes any
9 additional documentation that was submitted to the auditing entity;

10 9. Provide the plan sponsor a copy of the final audit results
11 within thirty (30) calendar days of the final disposition of the
12 audit; and

13 10. At the request of the plan sponsor, provide a copy of the
14 final audit report within thirty (30) calendar days of the request.

15 F. Any entity conducting an audit that is based on ~~or involves~~
16 suspicion of fraud, willful misrepresentation, or abuse shall
17 provide to the Office of the Attorney General:

18 1. Notice at least two (2) calendar days prior to beginning
19 performance of an audit pursuant to this section;

20 2. A preliminary report within ~~thirty (30) calendar days of~~
21 performing the audit ~~five (5) business days of providing a copy of~~
22 the preliminary report to the pharmacy and the pharmacy's
23 contracting agent pursuant to this section. The auditing entity may

1 request an extension from the Attorney General, not to exceed an
2 additional ninety (90) calendar days; and

3 3. A final report within ~~thirty~~ (30) ten (10) calendar days
4 following the closure of the final appeal period for an audit
5 performed pursuant to this section.

6 a. The final report for the Office of the Attorney
7 General shall include the name of each plan sponsor
8 whose claims were included in the audit recover, the
9 amount of funds recouped on behalf of the plan, the
10 date the plan sponsor was notified of the recoupmment,
11 the date the plan sponsor was paid any recoupmment, and
12 the name and contact information for the
13 representative of the plan sponsor who was notified of
14 the recoupmment at issue in an audit pursuant to this
15 section.

16 b. The auditing entity may request an extension from the
17 Attorney General, not to exceed an additional ten (10)
18 calendar days.

19 F. G. The Attorney General, authorized employees, and examiners
20 shall have access to any pharmacy benefits manager's files and
21 records that may relate to ~~an~~ any audit including, but not limited
22 to, an audit that is based on or involves suspicion of fraud,
23 willful misrepresentation, or abuse.

1 G. H. The Attorney General may levy a civil or administrative
2 fine ~~of~~ not less than One Hundred Dollars (\$100.00) and not greater
3 than Ten Thousand Dollars (\$10,000.00) for each violation of this
4 section and assess any other penalty or remedy authorized by law.

5 SECTION 4. AMENDATORY 59 O.S. 2021, Section 356.4, is
6 amended to read as follows:

7 Section 356.4. A. For the purposes of the Pharmacy Audit
8 Integrity Act, "extrapolation audit" means an audit of a sample of
9 prescription drug benefit claims submitted by a pharmacy to the
10 entity conducting the audit that is then used to estimate audit
11 results for a larger batch or group of claims not reviewed by the
12 auditor, including refills not listed in the written notification in
13 accordance with paragraph 2 of subsection A of Section 356.2 of this
14 title.

15 B. The entity conducting the audit shall not use the ~~accounting~~
16 practice of extrapolation in calculating recoupments or penalties
17 for audits.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 356.6 of Title 59, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Notwithstanding any other provision of law, the ability of a
22 pharmacy benefits manager (PBM) to initiate, continue, or conclude
23 an audit of a pharmacy shall be tolled for the duration of a

1 declared disaster and for an additional period of thirty (30)
2 calendar days following the termination of a declared disaster.

3 Such requirement shall apply only to the pharmacies located
4 within the geographical boundaries of the county or counties
5 affected by the declared disaster.

6 B. The provisions of this section shall apply to all PBMs
7 operating within this state, and to all audits conducted pursuant to
8 contracts between PBMs and pharmacies.

9 C. This section shall not apply to:

10 1. Audits conducted for suspected fraudulent activity if
11 documented evidence of such activity exists; or

12 2. Audits required to comply with federal or state law
13 unrelated to the contractual relationship between a PBM and a
14 pharmacy.

15 D. Nothing in this section shall be construed to prohibit a
16 pharmacy from voluntarily agreeing to continue or complete an audit
17 during the tolling period, provided such agreement is documented in
18 writing and signed by both parties.

19 E. A PBM may submit a request to the Attorney General to
20 continue or complete an audit during the tolling period, which the
21 Attorney General may grant at his or her sole discretion. Any PBM
22 granted such permission by the Attorney General shall do so pursuant
23 to the requirements of this act.

1 SECTION 6. AMENDATORY 59 O.S. 2021, Section 357, as
2 amended by Section 4, Chapter 332, O.S.L. 2024 (59 O.S. Supp. 2024,
3 Section 357), is amended to read as follows:

4 Section 357. A. As used in Sections 357 through 360 of this
5 title and Section 9 of this act:

6 1. "Covered entity" means a nonprofit hospital or medical
7 service organization, for-profit hospital or medical service
8 organization, insurer, health benefit plan, health maintenance
9 organization, health program administered by the state in the
10 capacity of providing health coverage, or an employer, labor union,
11 or other group of persons that provides health coverage to persons
12 in this state. This term does not include a health benefit plan
13 that provides coverage only for accidental injury, specified
14 disease, hospital indemnity, disability income, or other limited
15 benefit health insurance policies and contracts that do not include
16 prescription drug coverage;

17 2. "Covered individual" means a member, participant, enrollee,
18 contract holder or policy holder or beneficiary of a covered entity
19 who is provided health coverage by the covered entity. A covered
20 individual includes any dependent or other person provided health
21 coverage through a policy, contract or plan for a covered
22 individual;

23 3. "Department" means the Insurance Department;

1 4. "Maximum allowable cost", "MAC", or "MAC list" means the
2 list of drug products delineating the maximum per-unit reimbursement
3 for multiple-source prescription drugs, medical product, or device;

4 5. "Multisource drug product reimbursement" (reimbursement)
5 means the total amount paid to a pharmacy inclusive of any reduction
6 in payment to the pharmacy, excluding prescription dispense fees;

7 6. "Office" means the Office of the Attorney General;

8 7. "Pharmacy benefits management" means a service provided to
9 covered entities to facilitate the provision of prescription drug
10 benefits to covered individuals within the state, including
11 negotiating pricing and other terms with drug manufacturers and
12 providers. Pharmacy benefits management may include any or all of
13 the following services:

14 a. claims processing, retail network management and
15 payment of claims to pharmacies for prescription drugs
16 dispensed to covered individuals,

17 b. clinical formulary development and management
18 services, or

19 c. rebate contracting and administration;

20 8. "Pharmacy benefits manager" or "PBM" means a person,
21 business, or other entity that performs pharmacy benefits
22 management. The term shall include any business or entity licensed
23 by the Insurance Department to perform PBM services, or a person or
24 entity acting on behalf of a PBM in a contractual or employment

1 relationship in the performance of pharmacy benefits management for
2 a managed care company, nonprofit hospital, medical service
3 organization, insurance company, third-party payor, or a health
4 program administered by an agency or department of this state;

5 9. "Plan sponsor" means the employers, insurance companies,
6 unions and health maintenance organizations or any other entity
7 responsible for establishing, maintaining, or administering a health
8 benefit plan on behalf of covered individuals; and

9 10. "Provider" means a pharmacy licensed by the State Board of
10 Pharmacy, or an agent or representative of a pharmacy, including,
11 but not limited to, the pharmacy's contracting agent, which
12 dispenses prescription drugs or devices to covered individuals.

