State PBM Reform Inventory

Updated October 2026

Delaware

Issue	Summary	Citation
Licensing/Registration	A PBM must register with the Insurance Commissioner as a PBM before providing pharmacy benefit management services in Delaware to a purchaser. Purchasers may not enter into an agreement or contract with a PBM that has not registered with the commission. A PBM applying for registration must file an application form provided by the commission along with a fee of $1,000. A PBM registration expires on May 1 after its effective date. A PBM may renew its registration for an additional 1-year term by filing a registration renewal application and paying a $1,000 renewal fee.	Del. Code tit. 18 § 3353A-3354A

Reporting Requirements	A PBM shall report to the commission, on a quarterly basis, all the following for each insurer:
	• An itemization of PBM revenue sources, including professional fees, administrative fees, processing fees, audits, direct and indirect remuneration fees, or any other fees,
	• The aggregate amount of rebates distributed to the appropriate insurer,
	• The aggregate amount of rebates passed on to insureds of each insurer at the point of sale that reduced the insureds' applicable cost-sharing amount,
	• The individual and aggregate amount the insurer paid to the PBM for pharmacy goods or services itemized by:
	  ○ Pharmacy.
	  ○ Product.
	  ○ Goods and services.
	• The individual and aggregate amount a PBM paid for pharmacy goods or services, itemized by all the following:
	  ○ Pharmacy.
	  ○ Product.
	  ○ Goods and services.
		Del. Code tit. 18 § 3363A;
		
		Del. Code tit. 18 § 3304A

	• A PBM cannot initiate an audit of a pharmacy more often than once every 12 months. • The cost of any audit shall be borne by the PBM, who may not impose a fee or charge or pass along costs related to an audit to the pharmacy or pharmacist.	
PBM Income	**Spread Pricing:** A PBM or a representative of a PBM may not engage in spread pricing. Purchasers may not contract with a PBM that conducts spread pricing.	Del. Code tit. 18 § 3371A-3372A
Pharmacy Contracting	**Minimum Reimbursement:** A PBM or a representative of a PBM may not pay or reimburse a pharmacy or pharmacist for the ingredient drug product component of pharmacist services at a rate less than the NADAC, or if unavailable, the WAC. **MAC Pricing:** A PBM must ensure that a product meets certain requirements before placing it on a MAC list and maintain a process to remove a product from the list if it no longer meets these requirements. A PBM engaging in MAC pricing must make the sources used to determine such prices available to all network providers at the beginning of the network provider contract and upon renewal. MAC price information must be made available to network pharmacy providers in an electronic format. A PBM shall review MAC prices at least every 7 business days and update MAC price information if there are any modifications. A PBM shall use the updated price information to calculate MAC reimbursements on the day following a modification. Dispensing fees may not be included in the MAC price. A PBM must establish a process for a network pharmacy provider to appeal their reimbursement for a drug subject to MAC pricing. Information on how to file an appeal must be provided to network pharmacies at the beginning of their contract and upon renewal; the PBM must also disclose its appeals process on its website. If a PBM denies an appeal, it must provide the reason for the denial and the name and NDC of the national or regional wholesalers operating in Delaware that have the drug in stock at a price below the MAC. A	Del. Code tit. 18 § 3372A; Del. Code tit. 18 § 3322A-3324A

	pharmacy may appeal a denial to the Insurance Commission, which will review the PBM's compensation program. If a PBM grants an appeal, it shall update the MAC price information and provide updated reimbursement to the petitioning pharmacy without requiring the pharmacy to reverse and rebill the claim. It shall also notify similarly situated pharmacies and allow them to reverse and rebill claims without requiring a separate appeal. A PBM may not charge a fee related to the re-adjudication of a claim or retaliate against a network pharmacy provider for exercising its right to appeal a reimbursement. This section does not apply to the Medicaid fee-for-service program. **Appeals:** A PBM must establish a process in which a contracted pharmacy can appeal the amount reimbursed by the PBM. • If an appeal is denied, the PBM must provide a detailed reason for the denial	
Patient Cost-Sharing	**Copay Adjustment Programs:** When calculating an enrollee's contribution to any cost-sharing requirement, a PBM shall include any cost-sharing amounts paid by the enrollee or on the enrollee's behalf by another person. **Copay Cap:** An individual health insurance policy, contract, or certificate that is delivered, issued for delivery, renewed, extended, or modified in this State that provides coverage for prescription insulin drugs must do all the following: • Cap the total amount that a covered individual is required to pay for covered prescription insulin drugs at no more than $100 per month for each enrolled individual, regardless of the amount or types of insulin needed to fill the covered individual's prescriptions. The $100 per month cap includes deductible payments and cost-sharing amounts charged once a deductible is met.	Del. Code tit. 18 § 3382; Del. Code tit. 18 § 3344B

	• Include at least 1 formulation of each of the following types of prescription insulin drugs on the lowest tier of the drug formulary developed and maintained by the carrier: o Rapid-acting. o Short-acting. o Intermediate-acting. o Long-acting.	