

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1993 Session of 2024

INTRODUCED BY BENHAM, GAYDOS, KENYATTA, BURGOS, HARKINS, DONAHUE, MADDEN, MAJOR, SANCHEZ, CERRATO, HILL-EVANS, D'ORSIE, CIRESI, GREEN, DALEY, MATZIE, SOLOMON, MIHALEK, ECKER, McNEILL, SCHLOSSBERG, PICKETT, PISCIOTTANO, WEBSTER, HOHENSTEIN, KRUEGER, BOROWSKI, NEILSON, FEE, KIM, KHAN, BERNSTINE, MENTZER, O'MARA, FLEMING, GROVE, MULLINS, KOSIEROWSKI, ISAACSON, HEFFLEY, OBERLANDER, ARMANINI, GREGORY, E. NELSON, STAATS, WAXMAN, STEELE, SALISBURY, KINKEAD, McANDREW, KAUFFMAN, GIRAL, DELOZIER, FRITZ, MUSTELLO, POWELL, D. WILLIAMS, HOGAN, CAUSER, FRIEL, SIEGEL, WARNER AND COOPER, APRIL 3, 2024

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 12, 2024

AN ACT

1 Amending the act of November 21, 2016 (P.L.1318, No.169),
2 entitled "An act providing for pharmacy audit procedures, for
3 registration of pharmacy benefits managers and auditing
4 entities, for maximum allowable cost transparency and for
5 prescription drugs reimbursed under the PACE and PACENET
6 program; and making related repeals," further providing for
7 title of act; in preliminary provisions, further providing
8 for short title and for definitions; in pharmacy audits,
9 further providing for limitations; and IN REGISTRATION, <--
10 FURTHER PROVIDING FOR PBM AND AUDITING ENTITY REGISTRATION;
11 providing for pharmacy benefits manager contract requirements
12 and prohibited acts-; IN PBM COST TRANSPARENCY REQUIREMENTS, <--
13 PROVIDING FOR TRANSPARENCY REPORT REQUIRED; AND, IN
14 ENFORCEMENTS, FURTHER PROVIDING FOR SCOPE OF ENFORCEMENT
15 AUTHORITY AND PROVIDING FOR REGULATIONS AND FOR CONSTRUCTION.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. The title and section 101 of the act of November
19 21, 2016 (P.L.1318, No.169), known as the Pharmacy Audit

1 Integrity and Transparency Act, are amended to read:

2 AN ACT

3 Providing for pharmacy audit procedures, for registration of  
4 pharmacy benefits managers and auditing entities, for maximum  
5 allowable cost transparency and for prescription drugs  
6 reimbursed under the PACE and PACENET program and for  
7 pharmacy benefit managers contract requirements and  
8 prohibited activities; and making related repeals.

9 Section 101. Short title.

10 This act shall be known and may be cited as the [Pharmacy  
11 Audit Integrity and Transparency] ~~Community Pharmacy Protection~~ <--  
12 PHARMACY BENEFIT REFORM Act. <--

13 ~~Section 2. Section 103 of the act is amended by adding~~ <--  
14 ~~definitions to read:~~

15 SECTION 2. THE DEFINITIONS OF "COVERED ENTITY" AND "HEALTH <--  
16 INSURANCE POLICY" IN SECTION 103 OF THE ACT ARE AMENDED AND THE  
17 SECTION IS AMENDED BY ADDING DEFINITIONS TO READ:

18 Section 103. Definitions.

19 The following words and phrases when used in this act shall  
20 have the meanings given to them in this section unless the  
21 context clearly indicates otherwise:

22 \* \* \*

23 "Brand effective rate." The reimbursement rate paid to the  
24 pharmacy based on a percentage of the average wholesale cost for  
25 brand-name drugs dispensed by the pharmacy under the contract  
26 with the pharmacy benefit manager.

