



The State of New Hampshire Insurance Department

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David J. Bettencourt
Commissioner

Keith E. Nyhan
Deputy Commissioner

BULLETIN Docket #INS 24-067-AB

TO: All New Hampshire Licensed Health Carriers and Pharmacy Benefits Managers
FROM: Commissioner David J. Bettencourt
DATE: November 4, 2024
RE: Guidance on Reporting Receipt of Pharmaceutical Rebates by Insurers and Pharmacy Benefits Managers

A handwritten signature in blue ink, appearing to read "D.J. Bettencourt".

Introduction

New Hampshire law was recently amended to require that each Pharmacy Benefit Manager (PBM) administering health benefit plans that are not excluded by inapplicability as indicated in RSA 402-N:6,I, submit an annual or quarterly report to the commissioner containing a list of health benefit plans it administered and the rebates it collected from pharmaceutical manufacturers that were attributable to patient utilization in the State of New Hampshire during the prior calendar year.

In addition, beginning March 1, 2025, and annually thereafter, all insurers shall file with the commissioner a report regarding pharmaceutical rebates. The purpose of this bulletin is to provide instructions for the submission of information and the required format for the new reporting requirements relative to each. The reporting does not apply to plans excluded by RSA 415-A:7, III-a.

II. Legal Authority

RSA 402-N:6,I. Each PBM shall submit an annual or quarterly report to the commissioner containing a list of health benefit plans it administered and the rebates it collected from pharmaceutical manufacturers that were attributable to patient utilization in the state of New Hampshire during the prior calendar year. This paragraph shall not apply to Medicaid, the Medicaid Care Management Program, the Ryan White HIV/AIDS Program administered by the Department of Health and Human Services, or self-funded plans such as the state employee health benefit plan. The report submitted to the commissioner shall include the following information:

- a) The aggregate number of rebates and total value received by the pharmacy benefit manager;

- b) The aggregate number of rebates and total value distributed to the appropriate health care insurer;
- c) The aggregate number of rebates and total value passed on to an insured of each health care insurer at the point of sale that reduced the insured's applicable deductible, copayment, coinsurance, or other cost-sharing amount;
- d) The individual and aggregate amount paid by the health care insurer to the pharmacy benefit manager for pharmacist services itemized by pharmacy, by product (at the unique NDC level), and by goods and services; and
- e) The individual and aggregate amount a PBM paid for pharmacist services itemized by pharmacy, by product, and by goods and services.

RSA 402-N:6,II. Information reported to the commissioner pursuant to this section shall be confidential and protected from disclosure under the commissioner's examination authority and shall not be considered a public record subject to disclosure under RSA 91-A. Based on this reporting, the commissioner shall make public aggregated data on the overall amount of rebates collected on behalf of covered persons in the state, but shall not release data that identifies a specific insurer or PBM.

RSA 415-A:7,III. Beginning March 1, 2025, and annually thereafter, an insurer shall file with the commissioner a report in the manner and form determined by the commissioner demonstrating the manner in which the insurer and/or its contracted entity for pharmacy benefit services has complied with this section. The report shall include at least the following:

- a) An actuarial certification attesting:
 - 1) All discounts and rebates received by health insurers were used to reduce costs for policyholders in compliance with paragraph II.
 - 2) How rebates were remitted in the individual, small, and large group market.
 - 3) If applied pursuant to subparagraph II(b), an explanation of how remittance was applied to both plan design, based on estimated rebates, and in future plan years to offset premium.
 - 4) A description of the methodology employed to calculate the estimated rebate amount, for the purpose of applying to plan design.
- b) Methodology for determining estimated rebate amount:
 - 1) Insurers shall employ actuarial and analytical methodologies to estimate the total rebate amount expected to be received from drug manufacturers over a defined period.
 - 2) The determination of the estimated rebate amount shall account for factors such as historical rebate data, anticipated changes in drug utilization, formulary modifications, and other pertinent variables.
 - 3) The calculated estimated rebate amount shall adhere to generally accepted actuarial principles and industry best practices to ensure precision and dependability.

- 4) The calculation shall be documented and made available for review by the insurance commissioner, upon request.

III. Required Reporting Requirements and Format

PBMs

Pharmacy Benefit Managers shall collect the data identified in RSA 402-N:6, I. in the format developed by the New Hampshire Insurance Department. Data shall be submitted to the Department no later than March 15th as part of the annual renewal application for PBMs. The data must be submitted using the NHID PBM Annual Rebate Summary template provided on the Department's website at <https://mm.nh.gov/files/uploads/nhid/documents/pbm-annual-rebate-summary-template.xlsx>. Reporting requirements apply to all fully-insured plans administered by the PBM unless specifically excluded in the statute.

Insurers

Insurers shall collect the information identified in RSA 415-A:7,III, evidencing that the insurer and any contracted entity for pharmacy benefit services complied with the statutory requirements, in the format developed by the New Hampshire Insurance Department. The information shall be submitted to the Department no later than March 1st by emailing it to healthcareanalytics@ins.nh.gov. The information must be submitted using the Insurer Rx Rebate Attestation template provided on the Department's website at <https://www.insurance.nh.gov/sites/g/files/ehbemt861/files/inline-documents/sonh/nh-415-a-7-attestation.pdf>. Reports for calendar year 2023 that would have been due November 1, 2024, are now due on or before March 1, 2025. Reports for calendar year 2024 are due by March 1, 2025. Two distinct reports will be due for each reporting period, one for calendar year 2023 and a second for calendar year 2024.

The New Hampshire Insurance Department recognizes that these reporting standards are new for the year 2025. As such, the Department will review and respond to the submissions within 30 days of the required deadlines in order to provide any necessary feedback.

IV. Contact Information

Questions related to this bulletin should be directed to healthcareanalytics@ins.nh.gov.