13 B. Nothing in the definition of pharmacy benefits management or
14 pharmacy benefits manager in the Patient's Right to Pharmacy Choice
15 Act, Pharmacy Audit Integrity Act, ~~or~~ Sections 357 through 360 of
16 this title, or Section 9 of this act shall deem an employer a
17 ~~"pharmacy benefits manager"~~ pharmacy benefits manager of its own
18 self-funded health benefit plan, except, to the extent permitted by
19 applicable law, where the employer, without the utilization of a
20 third party and unrelated to the employer's own pharmacy:

21 a. negotiates

22 1. Negotiates directly with drug manufacturers;;

23 b. processes

24 2. Processes claims on behalf of its members;; or

1 e. manages

2 3. Manages its own retail network of pharmacies.

3 SECTION 7. AMENDATORY 59 O.S. 2021, Section 358, as

4 amended by Section 5, Chapter 332, O.S.L. 2024 (59 O.S. Supp. 2024,
5 Section 358), is amended to read as follows:

6 Section 358. A. In order to provide pharmacy benefits
7 management or any of the services included under the definition of
8 pharmacy benefits management in this state, a pharmacy benefits
9 manager or any entity acting as one in a contractual or employment
10 relationship for a covered entity shall first obtain a license from
11 the Insurance Department, and the Department may charge a fee for
12 such licensure.

13 B. The Department shall establish, by regulation, licensure
14 procedures, required disclosures for pharmacy benefits managers
15 (PBMs) and other rules as may be necessary for carrying out and
16 enforcing the provisions of this title. The licensure procedures
17 shall, at a minimum, include the completion of an application form
18 that shall include the name and address of an agent for service of
19 process, the payment of a requisite fee, and evidence of the
20 procurement of a surety bond.

21 C. The Department or the Office of the Attorney General may
22 subpoena witnesses and information. Its compliance officers may
23 take and copy records for investigative use and prosecutions.

24 Nothing in this subsection shall limit the Office of the Attorney

1 General from using its investigative demand authority to investigate
2 and prosecute violations of the law.

3 D. The Department may suspend, revoke or refuse to issue or
4 renew a license for noncompliance with any of the provisions hereby
5 established or with the rules promulgated by the Department; for
6 conduct likely to mislead, deceive or defraud the public or the
7 Department; for unfair or deceptive business practices or for
8 nonpayment of an application or renewal fee or fine. The Department
9 may also levy administrative fines for each count of which a PBM has
10 been convicted in a Department hearing.

11 E. 1. The Office of the Attorney General, after notice and
12 opportunity for hearing, may instruct the Insurance Commissioner
13 that the PBM's license be censured, suspended, or revoked for
14 conduct likely to mislead, deceive, or defraud the public or the
15 State of Oklahoma; or for unfair or deceptive business practices, or
16 for any violation of the Patient's Right to Pharmacy Choice Act, the
17 Pharmacy Audit Integrity Act, ~~or~~ Sections 357 through 360 of this
18 title, or Section 9 of this act. The Office of the Attorney General
19 may also levy administrative fines for each count of which a PBM has
20 been convicted following a hearing before the Attorney General. If
21 the Attorney General makes such instruction, the Commissioner shall
22 enforce the instructed action within thirty (30) calendar days.

23 2. In addition to or in lieu of any censure, suspension, or
24 revocation of a license by the Commissioner, the Attorney General

1 may levy a civil or administrative fine of not less than One Hundred
2 Dollars (\$100.00) and not greater than Ten Thousand Dollars
3 (\$10,000.00) for each violation of this subsection and/or assess any
4 other penalty or remedy authorized by this section. For purposes of
5 this section, each day a PBM fails to comply with an investigation
6 or inquiry may be considered a separate violation.

7 F. The Attorney General may promulgate rules to implement the
8 provisions of Sections 357 through 360 of this title and Section 9
9 of this act.

10 SECTION 8. AMENDATORY 59 O.S. 2021, Section 360, as
11 amended by Section 6, Chapter 332, O.S.L. 2024 (59 O.S. Supp. 2024,
12 Section 360), is amended to read as follows:

13 Section 360. A. The pharmacy benefits manager shall, with
14 respect to contracts between a pharmacy benefits manager and a
15 provider, including a pharmacy service administrative organization:

16 1. Include in such contracts the specific sources utilized to
17 determine the maximum allowable cost (MAC) pricing of the pharmacy,
18 update MAC pricing at least every seven (7) calendar days, and
19 establish a process for providers to readily access the MAC list
20 specific to that provider;

21 2. In order to place a drug on the MAC list, ensure that the
22 drug is listed as "A" or "B" rated in the most recent version of the
23 FDA's United States Food and Drug Administration (FDA) Approved Drug
24 Products with Therapeutic Equivalence Evaluations, also known as the

1 Orange Book, and the drug is generally available for purchase by
2 pharmacies in the state from national or regional wholesalers and is
3 not obsolete;

4 3. Ensure dispensing fees are not included in the calculation
5 of MAC price reimbursement to pharmacy providers;

6 4. Provide a reasonable administration appeals procedure to
7 allow a provider, a provider's representative and a pharmacy service
8 administrative organization to contest reimbursement amounts within
9 fourteen (14) calendar days of the final adjusted payment date. The
10 pharmacy benefits manager shall not prevent the pharmacy or the
11 pharmacy service administrative organization from filing
12 reimbursement appeals in an electronic batch format. The pharmacy
13 benefits manager must respond to a provider, a provider's
14 representative and a pharmacy service administrative organization
15 who have contested a reimbursement amount through this procedure
16 within ten (10) calendar days. The pharmacy benefits manager must
17 respond in an electronic batch format to reimbursement appeals filed
18 in an electronic batch format. The pharmacy benefits manager shall
19 not require a pharmacy or pharmacy services administrative
20 organization to log into a system to upload individual claim appeals
21 or to download individual appeal responses. If a price update is
22 warranted, the pharmacy benefits manager shall make the change in
23 the reimbursement amount, permit the dispensing pharmacy to reverse
24

1 and rebill the claim in question, and make the reimbursement amount
2 change retroactive and effective for all contracted providers; and

3 5. If a below-cost reimbursement appeal is denied, the PBM
4 shall provide the reason for the denial, including the National Drug
5 Code (NDC) number from, and the name of, the specific national or
6 regional wholesalers doing business in this state where the drug is
7 currently in stock and available for purchase by the dispensing
8 pharmacy at a price below the PBM's reimbursement price. The PBM
9 shall include documented proof from the specific national or
10 regional wholesalers doing business in this state showing that the
11 drug is currently in stock and available for purchase by the
12 dispensing pharmacy at a price below the PBM's reimbursement price.

