
Prescription Drug Affordability Board

2021 Annual Report

November 1, 2021



Members of the Prescription Drug Affordability Board

Representative Gary Merchant - Chair
Attorney Todd Fahey - Clerk
Senator Sharon Carson
Pharmacist Staci Hermann

Representative William Marsh
Representative James Murphy
Senator Cindy Rosenwald
Senator Tom Sherman

Created with support from Nancy T. Plourde, NH DHHS

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Introduction

Creation of the Prescription Drug Affordability Board was via legislation introduced in legislative year 2020 and signed into law during July 2020 as RSA 126-BB (appendix F). The board consists of five members with expertise in health care economics or clinical medicine, who shall not be, or be directly related to, anyone affiliated with, employed by, or representing the interests of a public payor, pharmaceutical or pharmacy company, pharmacy benefits management company, or health insurance provider and who shall complete a conflict-of-interest statement. Two members and one alternate member shall be appointed by the president of the senate, two members and one alternate member shall be appointed by the speaker of the house, one member and one alternate member shall be appointed by the governor.

The board is administratively attached in the Department of Health and Human Service (DHHS) as a self-funded, independent board.

Legislative intent was to create a board to identify strategies that optimize spending by public payers for pharmaceutical products while reasonably ensuring prescriber assess to needed pharmaceutical products. To achieve this goal, the board shall determine annual spending targets for prescription drugs purchased by public payers based upon a 10-year rolling average of the medical care services component of the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index, medical care services index, plus a reasonable percentage for inflation and minus a spending target for pharmacy savings as determined by the board.

Focus of the board this year has been establishment of the operational framework necessary for the board to meet its' statutory obligations.

The board met six times during the past year - February 5, March 26, May 14, June 25, August 24 and October 26.

BOARD MEETINGS

February 5 meeting (appendix A) - this meeting was an organizational meeting with the following board members in attendance - Atty. Todd Fahey, Sen. Tom Sherman, Rep. Gary Merchant and Rep. James Murphy. Excused was Sen. Sharon Carson, and Sen. Cindy Rosenwald joined later in the meeting.

Sen. Sherman nominated Rep. Gary Merchant as chair, seconded by Rep. Murphy. The board voted, without discussion, to accept the nomination. Sen. Sherman nominated Attorney Todd Fahey as clerk, seconded by Rep. Merchant. The board voted, without discussion, to accept the nomination.

During the board meeting, the board identified several goals for the board to tackle during the coming few months.

1. Provide presentations to educate board members on the complexity of the pharmacy supply chain
2. Establish a Memorandum of Understanding (MOU) between the board and DHHS
3. Setting up a secure portal to receive confidential reporting as required by the law
4. Hiring an Executive Director
5. Establishing the 12-member Advisory Council

March 26 meeting (appendix B) - this meeting included a technology update by Mr. David Waters (appendix G), update on the MOU by Ms. Maria Reinemann and Mr. Robert Berry, and creation of board rules by Mr. Todd Fahey and Mr. Robert Berry.

Mr. Wieters updated the board on creation of a board website to allow the board to post meeting notices, board members, and post information related to prior board meetings as agendas, minutes, documents shared during meetings.

Ms. Reinemann and Mr. Berry presented an initial draft of an MOU included a data-sharing section to address data-sharing between DHHS and the board. Ms. Reinemann informed the board that Mr. Berry would assume administrative and legal support to the board.

Mr. Berry and Mr. Fahey discussed an outline of a structure for board rules, and that they will be working together to develop board rules.

May 14 meeting (appendix C) - this meeting included an update from Mr. Robert Berry on the MOU and he discussed the conflict of interest, Mr. David Wieters provided a technology update (presented by Mr. Henry Lipman as appendix H)), and Mr. Tyler Brennan provided an overview of the NH Insurance Department portal used to collect prescription drug data, and Mr. Berry and Mr. Todd Fahey provided an update on rules, pharmacist and attorney Andrew

York (the executive director of the Maryland Prescription Drug Affordability Board) provided an overview of the Maryland board (appendix J), and Mr. Berry reviewed and discussed on the executive director job brief.

Mr. Berry informed the board that he recommends the Attorney General office review the MOU and the board concurred for him in contact attorney Catherine Pinos to request the review.

Mr. Berry shared a draft of a Conflict-of-Interest Statement as required by statute. He raised concerns about a potential conflict between this statute and RSA 15-B. Sen. Carson recommended that Mr. Berry contact Representative Ned Gordon, Chair of the Legislative Ethics Committee to advise the board related to the concern and need for legislation to address the concern.

Mr. Brennan provided an overview of the prescription drug data collected by the NH Department of Insurance. Data collected by the department includes detailed prescription drug claims data along with some basic demographic data. The data is collected via secure web portal and includes many of the same data elements required by RSA 126-BB. It may be possible to modify this data collection process to allow manufacturers to submit data required by RSA 126-BB, thus eliminating the need to create a secure portal and for manufacturers to create another reporting tool.

Mr. York presented an overview of the Maryland Drug Affordability Board. He shared how the Maryland board functions, and the importance of hiring an executive director to assist in the establishment of the NH board.

Mr. Berry shared a supplemental job brief based on various other director positions. Based on the duties and requirements for the position, he recommended a labor grade of 35. The board discussed a requirement that one of the qualifications be pharmacist. The board concurs that the person should have knowledge of the pharmacy supply chain and that this knowledge can be obtained with experience working in the pharmacy supply chain without being a pharmacist. He believes it would be beneficial for the board to ascertain the recommendation of Commissioner of Administrative Services, Commissioner Charlie Arlinghaus regarding the position being a classified vs. unclassified employee.

June 25 meeting (appendix D) - this meeting included a discussion with Commissioner Arlinghaus, an update from Mr. Berry regarding the conflict-of-interest statement, an update from Mr. Berry and Mr. Fahey on rules, a presentation from Mr. Andrew Chalsma from DHHS, and a presentation by Mr. Brennan on the NH Insurance Department high drug cost report and data collected by the department (appendix I).

Commissioner Arlinghaus spoke about the technical difference between a classified and an unclassified employee. Based on the discussion of the pros and cons of the two types of

employees presented by the commissioner, and his recommendation the position to be unclassified, the board reached consensus that the position should be unclassified.

Mr Berry reviewed the creation of rules in compliance with Joint Legislative Committee on Administrative Rules (JLCAR), specifically related to language about confidential and non-confidential information shared with the Advisory Council as some information provided to the board will be highly confidential.

Mr. Chalsma presented a power point slide (appendix outlining the NH Comprehensive Health Care Information System used to collect and analysis drug prescription drug claims. The system has been in place since 2005, thus has a robust, historical database. Except for patient health information (PHI), the system has detailed information on provided via claims data. Using a data sharing agreement, the board could access the database to assist the board in meeting its' statutory obligations.

Mr. Brennan presented a demonstration of the NH Insurance Department high drug cost reporting currently available to the board. RSA 318:67-68, III requires manufacturers to provide notice to the Insurance Department if they are introducing a new prescription drug to the market at a wholesale acquisition cost that exceeds the threshold set for a specialty drug under the Medicare Part D program. The report is available using this weblink:

<https://www.nh.gov/insurance/dashboard/high-cost-drugs.htm>

August 24 meeting (appendix F) - this meeting included a discussion with Ms. Laura Spring from DHHS regarding the executive director job brief, discussion regarding legislation to revise RSA 126-BB, update on rules by Mr. Robert Berry and Mr. Todd Fahey, and an presentation by pharmacist and board member Staci Hermann (appendix K).

Ms. Spring reviewed a proposed executive director job brief based on the already established classification of Executive Agency Manager which has a labor grade of 35. As the position remains a classified position, it will require compliance to 37.5 hours per week, the need for someone to sign the hourly timecard, and for review and approval by the Division of Personnel who oversee all classified positions. A person could start employment as a classified employee and migrate to unclassified, however, it would be important to inform potential hires about any pending change in status prior to employment. The committee discussed and agreed that it would be essential the processed used by the board to select a candidate by done in non-pubic to protect the confidentiality of any information provided by a candidate. The board agreed to create a subcommittee composed of Sen. Carson, Mr. Fahey, and Rep. Merchant, for the purpose of selecting a candidate to recommend to the board for final review and approval.

The board discussed legislation to introduce next year to make three technical changes to RSA 126-BB. 1) change the position from classified too unclassified. 2). creating a non-lapsing line in the state budget to support the board. 3) Revise the conflict-of-interest statement to align

with RSA 15-B. Rep. James Murphy will introduce a bill in the House to address the first two, and Sen. Carson will introduce a bill in the Senate to address the third.

Mr. Berry and Mr. Fahey provided an update on rules development. Rules continue to be a work in progress. Mr. Berry will conduct the AG Office regarding if the board may continue to use virtual meetings for the board provided a physical quorum exist at a specified location. Using a virtual forum for board meetings provides a higher level of transparency for the general public and interested parties, essential for the board to meet its' obligations.

SUMMARY

The initial year focused on building the operational foundation necessary for the board to meet the obligations established by RSA 126-BB. During the coming year, the board expects to finalize the operational foundation of the board, and to initiate the process of receiving and processing data to begin identifying strategies to optimize spending by public payers for pharmaceutical products and determine annual spending targets for prescription pharmaceutical products by public payers.

Goals for the coming year include:

1. Hiring and onboarding a staff
2. Creation of board rules
3. Legislation to make technical changes in RSA 126-BB
4. Establish the Advisory Council
5. Board educational presentations on pharmacy supply chain
6. Establish a board operational budget and revenue stream
7. Collect manufacturer pricing data for analysis
8. Finalize MOU between board and DHHS

APPENDIX A : February 5 Board Minutes

NH Prescription Drug Affordability Board Remote Organizational Meeting February 5, 2021, 1:00-2:30

CALL TO ORDER Senator Tom Sherman opened the meeting with a statement regarding the authorization to meet electronically, in accordance with Governor's Emergency Order No. 2, pursuant to Executive Order 220-04 and its extension. Sen. Sherman also established the compliance with the Right to Know Law regarding public access of the meeting.

