

## Pharmacy Benefit Manager (PBM) Licensure FAQ

### Scope of Licensing Requirements

---

- Q:** As a Third Party Administrator, my organization only provides services for the workers' compensation line of business. Our organization provides a full suite of services, including claims payment for prescription drugs; we also developed a formulary to save money for plan sponsors. Our organization does not work with plan sponsors providing group health coverage. Does our organization need to be licensed as a PBM in Minnesota?
- A:** Based on the information provided, this TPA needs to register as a PBM in Minnesota. Although the TPA works exclusively in workers' compensation, the scope of services it provides to plan sponsors fall under the definition of a PBM, found within chapter 62W:
- "Pharmacy benefit manager" means a person, business, or other entity that contracts with a plan sponsor to perform pharmacy benefits management, including but not limited to:
- (1) contracting directly or indirectly with pharmacies to provide prescription drugs to enrollees or other covered individuals;
  - (2) administering a prescription drug benefit;
  - (3) processing or paying pharmacy claims;
  - (4) creating or updating prescription drug formularies;
  - (5) making or assisting in making prior authorization determinations on prescription drugs;
  - (6) administering rebates on prescription drugs; or
  - (7) establishing a pharmacy network.
- Q:** I administer flexible spending accounts (FSA) and health reimbursement arrangements (HRAs) for plan sponsors and their employees. A number of the items we provide reimbursement for include prescription drug claims. Do we need to apply for licensure as a PBM?
- A:** In this situation, the Departments would request that entities providing these types of services submit an analysis of what, if any, parts of the PBM definition under 62W apply to them. If any of the parts of the definition apply per the entity's analysis, the Departments will defer to the statutory definition of a PBM and would expect the entity to apply for licensure.

**Q:** I am a home infusion provider providing injectable medications to clients in their homes. Am I required to be licensed as a PBM?

**A:** To answer this question, the Departments would request additional information regarding specific services the infusion provider offers. When it is not clear if the definition of a PBM applies, the Departments would request that entities supply analysis of how they do or do not meet the statutory definition of a PBM.

**Q:** I am already licensed in Minnesota as a TPA, providing medical claims processing services for plan sponsors. If prescription drug claims are included in those, am I also required to be licensed as a PBM?

**A:** We have received a number of questions from TPAs providing a narrow scope of services to plan sponsors.

As a TPA, if you provide any services listed below in the PBM definition, you will need to obtain a license to do business as a PBM and as a TPA separately:

"Pharmacy benefit manager" means a person, business, or other entity that contracts with a plan sponsor to perform pharmacy benefits management, including but not limited to:

(1) contracting directly or indirectly with pharmacies to provide prescription drugs to enrollees or other covered individuals;

(2) administering a prescription drug benefit;

(3) processing or paying pharmacy claims;

(4) creating or updating prescription drug formularies;

(5) making or assisting in making prior authorization determinations on prescription drugs;

(6) administering rebates on prescription drugs; or

(7) establishing a pharmacy network.

**Q:** I am already licensed in Minnesota as a TPA. In order to provide prescription drug services to plan sponsors, we contract with an existing PBM to have these services provided. We do not provide any PBM services to our contracted plan sponsors. Does the TPA also require licensure as a PBM?

**A:** So long as the TPA does not provide any of the services identified under the statutory definition of a PBM, it would appear not to require licensure as a PBM.

## **Network Adequacy**

---

**Q:** As a PBM, our network includes a single, nationwide set of contracted pharmacies. When offering network services to plan sponsors, some self-insured entities may choose to exclude certain pharmacies from the general nationwide network. In this scenario, would it be required to file for each potential network variation, or is it permissible to file with just one network?

- A:** Applicants must submit a network of all their contracted pharmacies, and any network variations that are available in the commercial fully insured market and in state based public program insurance markets for review for network adequacy. We recognize that networks sold to employers who are self-insured, may have different network structures depending on the needs of their employees and their self-insured plan. However, we do not need to review each permutation of these self-insured employer sponsored PBM networks at this time.
- Q:** Does the 60 mile standard for network adequacy requirements start from each individual member's home, or is it calculated from the plan sponsor or client's address?
- A:** The 60 mile standard applies to retail pharmacies in the network's service area; all parts of the service area must have a retail pharmacy within 60 miles. Applicants should plot the location of all retail pharmacy locations included in the PBM network on a map, and measure 60 mile distance between the plotted retail pharmacies and the geographic area of all counties in the applicant's network service area (identified in the [Provider File Template "Service Area Worksheet"](#)). Long Term Care, Specialty, and Tribal pharmacy locations should also be plotted on separate maps, but do not need to be measured against the 60 mile access standard.