13 If the NDC number provided by the pharmacy benefits manager is not
14 available below the acquisition cost obtained from the
15 pharmaceutical wholesaler from whom the dispensing pharmacy
16 purchases the majority of the prescription drugs that are dispensed,
17 the pharmacy benefits manager shall immediately adjust the
18 reimbursement amount, permit the dispensing pharmacy to reverse and
19 rebill the claim in question, and make the reimbursement amount
20 adjustment retroactive and effective for all contracted providers;

21 6. Any appeal that results in an increase in the reimbursement
22 from the PBM that continues to be below the pharmacy's acquisition
23 cost shall be considered a denial under this section. Any denial of

1 an appeal shall follow the requirements of paragraph 5 of this
2 subsection; and

3 7. The PBM shall not require a pharmacy to collect additional
4 monies following a successful below-cost reimbursement appeal from
5 any person or entity other than the PBM who adjudicated the drug
6 claim, including the patient or plan sponsor.

7 B. The reimbursement appeal requirements in this section shall
8 apply to all drugs, medical products, or devices reimbursed
9 according to any payment methodology, including, but not limited to:

10 1. Average acquisition cost, including the National Average
11 Drug Acquisition Cost;

12 2. Average manufacturer price;

13 3. Average wholesale price;

14 4. Brand effective rate or generic effective rate;

15 5. Discount indexing;

16 6. Federal upper limits;

17 7. Wholesale acquisition cost; and

18 8. Any other term that a pharmacy benefits manager or an
19 insurer of a health benefit plan may use to establish reimbursement
20 rates to a pharmacist or pharmacy for pharmacist services.

21 C. The pharmacy benefits manager shall not place a drug on a
22 MAC list, unless there are at least two therapeutically equivalent,
23 multiple-source drugs, generally available for purchase by
24 dispensing retail pharmacies from national or regional wholesalers.

1 D. In the event that a drug is placed on the FDA Drug Shortages
2 Database, pharmacy benefits managers shall reimburse claims to
3 pharmacies at no less than the wholesale acquisition cost for the
4 specific NDC number being dispensed.

5 E. The pharmacy benefits manager shall not require
6 accreditation or licensing of providers, or any entity licensed or
7 regulated by the State Board of Pharmacy, other than by the State
8 Board of Pharmacy or federal government entity as a condition for
9 participation as a network provider.

10 F. A pharmacy or pharmacist may decline to provide the
11 pharmacist clinical or dispensing services to a patient or pharmacy
12 benefits manager if the pharmacy or pharmacist is to be paid less
13 than the pharmacy's cost for providing the pharmacist clinical or
14 dispensing services.

15 G. The pharmacy benefits manager shall provide a dedicated
16 telephone number, email address and names of the personnel with
17 decision-making authority regarding MAC appeals and pricing.

18 SECTION 9. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 360.1 of Title 59, unless there
20 is created a duplication in numbering, reads as follows:

21 A. If a disaster declaration is issued for a county in this
22 state, the time period for a provider, a provider's representative,
23 or a pharmacy service administrative organization to file a below-
24 cost reimbursement appeal pursuant to Section 360 of Title 59 of the

1 Oklahoma Statutes shall be tolled for the duration of the disaster
2 declaration.

3 B. Upon the expiration of the disaster declaration, the tolling
4 of the filing period for below-cost reimbursement appeals shall
5 continue for an additional thirty (30) calendar days. Afterward,
6 the time period for filing a below-cost reimbursement appeal, as
7 otherwise provided under state law, shall resume.

8 C. The tolling provisions of this section shall apply only to
9 continuing counties included in the declared disaster area and to
10 below-cost reimbursement appeals arising from claims impacted during
11 the time period of the declared disaster.

12 D. A pharmacy benefits manager (PBM) shall not deny a below-
13 cost reimbursement appeal on timeliness if such appeal is filed
14 during the tolled period provided in this section.

15 E. The Attorney General may promulgate rules to implement the
16 provisions of this act.

17 SECTION 10. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval."

Passed the House of Representatives the 7th day of May, 2025.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2025.

Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 993

By: Gollihare and Jech of the
Senate

3 and

4 Stinson of the House

5
6
7 An Act relating to pharmacy benefits managers;
8 amending 59 O.S. 2021, Sections 356.1, 356.2, 356.3,
9 as amended by Sections 1, 2, and 3, Chapter 332,
10 O.S.L. 2024, and 356.4 (59 O.S. Supp. 2024, Sections
11 356.1, 356.2, and 356.3), which relate to
12 definitions, pharmacy audit requirements, appeals
process, and prohibited extrapolation audit;
13 modifying notice contents; prohibiting assessment of
certain fines under certain circumstances; expanding
certain claim limits; establishing requirements for
14 preliminary audit findings reports; requiring
provision of certain final audit results within a
certain time period; updating statutory reference;
15 requiring certain notification to Attorney General in
certain circumstances; expanding requirement for
initiation of certain audit; lengthening time period
16 for certain preliminary report; allowing certain
extension request; shortening certain time period for
certain final report; establishing requirements for
audit findings report; modifying definition; defining
17 terms; requiring certain tolling in certain declared
disaster; providing certain exceptions; amending 59
O.S. 2021, Sections 357, 358, and 360, as amended by
18 Sections 4, 5, and 6, Chapter 332, O.S.L. 2024 (59
O.S. Supp. 2024, Sections 357, 358, and 360), which
19 relate to definitions, pharmacy benefits management
licensure, and pharmacy benefits manager contractual
20 duties; modifying notice contents; defining terms;
updating statutory references; requiring certain time
21 period of tolling in certain declared disaster;
requiring certain documented proof by certain
pharmacy benefits managers; establishing certain
22 denial for certain appeals; prohibiting certain
collection of additional monies by certain pharmacy
23 benefits managers; establishing certain filing period
24

1 after lifting of disaster declaration; prohibiting
2 certain denials; updating statutory language;
3 providing for codification; and declaring an
4 emergency.

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 11. AMENDATORY 59 O.S. 2021, Section 356.1, as
7 amended by Section 1, Chapter 332, O.S.L. 2024 (59 O.S. Supp. 2024,
8 Section 356.1), is amended to read as follows:

9 Section 356.1. A. For purposes of the Pharmacy Audit Integrity
10 Act, "pharmacy benefits manager":

11 1. "Audit" means any review, inspection, or analysis conducted
12 by a pharmacy benefits manager (PBM) or its representative of a
13 pharmacy's records, practices, or compliance with contractual
14 obligations;

15 2. "Disaster declaration" and "declared disaster" mean a
16 declaration issued by the Governor or the President of the United
17 States for an event that qualifies as a disaster including, but not
18 limited to, a flood, tornado, earthquake, wildfire, terrorist
19 attack, or other catastrophic event; and

20 3. "Pharmacy benefits manager" or "PBM" shall have the same
21 meaning as in Section 6960 of Title 36 of the Oklahoma Statutes.

