

Hello,

I am a pharmacist and an independent pharmacy owner in Eastern Washington. I would first like to commend you all at the OIC for all your work and enforcement of our state's PBM reform laws. We have made a lot of progress over the years, Thank you!

I would like to take this opportunity during this rule rewrite period to continue to plead my case that we revamp the small pharmacy underpayment appeal process to make it less onerous on everyone involved. My main point is that if the OIC would take more control of the 1st tier appeal process and base it off our specific laws we could shorten the process and make it much more concise and consistent. The OIC could mandate that for a PBM to register in our state they must follow our 1st tier appeal process. You could base that appeal process off our current laws and the precedent already set by the OAH and OIC judges and hearings officers.

If you do a review of all the underpayment appeals that the OAH/OIC has processed over the years it really comes down to 2 main laws, RCW 48.200.280(3) and RCW 48.200.280(4)(b). Of all the hundreds of appeals I have won, the basis was that I fulfilled my obligations of RCW 48.200.280(3) and was able to give proof that I am doing my due diligence to purchase at the best rates available to my pharmacy and I was not able to purchase the drug at the low price the PBM is reimbursing, and the PBM violated RCW 48.200.280(3) because they did not uphold my appeal and the PBM also violated RCW 48.200.280(4)(b) because they did not give proof that the drug was available to Washington State pharmacies for purchase at the price they are reimbursing.

It really is that simple! Pharmacy, give proof that you could not buy it at that price. PBM Either approve the appeal and increase reimbursement or give proof that it actually could have been purchased at that price.

So, since we have all this evidence, the OIC could make it so simple by having a universal 1st tier appeal process that dictates exactly what needs to be presented by each party.

Pharmacy, to start the appeal, give the claim demographics; RX #, date of fill, PBM reimbursement and proof you could not purchase at that price. Precedence has already been set by the OAH and OIC on how a pharmacy must do this, an explanation of your due diligence to purchase at best rates and an attestation that the price you paid the wholesaler is more than the reimbursement and that you will be able to present invoice evidence in a 2nd tier appeal if needed.

PBM, do you approve or deny the appeal?

Approve, give the new reimbursement amount and payment identification # and proof that the drug is available to Washington state pharmacies at that price in the form of NDC and wholesaler.

Deny, give proof that the drug could have been purchased by Washington state pharmacies at the original reimbursement rate in the form of NDC and wholesaler.

It really could be this simple this would take care of over 90% of all appeals right there in the 1st tier and the 2nd tier would only be needed very rarely.

In contrast to how the system is set up right now it takes months to get through an appeal and hours and hours of every ones time, mine, your staff, OAH staff, PBM staff. For example please go look at one of my last appeal cases, OIC# 25-0094, the whole process took 95 days to complete. I would be more than happy to donate my time to the OIC as a pharmacy consultant to help set up a more streamlined process that will be backed up by current laws and previous precedence set by OIC and OAH Judges.

Another thing that needs to be addressed in this rule making session is time frame of processing complaints. There are many other PBM reform laws other than appeal cases that are currently not being enforced. Currently your office is working on PBM complaints that I submitted 14-15 months ago. Per legislation the OIC is supposed to be charging PBMs a registration fee in an amount that ensures the registration, renewal, and oversight activities are self-supporting. If the OIC is 14-15 months behind on oversight activities it is time to increase the fees for PBM registration and hire a few designated staff to manage these PBM oversight activities. May I suggest hiring a pharmacist with some experience in medication billing and medication purchasing.

Thank you for your consideration, I will also include the 2 letters I wrote the OIC during previous rule making sessions as a refresher. I know that you have incorporated some of the ideas already and I greatly appreciate it.

Thank you,

Clinton Knight PharmD.