27 \* \* \*

28 "COVERED ENTITY." A CONTRACT HOLDER OR POLICY HOLDER <--  
29 PROVIDING PHARMACY BENEFITS TO A COVERED INDIVIDUAL UNDER A  
30 HEALTH [INSURANCE POLICY] BENEFIT PLAN PURSUANT TO A CONTRACT

1 ADMINISTERED BY A PHARMACY BENEFIT MANAGER.

2 \* \* \*

3 "Effective rate contract." A contract that sets a specific  
4 discount rate for all prescriptions filled by a member pharmacy  
5 during the term of the contract.

6 \* \* \*

7 "Generic effective rate." The reimbursement rate paid to the  
8 pharmacy based on a percentage of the average wholesale cost for  
9 generic drugs dispensed by the pharmacy under the contract with  
10 the pharmacy benefit manager.

11 \* \* \*

12 ~~"Patient steering." One of the following:~~ <--

13 ~~(1) When a pharmacy benefit manager directs a patient to~~  
14 ~~use a preferred pharmacy through mandatory mail order~~  
15 ~~requirements or the creation by the PBM of a restricted~~  
16 ~~network that consists only of pharmacies approved by the PBM.~~

17 ~~(2) The use of co-pay differentials between PBM-~~  
18 ~~affiliated pharmacies and nonaffiliated pharmacies.~~

19 \* \* \*

20 ~~"Spread pricing." An act of a pharmacy benefit manager~~  
21 ~~reimbursing a pharmacy for a prescription and then billing an~~  
22 ~~insurer or an employer that provides health insurance at a~~  
23 ~~higher price for the same prescription.~~

24 "HEALTH BENEFIT PLAN." A POLICY, CONTRACT, CERTIFICATE OR <--  
25 AGREEMENT ENTERED INTO, OFFERED, ISSUED OR RENEWED BY A HEALTH  
26 INSURER TO PROVIDE, DELIVER, ARRANGE FOR, PAY FOR OR REIMBURSE  
27 ANY OF THE COSTS OF PHYSICAL, MENTAL OR BEHAVIORAL HEALTH CARE  
28 SERVICES. THE TERM DOES NOT INCLUDE MEDICARE SUPPLEMENT OR  
29 CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES  
30 (CHAMPUS) SUPPLEMENT INSURANCE.

1 \* \* \*

2 ["HEALTH INSURANCE POLICY." A POLICY, SUBSCRIBER CONTRACT,  
3 CERTIFICATE OR PLAN THAT PROVIDES PRESCRIPTION DRUG COVERAGE.  
4 THE TERM INCLUDES BOTH COMPREHENSIVE AND LIMITED BENEFIT HEALTH  
5 POLICIES.]

6 \* \* \*

7 "LICENSEE." AN ENTITY SUBJECT TO OVERSIGHT OF THE DEPARTMENT  
8 UNDER THIS ACT. THE TERM INCLUDES:

- 9 (1) AN AUDITING ENTITY.  
10 (2) A HEALTH INSURER.  
11 (3) A PHARMACY BENEFIT MANAGER.

12 \* \* \*

13 "MONETARY ADVANTAGE OR PENALTY." AN INCENTIVE OR DETERRENT  
14 IMPOSED UNDER A HEALTH BENEFIT PLAN THAT AFFECTS A BENEFICIARY'S  
15 CHOICE OF PHARMACY. THE TERM INCLUDES, BUT IS NOT LIMITED TO, A  
16 HIGHER COPAYMENT, A WAIVER OF A COPAYMENT, A REDUCTION IN  
17 REIMBURSEMENT FOR SERVICES, A REQUIREMENT OR LIMIT ON THE NUMBER  
18 OF DAYS OF A DRUG SUPPLY FOR WHICH REIMBURSEMENT WILL BE ALLOWED  
19 OR A PROMOTION OF ONE PARTICIPATING PHARMACY OVER ANOTHER BY  
20 THESE METHODS.

21 \* \* \*

22 "SPREAD PRICING." A MODEL OF PRESCRIPTION DRUG PRICING IN  
23 WHICH THE PBM CHARGES A HEALTH BENEFIT PLAN OR HEALTH INSURER A  
24 CONTRACTED PRICE FOR PRESCRIPTION DRUGS AND THE CONTRACTED PRICE  
25 FOR THE PRESCRIPTION DRUGS DIFFERS FROM THE AMOUNT THE PBM  
26 DIRECTLY OR INDIRECTLY PAYS THE PHARMACIST OR PHARMACY FOR  
27 PRESCRIPTION DRUGS AND RELATED PHARMACIST SERVICES.

