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June 6, 2024

Commissioner Glen Mulready
Chair, Regulatory Framework (B) Task Force
National Association of Insurance Commissioners
444 North Capitol Street NW, Suite 700
Washington, DC 20001-1512
Forwarded via email: Jolie H. Matthews

RE: Comments on Proposed Charges II

Dear Commissioner Mulready,

AHIP greatly appreciates the opportunity for continued stakeholder engagement on the proposed 2024 charges for the PBM Regulatory Issues (B) Subgroup. As a follow-up to our comments on April 19, and to address new proposed charges, AHIP's redline recommendation is as follows:

~~As the subject matter experts and to promote uniformity across the states, develop a chapter for inclusion in the Market Regulation Handbook establishing examination standards for PBMs and related regulated entities for referral and consideration by~~ Deliver a referral to the Market Conduct Examination Guidelines (D) Working Group ~~to request they develop additional provisions as needed for the Market Regulation Handbook to establish examination standards for PBMs and related regulated entities, and to provide examiners with the background and information needed to enhance their ability to conduct such examinations. In collaboration, the PBM Regulatory Issues (B) Subgroup will provide expertise, background and data to promote uniformity across the states while remaining sensitive to variation in state approaches.~~

To stay aligned with NAIC's committee structure, the D Committee historically provides the technical drafting of new market conduct exam standards with input by other committees who are seen as policy experts to help shape those exams. There is a similar charge for coordination between the MCEG Working Group and the H Committee. As per their current charges:

- "A. Develop market conduct examination standards, as necessary, for inclusion in the Market Regulation Handbook.
- "E. Coordinate with the Innovation, Cybersecurity, and Technology (H) Committee to develop market conduct examiner guidance for the oversight of regulated entities' use of insurance and non-insurance consumer data and models using algorithms and artificial intelligence (AI)."

As market conduct exams are very specific in nature, the PBM Subgroup should be utilized to assist in the structuring of the policy, not necessarily the operations of how those policies are reviewed.

Should new examination standards progress, we encourage the MCEG Working Group and PBM Subgroup to collaborate with URAC and other accreditation organizations, as well as participation by PBMs and health insurers' operation and system leads to encourage exams that are streamlined and proficient in nature and ensure standards are reflective of variations in state laws and regulations.

For further information or continued dialogue, please contact me at khathaway@ahip.org or 202.870.4468. Thank you very much for your consideration.

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Sincerely,

A handwritten signature in black ink that reads "Kris Hathaway". The signature is written in a cursive style with a large, looped "H" and a long, sweeping underline.

Kris Hathaway
Vice President, State Affairs
AHIP

cc. Joylynn Fix, Chair, PBM Regulatory Issues (B) Subgroup

America's Health Insurance (AHIP) is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit www.ahip.org to learn how working together, we are Guiding Greater Health.