

Increasing the Accountability of Ohio's Medicaid Pharmacy Program: Strengthening Medicaid Managed Care Contracts Summary of provisions included in the Managed Care Contracts

The Ohio Department of Medicaid (ODM) serves nearly 3 million Ohioans, including 1.2 million children. Through the use of Medicaid managed care plans (MCPs), 90% of individuals are covered by an MCP and account for approximately 80% of ODM's expenditures.

Not unique to Ohio, the exposure of the complex and secret drug supply chain, has brought the role of the Pharmacy Benefit Manager (PBM) to the forefront over the last 18 months.



Ohio has become a leader in PBM reforms by bringing new levels of public accountability and transparency to its relationship with MCOs and pharmacies. ODM has made numerous changes to its pharmacy benefit and pursued reforms to restore transparency and accountability to our managed care plans and their PBM subcontractors.

The work is not done, and we will continue to investigate and weigh further changes to ensure Ohioans have access to the medications they need at the best price possible for Ohio's taxpayers.

Single Pharmacy Benefit Manager – MCP Provider Agreement (PA) language is being considered for January 2020 as required by HB 166

- ODM will develop a selection process and choose a new single Pharmacy Benefit Manager (PBM) by July 1, 2020.
- The benefits of this new model include:
 - Increased transparency and accountability through quarterly reports to ODM;
 - Requirements to prevent conflict of interest;
 - Allowing individual choice in selecting specialty pharmacies for medications, ensuring access while controlling costs;
 - An appeal process for pharmacies to ensure the cost of doing business is met; and
 - Should the PBM be found in breach of contract, ODM can for the first time assess civil penalties.
- ODM is considering PA language to ensure MCP compliance with ORC 5167.24 and the use of the state PBM selected by ODM.

Single Preferred Drug List – PA language added in July 2019

- To improve transparency and increase safety in prescribing medications, ODM will implement a single Preferred Drug List (PDL), which will:
 - Ease the administrative burden for prescribers and reduce second-guessing of prescription decisions, decrease unnecessary prior authorizations, and reduce the possibility of medication errors;
 - Reduce confusion and hassles for individuals when getting medication prescriptions from their doctor and picking them up at the pharmacy; and
 - Ensure all supplemental rebates are sent directly to ODM.
- ODM has administrative authority to implement this program, so technical budget language around the establishment of a formulary was vetoed.
- ODM is considering additional PA language regarding MCP requirements related to prescribed drugs and adherence to the Medicaid Unified Preferred Drug list (UPDL). Additional considerations to the January 2020 PA regarding the UPDL include: prior authorizations, supplemental rebate ability for drugs included on the UPDL, and Pharmacy and Therapeutic (P&T) Committee requirements.

Medications for Behavioral Health – PA language added in July 2017

- Maintains restrictions on MCPs imposing prior authorization requirements for antidepressant and antipsychotic medications that are appropriately prescribed by psychiatric specialists. ODM added language prohibiting MCPs from requiring prior authorization for antidepressant and antipsychotic medications to the July 2017 PA. This language is in accordance with ORC 5167.12 and remains unchanged in the current provider agreement.

Supporting access for individuals and pharmacies who serve them – PA language is being considered for January 2020 as enacted in HB 166

- **Supplemental Dispensing Fee:** ODM will support independent pharmacies and small pharmacy chains, particularly in rural Ohio, to protect Medicaid enrollee access to prescription drugs.
 - An additional \$100 million has been designated to develop a tiered dispensing fee for pharmacies that have a high proportion of Medicaid enrollees.
 - ODM will work to develop the structure, tiered levels and dispensing fees needed to most efficiently use the funding appropriated for this program.
- ODM is considering language to the January 2020 PA to ensure that MCPs provide a supplemental dispensing fee to retail pharmacies in accordance with ORC 333.280.