22 B. The purpose of the Pharmacy Audit Integrity Act is to
23 establish minimum and uniform standards and criteria for the audit
24 of pharmacy records by or on behalf of certain entities.

1 C. The Pharmacy Audit Integrity Act shall apply to any audit of
2 the records of a pharmacy conducted by a managed care company,
3 nonprofit hospital, medical service organization, insurance company,
4 third-party payor, pharmacy benefits manager, a health program
5 administered by a department of this state, or any entity that
6 represents these companies, groups, or departments.

7 D. The Attorney General may promulgate rules to implement the
8 provisions of the Pharmacy Audit Integrity Act.

9 SECTION 12. AMENDATORY 59 O.S. 2021, Section 356.2, as
10 amended by Section 2, Chapter 332, O.S.L. 2024 (59 O.S. Supp. 2024,
11 Section 356.2), is amended to read as follows:

12 Section 356.2. A. The entity conducting an audit of a pharmacy
13 shall:

14 1. Identify and specifically describe the audit and appeal
15 procedures in the pharmacy contract. Prescription claim
16 documentation and ~~record-keeping~~ recordkeeping requirements shall
17 not exceed the requirements set forth by the Oklahoma Pharmacy Act
18 or other applicable state or federal laws or regulations;

19 2. Give the pharmacy written notice by certified letter to the
20 pharmacy and the pharmacy's contracting agent, including
21 identification of specific prescription numbers and, fill dates,
22 drug names, and National Drug Code (NDC) numbers to be audited, at
23 least fourteen (14) calendar days prior to conducting the audit,
24 including, but not limited to, an on-site audit, a desk audit, or a

1 wholesale purchase audit, request for documentation related to the
2 dispensing of a prescription drug, or any reimbursed activity by a
3 pharmacy provider; provided, however, that wholesale purchase audits
4 shall require a minimum of thirty (30) calendar days' written
5 notice. For an on-site audit, the audit date shall be the date the
6 on-site audit occurs. For all other audit types, the audit date
7 shall be the date the pharmacy provides the documentation requested
8 in the audit notice. The pharmacy shall have the opportunity to
9 reschedule the audit no more than seven (7) calendar days from the
10 date designated on the original audit notification;

11 3. Not interfere with the delivery of pharmacist services to a
12 patient and shall utilize every reasonable effort to minimize
13 inconvenience and disruption to pharmacy operations during the audit
14 process;

15 4. Conduct any audit involving clinical or professional
16 judgment by means of or in consultation with a licensed pharmacist;

17 5. Not consider as fraud any clerical or ~~record-keeping~~
18 recordkeeping error, such as a typographical error, scrivener's
19 error or computer error, including, but not limited to, a
20 miscalculated day supply, incorrectly billed prescription written
21 date or prescription origin code, and such errors shall not be
22 subject to recoupment. The pharmacy shall have the right to submit
23 amended claims electronically to correct clerical or ~~record-keeping~~
24 recordkeeping errors in lieu of recoupment. To the extent that an

1 audit results in the identification of any clerical or ~~record-~~
2 ~~keeping recordkeeping~~ errors such as typographical errors,
3 scrivener's errors or computer errors in a required document or
4 record, the pharmacy shall not be subject to recoupment of funds by
5 the pharmacy benefits manager unless the pharmacy benefits manager
6 can provide proof of intent to commit fraud. A person shall not be
7 subject to criminal penalties for errors provided for in this
8 paragraph without proof of intent to commit fraud;

9 6. Permit a pharmacy to use the records of a hospital,
10 physician, or other authorized practitioner of the healing arts for
11 drugs or medicinal supplies written or transmitted by any means of
12 communication for purposes of validating the pharmacy record with
13 respect to orders or refills of a legend or narcotic drug;

14 7. Not include the dispensing fee amount or the actual invoice
15 cost of the prescription dispensed in a finding of an audit
16 recoupment unless a prescription was not actually dispensed or a
17 physician denied authorization of a dispensing order;

18 8. Audit each pharmacy under identical standards, regularity
19 and parameters as other similarly situated pharmacies and all
20 pharmacies owned or managed by the pharmacy benefits manager
21 conducting or having conducted the audit;

22 9. Not exceed one (1) year from the date the claim was
23 submitted to or adjudicated by a managed care company, nonprofit
24 hospital or medical service organization, insurance company, third-

1 party payor, pharmacy benefits manager, a health program
2 administered by a department of this state, or any entity that
3 represents the companies, groups, or departments for the period
4 covered by an audit;

5 10. Not schedule or initiate an audit during the first seven
6 (7) calendar days of any month unless otherwise consented to by the
7 pharmacy;

8 11. Disclose to any plan sponsor whose claims were included in
9 the audit any money recouped in the audit;

10 12. Not require pharmacists to break open packaging labeled
11 "for single-patient-use only". Packaging labeled "for single-
12 patient-use only" shall be deemed to be the smallest package size
13 available; and

14 13. Upon recoupment of funds from a pharmacy, refund first to
15 the patient the portion of the recovered funds that were originally
16 paid by the patient, provided such funds were part of the
17 recoupment; and

18 14. Not assess a fine, penalty, or any other financial
19 requirement on the pharmacy or pharmacist for any prescription
20 audited unless there is a valid recoupment under the Pharmacy Audit
21 Integrity Act.

22 B. 1. Any entity that conducts wholesale purchase review
23 during an audit of a pharmacist or pharmacy shall not require the
24 pharmacist or pharmacy to provide a full dispensing report.

1 Wholesaler invoice reviews shall be limited to verification of
2 purchase inventory specific to the pharmacy claims paid by the
3 health benefits plan or pharmacy benefits manager conducting the
4 audit.

5 2. Any entity conducting an audit shall not identify or label a
6 prescription claim as an audit discrepancy when:

- 7 a. the National Drug Code for the dispensed drug is in a
8 quantity that is a subunit or multiple of the drug
9 purchased by the pharmacist or pharmacy as supported
10 by a wholesale invoice,
- 11 b. the pharmacist or pharmacy dispensed the correct
12 quantity of the drug according to the prescription,
13 and
- 14 c. the drug dispensed by the pharmacist or pharmacy
15 shares all but the last two digits of the National
16 Drug Code of the drug reflected on the supplier
17 invoice.

18 3. An entity conducting an audit shall accept as evidence,
19 subject to validation, to support the validity of a pharmacy claim
20 related to a dispensed drug:

- 21 a. redacted copies of supplier invoices in the
22 pharmacist's or pharmacy's possession, or
- 23 b. invoices and any supporting documents from any
24 supplier as authorized by federal or state law to

1 transfer ownership of the drug acquired by the
2 pharmacist or pharmacy.

