

## PHARMACY BENEFIT MANAGERS

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<http://www.house.mi.gov/hfa>

**House Bill 6435 as introduced**  
**Sponsor: Rep. Edward J. Canfield, D.O.**  
**Committee: Health Policy**  
**Complete to 11-27-18**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 6435 would amend the Third Party Administrator Act to institute reporting and contractual requirements on *pharmacy benefit managers* (PBMs) and limit the entities qualifying as “carriers.”

*Pharmacy benefit manager* is defined by the bill as a person that contracts with a pharmacy on behalf of an employer, multiple employer welfare arrangement, public employee benefit plan, state agency, insurer, managed care organization, or other third-party payer to provide pharmacy health benefit services or administration.

### Reporting requirements

Under the bill, by May 1 of each year a PBM would provide the Department of Insurance and Financial Services (DIFS) with a report with the following information from the prior calendar year:

- For each of the PBM’s contractual or other relationships with an insurer, the aggregate amount of all rebates that the pharmacy benefit manager received from pharmaceutical manufacturers other than certain specified rebates under the U.S. Code.
- For each of the PBM’s contractual or other relationships with an insurer, the aggregate rebates that the PBM received from pharmaceutical manufacturers and did not pass through to the insurer.
- For each of the PBM’s contractual or other relationships with an insurer, the highest aggregate retained rebate percentage, lowest aggregate retained rebate percentage, and the mean aggregate retained rebate percentage.

DIFS would also have to publish the above information on a publicly available website in a timely manner, while hiding insurer or health plan identities, drug prices, and rebate amounts. Likewise, the PBM and DIFS could not publish or disclose that information. The bill states that this information is confidential and proprietary information and exempt from disclosure under the Freedom of Information Act (FOIA).

### Prohibited contract information

Under the bill, a contract between a PBM and a pharmacy, or between a PBM and any other entity including a manufacturer, could not prohibit or penalize a pharmacy from disclosing to a customer information about the cost sharing amounts the customer must pay or certain information about a less expensive therapeutically equivalent drug.

Additionally, that contract could not prohibit or penalize a pharmacy or other entity for selling a less expensive therapeutically equivalent drug than the drug that was originally prescribed.

**Definition of a carrier**

Currently, for the purposes of the Act, a “carrier” includes an insurer, a medical care corporation, a hospital service corporation, a health maintenance organization (HMO), or a dental care corporation. The bill would limit that category to include an insurer, including an HMO, or a dental care corporation.

**Penalty**

The bill would prohibit a person from establishing or operating as a pharmacy benefit manager unless he or she registers with the DIFS director. Violators would be subject to a civil fine of not more than \$7,500.

MCL 550.902

**FISCAL IMPACT:**

House Bill 6435 would necessitate an increase in expenditures by the Department of Insurance and Financial Services (DIFS). The bill would require persons to register with DIFS before operating as a pharmacy benefit manager, which would require administrative action by the DIFS. DIFS would also be responsible for publishing on its website information it receives in annual reports from pharmacy benefit managers. Costs for the department to complete these activities are presently indeterminate. The bill would also affect revenues by creating a \$7,500 civil fine for persons who operate as pharmacy benefit managers without registering with DIFS.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.