



ARIZONA STATE SENATE
Fifty-Sixth Legislature, First Regular Session

REVISED
AMENDED

FACT SHEET FOR S.B. 1382

pharmacy benefit managers; certificate requirements

Purpose

Effective January 1, 2025, requires a pharmacy benefit manager (PBM) to apply for, obtain and maintain a valid certificate of authority (certificate) to operate as a PBM in Arizona and outlines certification requirements.

Background

A *pharmacy benefit manager* is a person, business or entity that, either directly or through an intermediary, manages the prescription drug coverage provided by a contracted insurer or other third party payor, including the processing and payment of claims for prescription drugs, the performance of drug utilization review, the processing of drug prior authorization requests, the adjudication of appeals or grievances related to prescription drug coverage, contracting with network pharmacies and controlling the cost of covered prescription drugs ([A.R.S. § 20-3321](#)).

PBMs are charged with: 1) updating the price and drug information for each list that the manager maintains; 2) making the sources used to determine maximum allowable cost pricing available to each network pharmacy at the beginning of a contract or upon renewal; 3) establishing a process for network pharmacies to appeal its reimbursement for any drug subject to maximum allowable cost pricing; and 4) allowing a pharmacy services organization that is contracted with the manager to file an appeal of a drug on behalf of the organization's contracted pharmacies ([A.R.S. § 20-3331](#)).

The Department of Insurance and Financial Institutions (DIFI) regulates and monitors insurance companies and professionals operating in Arizona to protect the public and help ensure that these entities follow Arizona and federal laws ([Ariz. Const. art. 15 § 5](#)). The Director of DIFI (Director) may conduct examinations and investigations of insurance matters, including examinations and investigations of adjusters, producers and brokers and any other applicable regulated persons, in addition to examinations and investigations expressly authorized, as the Director deems proper in determining whether a person has violated any insurance laws or for the purpose of securing information useful in the lawful administration of insurance ([A.R.S. § 20-142](#)).

The Joint Legislative Budget Committee assumes that DIFI would set a sufficient fee to cover the costs of administering PBM certification which would result in no impact to the state General Fund ([JLBC fiscal note](#)).

Provisions

Certificate

1. Requires a PBM to apply for, obtain and maintain a valid certificate to operate as a PBM in Arizona.
2. States that a certificate is renewable biennially and is nontransferable.
3. Requires a PBM that applies for a certificate to submit a Director-prescribed application form and pay a Director-prescribed application fee.
4. Requires an officer or individual who is responsible for the conduct of the activities of the PBM to sign the application and verify that the contents of the application and any attachments are correct.
5. Requires the application form to include:
 - a) a copy of all basic organizational documents of the PBM, including the articles of incorporation, bylaws, articles of association and trade name certificate, any other similar documents and all amendments to the documents;
 - b) a copy of a power of attorney that is duly executed by the PBM if the PBM is not domiciled in Arizona and that appoints a Director, the Director's successors in office and the Director's authorized deputies as the power of attorney for the PBM that may receive service of process;
 - c) the names, addresses, official positions and professional qualifications of each individual who is responsible for the conduct of the activities of the PBM;
 - d) the PBM's name, address and telephone number;
 - e) the name, address, telephone number, email address and official position of the employee who will serve as the primary contact for DIFI;
 - f) a signed certificate of good standing;
 - g) a description of the PBM and its services, facilities and personnel; and
 - h) a document in which the PBM confirms that its business practices and each ongoing Arizona contract comply with all Arizona laws.
6. Requires the Director, within 90 days after receipt of a completed application and application fee, to review the application and issue a certificate if the applicant is deemed qualified.
7. Requires the Director, if the Director determines that the PBM applicant is not qualified, to:
 - a) notify the applicant;
 - b) specify the reason for the denial; and
 - c) allow the applicant 60 days to remedy the stated reasons for the denial.
8. Requires the PBM, within 30 days after any material modification of the information submitted with the certificate application, to file a notice of modification with the Director.
9. Stipulates that, if a PBM's financial statements are prepared by an independent public accountant, a copy of the most recent regular financial statement satisfies the financial statements requirement unless the Director determines that additional or more recent financial information is necessary.

10. Allows the Director to refuse to issue a certificate if the Director determines that the PBM had a PBM certificate or license revoked for cause in another state.
11. Allows the Director to issue a cease and desist order if the PBM does not hold a valid certificate of authority.