3 4. An entity conducting an audit shall provide, no later than
4 five (5) calendar days after the date of a request by the pharmacist
5 or pharmacy, all supporting documents the pharmacist's or pharmacy's
6 purchase suppliers provided to the health benefits plan issuer or
7 pharmacy benefits manager.

8 C. A pharmacy shall be allowed to provide the pharmacy's
9 computerized patterned medical records or the records of a hospital,
10 physician, or other authorized practitioner of the healing arts for
11 drugs or medicinal supplies written or transmitted by any means of
12 communication for purposes of supporting the pharmacy record with
13 respect to orders or refills of a legend or narcotic drug.

14 D. ~~The entity conducting the audit shall not audit more than~~
15 ~~fifty prescriptions, with specific date of service, per calendar~~
16 ~~year PBM or its agent shall not exceed an annual limit of one~~
17 hundred prescription claims with a specific prescription number and
18 date of fill per calendar year. The annual limit to the number of
19 prescription claims audited shall be inclusive of all audits by a
20 PBM or its agent, including any prescription-related documentation
21 requests from the health insurer, pharmacy benefits manager or any
22 third-party company conducting audits on behalf of any health
23 insurer or pharmacy benefits manager during a calendar year.
24 Notwithstanding the annual limit on the number of prescription

1 claims per calendar year pursuant to this section, no PBM or its
2 agent shall exceed more than fifty prescription claims with a
3 specific prescription number and date of fill on an individual
4 audit.

5 E. If paper copies of records are requested by the entity
6 conducting the audit, the entity shall pay twenty-five cents (\$0.25)
7 per page to cover the costs incurred by the pharmacy. The entity
8 conducting the audit shall provide the pharmacy with accurate
9 instructions, including any required form for obtaining
10 reimbursement for the copied records.

11 F. The entity conducting the audit shall:

12 1. Deliver a preliminary audit findings report to the pharmacy
13 and the pharmacy's contracting agent within forty-five (45) calendar
14 days of conducting the audit;

15 2. Allow the pharmacy at least ninety (90) calendar days
16 following receipt of the preliminary audit findings report in which
17 to produce documentation to address any discrepancy found during the
18 audit; provided, however, a pharmacy may request an extension, not
19 to exceed an additional forty-five (45) calendar days;

20 3. Deliver a final audit findings report to the pharmacy and
21 the pharmacy's contracting agent signed by the auditor within ten
22 (10) calendar days after receipt of additional documentation
23 provided by the pharmacy, as provided for in Section 356.3 of this
24 title;

1 4. Allow the pharmacy to reverse and resubmit claims
2 electronically within thirty (30) calendar days of receipt of the
3 final audit report in lieu of the auditing entity recouping
4 discrepant claim amounts from the pharmacy;

5 5. Not recoup any disputed funds until after final disposition
6 of the audit findings, including the appeals process as provided for
7 in Section 356.3 of this title; and

8 6. Not accrue interest during the audit and appeal period;

9 7. Ensure that each preliminary audit findings report required
10 by this section includes:

- 11 a. specific prescription numbers, fill dates, drug names,
12 and NDC numbers, and
- 13 b. the date of receipt of documents from the pharmacy,
14 the pharmacy's contracting agent, or any other source
15 associated with the audit.

16 G. Each entity conducting an audit shall provide a copy of the
17 final audit results, and a final audit report upon request, after
18 completion of any review process to the plan sponsor

19 In addition to the requirements for a preliminary audit findings
20 report in this paragraph, the final audit findings report shall
21 include any additional documentation that was submitted to the
22 auditing entity;

1 8. Provide the plan sponsor a copy of the final audit results
2 within thirty (30) calendar days of the final disposition of the
3 audit; and

4 9. At the request of the plan sponsor, provide a copy of the
5 final audit findings report within thirty (30) calendar days of the
6 request.

7 H. G. 1. The full amount of any recoupmment on an audit shall
8 be refunded to the plan sponsor. Except as provided for in
9 paragraph 2 of this subsection, a charge or assessment for an audit
10 shall not be based, directly or indirectly, on amounts recouped.

11 2. This subsection does not prevent the entity conducting the
12 audit from charging or assessing the responsible party, directly or
13 indirectly, based on amounts recouped if both of the following
14 conditions are met:

- 15 a. the plan sponsor and the entity conducting the audit
16 have a contract that explicitly states the percentage
17 charge or assessment to the plan sponsor, and
- 18 b. a commission to an agent or employee of the entity
19 conducting the audit is not based, directly or
20 indirectly, on amounts recouped.

21 I. H. Unless superseded by state or federal law, auditors shall
22 only have access to previous audit reports on a particular pharmacy
23 conducted by the auditing entity for the same pharmacy benefits
24 manager, health plan or insurer. An auditing vendor contracting

1 with multiple pharmacy benefits managers or health insurance plans
2 shall not use audit reports or other information gained from an
3 audit on a pharmacy to conduct another audit for a different
4 pharmacy benefits manager or health insurance plan.

5 ~~J. Sections A through I~~

6 I. Paragraph 2 of subsection A of this section through
7 subsection D of this section, and paragraph 1 through paragraph 7 of
8 subsection F of this section shall not apply to any audit initiated
9 based on or that involves suspicion of fraud, willful
10 misrepresentation, or abuse.

11 ~~K. J.~~ If the Attorney General, after notice and opportunity for
12 hearing, finds that the entity conducting the audit failed to follow
13 any of the requirements pursuant to the Pharmacy Audit Integrity
14 Act, the audit shall be considered null and void. Any monies
15 recouped from a null and void audit shall be returned to the
16 affected pharmacy within fourteen (14) calendar days. Any violation
17 of this section by a pharmacy benefits manager or auditing entity
18 shall be deemed a violation of the Pharmacy Audit Integrity Act.

19 SECTION 13. AMENDATORY 59 O.S. 2021, Section 356.3, as
20 amended by Section 3, Chapter 332, O.S.L. 2024 (59 O.S. Supp. 2024,
21 Section 356.3), is amended to read as follows:

22 Section 356.3. A. Each entity conducting an audit shall
23 establish a written appeals process under which a pharmacy may
24

1 appeal an unfavorable preliminary audit report and/or final audit
2 report to the entity.

3 B. Following an appeal, if the entity finds that an unfavorable
4 audit report or any portion thereof is unsubstantiated, the entity
5 shall dismiss the audit report or the unsubstantiated portion of the
6 audit report without any further action.

7 C. Any final audit report, following the final audit appeal
8 period, with a finding of fraud or willful misrepresentation shall
9 be referred to the district attorney having proper jurisdiction or
10 the Attorney General for prosecution upon completion of the appeals
11 process. If a finding of fraud or willful misrepresentation is
12 referred to a district attorney under this subsection, the auditing
13 entity shall notify the Attorney General as to whom the referral was
14 made and the date the referral was made.

