2/11/26 Alert 2026-03

Employee Benefits Compliance

On the Horizon: Federal PBM Reforms Under the Consolidated Appropriations Act of 2026

Introduction

On February 3, 2026, President Trump signed into law the Consolidated Appropriations Act of 2026 (CAA 2026), which includes sweeping federal reforms governing pharmacy benefit managers (PBMs) and reshapes oversight of prescription drug benefits under employer-sponsored group health plans. The legislation addresses longstanding concerns around the lack of transparency in PBM operations and compensation, while reinforcing the importance of robust plan oversight and fiduciary governance, particularly for ERISA covered plans. Although the PBM reforms will not take effect until plan years beginning on or after 30 months from February 3, 2026 (for calendar year plans, January 1, 2029), the legislation reflects a clear policy direction, and employers should anticipate changes to PBM contracts, reporting, and oversight responsibilities.

Separately, the Department of Labor also recently issued a proposed rule that expands PBM disclosure requirements and is expected to have a more near-term effective date (see Alert 2026-02). Several of the PBM transparency requirements in that proposed rule overlap with a number of the CAA 2026 reforms covered here. This is not uncommon when both Congress and the executive branch (e.g., the agencies) address the same policy issues and is typically resolved through subsequent rulemaking. We expect that to be the case here and will continue to monitor these developments.

The Case for PBM Reform

As intermediaries among group health plans, pharmacies, and pharmaceutical manufacturers, PBMs negotiate prescription drug pricing and rebates, design formularies, and establish pharmacy networks. Over time, concerns have arisen over complex and opaque PBM compensation arrangements, arguably making it difficult for plan sponsors to truly understand prescription drug costs, ensure PBM incentives are aligned with plan interests, and comply with fiduciary obligations. While many states have enacted PBM laws, the CAA 2026 establishes a uniform federal framework addressing these concerns.

PBM Reforms for All Group Health Plans

Eliminating Contractual Restrictions and Disclosure Barriers

A central component of the CAA 2026 reforms is the prohibition on PBM contract provisions that restrict, condition, or delay a plan sponsor's access to material information regarding prescription drug pricing and PBM compensation. These requirements go beyond existing "gag clause" prohibitions (see Alert 2023-02) to ensure plan sponsors can obtain timely and meaningful data necessary to evaluate PBM performance, including:

- Prescription drug utilization patterns
- Amounts charged to the plan versus amounts paid to pharmacies
- Manufacturer rebates, fees, and other forms of PBM compensation

This new framework allows for more informed decision-making, drives cost-management strategies, and supports fiduciary oversight of pharmacy benefits.

Employer Takeaway: Plan sponsors should begin to review their PBM contracts to ensure PBMs will adhere to all relevant regulations and respond promptly to participant requests for individual claims data. Contracts should not be entered into or renewed unless the PBM commits to providing all information needed for federal reporting.

Expanded PBM Reporting Obligations

In addition to removing contractual barriers to information, the CAA 2026 establishes two new, standardized reporting requirements for PBMs:

Drug-Level Reporting

This reporting requirement is required for large self-funded employers (those with 100 or more employees), and provides granular drug-level data to support detailed analysis, benchmarking, and oversight of PBM practices, including:

- Total net spending by the plan and out-of-pocket costs by participants
- All compensation paid by the plan to the PBM and by the PBM to pharmacies (including spread amounts)
- Total rebates, fees, and other remuneration received by the plan and PBM
- Dispensing channel (retail, mail order or specialty pharmacy)
- Brand/generic status along with benchmark price

- Total payments from drug manufacturers to participants (e.g., copay assistance)
- Description of formulary tiers and utilization management by therapeutic class
- Information on affiliated pharmacies, including plan design steerage, prices compared to non-affiliates, and net acquisition costs

This reporting is due every six months (or quarterly upon request). Large fully insured plan sponsors may also opt in annually to receive this reporting.

Plan-Level Reporting

All group health plans must receive plan-level reporting that includes prescription drug utilization and cost data, along with a detailed accounting of rebates, fees, and other compensation associated with covered drugs (e.g., compensation to brokerage firms for referrals). PBMs are also required to provide:

- Plan-level summary: A consolidated summary for the plan that includes data from the drug-level reports and any additional information federal regulators consider helpful for evaluating PBMs (such as claim costs, fee arrangements, or reimbursement methods).
- Participant-facing summary: An aggregate report that plans can share with participants upon request.

Employer Takeaway: These requirements are designed to make pharmacy benefits easier to evaluate and benchmark across vendors, but they also reinforce the need for robust oversight and, for ERISA plans, prudent fiduciary practices.