Denial, Suspension or Revocation of the Certificate

12. Allows the Director to deny, suspend or revoke a PBM's certificate if the Director finds, after notice and opportunity for hearing, that:
 - a) the PBM violated any applicable Director rule or order or any Arizona law;
 - b) the PBM refused to be examined or produce its accounts, records and files for examination, or that any individual responsible for the conduct of the activities of the PBM refused to provide the respective information or to perform any other Director-required legal obligation.
 - c) the PBM has a certificate and fails at any time to meet any certificate qualifications, where the issuance of the certificate could have been refused had the failure existed at the time of issuance and been known to the Director, unless the Director issued a certificate with knowledge of the ground for disqualification and had the authority to waive it;
 - d) any individual who is responsible for the management of the PBM is convicted of or enters a plea of guilty or no contest to a felony related to the individual's activities on behalf of the PBM; or
 - e) the PBM's certificate or license has been revoked in another state.
13. Stipulates that, if a PBM's certificate is suspended or restricted, the Director may allow the operation of the PBM for a limited time, not to exceed 120 days.
14. Allows the Director to allow a PBM whose certificate has been suspended or restricted to operate for a period that exceeds 120 days if the Director determines that the continued operation of the PBM is in the beneficial interests of the covered persons by ensuring minimal disruptions to the continuity of care.
15. Subjects a PBM whose certificate has been suspended or restricted to the following civil penalties, as determined by the Director, until the PBM remedies the violation:
 - a) for an unintentional violation, not more than \$1,000 for each violation and not more than an aggregate of \$10,000 in any six-month period; and
 - b) for an intentional violation, not more than \$5,000 for each violation and not more than an aggregate of \$50,000 in any six-month period.
16. Allows the Director to revoke the certificate if the PBM has been operating under a suspended certificate for a period of more than 120 days.
17. Declares that a PBM has the same rights to notice and an administrative hearing as provided under statutory uniform administrative hearing procedures.
18. Allows the Director to investigate officers, directors and owners of a PBM to ensure compliance with PBM laws.

Renewal of a Certificate

19. Requires a PBM, in order to renew a certificate, to submit to the Director a:
 - a) renewal application in a Director-prescribed form and manner; and
 - b) renewal schedule and a Director-prescribed fee.
20. Requires an officer or authorized representative of the PBM to sign the application and verify that the contents of the renewal form are correct.
21. Stipulates that a PBM's certificate of authority expires by operation of law if a complete renewal application and fee is not received by the due date.
22. Stipulates that, if a PBM and an insurer enter into a contractual agreement, the PBM must comply with the laws and rules that govern the contract, starting from the issuance date of the certificate.
23. Requires a PBM to comply with the:
 - a) prescribed records retention schedules rule; and
 - b) duties and appeals processes of a utilization review agent.
24. Allows the Director to examine or review the relevant books and records of any PBM to determine if the PBM is in compliance with PBM requirements.
25. Specifies that all of the following apply to the information, records, books, documentation and other data that is obtained by DIFI during an examination or review:
 - a) the information that is considered and treated as proprietary and confidential;
 - b) the information that is not a public record and is exempt from public records requirements; and
 - c) the information that is to be used only for the purpose of ensuring a PBM's compliance.
26. Allows the Director to adopt rules to implement renewals of the certificate.

Records Retention

27. Requires the Director to establish a retention schedule for all records, books, documentation and other data on file with DIFI related to the records retention enforcement.
28. Prohibits the Director from ordering the destruction or other disposal of any record, book, document or other data that is:
 - a) required by law to be maintained;
 - b) kept on file with DIFI until 10 years have passed; and
 - c) filed during the Director's administration.
29. Becomes effective on January 1, 2025.

Amendments Adopted by Committee of the Whole

1. Removes the retail PBM network adequacy report requirements as well as the authority of the Director to audit a PBM's relevant books and records.

2. Allows the Director to examine or review the relevant books and records of any PBM to determine whether the PBM is in compliance with PBM laws.
3. Requires the PBM application form to include specified contact information and a signed certificate of good standing.
4. Requires the Director to review and issue certificates to qualified applicants within 90 days of receiving the application.
5. Requires the Director, if an applicant is deemed unqualified, to notify the applicant, specify the reason for the denial and allow the applicant 60 days to remedy the reasons for denial.
6. Removes the authority of the Director to refuse to issue a certificate if the Director determines that the PBM:
 - a) is not financially viable;
 - b) had a PBM certificate or license denied for cause in another state; or
 - c) had a license denied or revoked for any individual responsible for the conduct of the activities of the PBM in another state.
7. Removes the authority of the Director to deny, suspend or revoke the certificate of a PBM who refused to pay proper claims, perform contracted services or caused enrollees to accept less than they were otherwise entitled to, which may have resulted in the enrollee filing a lawsuit.
8. Subjects a PBM whose certificate has been suspended or restricted to specified civil penalties, rather than a fine.
9. Requires a PBM to comply with the duties and appeals processes of a utilization review agent.
10. Makes conforming changes.

Revisions

- Updates the fiscal impact statement.

Senate Action

HHS DPA 2/14/23 5-2-0

Prepared by Senate Research

March 16, 2023

MM/MC/slp