ATTENDING Senator Tom Sherman, Representative Gary Merchant, Representative James Murphy, Todd Fahey (AARP), Senator Sharon Carson, Senator Cindy Rosenwald (Alternate).

A quorum was established.

ABSENT Senator Sharon Carson (excused).

BOARD MEMBER BACKGROUND

Representative Gary Merchant: 30 years in pharmacy .

Todd Fahey: AARP State Director, legal, actively involved in passing of this law.

Representative James Murphy: Retired Orthopedic surgeon

Senator Tom Sherman: Prime sponsor of the bill, involved in many past HHS boards.

Senator Cindy Rosenwald: District 13, serving 9th term in legislature.

ELECTIONS

Motion made by Sen. Sherman to elect Rep. Merchant as Board Chair motion seconded by Rep. Murphy. Without discussion, motion passed via roll call 4-0.

Motion made by Sen. Sherman to elect Todd Fahey as Board Clerk motion second by Rep. Merchant. Without discussion, motion passed via roll call 4-0.

DISCUSSION NH State Medicaid Director, Henry Lipman, established Nancy Plourde, Medicaid, to assist in the taking of minutes. Also stated others from Medicaid on the call: Alyssa Cohen, Deputy Medicaid Director, Lise Farrand and Peg Clifford, both in the Medicaid Pharmacy unit.

Senator Sherman, Representative Merchant, and Director Lipman discussed the establishment of a secure portal through which to submit pertinent material to the Board for subsequent meetings.

The Board discussed establishing an Executive Director, Todd Fahey suggested Director Lipman, to which Director Lipman discussed with the Board working towards an MOU and funding mechanism.

All decided this should be on next agenda and discussed when the next meeting should be held;

Representative Merchant suggested they could go out as far as 6 weeks.

NEXT MEETING Board agreed the next agenda should include the educational component, the MOU and funding proposal from DHHS, section for public comments.

PUBLIC COMMENTS None.

ADJOURNMENT Motion to adjourn made by Representative Gary Merchant. No objection. Roll call made to adjourn. Representative Merchant adjourned the meeting at 1:36.

APPENDIX B: March 26 Board Minutes

NH Prescription Drug Affordability Board Remote Meeting

March, 26, 2021, 1:00 PM

NOTE: This meeting was recorded and a recording of the entire meeting is available at:
<https://www.dhhs.nh.gov/ombp/medicaid/nhpdab/previous-meetings.htm>

CALL TO ORDER: Representative Gary Merchant, Chair, opened the meeting; read the Right to Know statement.

ATTENDING: Representative Gary Merchant, Senator Sharon Carson, Representative James Murphy, Todd Fahey, Staci Hermann, Senator Tom Sherman, Representative William Marsh.

A quorum was established.

ABSENT: Senator Cindy Rosenwald.

INTRODUCTIONS: Each Board member introduced themselves. Additional panelists from the NH Department of Health and Human Services introduced themselves: Henry Lipman, Medicaid Director; David Wieters, Information Services Director; Maria Reinemann, Senior Legal Counsel; Rob Berry, Medicaid Legal Counsel.

AGENDA REVIEW: Representative Gary Merchant reviewed the agenda with the Board.

REVIEW AND APPROVE FEBRUARY MINUTES: Motion to accept minutes of the February meeting made by Representative Gary Merchant. Senator Sharon Carson moved to adopt; Senator Tom Sherman seconded. Motion passed with Representative James Murphy, Representative William Marsh, Representative James Murphy, Staci Hermann, Todd Fahey, Senator Tom Sherman, Senator Sharon Carson and Representative Gary Merchant all in favor.

TECHNOLOGY UPDATE AND DISCUSSION: David Wieters presented a Technology Update slide, which will be published on the official Board website. David discussed Sharepoint, document repository and the temporary Board website. He noted that changes can be made at the request of the Board, and asked for feedback from the Board on the temporary site. The Board discussed the various types of documents to be viewed and shared, from a public access and legal standpoint, and how that process will play out. David clarified that the Sharepoint environment will be essential to this process. David presented a slide outlining the Sharepoint functions, including the document repository and shared that Nancy Plourde will provide instructions on how the Board will be able to access Sharepoint.

ADMINISTRATIVE UPDATE AND DISCUSSION: Maria Reinemann noted that Rob Berry will be taking over this function for the Board. Rob and Maria discussed the non-disclosure and conflict of interest forms, as well as the MOU. The initial draft of the Memorandum of Understanding (MOU) is expected to be completed next week for Director Lipman to review. The data-sharing portion will need to be reviewed by the Bureau of Information Services (BIS).

RULES UPDATE AND DISCUSSION: Rob Berry shared and discussed current Rules outline. Senator Carson inquired about civil penalties and whether there was a standard fee schedule within the department. Rob advised there is not; there was a discussion, and it was decided that a subcommittee should be formed, consisting of Rob Berry and Todd Fahey, to work on rules specific to the Board.

NEXT MEETING: Following a short discussion, it was decided the next meeting will be on Friday, May 14, 2021, at 10:00 AM.

PUBLIC COMMENTS: Holly Stevens, of New Futures, made reference to the discussion around the civil penalty fee schedule. She briefly touched upon the idea of large pharmaceutical companies versus smaller scale businesses, and how the fee schedule will affect each differently.

The Board then discussed the idea of the fee schedule being relative the economic status of the company. It was agreed that legal counsel would look into this concept.

ADJOURNMENT: Motion to adjourn made by Senator Tom Sherman; motion seconded by Representative James Murphy. Motion passed with Representative James Murphy, Representative William Marsh, Representative James Murphy, Staci Hermann, Todd Fahey, Senator Tom Sherman, Senator Sharon Carson and Representative Gary Merchant all in favor.

Respectfully submitted:

Todd C. Fahey, Clerk

Nancy T. Plourde, Recording Secretary

APPENDIX C: May 14 Board Minutes

NH Prescription Drug Affordability Board Remote Meeting

May 14, 2021, 10:00 AM

NOTE: This meeting was recorded and a recording of the entire meeting is available at:
<https://www.dhhs.nh.gov/ombp/medicaid/nhpdab/previous-meetings.htm>

CALL TO ORDER: Representative Gary Merchant, Chair, opened the meeting; read the Right to Know statement.

ATTENDING: Representative Gary Merchant, Senator Sharon Carson, Representative James Murphy, Todd Fahey, Staci Hermann, Senator Tom Sherman, Representative William Marsh.

A quorum was established.

ABSENT: Senator Cindy Rosenwald.

INTRODUCTIONS: Each Board member introduced themselves. Additional panelists from the NH Department of Health and Human Services introduced themselves: Henry Lipman, Medicaid Director; Rob Berry, Medicaid Legal Counsel. Also introduced were attorney Catherine Pinos, from the Attorney General's office and Andrew York, Executive Director of the Maryland Prescription Drug Affordability Board.

AGENDA REVIEW: Representative Gary Merchant reviewed the agenda with the Board.

REVIEW AND APPROVE MARCH MINUTES: Motion to accept minutes of the March meeting made by Representative Gary Merchant. Senator Sharon Carson moved to adopt; Representative William Marsh seconded. Motion passed with Representative James Murphy, Representative William Marsh, Staci Hermann, Todd Fahey, Senator Tom Sherman, Senator Sharon Carson and Representative Gary Merchant all in favor.

MOU BETWEEN BOARD AND DHHS DISCUSSION: Attorney Rob Berry discussed having a draft MOU for review by Catherine Pinos and hopes to have a copy available for the next meeting.

CONFLICT OF INTEREST DISCUSSION: Rob Berry shared a draft of the Conflict of Interest statute 126-BB:3. He recommended striking the language in paragraph 2, subsections (e) and (f), that refers to the Board and Advisory Council not accepting gifts and replacing with "shall comply with the provisions of RSA 15-B". Senator Sharon Carson suggested contacting Representative Ned Gordon, Chair of the Legislative Ethics Committee, to advise, if looking to change the statute, for which Representative Gary Merchant seconded.

TECHNOLOGY UPDATE AND DISCUSSION: Henry Lipman stepped in to update the Board with a quick Powerpoint slide, in place of David Wieters. Representative Gary Merchant invited Tyler Brannen, of the New Hampshire Insurance Department (NHID), to speak about the data sharing portal that department currently uses. Tyler spoke about the portal, through which they collect detailed claims data, including prescription drug data, and basic demographic data. They are prohibited from collecting direct patient identifiers. He proceeded to give an overview of what can and cannot be collected, and the issues and benefits of the system. Representative Gary Merchant mentioned the potential use of the existing system, with some modifications. He also brought up the requirement for notification of price increases from manufacturers. Tyler said that had to be addressed separately, and NHID has a public-facing page for this. After a short discussion, it was decided that Staci Hermann will be working with Tyler on this issue.

RULES UPDATE AND ROAD MAP DISCUSSION: Todd Fahey and Rob Berry noted they are in the process of creating a working draft, hopefully available for review at the next meeting. Representative

Gary Merchant asked if the requirement for manufacturers to report price increases could be temporarily waived, since there is no portal through which to do so. Rob Berry agreed to consult with Catherine Pinos to address this question.

MARYLAND BOARD PRESENTATION: Andrew York, Executive Director of the Maryland Prescription Drug Affordability Board, introduced himself, giving a brief description of his background. He presented slides outlining the functionality of their board.