28 Section 3. Section 303 of the act is amended by adding a  
29 subsection to read:

30 Section 303. Limitations.

1 \* \* \*

2 (c) ~~Scrivener error. A scrivener~~ SCRIVENER'S ERROR.--A <--  
3 SCRIVENER'S error made by a pharmacy not attributed to fraud,  
4 waste or abuse that is discovered during an audit of the  
5 pharmacy by the PBM shall result in the PBM recouping the  
6 dispensing fee for that particular transaction, not the entire  
7 amount of FOR the medication received by the patient. <--

8 SECTION 4. SECTION 501(B) (3) OF THE ACT IS AMENDED TO READ: <--  
9 SECTION 501. PBM AND AUDITING ENTITY REGISTRATION.

10 \* \* \*

11 (B) TERM AND FEE.--

12 \* \* \*

13 (3) THE AMOUNT OF THE INITIAL APPLICATION FEE AND  
14 RENEWAL APPLICATION FEE SHALL BE SUFFICIENT TO FUND THE  
15 DEPARTMENT'S DUTIES IN RELATION TO ITS RESPONSIBILITIES UNDER  
16 THIS CHAPTER BUT MAY NOT EXCEED [~~\$1,000~~] \$10,000.

17 \* \* \*

18 Section ~~4~~ 5. The act is amended by adding a chapter to read: <--

19 CHAPTER 6  
20 PHARMACY BENEFITS MANAGER CONTRACT  
21 REQUIREMENTS AND PROHIBITED ACTS

22 Section 601. Contract provisions.

23 A contract between a ~~pharmacy benefit manager~~ PBM or a <--  
24 designee of the ~~pharmacy benefit manager~~ PBM and a pharmacy may <--  
25 not:

26 (1) Require participation in the PBM's network  
27 contingent on the pharmacy signing either an effective rate  
28 contract or a contract based on the National Average Drug  
29 Acquisition Cost guidelines.

30 (2) Include provisions allowing for retroactive

1 recoupment of money paid to a pharmacy by the PBM, unless  
2 both parties agree to that provision.

3 (3) Base reimbursement upon general effective rate or  
4 the brand effective rate as a condition of entering a  
5 network, unless both parties agree to that provision. Any  
6 additional fees must be disclosed and applied at the time of  
7 the adjudication of the claim. Fees may include:

8 (i) Transaction fees.

9 (ii) Chargebacks due to recalculation of the cost of  
10 the ingredients used in a prescription drug.

11 (iii) Adjustments in the general effective rate,  
12 brand effective rates or direct and indirect remuneration  
13 fees made by the PBM.

14 Section 602. Spread pricing participation prohibited. <--

15 A pharmacy benefit manager may not conduct or participate in <--  
16 spread pricing.

17 Section 603. Patient steering prohibited.

18 A pharmacy benefit manager may not conduct or participate in  
19 patient steering.

20 Section 604. Duties of the department.

21 The department shall:

22 (1) Develop a process for receiving, hearing and  
23 resolving complaints a pharmacy filed against a PBM.

24 (2) Have the ability to set fixed amounts for PBM claim  
25 processing fees and administrative fees.

26 (3) Develop a Statewide National Average Drug  
27 Acquisition Cost guideline that uses wholesale pricing based  
28 on manufacturer's invoices of those manufacturers who ship  
29 drugs to this Commonwealth.

