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State Action on Pharmacy Benefit Managers (PBMs) to Address Prescription Drug Pricing

This toolkit is a resource for policymakers interested in strategies to address prescription drug prices through pharmacy benefit manager (PBM) regulation and oversight. This toolkit includes legislative tracking and analysis resources from NASHP as well as state legislation and policy reports.

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NATIONAL ACADEMY
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State Legislative Action

Regulating PBMs is a legislative priority for states to lower prescription drug costs. Between 2017 and 2023, laws regulating PBMs accounted for more than half of all enacted prescription drug legislation. All 50 states have enacted at least one law on PBMs since 2016, accounting for more than 150 laws in total.

[State Laws Passed to Lower Prescription Drug Costs: 2017–2023](#)

States have pursued PBM regulation and oversight with a wide variety of legislative approaches. NASHP's state legislative tracker for enacted laws summarizes and provides links to more than 150 PBM-related laws, browsable by state and year after filtering for "Pharmacy Benefit Manager."

[Major Provisions in State PBM Laws](#)

This PBM data visualization highlights common provisions in state PBM legislation by frequency of enacted provisions. Key provisions include those extending protections to consumers, pharmacies, and state and commercial payers that contract with PBMs. A companion table includes additional detail on provisions by state.

[A Five-Year Look Back at Themes in State Regulation of PBMs](#)

Between 2017 and 2021, three distinct waves emerged as to how states were regulating PBMs: consumer oversight and protection at the point of sale, negotiating and improving PBM-pharmacy contracts, and increased state regulation after the Supreme Court decision *Rutledge vs. PCMA*. A 2021 NASHP blog article categorizes and discusses these approaches across state legislation.

[PBM Bills](#)

Legislative momentum around PBM regulation continues. As of late June 2023, 43 states have introduced a total of 137 bills on PBMs during the 2023 legislative sessions. NASHP's 2023 legislative session tracker on prescription drug cost legislation offers bill summaries and status updates, which are browsable by state and year after filtering for "Pharmacy Benefit Manager."

State Oversight of PBMs

Legislation and state policy have empowered state executive offices to increase their oversight of PBMs. As of June 2023, 15 states have [transparency](#) or reporting requirements for PBMs: seven states have oversight as part of broader prescription drug pricing oversight programs and eight states specifically target PBMs for reporting. The following resources demonstrate what states are learning.

[Insights into the Impact of PBM Regulation](#)

This blog post presents key findings from 2021 and 2022 reports from Maine, Washington, and Oregon on their drug price transparency programs. Maine and Washington in particular offer two key examples of how drug price transparency programs can help states monitor PBM action.



State Example: Maine

In 2019, Maine passed legislation that requires PBMs to pass rebates on to consumers at the point of sale or for carriers to use retained rebates to lower premium costs. In its recent Drug Transparency Reports — which use data reported by pharmaceutical manufacturers, wholesale drug distributors, and PBMs — Maine found that PBMs retained a lower percentage of payments from payers after the law went into place as compared to before. Additionally, payers more accurately reported costs associated with compensating their PBM after the law and its provisions on medical-loss ration calculations went into effect.

[An Act to Protect Consumers from Unfair Practices Related to Pharmacy Benefits Management](#)

Explore Maine's legislation requiring PBMs to pass rebates on to consumers at the point of sale or for carriers to use retained rebates to lower premium costs.

[2022 Prescription Drug Transparency Report](#)

Check out this 2022 report from the Maine Health Data Organization.

[2021 Prescription Drug Transparency Report](#)

Check out this 2021 report from the Maine Health Data Organization.

[2020 Prescription Drug Transparency Report](#)

Check out this 2020 report from the Maine Health Data Organization.



State Example: Washington

Washington's prescription drug price transparency program focuses on connecting high prices and price increases to consumer affordability and insurance premiums. Effective in 2019, Washington law requires that PBMs report annual data to the state for analysis, which the state uses to identify areas for improvement. Washington's most recent report on this data finds that PBMs continue to engage in spread pricing and that although pharmacies frequently appeal PBM reimbursement rates (as they are empowered to do under a [2014 state law](#)), with an average of 145 appeals per day between 2018 and 2020, 99.3 percent of these appeals were denied by PBMs.

