



**BlueCross BlueShield
Association**

An Association of Independent
Blue Cross and Blue Shield Plans

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June 15, 2021

Commissioner Michael Conway, Chair
Commissioner Glen Mulready, Vice Chair
Regulatory Framework (B) Task Force
National Association of Insurance Commissioners
444 North Capitol Street, N.W.
Suite 700
Washington, D.C. 20001-1512

Submitted via email to Jolie Matthews (JMatthews@naic.org)

RE: BCBSA Comments on Proposed 2021 Charge for the Pharmacy Benefit Manager (PBM) Regulatory Issues (B) Subgroup White Paper

Dear Commissioner Conway, Commissioner Mulready and Members of the Committee:

The Blue Cross Blue Shield Association (BCBSA) appreciates the opportunity to provide comments on the proposed 2021 charge for the PBM Regulatory Issues (B) Subgroup White Paper.

BCBSA is a national federation of 35 independent, community-based and locally operated Blue Cross and Blue Shield companies (Blue Plans) that collectively provide health care coverage for one in three Americans. For more than 90 years, Blue Cross and Blue Shield companies have offered quality health care coverage in all markets across America – serving those who purchase coverage on their own as well as those who obtain coverage through an employer, Medicare and Medicaid.

BCBSA and Blue Plans are committed to providing affordable accessible care to our members and agree with regulators on the need to curb the cost of prescription drugs. Below are our comments on the proposed charge for the white paper.

BCBSA Supports the Focus on the Implications of the *Rutledge v. Pharmaceutical Care Management Association (Rutledge)* Decision

BCBSA agrees that it would be valuable for the working group to examine the possible effects of the *Rutledge* decision given all of the uncertainty it has created for regulators, employers and insurers alike. The *Rutledge* decision has created substantial uncertainty with the interpretation and application of state laws and regulations affecting the role of PBMs, the services they offer patients, which ensure access to medications and lower drug costs, and the relationship between employers, health insurers and PBMs. The changes in the regulatory environment merit further study.

BCBSA Recommends NAIC Review State PBM Legislation, Assess Costs, Consider Impact on Multi-state Employers and Examine Drug Supply Chain Costs

In response to the *Rutledge* decision, state legislators have introduced PBM bills in 35 states since the beginning of 2021.¹ BCBSA recommends that the NAIC review and analyze legislation pertaining to PBMs to fully understand the scope of the bills and any unintended barriers to patient access to medication and negative impact on delivery of care.

Additionally, given the uncertainty that the *Rutledge* decision has caused, we encourage the committee to broaden the charge to assess the costs and the potential consequences of state regulation, particularly on the administration of benefits for multi-state employers. Employers rely on health plans and PBMs to administer health benefits efficiently while offering employees access to quality care and services. Changes to PBM regulations could result in alterations to employers' provision of benefits and higher premium costs. A review and analysis of pending legislation and the range of costs from regulations would be helpful to all stakeholders, including the committee, employers, patient advocates and health plans.

Finally, BCBSA recommends that the white paper charge include a comprehensive analysis of the drug supply chain, including manufacturers and pharmacy service administrative organizations (PSAOs), to determine where additional state oversight is necessary to curtail high drug costs.

We appreciate your consideration of our comments and look forward to working with you further in development of the white paper. If you have any questions or want additional information, please contact Randi Chapman, managing director, state relations at 202.826.5156 or at Randi.Chapman@bcbsa.com.

Sincerely,



Clay S. McClure
Executive Director, State Relations

¹State Track. "[PBM](#)." Accessed June 11, 2021.