Annual Notice Requirement

In addition to the expanded PBM reporting, plan sponsors must provide a written notice to participants explaining that the PBM is required to submit standardized reports on prescription drug costs, rebates, and related compensation. The notice must also inform participants of their rights to access the summary reporting information and, upon request, more detailed data. While PBMs provide the underlying data to the plan, the responsibility for distributing the annual notice rests with the plan sponsor. Regulators are expected to issue a template annual notice, which plan sponsors can incorporate into plan documents or furnish as a separate, stand-alone notice.

Reporting and Disclosure Penalties

The CAA 2026 imposes significant penalties on PBMs, insurers and plan sponsors that fail to comply with the new reporting and disclosure requirements. Key monetary penalties include:

- $10,000 per day for failing to provide required reports or disclosures

- Up to $100,000 per item for knowingly submitting false or misleading information

Regulators may waive or adjust penalties for entities demonstrating a good-faith effort to comply, but the severity of these penalties underscores the importance of ensuring PBMs meet their reporting obligations.

Employer Takeaway: Plan sponsors will need to review PBM contracts to confirm reporting requirements, monitor the accuracy and timeliness of PBM reports, and conduct audits when appropriate.

PBM Reforms Specific to ERISA Plans

While many of the CAA 2026 PBM reforms broadly apply to all group health plans, certain requirements are specific to ERISA-covered plans, including both fully insured and self-funded arrangements. These targeted provisions address full pass-through of rebates, PBM compensation disclosures, and the obligation to conduct an annual audit.

Changes to PBM Compensation and Rebate Practices

A key feature of the CAA 2026 PBM reforms is the transition to a pass-through compensation model. For ERISA-covered plans, PBMs will be required to remit the full value of rebates, fees, discounts, and other payments received from pharmaceutical manufacturers or third parties directly to the plan or insurer. This approach is intended to eliminate spread pricing and other opaque compensation arrangements, ensuring that financial benefits negotiated on behalf of the plan flow directly to the plan and its participants, thereby aligning PBM incentives with plan interests.

Compensation Disclosure

PBMs must fully disclose all forms of compensation received, including rebates, administrative fees, incentive payments, and any indirect or third-party payments. Disclosure must be provided to the plan fiduciary (generally, the plan sponsor) and must be sufficient to assess whether PBM fees and arrangements are reasonable, helping plan sponsors meet their ERISA fiduciary duties of prudence and loyalty.

Annual Audit Rights

Under the CAA 2026 PBM reforms, ERISA plans have the right to conduct an annual audit of PBM records related to rebates, fees, and other compensation. The audit must be performed by an auditor selected by the plan fiduciary, and the associated costs may not be paid by the PBM. This provision ensures independent oversight to verify proper remittance and disclosure of plan-related PBM funds.

Employer Takeaway: As transparency requirements expand, ERISA plan sponsors may face heightened expectations for PBM oversight. Increased access to pricing and compensation data may require fiduciaries to actively review PBM reports, evaluate prescription drug cost drivers, and document their decision-making processes. It will be essential to ensure fiduciary governance structures are robust and capable of handling these enhanced reporting obligations.

Action Items for Employer Plan Sponsors

While the CAA 2026 PBM reforms will not take effect until plan years beginning on or after 30 months from February 3, 2026 (for calendar year plans, January 1, 2029), plan sponsors should anticipate continued regulatory attention on PBM transparency and fiduciary oversight. Additional regulatory guidance may increase scrutiny of PBM arrangements even before the effective date of the CAA 2026 PBM reforms. Plan sponsors can begin preparing for these reforms now by:

- Reviewing existing PBM agreements to identify provisions that limit data access, restrict audit rights, or delay reporting
- Incorporating transparency and disclosure requirements into future PBM contracts, especially those extending into or beyond 2029
- Evaluating fiduciary governance practices to ensure processes are in place for reviewing PBM reports and documenting oversight activities
- Assessing internal and external resources needed to analyze prescription drug data and identify cost and utilization trends
- Monitoring regulatory developments related to PBM transparency, reporting obligations, and fiduciary enforcement

Conclusion

Federal PBM reforms under the CAA 2026 represent a significant shift in the regulation of prescription drug benefits for employer-sponsored group health plans. By enhancing transparency, standardizing reporting, and restructuring PBM compensation practices, the legislation provides plan sponsors greater visibility into prescription drug costs and stronger tools to oversee pharmacy benefit arrangements. Employers that begin planning now will be better positioned to navigate these changes and meet evolving fiduciary and regulatory expectations.

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