REVIEW AND DISCUSS EXECUTIVE DIRECTOR JOB BRIEF: Rob Berry presented a proposed SJD, utilizing previous director positions. He had chosen the Administrator III Supplemental Job Description (SJD) as a template, which he now thinks may not be high-level enough. He recommended the Administrator IV position, at a labor grade 33, or creating a new classification at a labor grade 35. He reviewed each section, such as accountabilities and minimum qualifications. He consulted with Andrew York, who recommended certain traits for the position, such as knowledge of government and contract procurement. A discussion was had about the importance of the position not necessarily being a practicing pharmacist, but having the knowledge of pharmacy and the manufacturing supply chain. An involved discussion was had around the advantages and drawbacks of making the position classified or unclassified. After much discussion, followed by a straw poll, all were in agreement that it would be beneficial to ascertain the recommendation of the Commissioner of Administrative Services before coming to a conclusion. Rob Berry made real time changes and additions to SJD, bases on the Board's recommendations.

NEXT MEETING: Following a short discussion, it was decided the next meeting will be on June 25, 2021, at 10:00 AM. The following meeting will be on August 24, at 10:00 AM.

PUBLIC COMMENTS: Holly Stevens, of New Futures, agreed that keeping the job description broad in regards to the type of person or industry, but narrowing it for the knowledge level, to include 340-B. She thanked the Board for their service. Noah Goldstein, of Porzio, Bromberg and Newman, asked if companies should wait for guidance on reporting requirements. Catherine Pinos agreed to report on this at the next meeting. Senator Tom Sherman stated he does not believe any action can be taken without a portal in place, and that when we get an answer from the Attorney General's office, we will post it to the website.

ADJOURNMENT: Motion to adjourn made by Representative Gary Merchant; motion seconded by Representative William Marsh. Motion passed with Representative James Murphy, Representative William Marsh, Staci Hermann, Todd Fahey, Senator Tom Sherman, Senator Sharon Carson and Representative Gary Merchant all in favor.

Respectfully submitted:

Todd C. Fahey, Clerk

Nancy T. Plourde, Recording Secretary

APPENDIX D: June 15 Board Minutes

NH Prescription Drug Affordability Board

In-person / Remote Hybrid Meeting

June 25, 2021, 10:00 AM

NOTE: This meeting was recorded and a recording of the entire meeting is available at: <https://www.dhhs.nh.gov/ombp/medicaid/nhpdab/previous-meetings.htm>

CALL TO ORDER: Representative Gary Merchant, Chair, opened the meeting.

ATTENDING: Representative Gary Merchant, Staci Hermann, Senator Tom Sherman, Representative William Marsh. Via Zoom Representative James Murphy, Todd Fahey, A quorum was established.

ABSENT: Senator Cindy Rosenwald, Senator Sharon Carson.

INTRODUCTIONS: Representative Gary Merchant introduced everyone and appointed alternates Staci Hermann and Representative Marsh as voting members for this meeting.

AGENDA REVIEW: Representative Gary Merchant reviewed the agenda with the Board.

REVIEW AND APPROVE MAY MINUTES: Motion to accept minutes of the May meeting made by Representative Murphy; Representative Merchant seconded. Motion passed with Representative James Murphy, Representative William Marsh, Staci Hermann, Todd Fahey, Senator Tom Sherman, and Representative Gary Merchant all in favor via a ro

CLASSIFIED vs. UNCLASSIFIED EXECUTIVE DIRECTOR FOR BOARD DISCUSSION: The Department of Administrative Services Commissioner, Charlie Arlinghaus spoke to the Board about the technical differences between a classified and unclassified position. He illustrated that a classified position is hourly, restricted to a certain pay scale, and carries more job security. An unclassified position is salaried, and tends to have more room for job duty customization. Commissioner Arlinghaus recommends unclassified for the Executive Director position. All came to the agreement that it can be classified to get a candidate in the door, but they should be let known about the impending change to unclassified. The timecard and recruitment processes were also discussed.

CONFLICT OF INTEREST DISCUSSION: Rob Berry shared that, according to Ned Gordon, changing the law at this point is not urgent and can be addressed at the time of making the position unclassified. Rob stated he will need to rework the contractor fees. Senator Sherman asked if they would decide on the Supplemental Job Description (SJD) today. Rob reviewed the process of finalizing the SJD. Senator Sherman moved to authorize the Chair to approve and post the SJD once it is ready; Representative William Marsh seconded. Following a brief discussion on education and experience requirements, motion approved via roll call.

RULES UPDATE DISCUSSION: Rob Berry reviewed his modifications to the Rule Language Draft, mostly in line with Join Legislative Committee on Administrative Rules (JLCAR) guidelines. There was discussion around the rule's language regarding confidential vs. non-confidential information being shared with the Advisory Council. The Board decided more discussion is warranted at the next meeting but leaned towards non-confidential. Rob stated there is a lot more to develop. There was discussion on the nature and definition of the Board, itself. Rob continued to outline proposed language regarding the public and materials submission; the Board, again, leans towards non-confidential. Rob stated there will be a more robust draft at the next meeting.

STATE RESOURCES ON DATA AND REPORTS PRESENTATION: Andrew Chalsma, of the Department of Health and Human Services (DHHS), presented a 2-page PowerPoint, entitled Introduction to the NH Comprehensive Healthcare Information System. He spoke about the history of the system, having been in place since 2005. Spoke about the types of data that come into the system.

All details, in regard to a claim, are sent to the system, except for personal information, like name, address, etc., in accordance with HIPPA laws. It's a shared project between DHHS and the Insurance Department. Outlined the specific data that is collected. Rebate information is not collected, and Andrew recommended discussing that at a later date. Andrew clarified the data collected is, essentially, between the insurance company and the provider. Coupon use, like those between the patient and the pharmacy, is not captured. Staci Hermann asked what amount was captured at the pharmacy; Andrew stated it's the dollar amount paid to the pharmacy at each transaction. Staci also asked if location data was collected, to which Andrew answered that, it is to a degree. Andrew discussed how you can view the separation of data in the system, for example between managed care and fee for service (FFS). Todd Fahey asked for clarification in the data gaps. Andrew stated he will work with Tyler to analyze how he could get the information more comprehensive. Andrew continued to illustrate the different types of data that is collected and analyzed, and what data analysis opportunities exist. Andrew talked about access to the data set being made available to the Board, with a simple data sharing agreement, and made suggestion as to how the Board could move forward, utilizing certain resources that DHHS currently utilizes. Tyler Brannen spoke about the fact that it is a law in NH for this data to be submitted, whereas other states rely on voluntary submission. Tyler displayed the Insurance Department's website, and how the collected data is submitted and reported.

NEXT MEETING: August 24th at 10:00, then October 26th at 1:00.

PUBLIC COMMENTS: None.

ADJOURNMENT: Motion to adjourn made by Representative Gary Merchant; motion seconded by Staci Hermann. Motion passed with Representative James Murphy, Representative William Marsh, Staci Hermann, Todd Fahey, Senator Tom Sherman, and Representative Gary Merchant all in favor.

Respectfully submitted:

Todd C. Fahey, Clerk

Nancy T. Plourde, Recording Secretary

APPENDIX E: August 14 Board Minutes

NH Prescription Drug Affordability Board In-person / Remote Hybrid Meeting August 24 2021, 10:00 AM

NOTE: This meeting was recorded and a recording of the entire meeting is available at: <https://www.dhhs.nh.gov/ombp/medicaid/nhpdab/previous-meetings.htm>

CALL TO ORDER: Representative Gary Merchant, Chair, opened the meeting.

ATTENDING: Representative Gary Merchant, Senator Sharon Carson, Representative William Marsh, Senator Tom Sherman. Via Zoom Representative James Murphy, Todd Fahey, Staci Hermann.

A quorum was established.

ABSENT: Senator Cindy Rosenwald.

INTRODUCTIONS: Representative Gary Merchant introduced everyone and appointed alternate Representative Marsh as voting member for this meeting.

AGENDA REVIEW: Representative Gary Merchant reviewed the agenda with the Board.

REVIEW AND APPROVE JUNE MINUTES: Motion to accept minutes of the June meeting made by Representative Marsh; Senator Sherman seconded. Motion passed.

BOARD EXECUTIVE DIRECTOR UPDATE: Laurie Spring, of the Department of Health and Human Services, Human Resources, reviewed the supplemental job description (SJD) based on the already established classification of the Executive Agency Manager, a labor grade 35. One of the potential challenges is the question of what would be the future positions reporting to this director; where they would come from, as the positions don't currently exist. Laurie anticipates the Division of Personnel (DOP) maybe having questions about that since they have oversight with concerning classified positions. It is written consistently with other Board Executive Directors throughout the state. The minimum qualifications are set in the classified system, so candidates would have to meet these. Representative Merchant mentioned that it is required in the RSA that it is classified, but that after hire, it may be able to be made unclassified. Senator Carson made it clear that you have to tell the applicants explicitly that this may occur. Laurie made it clear that the job brief can be revisited/revised if unable to find an applicant, initially. She also touched upon the reporting structure. Classified needs to report to another position within classified service. Laurie recommended someone within the department, specifically in the Division of Medicaid Services, such as the Director or Deputy Director. Senator Carson mentioned the possibility of someone at the Department of Administrative Services. Laurie mentioned it would be easiest to stick with Medicaid Services, as that is who the Board is administratively attached to, and there may be some financial considerations. Senator Carson asked if Representative Merchant can be updated as to the progress in the hiring process, to which Laurie agreed. As far as the process of selecting candidates, Senator Carson reminded the Board that discussions regarding applications would need to be in a non-public session, as in a subcommittee, as they contain personal information. Senator Sherman moved to form a subcommittee for the purpose of choosing an executive director, with Representative Merchant as the chair and Senator Carson and Todd Fahey as members. Representative William Marsh seconded. Motion passed. Senator Sherman moved to accept the job description as described, Senator Carson seconded. Motion passed.