30 Section 605. Duties of pharmacy benefit managers.

~~Pharmacy benefit managers shall:~~

~~(1) Approve a request from a pharmacy to be a member of the PBM's network within 30 days of the initial request to join the network.~~

~~(2) Provide a dedicated telephone number and email address for handling network admission requests.~~

~~Section 606. PBM for State Employee Health Plan.~~

~~A PBM hired for the State Employee Health Plan shall have a transparent reimbursement methodology based on the National Average Drug Acquisition Cost guidelines developed under section 604(3) and a dispensing fee equal to or greater than the maximum prevailing fee for service or PACE rate in this Commonwealth.~~

~~Section 607. Reports by PBM.~~

~~A PBM shall report to the department the amount of rebates and payments received from drug manufacturers and how the rebates and payments were distributed by the PBM.~~

~~A HEALTH BENEFIT PLAN, HEALTH INSURER OR PBM CONTRACTING WITH <--  
A HEALTH BENEFIT PLAN OR HEALTH INSURER MAY NOT UTILIZE ANY FORM  
OF SPREAD PRICING IN THIS COMMONWEALTH.~~

~~SECTION 603. PATIENT STEERING PROHIBITED.~~

~~A HEALTH BENEFIT PLAN, HEALTH INSURER OR PBM CONTRACTING WITH  
A HEALTH BENEFIT PLAN OR HEALTH INSURER MAY NOT:~~

~~(1) REQUIRE A COVERED INDIVIDUAL, AS A CONDITION OF  
PAYMENT OR REIMBURSEMENT, TO PURCHASE PHARMACIST SERVICES,  
INCLUDING, BUT NOT LIMITED TO, PRESCRIPTION DRUGS,  
EXCLUSIVELY THROUGH A MAIL-ORDER PHARMACY OR PBM AFFILIATE.~~

~~(2) PROHIBIT OR LIMIT ANY COVERED INDIVIDUAL FROM  
SELECTING AN IN-NETWORK PHARMACY OR IN-NETWORK PHARMACIST OF  
THE COVERED INDIVIDUAL'S CHOICE WHO MEETS AND AGREES TO THE~~

1 TERMS AND CONDITIONS, INCLUDING REIMBURSEMENTS, IN THE PBM'S  
2 CONTRACT.

3 (3) IMPOSE A MONETARY ADVANTAGE OR PENALTY UNDER A  
4 HEALTH BENEFIT PLAN THAT AFFECTS A COVERED INDIVIDUAL'S  
5 CHOICE OF PHARMACY AMONG THOSE PHARMACIES THAT HAVE CHOSEN TO  
6 CONTRACT WITH THE PBM UNDER THE SAME TERMS AND CONDITIONS,  
7 INCLUDING REIMBURSEMENTS.

8 (4) USE A COVERED INDIVIDUAL'S PHARMACY SERVICES DATA  
9 COLLECTED UNDER CLAIMS PROCESSING SERVICES FOR THE PURPOSE OF  
10 SOLICITING, MARKETING OR REFERRING THE COVERED INDIVIDUAL TO  
11 A MAIL-ORDER PHARMACY OR PBM AFFILIATE, EXCEPT THAT A HEALTH  
12 BENEFIT PLAN OR HEALTH INSURER MAY USE PHARMACY SERVICES DATA  
13 FOR THE PURPOSE OF ADMINISTERING THE HEALTH BENEFIT PLAN.

14 SECTION 604. CLAWBACKS PROHIBITED.

15 (A) GENERAL RULE.--A HEALTH BENEFIT PLAN, HEALTH INSURER OR  
16 PBM CONTRACTING WITH A HEALTH BENEFIT PLAN OR HEALTH INSURER MAY  
17 NOT REQUIRE COST-SHARING IN AN AMOUNT OR DIRECT A PHARMACY TO  
18 COLLECT COST-SHARING IN AN AMOUNT, GREATER THAN THE LESSER OF  
19 EITHER OF THE FOLLOWING FROM AN INDIVIDUAL PURCHASING A  
20 PRESCRIPTION DRUG:

21 (1) THE AMOUNT AN INDIVIDUAL WOULD PAY FOR THE  
22 PRESCRIPTION DRUG IF THE PRESCRIPTION DRUG WERE TO BE  
23 PURCHASED WITHOUT COVERAGE UNDER A HEALTH BENEFIT PLAN.

24 (2) THE NET REIMBURSEMENT PAID TO THE PHARMACY FOR THE  
25 PRESCRIPTION DRUG BY THE HEALTH INSURER OR PBM.