15 D. For any audit initiated based on ~~or that involves suspicion~~
16 of fraud, willful misrepresentation, or abuse, the auditing entity
17 shall provide, in writing, at the time of the audit, a clear and
18 conspicuous declaration to the pharmacy being audited that the audit
19 is being conducted under suspicion of fraud, willful
20 misrepresentation, or abuse and a statement of facts that supports
21 the reasonable suspicion. The entity conducting an audit based on
22 suspicion of fraud, willful misrepresentation, or abuse shall
23 provide a copy of the clear and conspicuous declaration required by
24 this subsection to the pharmacy's contracting agent by certified

1 | mail within five (5) business days of notifying the pharmacy of an
2 | audit pursuant to this section.

3 | E. The entity conducting an audit based on suspicion of fraud,
4 | willful misrepresentation, or abuse shall:

5 | 1. Deliver a preliminary findings report to the pharmacy and
6 | the pharmacy's contracting agent within ninety (90) calendar days of
7 | notification of the audit;

8 | 2. Allow the pharmacy at least ninety (90) calendar days
9 | following the receipt of the preliminary audit findings report in
10 | which to produce documentation to address any discrepancy found
11 | during the audit. A pharmacy may request an extension, not to
12 | exceed an additional forty-five (45) calendar days;

13 | 3. Deliver a final audit findings report to the pharmacy and
14 | the pharmacy's contracting agent signed by the auditor within thirty
15 | (30) calendar days after receipt of additional documentation
16 | provided by the pharmacy;

17 | 4. Allow the pharmacy to reverse and resubmit claims
18 | electronically within thirty (30) calendar days of receipt of the
19 | final audit report in lieu of the auditing entity recouping
20 | discrepant claim amounts from the pharmacy;

21 | 5. Not recoup any disputed funds until after the final
22 | disposition of the audit findings, including the appeals process
23 | pursuant to this section;

24 | 6. Not accrue interest during the audit and appeal period;

1 7. Ensure that each preliminary audit findings report submitted
2 pursuant to this section includes:

- 3 a. specific prescription numbers, fill dates, drug names,
4 and NDC numbers, and
5 b. the date of receipt of documents from the pharmacy,
6 the pharmacy's contracting agent, or any other source
7 associated with the audit;

8 8. Ensure that each final audit findings report includes any
9 additional documentation that was submitted to the auditing entity;

10 9. Provide the plan sponsor a copy of the final audit results
11 within thirty (30) calendar days of the final disposition of the
12 audit; and

13 10. At the request of the plan sponsor, provide a copy of the
14 final audit report within thirty (30) calendar days of the request.

15 F. Any entity conducting an audit that is based on ~~or involves~~
16 suspicion of fraud, willful misrepresentation, or abuse shall
17 provide to the Office of the Attorney General:

18 1. Notice at least two (2) calendar days prior to beginning
19 performance of an audit pursuant to this section;

20 2. A preliminary report within ~~thirty (30) calendar days of~~
21 ~~performing the audit~~ five (5) business days of providing a copy of
22 the preliminary report to the pharmacy and the pharmacy's
23 contracting agent pursuant to this section. The auditing entity may

1 request an extension from the Attorney General, not to exceed an
2 additional ninety (90) calendar days; and

3 3. A final report within thirty (30) ten (10) calendar days

4 following the closure of the final appeal period for an audit
5 performed pursuant to this section.

6 a. The final report for the Office of the Attorney
7 General shall include the name of each plan sponsor
8 whose claims were included in the audit recover, the
9 amount of funds recouped on behalf of the plan, the
10 date the plan sponsor was notified of the recoupmment,
11 the date the plan sponsor was paid any recoupmment, and
12 the name and contact information for the
13 representative of the plan sponsor who was notified of
14 the recoupmment at issue in an audit pursuant to this
15 section.

16 b. The auditing entity may request an extension from the
17 Attorney General, not to exceed an additional ten (10)
18 calendar days.

19 F. G. The Attorney General, authorized employees, and examiners
20 shall have access to any pharmacy benefits manager's files and
21 records that may relate to ~~an~~ any audit including, but not limited
22 to, an audit that is based on or involves suspicion of fraud,
23 willful misrepresentation, or abuse.

1 G. H. The Attorney General may levy a civil or administrative
2 fine ~~of~~ not less than One Hundred Dollars (\$100.00) and not greater
3 than Ten Thousand Dollars (\$10,000.00) for each violation of this
4 section and assess any other penalty or remedy authorized by law.

5 SECTION 14. AMENDATORY 59 O.S. 2021, Section 356.4, is
6 amended to read as follows:

7 Section 356.4. A. For the purposes of the Pharmacy Audit
8 Integrity Act, "extrapolation audit" means an audit of a sample of
9 prescription drug benefit claims submitted by a pharmacy to the
10 entity conducting the audit that is then used to estimate audit
11 results for a larger batch or group of claims not reviewed by the
12 auditor, including refills not listed in the written notification in
13 accordance with paragraph 2 of subsection A of Section 356.2 of this
14 title.

15 B. The entity conducting the audit shall not use the ~~accounting~~
16 practice of extrapolation in calculating recoupments or penalties
17 for audits.

18 SECTION 15. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 356.6 of Title 59, unless there
20 is created a duplication in numbering, reads as follows:

21 A. Notwithstanding any other provision of law, the ability of a
22 pharmacy benefits manager (PBM) to initiate, continue, or conclude
23 an audit of a pharmacy shall be tolled for the duration of a

1 declared disaster and for an additional period of thirty (30)
2 calendar days following the termination of a declared disaster.

3 Such requirement shall apply only to the pharmacies located
4 within the geographical boundaries of the county or counties
5 affected by the declared disaster.

6 B. The provisions of this section shall apply to all PBMs
7 operating within this state, and to all audits conducted pursuant to
8 contracts between PBMs and pharmacies.

9 C. This section shall not apply to:

10 1. Audits conducted for suspected fraudulent activity if
11 documented evidence of such activity exists; or

12 2. Audits required to comply with federal or state law
13 unrelated to the contractual relationship between a PBM and a
14 pharmacy.

15 D. Nothing in this section shall be construed to prohibit a
16 pharmacy from voluntarily agreeing to continue or complete an audit
17 during the tolling period, provided such agreement is documented in
18 writing and signed by both parties.

19 E. A PBM may submit a request to the Attorney General to
20 continue or complete an audit during the tolling period, which the
21 Attorney General may grant at his or her sole discretion. Any PBM
22 granted such permission by the Attorney General shall do so pursuant
23 to the requirements of this act.