LEGISLATION FOR 2022, UNCLASSIFIED POSITION AND CONFLICT OF INTEREST: Senator Carson suggest it starts in the House. Senator Carson reviewed correspondences between herself and Senator Ned Gordon regarding recommendations for making changes to the RSA. Senator Carson suggested that she can file the legislation; reminded the Board that it will have to be 2 different bills, as you cannot combine the unclassified one with the conflict of interest. Senator Sherman spoke to the idea that being a member the Board is not contingent upon being a legislator. Representative Merchant

summarized the discussion by clarifying that the bill for the conflict of interest will go through the Senate and the unclassified vs. classified bill will be through the House.

RULES UPDATE: Todd Fahey and Attorney Rob Berry discussed that they have been given guidance for which to fill in the content of the Rules and expect to have it ready for review at the next Board meeting. Attorney Berry agreed to consult with Andrew Chalsma, DHHS, and Tyler Brannen, Insurance Department, in finalizing the Rules. Short discussion about how to continue with hybrid vs. in person meetings of the Board, as it is not really a legislative Board, so may not be bound to the same rules. Attorney Berry stated he would follow up with the Attorney General's office for their opinion on the matter. Whether the public can participate virtually is the main question.

OVERVIEW PHARMACY SUPPLY CHAIN: Staci Hermann presented a Powerpoint to explain the complexity of the pharmaceutical supply chain. She discussed the regulation of the distribution of pharmaceuticals. She discussed the definition and interpretation of the word "cost" when associated with pharmaceuticals. She discussed cost vs. affordability when in relation to brand vs. generic and how it affects the pharmaceutical companies and the members, taking into consideration copay assistance and rebates. Staci used the cost of insulin as an example. Full Board discussion about the Pharmacy Benefit Managers (PBMs) and how they are the only aspect in the chain that is not regulated. They discussed how there are other states that have started regulation around PBMs and Staci agreed to supply the Board with the related documents and research. Staci discussed some pending lawsuits in other states in regards to the lack of transparency with PBMs, and how some have discovered a large overpayment of the state to the PBMs. The full slide presentation is available via the website link listed above.

SET DATES AND KEY TOPICS FOR FUTURE MEETINGS: Tuesday, October 26, 2021, 1:00 pm and November 30, 1:00 pm.

PUBLIC COMMENTS: Holly Stevens, New Futures asked about the advisory council, reporting requirements, fee structures for the Board, policies and procedures, registration for PBMs, and annual report due 11/1/21. Representative Merchant responded by highlighting the need for an Executive Director. Senator Carson stated that once the Rules have been finalized, many of Holly's concerns will be addressed. She also reminded of the issue with COVID, and causing a delay in meeting requirements. She also stressed the importance of acquiring the Executive Director, and how it will help wrap these things up. Senator Sherman suggested a vote on the due date of the report at the October meeting.

ADJOURNMENT: Motion to adjourn made by Representative Senator Sherman; motion seconded by Representative Marsh. Motion passed with Representative James Murphy, Representative William Marsh, Staci Hermann, Todd Fahey, Senator Tom Sherman, Representative Gary Merchant and Senator Sharon Carson all in favor.

Respectfully submitted:

Todd C. Fahey, Clerk

Nancy T. Plourde, Recording Secretary

APPENDIX F: RSA 126-BB

TITLE X

PUBLIC HEALTH

CHAPTER 126-BB NEW HAMPSHIRE PRESCRIPTION DRUG AFFORDABILITY BOARD

Section 126-BB:1

126-BB:1 Definitions. –

In this chapter:

- i. "Board" means the New Hampshire prescription drug affordability board.
- ii. "Brand-name drug" means a prescription drug marketed under a proprietary name or registered trademark name, including a biological product.
- iii. "Generic drug" means a prescription drug, whether identified by its chemical, proprietary, or nonproprietary name, that is not a brand-name drug and is therapeutically equivalent to a brand-name drug in dosage, safety, strength, method of consumption, quality, performance, and intended use. "Generic drug" includes a biosimilar product.
- iv. "Manufacturer" means a manufacturer of prescription drugs that are distributed in the state. A manufacturer excludes a packager, repackager, labeler, and relabeler.
- v. "Pricing unit" means the smallest dispensable amount of a prescription drug that could be dispensed.
- vi. "Public payor" means any division of state, county, or municipal government that administers a health plan for its employees or an association of state, county, or municipal employers that administers a health plan for its employees.
- vii. "Wholesale acquisition cost" means a manufacturer's listed price for sale to a wholesale drug distributor or other entity that purchases a prescription drug directly from the manufacturer, not including any price concessions.

Source. 2020, 13:5, eff. July 1, 2020.

Section 126-BB:2

126-BB:2 New Hampshire Prescription Drug Affordability Board Established. –

There is established the New Hampshire prescription drug affordability board to carry out the purposes of this chapter.

The board shall consist of 5 members with expertise in health care economics or clinical medicine, who shall not be, or be directly related to, anyone affiliated with, employed by, or representing the interests of a public payor, pharmaceutical or pharmacy company, pharmacy benefits management company, or health insurance provider and who have completed a conflict of interest statement. They shall be appointed as follows:

Two members by the president of the senate. The president of the senate shall also appoint one alternate board member who will participate in deliberations of the board in the event a member appointed by the president of the senate elects to be recused as provided in RSA 126-BB:3.

Two members by the speaker of the house of representatives. The speaker of the house of representatives shall also appoint one alternate board member who will participate in deliberations of the board in the event a member appointed by the speaker of the house of representatives elects to be recused as provided in RSA 126-BB:3.

One member by the governor. The governor shall also appoint one alternate board member who shall participate in deliberations of the board in the event the member appointed by the governor elects to be recused as provided in RSA 126-BB:3.

Members shall be appointed to 5-year terms. Of the initial appointees, the member appointed by the governor shall serve an initial term of 5 years, one member appointed by the president of the senate and one member appointed by the speaker of the house of representatives shall serve an initial term of 4 years and one member appointed by the president of the senate and one member appointed by the speaker of the house of representatives shall serve an initial term of 3 years.

A majority of board members shall constitute a quorum.

The chair of the board shall be elected by an affirmative vote of at least 4 of the 5 members of the board.

Beginning no later than March 1, 2021, the board shall meet in public session at least every 12 weeks to review prescription drug information and to make recommendations pursuant to RSA 126-BB:5. The first meeting shall be called by the first-named appointee of the senate president.

Each public meeting shall be announced 2 weeks in advance, and materials for the meeting shall be made public at least one week in advance.

Each public meeting shall provide opportunity for comment from the public in attendance at the meeting, and the board shall provide the opportunity for the public to submit written comments on pending decisions.

The board may allow expert testimony at public meetings and any meeting conducted in executive session as permitted by subparagraph (d).

Notwithstanding requirements of RSA 91-A, the board may meet in executive session, except that any decision of the board shall be made in public.

The board shall be administratively attached to the department of health and human services. The board may employ an executive director who shall be a classified employee.

Source. 2020, 13:5, eff. July 1, 2020.

Section 126-BB:3

126-BB:3 Conflicts of Interest. –

viii. The following provisions govern any conflict of interest for a member of the board, a member of the advisory council established in RSA 126-BB:4 or any staff member or contractor of the board.

ix. When appointing a member of the board or the advisory council, the appointing authority shall consider any conflict of interest disclosed by the prospective member. A member shall elect to be recused from any board activity in the case in which the member or an immediate family member of the member has a conflict of interest. For the purposes of this paragraph, "conflict of interest" means an association, including a financial or personal association, that has the potential to bias or have the appearance of biasing an individual's decisions in matters related to the board or the conduct of the board's activities.

x. A board member or staff or contractor of the board with a conflict of interest shall elect to be recused. For purposes of this paragraph, "conflict of interest" means any instance in which a member of the board or an immediate family member of the member has received or could receive either of the following:

xi. A direct financial benefit of any amount deriving from the results or findings of a study or determination by or for the board; or

xii. A financial benefit from individuals or companies that own or manufacture prescription drugs, services, or items to be studied by the board that in the aggregate exceeds \$5,000 per year. For purposes of this subparagraph, "financial benefit" includes honoraria, fees, stock, or other financial benefit and the current value of the member's or immediate family member's already existing stock holdings, in addition to any direct financial benefit deriving from the results or findings conducted under this section.

xiii. A conflict of interest shall be disclosed in the following manner:

xiv. By the board in the employment of board senior staff.

xv. By the governor, president of the senate, or speaker of the house of representatives when appointing members to the board and advisory council.

xvi. By the board in describing any recusals as part of any final decision relating to a prescription drug.

xvii. By the 5th day after a conflict is identified or, if a public meeting of the board will occur within that 5-day period, in advance of the public meeting.

xviii. Conflicts of interest shall be publicly posted on the website of the board. The information disclosed shall include the type, nature, and magnitude of the interests of the individual involved, except to the extent that the individual elects to be recused from participation in any activity with respect to which the potential conflict exists.

xix. The board, the advisory council, a member of the board or staff, or a contractor of the board may not accept gifts, bequests, or donations of services or property that suggest a conflict of interest or have the appearance of creating bias in the work of the board or advisory council.

xx. A member of the advisory council who accepts a gift, bequest, or donation of services or property that suggests a conflict of interest or has the appearance of creating bias in the work of the advisory council shall disclose the gift, bequest, or donation publicly.

xxi.

xxii. Source. 2020, 13:5, eff. July 1, 2020.

