

December 6, 2024



Numi Griffith, JD
Senior Policy Advisor
Division of Financial Regulation
Oregon Department of Consumer & Business Services
Email: Numi.L.Griffith@Oregon.gov

Dear Ms. Griffith:

Thank you for the opportunity to participate in the HB4149 PBM Licensure Rulemaking Advisory Committee (RAC). We appreciate your consideration of our previous comments and the revisions made to proposed rules 836-200-001 through 836-200-440 which were discussed during the November 20 RAC meeting.

I represent Prime Therapeutics, a pharmacy benefit manager (PBM) owned by 19 not-for-profit Blue Cross and Blue Shield Insurers, subsidiaries or affiliates of those insurers. Prime Therapeutics is a trusted, truly transparent pharmacy solutions partner delivering savings, simplicity, and support to our customers (health plans, employers, and government programs including Medicare and Medicaid) and their members. Our purpose is to reimagine pharmacy solutions to provide the care we would want for our loved ones.

Attached are our feedback and comments on the November 20 version of the proposed rules for your consideration. Below is an explanation of the requested changes:

836-200-0418 Aggregated Rebate and Payment Reports

In response to the request of review the definition of “dispensing fee”, Prime proposes the following:

(5) For the purposes of this rule, “dispensing fee” means an amount paid to pharmacies to dispense prescription drugs to health plan enrollees, not to include administrative fees as defined in ORS 735.537(a).

In response to the request for a proposed definition of “pay-for-performance arrangements,” Prime unfortunately was unable to identify a definition for your consideration.

836-200-0440 Market Conduct Requirements for Pharmacy Benefit Managers

We request consideration of moving subsection (2) to be placed closer to current sections (6) and (7) for the sake of clarity. This will provide this exception language closer to the two subsections of the rule dealing with specialty drugs and specialty pharmacies.

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During the November 20 RAC meeting, we shared, and the pharmacists confirmed, that PBMs do not have access to pharmacy contracts with national or regional wholesalers nor do we have access to wholesaler pricing available to specific pharmacies.

We request the following change to subsection (8)(a) to ensure PBMs are not held accountable for unknowable information:

(8)(a) It the pharmacy benefit manager denies a pharmacy's appeal under this rule, it must provide the reason for the denial ~~and identify a national or regional wholesaler~~ and national drug code ~~where the~~ for a drug is generally available for purchase by similarly situated pharmacies at a price equal to or less than the maximum allowable costs for the drug."

Finally, we request (11)(f) be modified to not include "or conducting an unnecessary or unwarranted audit of a pharmacy" to be consistent with HB4149.

In lieu of removing reference to pharmacy audits in (11)(f), Prime provides the following for your consideration:

(12) Subsections (9) and (11) may not be construed to limit a pharmacy claim audit under ORS 735.540 to 735.552.

This additional language is requested for inclusion as pharmacy claim audits are permitted under Oregon statute.

Please contact me at (505) 206-1089 with any questions.

Prime looks forward to working with DCBS and other stakeholders on the proposed rules. We look forward to the December RAC meeting for further discussion.

Sincerely,



LuGina Mendez-Harper, PharmD, RPh
Pharmacist, State Government Affairs Principal

Attachment: HB 4149 Redline from 10-30 DRAFT 11-15-2024_PT Feedback

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