26 (B) DUTY WHEN FILLING A PRESCRIPTION.--WHEN FILLING A  
27 PRESCRIPTION, IF A PHARMACIST, PHARMACY INTERN OR TECHNICIAN  
28 DETERMINES THAT INFORMATION INDICATING THAT THE COST-SHARING  
29 AMOUNT REQUIRED BY THE PATIENT'S HEALTH BENEFIT PLAN EXCEEDS THE  
30 AMOUNT THAT MAY OTHERWISE BE CHARGED FOR THE SAME PRESCRIPTION



1 DRUG, BOTH OF THE FOLLOWING SHALL APPLY:

2 (1) THE PHARMACIST, PHARMACY INTERN OR TECHNICIAN SHALL  
3 NOTIFY THE PATIENT.

4 (2) THE PATIENT MAY NOT BE CHARGED THE HIGHER AMOUNT.

5 SECTION 605. NETWORK ADEQUACY.

6 (A) GENERAL RULE.--A PBM SHALL ESTABLISH A REASONABLY  
7 ADEQUATE AND ACCESSIBLE PBM NETWORK FOR THE PROVISION OF  
8 PRESCRIPTION DRUGS UNDER A HEALTH BENEFIT PLAN THAT SHALL  
9 PROVIDE FOR CONVENIENT PATIENT ACCESS TO PHARMACIES WITHIN A  
10 REASONABLE DISTANCE FROM A PATIENT'S RESIDENCE IN ACCORDANCE  
11 WITH THE FOLLOWING REQUIREMENTS:

12 (1) A MAIL-ORDER PHARMACY SHALL NOT BE INCLUDED IN THE  
13 CALCULATIONS DETERMINING PBM NETWORK ADEQUACY.

14 (2) THE NETWORK MAY NOT BE LIMITED TO AFFILIATED  
15 PHARMACIES ONLY.

16 (3) THE NETWORK SHALL MEET OR EXCEED THE REQUIREMENTS OF  
17 42 CFR 423.120(A) (1) (RELATING TO ACCESS TO COVERED PART D  
18 DRUGS) OR SUCCESSOR REGULATION.

19 (B) REPORT REQUIREMENT.--BEGINNING APRIL 1, 2026, AND  
20 ANNUALLY THEREAFTER, A PBM SHALL FILE WITH THE DEPARTMENT A  
21 NETWORK ADEQUACY REPORT DESCRIBING THE PBM NETWORK AND THE PBM  
22 NETWORK'S ACCESSIBILITY IN THIS COMMONWEALTH ON A FORM  
23 PRESCRIBED BY THE DEPARTMENT, WHICH SHALL BE POSTED ON THE  
24 DEPARTMENT'S PUBLICLY ACCESSIBLE INTERNET WEBSITE.

25 SECTION 606. REGULATIONS.

26 THE DEPARTMENT MAY PROMULGATE REGULATIONS AS NECESSARY AND  
27 APPROPRIATE TO CARRY OUT THIS CHAPTER.

28 SECTION 607. APPLICABILITY.

29 IF A CONTRACT IS IN EFFECT ON THE EFFECTIVE DATE OF THIS  
30 SECTION THAT CONFLICTS WITH THIS CHAPTER, THE PROVISION OF THIS

1 CHAPTER SHALL NOT APPLY UNTIL THE DATE THE CONTRACT IS AMENDED,  
2 EXTENDED OR RENEWED.

3 SECTION 6. THE ACT IS AMENDED BY ADDING A SECTION TO READ:  
4 SECTION 703.1. TRANSPARENCY REPORT REQUIRED.

5 (A) GENERAL RULE.--BEGINNING JULY 1, 2026, AND ANNUALLY  
6 THEREAFTER, EACH LICENSED PBM SHALL SUBMIT A TRANSPARENCY REPORT  
7 CONTAINING DATA FROM THE PRIOR CALENDAR YEAR TO THE DEPARTMENT.  
8 THE TRANSPARENCY REPORT SHALL CONTAIN THE FOLLOWING INFORMATION:

9 (1) THE AGGREGATE AMOUNT OF ALL REBATES THAT THE PBM  
10 RECEIVED FROM ALL PHARMACEUTICAL MANUFACTURERS FOR ALL HEALTH  
11 BENEFIT PLAN AND HEALTH INSURER CLIENTS AND FOR EACH HEALTH  
12 BENEFIT PLAN OR HEALTH INSURER CLIENT.