Section 126-BB:4

126-BB:4 Advisory Council. –

xxiii. A 12-member advisory council is established to advise the board on establishing annual spending targets pursuant to RSA 126-BB:5, I and determining methods for meeting those spending targets pursuant to RSA 126-BB:5, III. The advisory council shall consist of the following members:

xxiv. The governor, or designee.

xxv. The commissioner of the department of administrative services, or designee.

xxvi. The commissioner of the department of corrections, or designee.

xxvii. The commissioner of department of health and human services, or designee.

xxviii. The attorney general, or designee.

xxix. The director of the division of risk and benefits, department of administrative services, or designee.

xxx. The president of the New Hampshire State Employees Association, or designee.

xxxi. The president of the New Hampshire Education Association, or designee.

xxxii. The executive director of the New Hampshire Municipal Association or designee.

xxxiii. The chancellor of the university system of New Hampshire, or designee.

xxxiv. The chancellor of the New Hampshire community college system, or designee.

xxxv. A representative of consumer interests, appointed by the governor, who shall serve a 3-year term.

xxxvi.

xxxvii. Source. 2020, 13:5, eff. July 1, 2020.

Section 126-BB:5

126-BB:5 Powers and Duties of the Board. –

xxxviii. The board has the following powers and duties:

xxxix. (a) Beginning with the year 2022 and in consultation with the advisory council, the board shall identify strategies that optimize spending by public payors for pharmaceutical products while reasonably ensuring subscriber access to needed pharmaceutical products. To achieve this goal, the board shall determine annual spending targets for prescription drugs purchased by public payors based upon a 10- year rolling average of the medical care services component of the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index, medical care services index, plus a reasonable percentage for inflation and minus a spending target for pharmacy savings as determined by the board.

xl. The board shall determine spending targets on specific prescription drugs that may cause affordability challenges to enrollees in a public payor health plan. Such targets shall consider any medical cost offsets achieved by utilization of the drug.

xli. The board shall determine which public payors are likely to exceed the spending targets determined under subparagraph (a).

xlii. The board may consider the following data to accomplish its duties under this section:

xliii. A public payor's prescription drug spending data, which the 3rd-party administrator or insurer for the public payor's health plan shall provide to the board on behalf of the public payor upon request notwithstanding any provision of law to the contrary, including:

xliv. Expenditures and utilization data for prescription drugs for each plan offered by a public payor.

xlv. The formulary for each plan offered by a public payor and prescription drugs common to each formulary.

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- XLVI. Pharmacy benefit management services and other administrative expenses of the prescription drug benefit for each plan offered by a public payor.
 - XLVII. Enrollee cost sharing for each plan offered by a public payor.
 - XLVIII. Aggregate net spending on the prescription drug benefit.
 - XLIX. Data compiled by the department of health and human services. Prescription drug spending data provided to the board under this subparagraph is confidential to the same extent it is confidential while in the custody of the entity that provided the data to the board.
 - L. Based upon the prescription drug spending data received under paragraph II, the board, in consultation with a representative of each public payor shall determine methods for the public payor to meet the spending targets established under paragraph I. While continuing to ensure adequate access by subscribers to needed prescribed pharmaceutical products, the board shall determine whether the following methods reduce costs to individuals purchasing prescription drugs through a public payor and allow public payors to meet the spending targets established under paragraph I:
 - LI. Negotiating specific rebate amounts on the prescription drugs that contribute most to spending that exceeds the spending targets.
 - LII. Changing a formulary when sufficient rebates cannot be secured under subparagraph (a).
 - LIII. Establishing a common prescription drug formulary for all public payors.
 - LIV. Prohibiting health insurance carriers in the state administering benefits for a public payor from offering on their formularies prescription drugs when the method described in subparagraph (b) is implemented.
 - LV. Purchasing prescription drugs in bulk or through a single purchasing agreement for use among public payors.
 - LVI. Collaborating with other states and state prescription drug purchasing consortia to purchase prescription drugs in bulk or to jointly negotiate rebates.
 - LVII. Allowing health insurance carriers providing coverage to small businesses and individuals in the state to participate in the public payor prescription drug benefit for a fee.
 - LVIII. Procuring common expert services for public payor, including but not limited to pharmacy benefit management services and actuarial services.
 - LIX. By November 1, 2020 and annually thereafter, the board shall report its recommendations, including prescription drug spending targets, their strategies for optimization of affordability of prescription drugs for the state and all of its residents, the progress of implementing those recommendations, as well as the annual net spending by public payors on prescription pharmaceutical products as a measure of the efficacy of implementation of those recommendations to date, to the standing committees of the general court with jurisdiction over health coverage and insurance matters and to the governor. This report shall also contain the following information about prescription drugs, both brand name and generic:
 - LX. The 25 most frequently prescribed drugs in the state;
 - LXI. The 25 costliest drugs as determined by the total amount spent on those drugs in the state; and
 - LXII. The 25 drugs with the highest year-over-year cost increases as determined by the total amount spent on those drugs in the state.
 - LXIII. The board may apply for and receive funds, grants, or contracts from public and private sources.
 - LXIV.
 - LXV. Source. 2020, 13:5, eff. July 1, 2020.

Section 126-BB:6

126-BB:6 Rulemaking. –

- LXVI. The board shall adopt rules under RSA 541-A for the following:
 - LXVII. Procedures for drug price transparency as required under RSA 126-BB:7.
 - LXVIII. The adoption of all fees under RSA 126-BB:8.
 - LXIX. Proceedings for assessing civil fines under RSA 126-BB:10.
 - LXX. Any other matter required to implement this chapter.
 - LXXI.
 - LXXII. Source. 2020, 13:5, eff. July 1, 2020.

Section 126-BB:7

126-BB:7 Drug Price Transparency; Non-disclosure Requirements. –

- LXXXIII. The board shall develop and implement policies and procedures for its collection, processing, storage, and analysis of clinical, financial, quality restructuring and prescription drug price data for the following purposes:
- LXXXIV. To use, build, and improve upon and coordinate existing data sources and measurement efforts through the integration of data systems and standardization of concepts.
- LXXXV. To coordinate the development of a linked public and private sector information system.
- LXXXVI. To emphasize data that is useful, relevant, and not duplicative of existing data.
- LXXXVII. To minimize the burden on those providing data.
- LXXXVIII. To preserve the reliability, accuracy, and integrity of collected data.
- LXXXIX. The board shall adopt rules to ensure that:
- LXXX. Payors, providers, prescription drug manufacturers, wholesale drug distributors, and pharmacy benefits managers file data as required by RSA 126-BB:9.
- LXXXI. Users that obtain health data and information from the board safeguard the identification of patients and health care practitioners.
- LXXXII. Payors, providers, prescription drug manufacturers, wholesale drug distributors, and pharmacy benefits managers pay all assessments as required by RSA 126-BB:8.
- LXXXIII. (d)(1) Only the board and employees assigned to the board may access the information received pursuant to this chapter and only for purpose of effectuating the powers and duties granted the board by this chapter. The board shall limit access to any information that it receives pursuant to this chapter to the smallest number of employees and other personnel possible; and all such individuals shall, as a condition of employment, be required to execute non-disclosure agreements under which they are restricted from disclosing any information they may receive in connection with this chapter during their employment term and in perpetuity post-employment.
- LXXXIV. (2) If the board, its members, employees, or personnel willfully shares or discloses for unauthorized purposes information that is trade secret information, confidential, commercial or proprietary information, or information designated as "confidential" by the owner of the information, the board or the individual who made the unauthorized disclosure may be subject to any penalties available under federal and state laws, including trade secret misappropriation laws, to the extent permitted by law.
- LXXXV.
- LXXXVI. Source. 2020, 13:5, eff. July 1, 2020.

Section 126-BB:8

126-BB:8 Funding; Assessment of Fees. –

- LXXXVII. The expenses and cost of operation of the board shall be funded by reasonable user fees and assessments determined in rules adopted by the board.
- LXXXVIII. Fees may be charged for the reasonable costs of duplicating, mailing, publishing, and supplies.
- LXXXIX. Reasonable user fees shall be charged on a sliding scale for the right to access and use the health data and information available from the board. Fees may be charged for services provided to the department on a contractual basis. Fees may be reduced or waived for users that demonstrate a plan to use the data or information in research of general value to the public health or inability to pay the scheduled fees, as provided by rules adopted by the board.
- XC. Annual assessments of not less than \$100 assessed against the following entities:
- XC.I. Health insurance carriers and health maintenance organizations on the basis of the total annual health care premium.
- XC.II. Third-party administrators.
- XC.III. Health carriers that provide only administrative services for a plan sponsor.
- XC.IV. Pharmacy benefits managers that process and pay claims on the basis of claims processed or paid for each

plan sponsor.

xcv. Health care policies issued for specified disease, accident, injury, hospital indemnity, disability, long-term care or other limited benefit health insurance policies are not subject to assessment under subparagraph (c). For purposes of this paragraph, policies issued for dental services are not considered to be limited benefit health insurance policies.

xcvi. Annual assessments of not less than \$500 assessed by the board against prescription drug manufacturers, wholesale drug distributors, and pharmacy benefits managers.

xcvii. The aggregate level of annual assessments under subparagraphs (c) and (e) shall be an amount sufficient to meet the board's expenditures authorized. The board may waive assessments otherwise due under subparagraphs (c) and (e) when a waiver is determined to be in the interests of the board and the parties to be assessed.

xcviii.

xcix. Source. 2020, 13:5, eff. July 1, 2020.

