



January 5, 2023

[submitted electronically via: [andria.seip@iid.iowa.gov](mailto:andria.seip@iid.iowa.gov)]

Andria Seip  
Iowa Insurance Division  
1963 Bell Avenue, Suite 100  
Des Moines, Iowa 50315

**Re: Insurance Division amendment to Chapter 59, "Pharmacy Benefits Managers," Iowa Administrative Code**

Dear Ms. Seip:

The American Pharmacists Association (APhA) would like to express our sincere gratitude on behalf of our pharmacist members and their patients for the leadership of Governor Reynolds in signing into law House File (HF) 2384 last year to increase transparency and regulation of the pharmacy benefit manager (PBM) industry. APhA recognizes that appropriate implementation of this legislation is vital to ensure patients continue to have access to services provided by their pharmacist and to lifesaving medications at their local community pharmacy. In addition to supporting comments from the Iowa Pharmacy Association (IPA), APhA appreciates the opportunity to provide feedback on the Iowa Insurance Division request for comment to make certain the implementation aligns with the full intent of the law.

APhA is the largest association of pharmacists in the United States advancing the entire pharmacy profession. APhA represents pharmacists in all practice settings, including community pharmacies, hospitals, long-term care facilities, specialty pharmacies, community health centers, physician offices, ambulatory clinics, managed care organizations, hospice settings, and government facilities. Our members strive to improve medication use, advance patient care, and enhance public health. In Iowa, APhA represents pharmacists and students that practice in numerous settings and provide care to many of your constituents. As the voice of pharmacy, APhA leads the profession and equips members for their role as the medication expert in team-based, patient-centered care. APhA inspires, innovates, and creates opportunities for members and pharmacists worldwide to optimize medication use and health for all.

As a result of the predatory practices of pharmacy benefit managers (PBMs), patients' access to medications from their local pharmacist across the country has declined<sup>1</sup>, taxpayer dollars have been funneled into corporate profits<sup>2</sup>, and generationally owned pharmacies have been driven out of business.<sup>3</sup> Appropriate government intervention is necessary to address the misaligned incentives in the PBM industry that prioritize profits over patients. We would encourage your Division to consider the following comments related to the proposed PBM appeals rules:

#### *Complaints process*

We appreciate the changes that have been proposed in 191-59.8(510B) "Complaints", as it includes a detailed and strict complaint reporting process for PBMs to follow. This is essential for the appropriate implementation of HF 2384 that mandates PBMs "shall act in the best interest of each third-party payor for whom the pharmacy benefits manager manages a prescription drug benefit provided by the third-party payor, and shall discharge its duties in accordance with applicable state and federal law." We recommend greater detail be included in the promptness a PBM must respond to an inquiry from the Commissioner. Without an explicit timeframe, a PBM could potentially delay their response to an inquiry. This could result in further violations of state laws and rules, financially undermining the business model of pharmacies and potentially jeopardizing patient access to their medications and health care professionals.

We recognize the importance of confidentiality in detailed complaints and appeals submitted to PBMs. However, there is need for the public to be aware of the scope of infractions by PBMs within the state. We recommend that the Commissioner aggregate and disseminate a regularly recurring report summarizing infractions by PBMs and complaints of PBMs to ensure the public is kept in the light on violations to state law that could impact their health.

#### *Reimbursement adjustments*

We appreciate the Division's work to include in 191—59.3(510B) "Timely payment of pharmacy claims", the following language, "Pursuant to Iowa Code section 510B.4 and paragraph 59.4(1)"j," a pharmacy benefits manager shall not retroactively reduce or increase reimbursement, through adjustment or reconciliation or any other means, of a clean claim paid to pharmacies." This language is vital for the implementation of HF 2384, which banned direct and indirect clawbacks by PBMs. It is essential that the Division is aware of practices by PBMs to change terminology of direct and indirect clawbacks in an effort to evade accountability to state laws. To ensure implementation of the law as intended, we recommend inclusion of language that encompasses

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<sup>1</sup> Rose J, Krishnamoorth R. Why your neighborhood community pharmacy may close. *The Hill*. Available at <https://thehill.com/blogs/congress-blog/healthcare/530477-why-your-neighborhood-community-pharmacy-may-close>

<sup>2</sup> 3 Axis Advisors. Analysis of PBM Spread Pricing in New York Medicaid Managed Care. Available at <http://www.ncpa.co/pdf/state-advoc/new-york-report.pdf>

<sup>3</sup> Callahan C. Mom-and-pop pharmacies struggle to hang on. *Times Union*. Available at <https://www.timesunion.com/hudsonvalley/news/article/Mom-and-pop-pharmacies-struggle-to-hang-on-16187714.php>

any change in terminology a PBM may use for direct and indirect clawbacks and for the Division to maintain a watchful eye on PBMs to disincentivize such practices.

#### *Penalties*

We are concerned that the penalties included in 191—59.12(505,507,507B,510,510B,510C,514L) “Failure to comply” are limited to those included in Iowa Code chapter 507B. It is vital that penalties are appropriate and proportional to disincentivize infractions. This may be completed through monetary fines and the termination of licensure of a PBM in the state. However, it is necessary that monetary fines are significant enough that a PBM cannot simply budget for planned violations of state law. Along with comments from IPA, we encourage the Division to use their full authority in HF 2384 to ensure compliance with state laws and rules.

Thank you again to Governor Reynolds and your Division for your work to prioritize patients’ access to health care services and medications. We urge your Division and the Commissioner, use their full authority to implement this legislation as intended. We are confident that with the appropriate implementation of this law, Iowa will be seen as a leader of transparency in the drug supply chain. If you have any questions or require additional information, please don’t hesitate to contact E. Michael Murphy, PharmD, MBA, APhA Advisor for State Government Affairs by email at [mmurphy@aphanet.org](mailto:mmurphy@aphanet.org).

Sincerely,

A handwritten signature in black ink, appearing to read "E. M. Murphy", with a stylized, cursive script.

E. Michael Murphy, PharmD, MBA  
Advisor for State Government Affairs  
American Pharmacists Association

cc: The Honorable Governor Kim Reynolds  
The Honorable Doug Ommen, Commissioner, Commerce & Insurance  
Kate Gainer, PharmD, Executive Vice President & CEO, Iowa Pharmacy Association  
Seth Brown, JD, Director, Public Affairs, Iowa Pharmacy Association