13 (2) THE AGGREGATE ADMINISTRATIVE FEES THAT THE PBM  
14 RECEIVED FROM ALL MANUFACTURERS FOR ALL HEALTH BENEFIT PLAN  
15 AND HEALTH INSURER CLIENTS AND FOR EACH HEALTH BENEFIT PLAN  
16 OR HEALTH INSURER CLIENT.

17 (3) THE AGGREGATE RETAINED REBATES THAT THE PBM RECEIVED  
18 FROM ALL PHARMACEUTICAL MANUFACTURERS AND DID NOT PASS  
19 THROUGH TO HEALTH BENEFIT PLAN OR HEALTH INSURER CLIENTS.

20 (4) THE HIGHEST, LOWEST AND MEAN AGGREGATE RETAINED  
21 REBATE PERCENTAGE FOR ALL HEALTH BENEFIT PLAN OR HEALTH  
22 INSURER CLIENTS AND FOR EACH HEALTH BENEFIT PLAN OR HEALTH  
23 INSURER CLIENT.

24 (5) FOR A PBM THAT CONTROLS OR IS AFFILIATED WITH A  
25 PHARMACY, A DESCRIPTION OF ANY DIFFERENCES BETWEEN WHAT THE  
26 PBM REIMBURSES OR CHARGES AFFILIATED AND NONAFFILIATED  
27 PHARMACIES.

28 (B) PUBLICATION.--WITHIN 60 DAYS OF RECEIPT, THE DEPARTMENT  
29 SHALL PUBLISH THE TRANSPARENCY REPORT UNDER THIS SECTION ON THE  
30 DEPARTMENT'S PUBLICLY ACCESSIBLE INTERNET WEBSITE IN A FORM THAT

1 DOES NOT DISCLOSE THE IDENTITY OF A SPECIFIC HEALTH BENEFIT PLAN  
2 OR HEALTH INSURER, THE PRICES CHARGED FOR SPECIFIC DRUGS OR  
3 CLASSES OF DRUGS OR THE AMOUNT OF ANY REBATES PROVIDED FOR  
4 SPECIFIC DRUGS OR CLASSES OF DRUGS.

5 (C) ADDITIONAL CATEGORIES.--THE DEPARTMENT MAY, BY  
6 REGULATION, DIRECT PBMS TO INCLUDE ADDITIONAL CATEGORIES FOR  
7 AGGREGATED DATA FROM HEALTH BENEFIT PLAN OR HEALTH INSURER  
8 CLIENTS IN THE ANNUAL TRANSPARENCY REPORT SUBMITTED UNDER THIS  
9 SECTION.

10 SECTION 7. SECTION 901 OF THE ACT IS AMENDED TO READ:

11 SECTION 901. SCOPE OF ENFORCEMENT AUTHORITY.

12 (A) SCOPE.--THE DEPARTMENT MAY INVESTIGATE AND ENFORCE THE  
13 PROVISIONS OF THIS ACT ONLY INSOFAR AS THE ACTIONS OR INACTIONS  
14 BEING INVESTIGATED RELATE TO PRESCRIPTION DRUG COVERAGE UNDER A  
15 HEALTH [INSURANCE POLICY] BENEFIT PLAN.