Section 126-BB:9

126-BB:9 Drug Price Notifications and Disclosures; Confidentiality; Registration. –

c. No later than January 30, 2021 and annually thereafter, a manufacturer shall notify the board when the manufacturer has during the prior calendar year:

ci. Increased the wholesale acquisition cost of a brand-name drug by more than 20 percent per pricing unit;

cii. Increased the wholesale acquisition cost of a generic drug that costs at least \$10 per pricing unit by more than 20 percent per pricing unit; or

ciii. Introduced a new drug for distribution in this state when the wholesale acquisition cost is greater than the amount that would cause the drug to be considered a specialty drug under the Medicare Part D program. For the purposes of this section, "Medicare Part D" means prescription drug benefit in accordance with the requirements of the federal Medicare Prescription Drug Improvement and Modernization Act of 2003.

civ. (a) To develop the report under paragraph VIII, the board shall first assess public information that is readily available. To the extent there is no public information or not enough public information readily available to the board to produce its report, the board may request information from:

cv. The manufacturer that provided notice to the board pursuant to paragraph I;

cvi. A pharmacy benefit manager or health insurance carrier providing services involving the drug that is the subject of the notification provided pursuant to paragraph I.

cvii. (b) Once the board requests information of a manufacturer, pharmacy benefit manager, or health insurance carrier, the entity shall have 60 days to produce the requested information regarding the prescription drug that is the subject of the request. If, after a complete review of all information and data available to the board or as received from the entities, the board makes a determination that additional data is required for a particular prescription drug to produce the report under paragraph VIII, the board may request that additional information from wholesale drug distributors that distribute the prescription drug that is the subject of the report. Once the board requests information of a wholesale drug distributor, it shall have 60 days to produce information regarding the prescription drug that is the subject of the request.

cviii. (a) Upon receipt of a request from the board relating to a specific prescription drug for which notice was provided pursuant to paragraphs I and II, a manufacturer shall provide to the board, in a form and manner specified by the board, (i) a written, narrative description, suitable for public release, of all factors that caused the increase in the wholesale acquisition cost of the listed outpatient prescription drug, and (ii) aggregate, company-level research and development costs and such other capital expenditures that the board, in its discretion, deems relevant for the most recent year for which final audited data are available.

cix. The data that a pharmaceutical manufacturer submits to the board under this section may be limited to the information and data that the pharmaceutical manufacturer includes in such pharmaceutical manufacturer's annual consolidated report on Securities and Exchange Commission Form 10-K, or any other public disclosure.

cx. The board shall establish a standardized form for reporting information and data pursuant to this section after consulting with pharmaceutical manufacturers. The form shall be designed to minimize the administrative burden and cost of reporting on the office and pharmaceutical manufacturers.

cxii. Upon a request from the board relating to a specific prescription drug for which notice was provided

pursuant to paragraphs I and II, a pharmacy benefit manager or wholesaler shall provide:

CXII. The dollar amount of all rebates or fees concerning the drug collected from the manufacturer that were covered by such health carriers during such calendar year; and

CXIII. The dollar amount of all rebates and fees, excluding any portion of the rebates or fees received by health carriers, concerning the drug collected from the manufacturer.

CXIV. Fees referenced in subparagraphs (1) and (2) shall exclude those that are determined to be bona fide service fees as defined by the United States Department of Health and Human Services and codified in 42 C.F.R. 414.803.

CXV. The board shall establish a standardized form for reporting information pursuant to subparagraph (d) after consultation with pharmacy benefits managers and wholesalers. The form shall be designed to minimize the administrative burden and cost of reporting on pharmacy benefits managers and wholesalers.

CXVI. Information provided to the board as required by this section by a manufacturer, wholesale drug distributor, or pharmacy benefits manager that has not been publicly reported is confidential and not a public record under RSA 91-A, except that the board may share information:

CXVII. With the insurance department, to the extent necessary for the department to enforce insurance laws, as long as any information shared is kept confidential; and

CXVIII. As long as it is not released in a manner that represents a breach of confidential information provided by a manufacturer, wholesale drug distributor, or pharmacy benefits manager.

CXIX. Beginning January 1, 2021, a manufacturer, pharmacy benefits manager, and wholesale drug distributor subject to this section shall register annually with the board in a manner prescribed by the board.

CXX. A manufacturer, wholesale drug distributor, or pharmacy benefits manager that submits a notification or report to the board pursuant to this section shall submit with the notification or report a signed written certification of the notification's or report's accuracy. Any confidential or proprietary information contained within such notification or report shall be clearly identified as such. Any breach of confidential information not so identified shall not be subject to RSA 126-BB:7, II(d).

CXXI. (a) The board may audit the data submitted by a manufacturer, wholesale drug distributor, or pharmacy benefits manager pursuant to this section. The audits shall only be conducted when the state has reasonable cause to believe information received is inaccurate. The board shall notify the entity to be audited with sufficient notice before conducting the audit. The costs of the audit shall be paid for by the manufacturer, wholesale drug distributor, or pharmacy benefits manager.

CXXII. (b) The board may require a manufacturer, wholesale drug distributor, or pharmacy benefits manager subject to this section to develop a corrective action plan to correct any deficiencies the board finds with the manufacturer's, wholesale drug distributor's, or pharmacy benefits manager's compliance with this section.

CXXIII. Beginning November 1, 2021 and annually thereafter, the board shall produce and post on its publicly accessible website an annual report, including information developed from the notifications and disclosures received pursuant to this section on trends in the cost of prescription drugs, analysis of manufacturer prices and price increases, the major components of prescription drug pricing along the supply chain and the impacts on insurance premiums and cost sharing, and any other information the board determines is relevant to providing greater consumer awareness of the factors contributing to the cost of prescription drugs in the state. The report may not disclose information attributable to any particular manufacturer, wholesale drug distributor, or pharmacy benefits manager subject to this section and may not make public any information that is confidential. The board shall submit the report required by this section to the standing committees of the general court with jurisdiction over health data reporting and prescription drug matters and the governor.

CXXIV.

CXXV. Source. 2020, 13:5, eff. July 1, 2020.

Section 126-BB:10

CXXVI.

CXXVII. 126-BB:10 Civil Penalties. – When a person or entity that is a health care facility payor, prescription drug manufacturer, wholesale drug distributor, or pharmacy benefits manager violates any requirement of this chapter, that person or entity commits a civil violation for which a fine of not more than \$1,000 per day may be imposed. A fine imposed under this paragraph may not exceed \$25,000 for any one occurrence.

CXXVIII.

CXXIX. Source. 2020, 13:5, eff. July 1, 2020.

Appendix G: David Wieters Presentation - March 26

Technology Update and Discussion

To accommodate the New Hampshire Prescription Drug Affordability Board's technology needs the Department of Health and Human Services worked with the Department of Information Technology to implement solutions to support the following functions:

- Ability for Prescription Drug Manufacturer, pharmacy benefits manager or health insurance carrier's to securely upload files upon request to be shared with the board
- Ability for the Board and Advisory Board to securely access the files being uploaded
- Creation and continued maintenance and operations of a website to host the agenda, minutes, information and related materials associated with the meetings
 - <https://www.dhhs.nh.gov/ombp/medicaid/nhpdab.htm>



Appendix H - David Wieters Web Update - May 14

Technology Update Status

- Ability for Prescription Drug Manufacturer, pharmacy benefits manager or health insurance carrier's to securely upload files upon request to be shared with the board
 - Two options are being reviewed for this solution. Andrew will be presenting on a secure portal solution that may be an option
- Ability for the Board and Advisory Board to securely access the files being uploaded
 - Accounts are in the process of being created to provide the Board access to the site to share files
- Creation and continued maintenance and operations of a website to host the agenda, minutes, information and related materials associated with the meetings
 - Website is published and available for use:
 - <https://www.dhhs.nh.gov/ombp/medicaid/nhpdab.htm>



Appendix I - Andrew Chalsma presentation June 25

Introduction to NH Comprehensive Healthcare Information System

2021-6-25

Andrew Chalsma

NH DHHS

6/25/2021

NH DHHS

1

System Overview

- NH Comprehensive Healthcare Information System is NH's All Payer Claims Database system
- Data has been collected since 2005 (NH was second state legislated program)
- Data is submitted by all (except very small) licensed carriers/PBMs and third party administrators
- Contains eligibility, medical claims (including mental health) and pharmacy claims
- Detail is at the claim level (e.g., includes pharmacy NDC codes)
- Main Gaps
 - Excludes carriers not licensed in NH
 - Only collected for self-insured, other than NH State/UNH, if employer groups voluntarily agree to submit data
 - Excludes Federal insurance plans

6/25/2021

NH DHHS

2

420-G:11 Disclosure. –

II. (a) All health carriers, licensed third party administrators, and any entity required to be registered with the commissioner pursuant to RSA 402-H, shall electronically provide:

(1) Their encrypted claims data to the department and to the department of health and human services ...

IV. The data submission requirements of paragraphs II and II-a shall apply with respect to claims data for all lives covered by a fully-insured health plan in any market in the state, by any self-funded plan for state or municipal employees, including any plan maintained under RSA 5-B, to any self-funded plan maintained by the university system of the state with respect to its employees or its students, and to any self-funded student health benefit plan maintained by an institution of higher education which provides 4-year bachelor's degree programs and graduate or professional degree programs.

V. In addition to those lives listed in paragraph IV, the data submission requirements of paragraphs II and II-a shall also apply to all health carriers, licensed third party administrators, and any entity required to be registered with the commissioner pursuant to RSA 402-H with respect to claims data for all lives covered by any other self-funded employer-sponsored plan, when the employer has opted in writing to the submission of the data. The carrier or administrator shall notify the employer of the employer's option to authorize submission of the data.

6/25/2021

NH DHHS

3

Section 420-G:11-a

420-G:11-a Development of a Comprehensive Health Care Information System. –

I. The department, the department of justice, and the department of health and human services shall enter into a memorandum of understanding for collaboration in the development of a comprehensive health care information system.

...

To the extent allowed by HIPAA, the data shall be available as a resource for insurers, employers, providers, purchasers of health care, and state agencies to continuously review health care utilization, expenditures, and performance in New Hampshire and to enhance the ability of New Hampshire consumers and employers to make informed and cost-effective health care choices.

...

The comprehensive health care information system shall not include or disclose any data that contains direct personal identifiers.

