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June 1, 2023

Commissioner Andrew Stolfi and Mr. TK Keen
Chairs, PBM Regulatory Issues (B) Subgroup
National Association of Insurance Commissioners
444 North Capitol Street NW, Suite 700
Washington, DC 20001-1512

Forwarded via email: Jolie H. Matthews

RE: AHIP Comments on NAIC PBM White Paper Draft

Dear Commissioner Stolfi and Mr. Keen;

On behalf of AHIP, we appreciate the opportunity to provide comments on the NAIC PBM White Paper Draft (White Paper) released on April 16. We are providing our response to the White Paper through redlines and comments as we thought that would be most helpful for incorporating stakeholder input.


NAIC is a valued institution for the insurance industry that provides expertise, data, and analysis for insurance commissioners, regulated entities, and the public at large. To meet the NAIC's high standards, this White Paper should present a neutral, balanced, and fact-based discussion of the issues aligned with the Subgroup's charges. AHIP worked diligently to focus our redlines to provide additional background and data, share our members' experiences, and remove bias so the White Paper can be effectively utilized by insurance regulators as a valuable resource on a very complex issue. To achieve those goals, AHIP focused our comments in 3 areas:

- **Align with the PBM Regulatory Issues (B) Subgroup's Charges:** Consistent with AHIP's verbal comments during the December meeting and written comments submitted on February 3 to the NAIC, the Subgroup's charge to analyze and assess the role of "other supply chain entities" within the White Paper is a key component outlined by members of the Subgroup to fully understand prescription drug costs. AHIP has provided additional input throughout the paper we feel is critical to meet the charge, including the role of payors, wholesalers, PSAOs, etc.
- **Technical Edits:** We understand there were several authors that drafted the White Paper, and while the sections were put together in good order, we've offered a few suggested edits to better synthesize the sections. Examples include:
 - Some of the definitions and descriptions were duplicated in multiple sections and were not aligned, such as rebates and spread pricing. Our redlines include eliminating where there were duplications and placing a reference where the topic is discussed earlier in the paper so the reader can find the main topic quickly.
 - There were mentions of payors versus plan sponsors and we've aligned those where appropriate.
 - Definitions were used which were unfamiliar to AHIP and our members, specifically on payor payment structures with PBMs, and we therefore provided redlines to use industry-standard verbiage.
 - We suggest in a few places the White Paper remain focused on state regulatory approaches, including enacted, not proposed legislation, and final, settled law, not active litigation .

- **Add Relevant Citations & Data / Remove Non-Objective Perspective:** While we understand there are various perspectives on the role of PBMs, there were certain sections in which only one viewpoint was represented. To provide a balanced, non-biased view, AHIP included within our redlines context to illustrate a payor's perspective. In certain sections where there is non-objective language used, such as "pocketing the difference," AHIP provided an operational or educational explanation, providing citations where warranted.

Thank you for the opportunity to provide the perspective from health insurance providers. We stand ready to work with the NAIC as the White Paper Draft progresses to its next stage. If you have any questions, please do not hesitate to contact me at khathaway@ahip.org or 202.870.4468. Thank you very much for your time considering our edits.

Sincerely,



Kris Hathaway
Vice President, State Affairs
AHIP

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.