16 [(B) REMEDY.--ACTIONS OR INACTIONS WITHIN THE SCOPE OF THE  
17 DEPARTMENT'S INVESTIGATIVE AND ENFORCEMENT AUTHORITY UNDER  
18 SUBSECTION (A) FOUND TO VIOLATE THIS ACT CONSTITUTE "UNFAIR  
19 METHODS OF COMPETITION" AND "UNFAIR OR DECEPTIVE ACTS OR  
20 PRACTICES" WITHIN THE MEANING OF SECTION 5 OF THE ACT OF JULY  
21 22, 1974 (P.L.589, NO.205), KNOWN AS THE UNFAIR INSURANCE  
22 PRACTICES ACT. A PROCEEDING UNDER THIS SECTION SHALL BE  
23 CONDUCTED IN ACCORDANCE WITH 2 PA.C.S. CH. 5 SUBCH. A (RELATING  
24 TO PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES).]

25 (B.1) EXAMINATION AND ACCESS TO RECORDS.--

26 (1) THE DEPARTMENT MAY ORDER A PBM, A HEALTH INSURER AND  
27 A PBM'S OR HEALTH INSURER'S AFFILIATES TO PRODUCE RECORDS,  
28 BOOKS OR OTHER INFORMATION AS REASONABLY NECESSARY TO  
29 ASCERTAIN COMPLIANCE WITH THIS ACT.

30 (2) THE DEPARTMENT MAY EXAMINE OR AUDIT THE BOOKS AND

1 RECORDS OF A PBM, A HEALTH INSURER AND A PBM'S OR HEALTH  
2 INSURER'S AFFILIATES TO ASCERTAIN COMPLIANCE WITH THIS ACT.  
3 THE EXAMINATION SHALL BE CONDUCTED IN ACCORDANCE WITH ARTICLE  
4 IX OF THE ACT OF MAY 17, 1921 (P.L.789, NO.285), KNOWN AS THE  
5 INSURANCE DEPARTMENT ACT OF 1921.

6 (C) PENALTIES.--UPON THE DETERMINATION, AFTER NOTICE AND  
7 HEARING, THAT THIS ACT HAS BEEN VIOLATED, THE COMMISSIONER MAY  
8 IMPOSE THE FOLLOWING PENALTIES:

9 (1) SUSPENSION OR REVOCATION OF THE LICENSEE'S LICENSE,  
10 AUTHORIZATION TO OPERATE OR REGISTRATION.

11 (2) REFUSAL TO ISSUE OR RENEW A LICENSE, AUTHORIZATION  
12 TO OPERATE OR REGISTRATION.

13 (3) A CEASE AND DESIST ORDER.

14 (4) ORDER REIMBURSEMENT TO AN INSURED, PHARMACY OR  
15 DISPENSER THAT HAS INCURRED A MONETARY LOSS AS A RESULT OF A  
16 VIOLATION OF THIS ACT.

17 (5) FOR EACH VIOLATION OF THIS ACT THAT A LICENSEE KNEW  
18 OR REASONABLY SHOULD HAVE KNOWN WAS A VIOLATION, A PENALTY OF  
19 NOT MORE THAN \$100,000, NOT TO EXCEED AN AGGREGATE PENALTY OF  
20 \$1,000,000 IN A SINGLE CALENDAR YEAR.

21 (6) FOR EACH VIOLATION OF THIS ACT THAT A LICENSEE DID  
22 NOT KNOW NOR REASONABLY SHOULD HAVE KNOWN WAS A VIOLATION, A  
23 PENALTY OF NOT MORE THAN \$50,000, NOT TO EXCEED AN AGGREGATE  
24 PENALTY OF \$500,000 IN A SINGLE CALENDAR YEAR.

25 SECTION 8. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

26 SECTION 902. REGULATIONS.

27 THE DEPARTMENT MAY PROMULGATE REGULATIONS AS NECESSARY AND  
28 APPROPRIATE TO CARRY OUT THIS CHAPTER.

29 SECTION 903. CONSTRUCTION.

30 NOTHING IN THIS ACT SHALL BE CONSTRUED TO APPLY TO THE

1 CONDUCT OF A PBM IN CONNECTION WITH A CONTRACT WITH A SELF-  
2 FUNDED GROUP HEALTH PLAN SUBJECT TO 29 U.S.C. CH. 18 (RELATING  
3 TO EMPLOYEE RETIREMENT INCOME SECURITY PROGRAM).

4 Section 5 9. This act shall take effect in 60 days.

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