6/25/2021

NH DHHS

4

RX Data Elements Collected

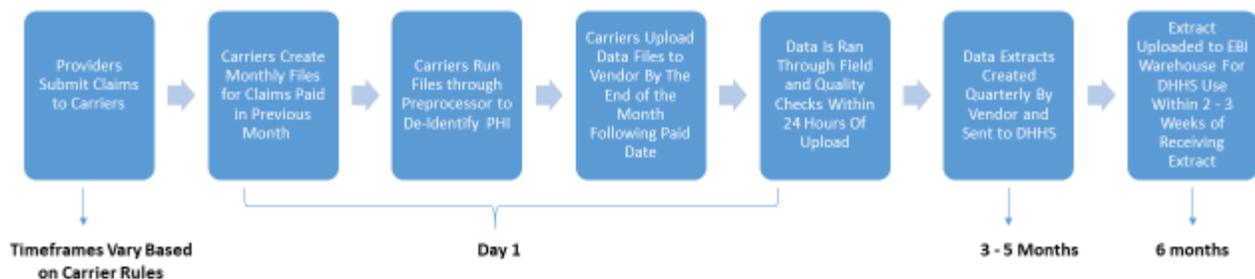
- Drug Code
- Drug Name
- New Prescription
- Generic Drug Indicator
- Dispense as Written Code
- Compound Drug Indicator
- Date Prescription Filled
- Quantity Dispensed
- Days Supply
- Charge Amount
- Paid Amount
- Ingredient Cost/List Price
- Dispensing Fee
- Copay Amount
- Coinsurance Amount
- Deductible Amount
- Prescription Number
- Prescribing Physician First Name
- Prescribing Physician Middle Name
- Prescribing Physician Last Name
- Prescribing Physician Number
- Allowed Amount

6/25/2021

NH DHHS

5

Data Process & Timeframe For Access To Data



- Data is available in our warehouse from 2013 forward.
- There is a 6 month runout on data which accounts for the quarterly extracts being generated with a 3 month lag (e.g. December 2020 extract contained paid dates through September 2020).
- Extracts take approximately 2 months to generate and get uploaded to our warehouse.

6/25/2021

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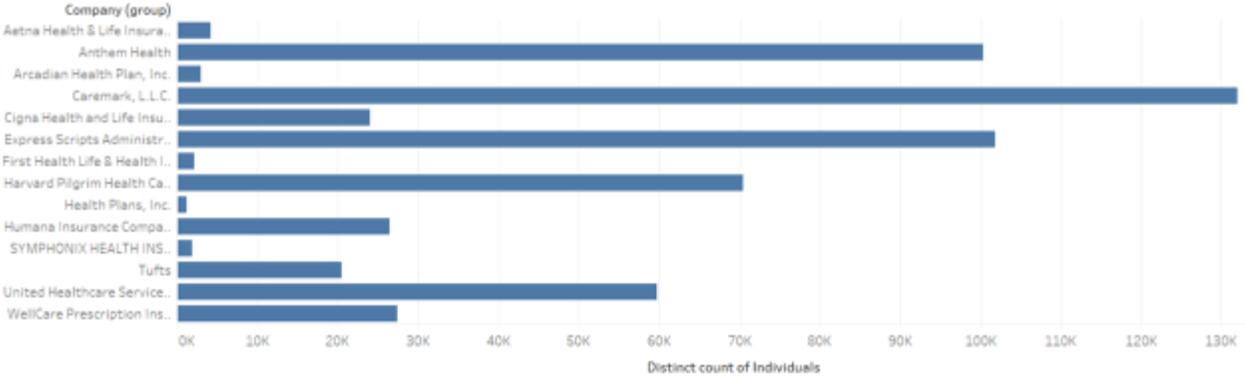
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Data Examples

- New Hampshire Residents
- Dates of Service In Calendar Year 2020
- Commercial and Medicare Part D Claims (No Medicaid)

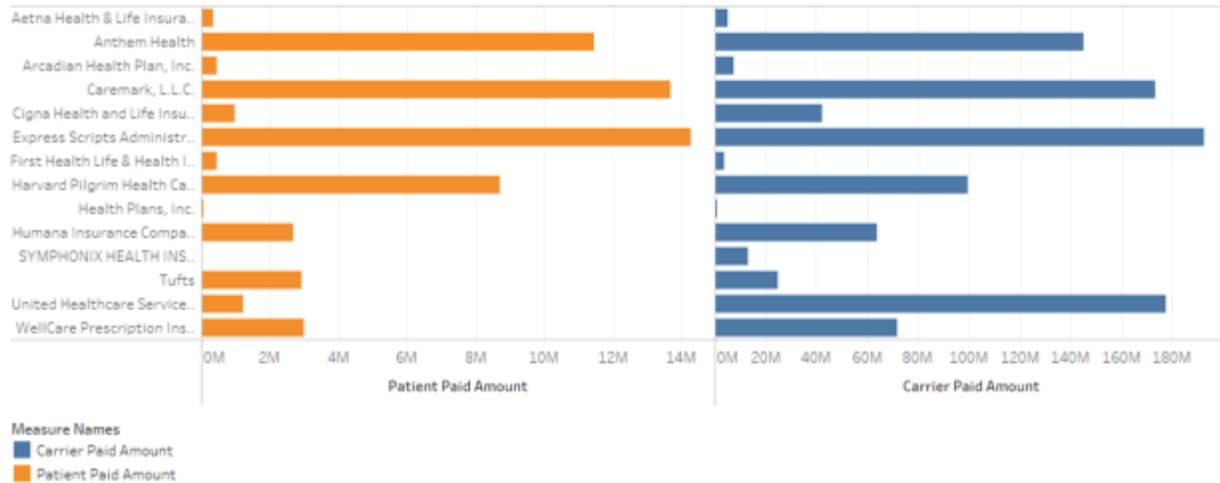
6/25/2021 NH DHHS 7

Rx Patient Counts in NH CHIS (Commercial and Medicare)



6/25/2021 NH DHHS 8

Rx Expected Patient Payment & Plan Payment



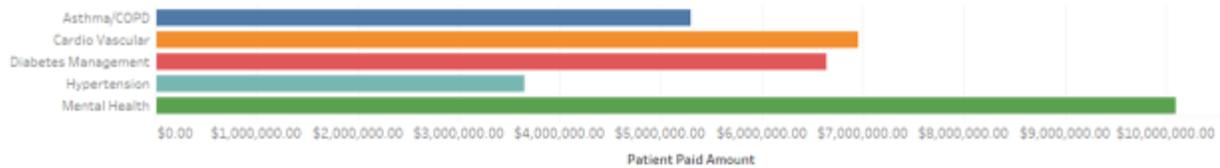
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NH DHHS

9

Top 5 Medication Classes With Patient Cost Share

Patient Paid Amounts



Average Patient Paid Amounts

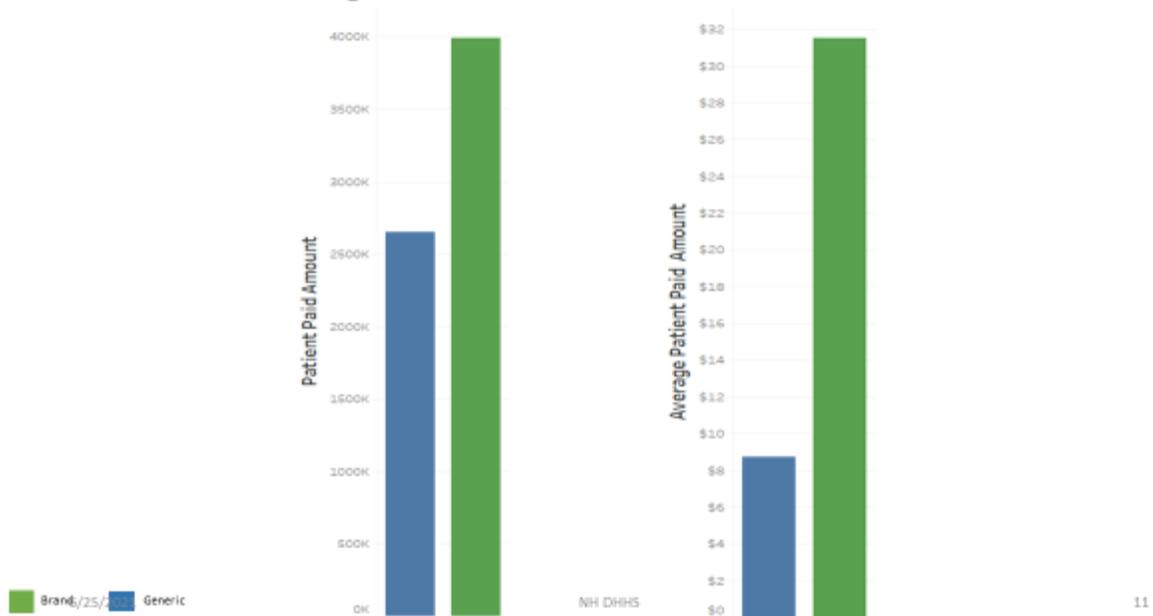


6/25/2021

NH DHHS

10

Diabetes Management Patient Cost: Generic vs. Brand



Data Analysis Opportunities

- Data set is very large! 9.7M claims in CY2020
- Fortunately DHHS now has it stored in an easy to query way in a data warehouse
 - Oracle database; Tableau (or other tools) on front end
 - Grouping of NDCs by therapeutic class
 - Updated final version of claim
- Can look at drug services billed on medical claims
- State contractors can access the data set
- DHHS has an ongoing relationship with UNH Institute for Health Policy and Practice to do projects for state partners

Appendix J - Andrew York presentation May 14

Prescription Drug Affordability Board

- The Maryland Prescription Drug Affordability Board (PDAB) was created to study the prescription drug market in Maryland, and protect the State and its residents from the high costs of prescription drug products
- Throughout this year, the Board will analyze Maryland's pharmaceutical distribution and payment system, review possible policy options to lower the cost of prescription drugs, and report its findings to the General Assembly
- Possible options include, but are not limited to, setting upper payment limits, a reverse auction marketplace, and implementing a bulk purchasing process



Maryland Prescription Drug Affordability Board

PDAB Program Overview

New Hampshire Prescription Drug Affordability Board

Presentation by: Andrew York, Executive Director

May 14, 2021



History and Milestones

- Maryland passed legislation creating the Prescription Drug Affordability Board in 2019
- Board members appointed in 2019 and 2020
- Funding secured in 2021
 - Legislation allows PDAB to develop regulations to assess annual fees on manufacturers, pharmacy benefit managers, carriers, and wholesale distributors that sell prescription drugs in the state



Current Work

- Drafting two reports due December 2021
 - Study of the pharmaceutical distribution and payment system, including possible policy options and Board recommendations
 - Includes upper payment limits (UPLs), reverse auctions, and bulk purchasing
 - Report on price trends of prescription products, and the number of drugs that were subject to Board review
- Board must decide if they want to move forward with UPLs for state and local government
 - If so, Board must develop a plan of action for setting UPLs and submit the plan of action to the Legislative Policy Committee of the Maryland General Assembly



Questions and Feedback

Please visit pdab.maryland.gov for updates on the PDAB and its progress on studying Maryland's pharmaceutical market.