1 SECTION 16. AMENDATORY 59 O.S. 2021, Section 357, as
2 amended by Section 4, Chapter 332, O.S.L. 2024 (59 O.S. Supp. 2024,
3 Section 357), is amended to read as follows:

4 Section 357. A. As used in Sections 357 through 360 of this
5 title and Section 8 of this act:

6 1. "Covered entity" means a nonprofit hospital or medical
7 service organization, for-profit hospital or medical service
8 organization, insurer, health benefit plan, health maintenance
9 organization, health program administered by the state in the
10 capacity of providing health coverage, or an employer, labor union,
11 or other group of persons that provides health coverage to persons
12 in this state. This term does not include a health benefit plan
13 that provides coverage only for accidental injury, specified
14 disease, hospital indemnity, disability income, or other limited
15 benefit health insurance policies and contracts that do not include
16 prescription drug coverage;

17 2. "Covered individual" means a member, participant, enrollee,
18 contract holder or policy holder or beneficiary of a covered entity
19 who is provided health coverage by the covered entity. A covered
20 individual includes any dependent or other person provided health
21 coverage through a policy, contract or plan for a covered
22 individual;

23 3. "Department" means the Insurance Department;

1 4. "Maximum allowable cost", "MAC", or "MAC list" means the
2 list of drug products delineating the maximum per-unit reimbursement
3 for multiple-source prescription drugs, medical product, or device;

4 5. "Multisource drug product reimbursement" (reimbursement)
5 means the total amount paid to a pharmacy inclusive of any reduction
6 in payment to the pharmacy, excluding prescription dispense fees;

7 6. "Office" means the Office of the Attorney General;

8 7. "Pharmacy benefits management" means a service provided to
9 covered entities to facilitate the provision of prescription drug
10 benefits to covered individuals within the state, including
11 negotiating pricing and other terms with drug manufacturers and
12 providers. Pharmacy benefits management may include any or all of
13 the following services:

14 a. claims processing, retail network management and
15 payment of claims to pharmacies for prescription drugs
16 dispensed to covered individuals,

17 b. clinical formulary development and management
18 services, or

19 c. rebate contracting and administration;

20 8. "Pharmacy benefits manager" or "PBM" means a person,
21 business, or other entity that performs pharmacy benefits
22 management. The term shall include any business or entity licensed
23 by the Insurance Department to perform PBM services, or a person or
24 entity acting on behalf of a PBM in a contractual or employment

1 relationship in the performance of pharmacy benefits management for
2 a managed care company, nonprofit hospital, medical service
3 organization, insurance company, third-party payor, or a health
4 program administered by an agency or department of this state;

5 9. "Plan sponsor" means the employers, insurance companies,
6 unions and health maintenance organizations or any other entity
7 responsible for establishing, maintaining, or administering a health
8 benefit plan on behalf of covered individuals; and

9 10. "Provider" means a pharmacy licensed by the State Board of
10 Pharmacy, or an agent or representative of a pharmacy, including,
11 but not limited to, the pharmacy's contracting agent, which
12 dispenses prescription drugs or devices to covered individuals.

13 B. Nothing in the definition of pharmacy benefits management or
14 pharmacy benefits manager in the Patient's Right to Pharmacy Choice
15 Act, Pharmacy Audit Integrity Act, ~~or~~ Sections 357 through 360 of
16 this title, or Section 8 of this act shall deem an employer a
17 ~~"pharmacy benefits manager"~~ pharmacy benefits manager of its own
18 self-funded health benefit plan, except, to the extent permitted by
19 applicable law, where the employer, without the utilization of a
20 third party and unrelated to the employer's own pharmacy:

21 a. negotiates

22 1. Negotiates directly with drug manufacturers;;

23 b. processes

24 2. Processes claims on behalf of its members;; or

1 e. manages

2 3. Manages its own retail network of pharmacies.

3 SECTION 17. AMENDATORY 59 O.S. 2021, Section 358, as

4 amended by Section 5, Chapter 332, O.S.L. 2024 (59 O.S. Supp. 2024,
5 Section 358), is amended to read as follows:

6 Section 358. A. In order to provide pharmacy benefits
7 management or any of the services included under the definition of
8 pharmacy benefits management in this state, a pharmacy benefits
9 manager or any entity acting as one in a contractual or employment
10 relationship for a covered entity shall first obtain a license from
11 the Insurance Department, and the Department may charge a fee for
12 such licensure.

13 B. The Department shall establish, by regulation, licensure
14 procedures, required disclosures for pharmacy benefits managers
15 (PBMs) and other rules as may be necessary for carrying out and
16 enforcing the provisions of this title. The licensure procedures
17 shall, at a minimum, include the completion of an application form
18 that shall include the name and address of an agent for service of
19 process, the payment of a requisite fee, and evidence of the
20 procurement of a surety bond.

21 C. The Department or the Office of the Attorney General may
22 subpoena witnesses and information. Its compliance officers may
23 take and copy records for investigative use and prosecutions.

24 Nothing in this subsection shall limit the Office of the Attorney

1 General from using its investigative demand authority to investigate
2 and prosecute violations of the law.

3 D. The Department may suspend, revoke or refuse to issue or
4 renew a license for noncompliance with any of the provisions hereby
5 established or with the rules promulgated by the Department; for
6 conduct likely to mislead, deceive or defraud the public or the
7 Department; for unfair or deceptive business practices or for
8 nonpayment of an application or renewal fee or fine. The Department
9 may also levy administrative fines for each count of which a PBM has
10 been convicted in a Department hearing.

11 E. 1. The Office of the Attorney General, after notice and
12 opportunity for hearing, may instruct the Insurance Commissioner
13 that the PBM's license be censured, suspended, or revoked for
14 conduct likely to mislead, deceive, or defraud the public or the
15 State of Oklahoma; or for unfair or deceptive business practices, or
16 for any violation of the Patient's Right to Pharmacy Choice Act, the
17 Pharmacy Audit Integrity Act, ~~or~~ Sections 357 through 360 of this
18 title, or Section 8 of this act. The Office of the Attorney General
19 may also levy administrative fines for each count of which a PBM has
20 been convicted following a hearing before the Attorney General. If
21 the Attorney General makes such instruction, the Commissioner shall
22 enforce the instructed action within thirty (30) calendar days.

23 2. In addition to or in lieu of any censure, suspension, or
24 revocation of a license by the Commissioner, the Attorney General

1 may levy a civil or administrative fine of not less than One Hundred
2 Dollars (\$100.00) and not greater than Ten Thousand Dollars
3 (\$10,000.00) for each violation of this subsection and/or assess any
4 other penalty or remedy authorized by this section. For purposes of
5 this section, each day a PBM fails to comply with an investigation
6 or inquiry may be considered a separate violation.

7 F. The Attorney General may promulgate rules to implement the
8 provisions of Sections 357 through 360 of this title and Section 8
9 of this act.