Pass-Through Model – PA language added in January 2019

- Beginning in January 2019, MCPs that contract with a PBM are required to use a pass-through model.
- This model requires the MCP to report the exact amount the PBM pays pharmacists for prescriptions, including the dispensing fee and product cost.
- In addition, they are required to provide ODM extensive reporting and cost information related to all aspects of PBM and other administrative costs.
- ODM outlined specific requirements for PBM agreements in the January 2019 PA and explicitly required that if an MCP enters into an agreement with a PBM for the provision and administration of pharmacy services, the agreement shall be developed as a pass-through

pricing model as defined by ODM. ODM has required specific provisions to be included and/or addressed in any agreement between a PBM and an MCP (all requirements outlined in the PA).

Eliminating Conflicts of Interest – PA language added in July 2019

- To eliminate potential conflicts of interest, reduce cost and expand access, beginning January 1, 2020, ODM will require MCPs to contract with any specialty pharmacy that meets the MCP-specific standards and can provide services at the same or lower cost compared to other in-network specialty pharmacies.
- ODM also strengthened potential conflicts of interest of PBMs by requiring the PBM agreement language to include a prohibition that the PBM shall not steer or require any providers or members to use a specific pharmacy in which the PBM has an ownership interest or that has an ownership interest in the PBM, if for the primary purpose of reducing competition or financially benefitting the PBM's associated businesses, effective January 1, 2019.
- ODM requires the PBM to report semi-annually to the MCP their list of specialty drugs by National Drug Code, including a report on any drugs that have moved between specialty and non-specialty designation

Compliance Auditing of PBMs – PA language added in July 2019

- ODM strengthened and clarified its ability to perform compliance audits of each PBM.
- ODM also increased the ability of the Auditor of State to gather data, documents, and information from PBMs and other subcontracted entities to increase oversight.
- ODM revised PA language in July 2019 and added a requirement that a PBM and the MCP shall cooperate with and grant full access to an independent audit entity retained by ODM to perform periodic compliance audits of each PBM.

Transparency of Contracts and Increasing Public Information in PBM Contracts – PA language added in July 2019

- ODM changed the definition of proprietary information, putting limits on the amount and type of information that MCPs, PBMs, and other subcontracted entities can shield from public view. This change will eliminate blanket protections that have historically shielded significant portions of these contracts from ODM and public view, permitting entities to only protect truly trade-sensitive secrets from their competitors. With these changes, proprietary information will be limited to the information in the contract that (1) meets the definition of a trade secret under Ohio law and (2) consists of “unique business or pricing structures that a competitor would likely use to gain an unfair advantage.” All portions of contracts not designated as proprietary will be deemed public record.
- ODM is requiring MCPs to provide new or renewal of downstream contracts to ODM at least 30 days prior to execution. ODM will have the right to reject the agreement or to work with the MCP to adjust contract language that is unacceptable or inconsistent with requirements and expectations.

Promoting Safe and Effective Use of Medications – PA language added in July 2019 and ODM is considering revisions to strengthen this language for January 2020

- MCPs are required to develop a medication therapy management program to promote the safe and effective use of medications, including over-the-counter medications, vitamins, and herbal supplements. ODM expanded this requirement to include opioids, pediatrics, and behavioral health medications.
- ODM is continuing to combat inappropriate use of pain medications with the Coordinated Services Program set forth in OAC rule 5160-20-01. This required program locks patients who seek pain medications from various prescribers in to a single pharmacy and/or prescriber. That single pharmacy or prescriber will be able to better monitor and appropriately restrict the patients' use of medications.

Enhanced Data Analytics – PA language is being considered by ODM for January 2020

- ODM is investigating methods to monitor PBM and pharmacy performance real-time, using a post-adjudication pre-payment system to identify and stop payments for claims that appear "irregular" based on existing benchmarks.
- ODM is also considering language to meet the requirements listed in ORC 333.290 regarding a pilot program for the pre-auditing processing of prescribed drug claims.