Please also feel free to contact the PDAB with any questions or concerns at: andrew.york@maryland.gov



Appendix K - Staci Hermann presentation August 24

Pharmacy “Cost”

STACI HERMANN, PHARMD, MS

AUGUST 24, 2021

Overview

Cost vs Affordability

	Brand	Generic
Drug Cost	\$7,800.00	\$700.00
Member Copay (SPD)	\$200.00	\$50.00
Copay Assistance	\$195.00	\$0.00
Actual Copay	\$5.00	\$50.00
Rebate	\$1,500.00	\$0.00
Plan Cost	\$6,100.00	\$650.00

Pharmaceutical “cost”



Insulin "Cost" Over Time

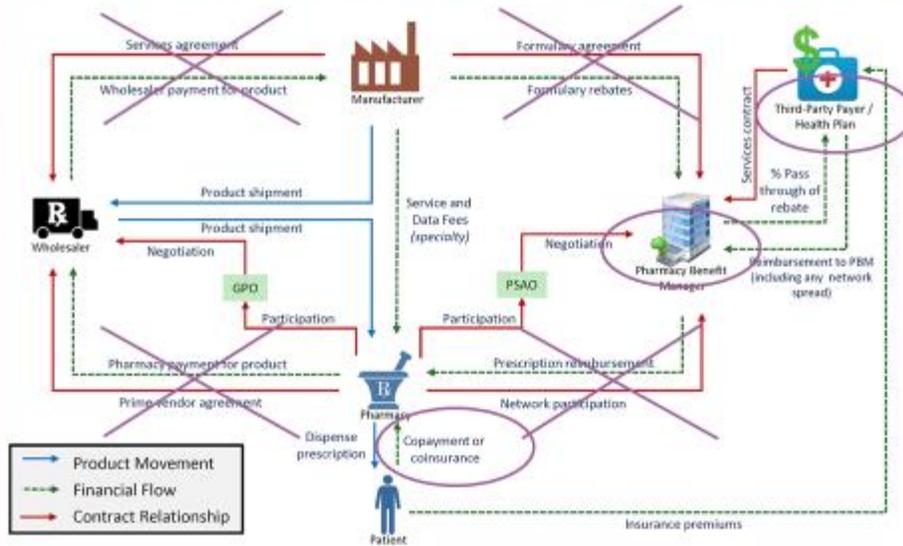


Drug Channel's News Roundup, March 2021: Sanofi's Cross-to-Net Battle, Express Scripts Rebates, Health Insurance Hurdle, and Vertical Integration
Updated: <https://www.drugchannel.com/articles/march-2021-drug-channel-news-roundup>
ID:010637000120210101 AC:010601816/2021

NH Insulin Price Cap

- ▶ NH HB1280 – cap insulin cost share to \$30/30-day supply
- ▶ Squeezing the balloon
 - ▶ Where will the cost be driven to offset the loss of out of pocket covered expenses?

U.S. Distribution and Reimbursement System: Patient-Administered, Outpatient Drugs



Source: Fain, Adam J. *The 2017 Economic Report on U.S. Prescription and Pharmacy Benefit Markets*. Drug Channels Institute, 2017. Chart illustrates flows for **Patient-Administered, Outpatient Drugs**. Please note that this chart is illustrative. It not intended to be a complete representation of every type of financial, product flow, or contractual relationship in the marketplace.
 GPO = Group Purchasing Organization; PSAO = Pharmacy Services Administrative Organization

DRUG CHANNELS INSTITUTE

Profits in the 2017 Fortune 500: Manufacturers vs. Wholesalers, PBMs, and Pharmacies. <https://www.drugchannelsinstitute.com/wp-content/uploads/2017/04/Profits-in-2017-Fortune-500-Pharmacies.pdf>. Accessed 8/16/2021.

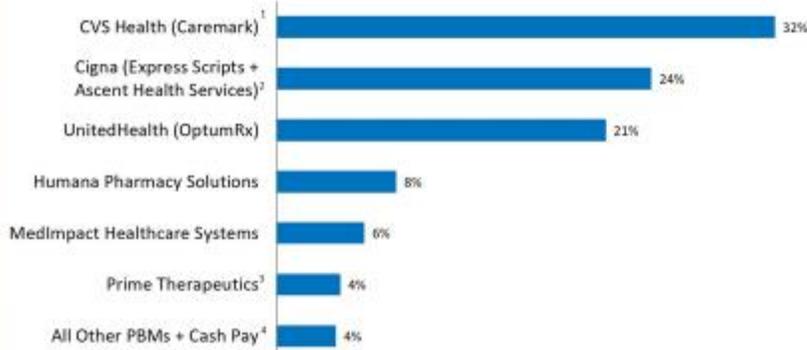
What's Happening in the Market

Vertical Business Relationships Among Insurers, PBMs, Specialty Pharmacies, and Providers, 2021



Drug Channels News Roundup, March 2021: Sonoff's Cross-to-Net Battle, Express Scripts Reboots, Health Insurance Hustle, and Vertical Integration. <https://www.drugchannels.com/2021/03/08/sonoffs-cross-to-net-battle-express-scripts-reboots-health-insurance-hustle-and-vertical-integration/>. Accessed 8/14/2021.

PBM Market Share, by Total Equivalent Prescription Claims Managed, 2020



1. Excludes Drug Channels Institute estimates of double-counted network claims for mail choice claims filled at CVS retail pharmacies.
 2. Includes Cigna claims, which fully transitioned to Express Scripts by the end of 2020. Includes Ascent Health Services, which includes Kroger Prescription Plans and a partial year of Prime Therapeutics.
 3. Excludes Drug Channels Institute estimates of 2020 claims for which Ascent Health Services handled rebate negotiations and pharmacy network contracting.
 4. Figure includes some cash-pay prescriptions that use a discount card processed by one of the 6 PBMs shown on the chart.
 Source: The 2021 Economic Report on U.S. Pharmacy and Pharmacy Benefit Managers. Drug Channels Institute, Exhibit 92. Total equivalent prescription claims includes claims at a PBM's network pharmacies plus prescriptions filled by a PBM's mail and specialty pharmacies. Includes discount card claims. Note that figures may not be comparable with those of previous reports due to changes in publicly reported figures of equivalent prescription claims. Total may not sum due to rounding.

DRUG CHANNELS INSTITUTE

The Top Pharmacy Benefit Managers of 2020: Vertical Integration Drives Central Action. <https://www.drugchannels.com/2021/03/08/the-top-pharmacy-benefit-managers-of-2020-vertical-integration-drives-central-action/>. Accessed 8/14/2021.

June 16, 2021

50 State Map of MAC Laws – Can PBMs No Longer Rely on ERISA Preemption to Avoid Certain State Laws?

State Auditor McGuinness Estimates State Overpaid Its Pharmacy Benefit Manager by \$24.5 Million over Three Years

Auditor of Accounts | News | State Auditor Kathy McGuinness | Date Posted: Thursday, June 17, 2021

Tuesday, December 8, 2020 (2 Comments)

Posted by: Michael Jackson

Questions?

Appendix

Table 1. Common Terms and Acronyms Used in Drug Pricing

Term	Definition
Federal upper limit (FUL)	A price ceiling used by the Centers for Medicare and Medicaid Services (CMS) to control prices for certain medications paid to pharmacies
Maximum allowable cost (MAC)	A price ceiling, similar to the FUL, established at the state level
Usual and customary price (U&C)	The average cash price paid at a retail pharmacy
Average wholesale price (AWP)	An estimate of the price retail pharmacies pay for drugs from their wholesale distributor. This price is calculated and published by companies such as Medi-Span and First Databank
Wholesale acquisition cost (WAC)	An estimate of the manufacturer's list price for a drug to wholesalers or other direct purchasers, not including discounts or rebates. This price is defined by federal law
Average manufacturer price (AMP)	The price a manufacturer charges wholesalers or pharmacies that purchase directly from the manufacturer after discounts. This price is defined by federal law
Average sales price (ASP)	A calculation of the weighted average of manufacturer's sales price for a drug for all purchasers, net of price adjustments. This price is defined by federal law
Estimated acquisition cost (EAC)	An estimate of the price generally paid by providers for a drug. Formula specific for each state as defined by the state Medicaid agency
Average Actual cost (AAC)	An estimate of retail pharmacy acquisition costs for drugs through a review of actual pharmacy invoices
Dispensing fee	The amount reimbursed to the pharmacy to cover the charge for professional services and overhead costs
National Drug Code (NDC)	An 11-digit code used by Medicaid to identify a drug based on its manufacturer, strength, and package size

Source: References 3-5, 7, 14.

Understanding Drug Pricing:
<https://www.berensoncenter.org/medicaid-reform-and-increasing-drug-pricing>
 Accessed 01/16/2021.