

Further PBM regulations needed in Oregon after HB 3013 fails in legislature, OSPA says

By Shane Ersland | July 18, 2023

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The Oregon Legislature passed a bill this year that aims to help pharmacists overcome challenges they face in dealing with pharmacy benefit managers (PBMs), although the organization that represents them believes more can be done.

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PBMs act as [middle men](#), performing the administrative transaction of processing prescription claims between insurers and pharmacies. Pharmacists across the country have [voiced concerns](#) over PBM business practices for years, and many states have [recently passed](#) legislation to further regulate them.

Oregon lawmakers passed [House Bill 2725](#) last session, which prohibits PBMs from retroactively denying or reducing drug payments on claims after adjudication unless both the pharmacy and the PBM agree that payment was incorrect due to a clerical error. Oregon State Pharmacy Association (OSPA) Executive Director Brian Mayo told State of Reform that HB 2725 will help address [clawbacks](#), which are fees PBMs charge pharmacies after completing a sale.




“The good thing is it focuses on clawbacks and putting an end to that. They were able to include a staff person to help with enforcement. They will be watching the PBMs, and making sure they’re not (performing) clawbacks. [The practice] is bad here and pharmacists don’t have a way to skew it. The process has been that if a pharmacist has a (claim) appeal, you appeal with the PBM.”

— Mayo

Mayo was disappointed that lawmakers did not pass [HB 3013](#) this year, however, which would have imposed new requirements on PBMs and modified the procedure for pharmacies to appeal PBM payments on reimbursement claims. It also would have required PBMs to be licensed by the Department of Consumer and Business Services.

“It also protected against retaliation for pharmacies who file complaints against PBMs,” Mayo said.

An OSPA [report](#) released in 2022 showed that Oregon PBMs reimburse pharmacies at vastly different rates, and sometimes charge Medicare and Medicaid significantly high prices as well.



“Patient access issues are real, and they’ll now continue at a greater pace. While the mega-middlemen rake in the big bucks, patients are having a hard time finding care, and pharmacies are struggling to remain viable.”

— Mayo

PBMs have also been known to [steer patients](#) to their own specialty or mail-order pharmacies by requiring a higher copay if the patient obtains their medication from a non-affiliated pharmacy.

“We had provided information throughout the (legislative) process that plans did not go up when people used a local pharmacy as opposed to a mail-in one,” Mayo said. “The mail-order prescription isn’t necessarily cheaper.”

Mayo said Ohio’s work to regulate PBM business practices provides a good example for other states. The state [implemented a plan](#) for a single PBM to provide pharmacy services across all Ohio Medicaid managed care plans and members in 2022. There were [54 PBMs registered](#) in Oregon in January.

"I think Ohio has a good system in place because they've had so much investigation into what PBMs were doing wrong in the state. Ohio provides a roadmap with similar details of what we'd like to follow. Our attorney general ended up filing a lawsuit with one of the PBMs, as other states have done. But Ohio has gotten money back and revamped their system so they're not experiencing spread pricing and steering."

— Mayo

OSPA plans to advocate for HB 3013 again in 2024, Mayo said.

"We strongly encourage the legislature to revisit this proposal immediately in the 2024 assembly to provide relief and protect patient access to vital pharmacy services," he said. "We have to keep fighting for it."

Mayo fears that local pharmacies, particularly those in rural areas, will close in the meantime, however.

"Over the next months, we'll have more pharmacies close because HB 3013 didn't pass," he said. "Some are struggling to keep their doors open. The rural ones will hurt more than any of them. And the patient access issue will get worse over the next nine months."

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