

## **H.R. 5234-THE PBM AUDIT REFORM AND TRANSPARENCY ACT OF 2010**

### **Required Disclosures To Plan Sponsor In Annual Report**

- Number/total cost of prescriptions under the contract filled at mail and retail
- Aggregate average payments under the contract, per prescription made to mail and retail and average amount per prescription PBM received
- Overall percentage of generics dispensed under the contract at mail and retail and % of cases in which generic dispensed when available
- Percentage and number of cases patients switched to more costly drug

### **PBM Contracts With Pharmacies**

- PBM required to i.d. sources for MAC pricing/ reimbursement benchmarks and update weekly
- Prompt pay provisions (consistent with MIPPA)
- Non-discriminatory contract

### **PBM Ownership Interests/Conflicts**

- PBM may not mandate covered individuals use a specific pharmacy (retail, mail, specialty) if PBM has ownership interest in pharmacy (or vice versa)
- PBM may not provide incentives to covered individuals to encourage them to use specific pharmacy if incentives only available to pharmacy PBM has ownership interest in

### **PBM Audit Of Pharmacy**

- 15 days prior notice
- Consultation with pharmacist (licensed in state of the audit)
- Written appeals process
- Period covered by an audit may not exceed one year from date submitted/adjudicated
- Clerical error not subject to recoupment absent proof of intent to commit fraud or actual financial harm
- PBM may not require more stringent recordkeeping than state or federal law/reg
- Pharmacy may use records of authorized practitioner and any legal prescription to validate pharmacy records
- No extrapolation
- PBM disclose audit recoupment to plan sponsor

### **PBM Conduct And Covered Individuals**

- PBM must notify plan sponsor if any intent to sell utilization/claims data
- PBM may not directly contact covered individual without written permission of plan sponsor and the covered individual
- PBM prohibited from transmitting personally identifiable utilization/claims data to a pharmacy owned by the PBM unless patient has chosen to fill that particular prescription at the PBM-owned pharmacy