

PHARMACY BENEFIT MANAGER LICENSURE AND REGULATION ACT (EXCERPT)
Act 11 of 2022

550.833 Transparency report; requirements; exempt from freedom of information act; report to legislature; inapplicable to Medicaid contracts.

Sec. 23.

(1) Unless otherwise required more frequently by the director, by April 1, 2025 and each April 1 after that date, except as otherwise provided in subsection (5), a pharmacy benefit manager shall file a transparency report with the director that contains the information required under subsection (2) from the preceding calendar year. The transparency report must not disclose any of the following information:

- (a) The identity of a specific health plan or enrollee.
- (b) The price the pharmacy benefit manager charged a pharmacy for a specific drug or class of prescription drugs.
- (c) The amount of any rebate or fee provided to the pharmacy benefit manager for a prescription drug or class of prescription drugs.

(2) The transparency report required under subsection (1) must include all of the following information:

(a) The aggregate wholesale acquisition costs from a manufacturer or wholesale distributor for each therapeutic category of drugs for the pharmacy benefit manager's Michigan plan sponsors, net of rebates and other fees and payments, direct or indirect, from all sources.

(b) The aggregate amount of rebates that the pharmacy benefit manager received from all manufacturers for the pharmacy benefit manager's Michigan plan sponsors. The aggregate amount of rebates must include any utilization discounts the pharmacy benefit manager receives from a manufacturer or wholesale distributor.

(c) The aggregate amount of all fees that the pharmacy benefit manager received.

(d) The aggregate amount of rebates that the pharmacy benefit manager received from all manufacturers that were not passed through to Michigan health plans or insurers.

(e) The aggregate amount of fees that the pharmacy benefit manager received from all manufacturers that were not passed through to Michigan health plans, carriers, or insurers.

(f) The aggregate retained rebate percentage from business conducted in this state.

(g) All of the following information attributable to patient use of prescription drugs covered by Michigan health plans:

- (i) The aggregate amount of rebates and fees that the pharmacy benefit manager received from manufacturers.
- (ii) The aggregate amount of rebates and fees that the pharmacy benefit manager received from manufacturers that were either of the following:

(A) Passed through to Michigan health plans or enrollees at the point of sale of a prescription drug.

(B) Retained by the pharmacy benefit manager.

(3) Except to the extent to prepare the report under subsection (4), all information submitted to the director in a transparency report under this section is exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(4) By August 1, 2025 and each August 1 after that date, the director shall prepare a report based on the information received by the director under this act and submit the report to the legislature. The report must contain aggregate data and must not contain any information that the director determines would cause financial, competitive, or proprietary harm to a pharmacy benefit manager or carrier that the pharmacy benefit manager services. The department shall post the report required under this subsection on the department's website.

(5) This section does not apply to a contract between a pharmacy benefit manager and the department of health and human services under Medicaid. As used in this subsection, "Medicaid" means benefits under the program of medical assistance established under title XIX of the social security act, 42 USC 1396 to 1396w-6, and administered by the department of health and human services under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

History: 2022, Act 11, Eff. Jan. 1, 2024