10 SECTION 18. AMENDATORY 59 O.S. 2021, Section 360, as
11 amended by Section 6, Chapter 332, O.S.L. 2024 (59 O.S. Supp. 2024,
12 Section 360), is amended to read as follows:

13 Section 360. A. The pharmacy benefits manager shall, with
14 respect to contracts between a pharmacy benefits manager and a
15 provider, including a pharmacy service administrative organization:

16 1. Include in such contracts the specific sources utilized to
17 determine the maximum allowable cost (MAC) pricing of the pharmacy,
18 update MAC pricing at least every seven (7) calendar days, and
19 establish a process for providers to readily access the MAC list
20 specific to that provider;

21 2. In order to place a drug on the MAC list, ensure that the
22 drug is listed as "A" or "B" rated in the most recent version of the
23 FDA's United States Food and Drug Administration (FDA) Approved Drug
24 Products with Therapeutic Equivalence Evaluations, also known as the

1 Orange Book, and the drug is generally available for purchase by
2 pharmacies in the state from national or regional wholesalers and is
3 not obsolete;

4 3. Ensure dispensing fees are not included in the calculation
5 of MAC price reimbursement to pharmacy providers;

6 4. Provide a reasonable administration appeals procedure to
7 allow a provider, a provider's representative and a pharmacy service
8 administrative organization to contest reimbursement amounts within
9 fourteen (14) calendar days of the final adjusted payment date. The
10 pharmacy benefits manager shall not prevent the pharmacy or the
11 pharmacy service administrative organization from filing
12 reimbursement appeals in an electronic batch format. The pharmacy
13 benefits manager must respond to a provider, a provider's
14 representative and a pharmacy service administrative organization
15 who have contested a reimbursement amount through this procedure
16 within ten (10) calendar days. The pharmacy benefits manager must
17 respond in an electronic batch format to reimbursement appeals filed
18 in an electronic batch format. The pharmacy benefits manager shall
19 not require a pharmacy or pharmacy services administrative
20 organization to log into a system to upload individual claim appeals
21 or to download individual appeal responses. If a price update is
22 warranted, the pharmacy benefits manager shall make the change in
23 the reimbursement amount, permit the dispensing pharmacy to reverse

1 and rebill the claim in question, and make the reimbursement amount
2 change retroactive and effective for all contracted providers; and

3 5. If a below-cost reimbursement appeal is denied, the PBM
4 shall provide the reason for the denial, including the National Drug
5 Code (NDC) number from, and the name of, the specific national or
6 regional wholesalers doing business in this state where the drug is
7 currently in stock and available for purchase by the dispensing
8 pharmacy at a price below the PBM's reimbursement price. The PBM
9 shall include documented proof from the specific national or
10 regional wholesalers doing business in this state showing that the
11 drug is currently in stock and available for purchase by the
12 dispensing pharmacy at a price below the PBM's reimbursement price.

13 If the NDC number provided by the pharmacy benefits manager is not
14 available below the acquisition cost obtained from the
15 pharmaceutical wholesaler from whom the dispensing pharmacy
16 purchases the majority of the prescription drugs that are dispensed,
17 the pharmacy benefits manager shall immediately adjust the
18 reimbursement amount, permit the dispensing pharmacy to reverse and
19 rebill the claim in question, and make the reimbursement amount
20 adjustment retroactive and effective for all contracted providers;

21 6. Any appeal that results in an increase in the reimbursement
22 from the PBM that continues to be below the pharmacy's acquisition
23 cost shall be considered a denial under this section. Any denial of

1 an appeal shall follow the requirements of paragraph 5 of this
2 subsection; and

3 7. The PBM shall not require a pharmacy to collect additional
4 monies following a successful below-cost reimbursement appeal from
5 any person or entity other than the PBM who adjudicated the drug
6 claim, including the patient or plan sponsor.

7 B. The reimbursement appeal requirements in this section shall
8 apply to all drugs, medical products, or devices reimbursed
9 according to any payment methodology, including, but not limited to:

10 1. Average acquisition cost, including the National Average
11 Drug Acquisition Cost;

12 2. Average manufacturer price;

13 3. Average wholesale price;

14 4. Brand effective rate or generic effective rate;

15 5. Discount indexing;

16 6. Federal upper limits;

17 7. Wholesale acquisition cost; and

18 8. Any other term that a pharmacy benefits manager or an
19 insurer of a health benefit plan may use to establish reimbursement
20 rates to a pharmacist or pharmacy for pharmacist services.

21 C. The pharmacy benefits manager shall not place a drug on a
22 MAC list, unless there are at least two therapeutically equivalent,
23 multiple-source drugs, generally available for purchase by
24 dispensing retail pharmacies from national or regional wholesalers.

1 D. In the event that a drug is placed on the FDA Drug Shortages
2 Database, pharmacy benefits managers shall reimburse claims to
3 pharmacies at no less than the wholesale acquisition cost for the
4 specific NDC number being dispensed.

5 E. The pharmacy benefits manager shall not require
6 accreditation or licensing of providers, or any entity licensed or
7 regulated by the State Board of Pharmacy, other than by the State
8 Board of Pharmacy or federal government entity as a condition for
9 participation as a network provider.

10 F. A pharmacy or pharmacist may decline to provide the
11 pharmacist clinical or dispensing services to a patient or pharmacy
12 benefits manager if the pharmacy or pharmacist is to be paid less
13 than the pharmacy's cost for providing the pharmacist clinical or
14 dispensing services.

15 G. The pharmacy benefits manager shall provide a dedicated
16 telephone number, email address and names of the personnel with
17 decision-making authority regarding MAC appeals and pricing.

18 SECTION 19. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 360.1 of Title 59, unless there
20 is created a duplication in numbering, reads as follows:

21 A. If a disaster declaration is issued for a county in this
22 state, the time period for a provider, a provider's representative,
23 or a pharmacy service administrative organization to file a below-
24 cost reimbursement appeal pursuant to Section 360 of Title 59 of the

1 Oklahoma Statutes shall be tolled for the duration of the disaster
2 declaration.

3 B. Upon the expiration of the disaster declaration, the tolling
4 of the filing period for below-cost reimbursement appeals shall
5 continue for an additional thirty (30) calendar days. Afterward,
6 the time period for filing a below-cost reimbursement appeal, as
7 otherwise provided under state law, shall resume.

8 C. The tolling provisions of this section shall apply only to
9 continuing counties included in the declared disaster area and to
10 below-cost reimbursement appeals arising from claims impacted during
11 the time period of the declared disaster.

12 D. A pharmacy benefits manager (PBM) shall not deny a below-
13 cost reimbursement appeal on timeliness if such appeal is filed
14 during the tolled period provided in this section.

15 E. The Attorney General may promulgate rules to implement the
16 provisions of this act.

17 SECTION 20. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

Passed the Senate the 25th day of March, 2025.

Presiding Officer of the Senate

Passed the House of Representatives the _____ day of _____,
2025.

Presiding Officer of the House
of Representatives