[Revised Code of Washington: Prescription Drug Costs](#)

Read Washington's law requiring that PBMs report annual data to the state for analysis.

[Drug Price Transparency Program Annual Report 2023](#)

Check out Washington's most recent drug price transparency program annual report, which includes data on PBMs.

Data Reported to States Directly by PBMs

Some states do not produce their own analyses of aggregate reports from PBMs and other pharmaceutical reporting entities but instead publish the reports they receive from PBMs directly to their websites. Iowa and Louisiana are examples of states that share this data from PBMs.

[Iowa's Insurance Division PBM Annual Reports](#)

Explore Iowa PBM annual reports from 2020–2023.

[Louisiana's Department of Insurance PBM Annual Transparency Reporting](#)

Check out Louisiana's annual PBM reporting, with data from 2020–2023.

Medicaid PBM Oversight

Some state Medicaid programs have taken administrative action on PBMs that does not require legislation, while others have used legislation. Several related Medicaid strategies have emerged, including carving pharmacy benefits out from MCO contracts to enable increased oversight, selecting a single PBM to contract with Medicaid across MCOs, and requiring more transparent contracts with PBMs that include passing through rebates and prohibit spread pricing.

[States Assert their Drug Purchasing Power to Capture Savings for Medicaid](#)

This blog post provides a detailed explanation of how Ohio, Washington, and West Virginia have implemented innovative purchasing strategies for their Medicaid pharmacy purchases.

[State Strategies to Lower Drug Prices: New Legislative and Medicaid Models](#)

This brief provides an overview of policy models that states are advancing and refining to lower drug prices, including Medicaid strategies such as stronger contracting with PBMs.

Pharmacy Benefit Carve Outs

A [2022 Kaiser Family Foundation report](#) on results from the Foundation's annual Medicaid budget survey found that several states (California, Missouri, North Dakota, Ohio, New York, Tennessee, Wisconsin, West Virginia) have recently pursued "carving out" pharmacy benefits from MCO contracts. West Virginia, for example, now acts as its own PBM under a fee-for-service model and reported saving \$54.5 million in 2018. California carved out benefits in 2022, anticipating millions in savings.

[Actuarial Assessment of the SFY18 Impact of Carving out Prescription Drugs from Managed Care for West Virginia's Medicaid Program \(2019\)](#)

This report assesses the potential savings that have been achieved during SFY18 (July 1, 2017 – June 30, 2018) due to the carve-out of prescription drug services from West Virginia's Medicaid managed care program.

[Analysis of the Carve Out of Medi-Cal Pharmacy Services from Managed Care \(2019\)](#)

This report analyzes efforts to transition the pharmacy services benefit in Medi-Cal, the state's largest low-income health care program, from managed care to entirely a fee-for-service benefit directly paid for and administered by the state.

Single PBM

After a 2019 report exposed the prevalence of spread pricing — a practice in which PBMs charge payers more for a prescription than they pay out to pharmacies while retaining the “spread” as profit — Kentucky passed legislation during its 2020 legislative session that empowered the state Department of Medicaid Services to select and contract with a single PBM to serve all state Medicaid MCOs. Kentucky began contracting with a single PBM for its managed care population in 2021.

Medicaid Pharmacy Pricing

This report was prepared in response to Kentucky Senate Bill 5, an act related to pharmacy benefits in the Medicaid program.

An Act Relating to Pharmacy Benefits in the Medicaid Program

This legislation empowers the Kentucky Department of Medicaid Services to select and contract with a single PBM to serve all state Medicaid MCOs.

Transparent PBM Contracts

A 2018 auditor’s report in Ohio found that PBMs retained \$224.8 million in profits through spread pricing. Ohio passed legislation requiring Medicaid MCOs to adopt transparent payment models with their PBMs as part of its fiscal year 2020–2021 operating budget.

Auditor’s Report: Pharmacy Benefit Managers

This report found that Ohio’s PBMs charged the state a “spread” of more than 31 percent for generic drugs – nearly four times as much as the previously reported average spread across all drugs.

House Bill 166

Ohio’s legislation requires Medicaid MCOs to adopt transparent payment models with their PBMs as part of its fiscal year 2020–2021 operating budget.

