Revised date: 8/5/26

*2026 Summer National Meeting*
*Columbus, Ohio*

**PHARMACY BENEFIT MANAGEMENT (D) WORKING GROUP**
Wednesday, August 12, 2026
8:00 – 9:00 a.m.
Hilton Tower 402—Robinson Ballroom AB—Level 5

**ROLL CALL**

| | | | |
|---|---|---|---|
| Joylynn Fix, Chair | West Virginia | Norman Barrett/T.J. Patton | Minnesota |
| Kelli Littlejohn Newman | Alabama | David Dachs | Montana |
| Kayla Erickson/ Heather Carpenter | Alaska | Cheryl Wolff | Nebraska |
| | | Ralph Boeckman/ Erin Porter | New Jersey |
| Tolanda McNeal | Arizona | Maria K. Garg | New York |
| Daniel Holland | Arkansas | | |
| Sophie Thomas | Colorado | Robert Croom | North Carolina |
| Kurt Swan/Tricia Davé | Connecticut | John Arnold | North Dakota |
| Jessica R. Luff | Delaware | | |
| Sheryl Parker | Florida | Timothy Schirmer | Ohio |
| Paula Shamburger | Georgia | Ashley Scott | Oklahoma |
| Shannon Hohl | Idaho | Keith Turner/Colette Hittner | Oregon |
| Jack Engle | Illinois | Holly Lehman | Pennsylvania |
| Grant Lindman | Indiana | Gwendolyn Fuller McGriff/ Rachel Moore | South Carolina |
| Andria Seip | Iowa | Scott McAnally | Tennessee |
| Vicki Schmidt | Kansas | Tanji J. Northrup | Utah |
| Shaun Orme | Kentucky | Stephen Hogge | Virginia |
| Nina Hunter/Frank Opelka | Louisiana | Sandy Ray | Washington |
| Mary Lou Moran | Massachusetts | Lori Luder | Wisconsin |
| Joe Stoddard | Michigan | Lauren White/Jill Reinking | Wyoming |

NAIC Committee Support: Tim Mullen/Jolie H. Matthews

**AGENDA**

1. Consider Adoption of its April 23 and Spring National Meeting Minutes —*Joylynn Fix (WV)* — Attachment One, Attachment Two

2. Hear a Discussion on Common Pharmacy Benefit Manager (PBM) Examination Findings/Observations and Any Recommendations to State Insurance Regulators to Address—*Dave Dillon (Lewis & Ellis), Craig Moore (Examination Resources, LLC), Rick Nelson (Noble Consulting Services, Inc.), and Shelly Schuman (The INS Companies)*

3. Discuss the Working Group's Future—*Joylynn Fix (WV)*

4. Discuss Any Other Matters Brought Before the Working Group —*Joylynn Fix (WV)*

5. Adjournment

# Agenda Item #1

**Consider Adoption of its April 23 and Spring National Meeting Minutes**
***—Joylynn Fix (WV)***

Draft: 4/29/26

Pharmacy Benefit Management (D) Working Group
Virtual Meeting
April 23, 2026

The Pharmacy Benefit Management (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met April 23, 2026. The following Working Group members participated: Joylynn Fix, Chair (WV); Marcus Wilson, Vice Chair (VT); Heather Carpenter and Kayla Erickson (AK); Kelli Littlejohn Newman (AL); Tolanda McNeal (AZ); Sophie Thomas (CO); Kurt Swan and Tricia Davé (CT); Jessica Luff (DE); Sheryl Parker (FL); Melanie Frechette (GA); Andria Seip (IA); Shannon Hohl (ID); Matthew Pickett and Chris Heisler (IL); Grant Lindman (IN); Julie Holmes (KS); Shaun Orme (KY); Nina Hunter (LA); Mary Lou Moran (MA); Joe Stoddard (MI); T.J. Patton and Norman Barrett (MN); David Dachs (MT); Robert Croom (NC); Tahmidur Rahman (ND); Cheryl Wolff (NE); Ralph Boeckman and Erin Porter (NJ); Maria K. Garg (NY); Sara Donlon (OH); Ralph Magrish (OR); Richard L. Hendrickson (PA); Gwendolyn Fuller McGriff and Rachel Moore (SC); Jud Jones (TN); Ryan Jubber (UT); Stephen Hogge (VA); Sandy Ray (WA); Lori Luder (WI); and Jill Reinking (WY).

1. Adopted the Draft PBM Examination Standards Chapter and Referral to the Market Conduct Examination Guidelines (D) Working Group

Fix said the draft pharmacy benefit manager (PBM) examination standards chapter that the Working Group is considering for referral to the Market Conduct Examination Guidelines (D) Working Group reflects a balanced approach, which the Working Group developed after multiple rounds of comments and collaborative discussion with various stakeholders. She explained that the draft PBM examination chapter is guidance, not a model law, and given this, the states will implement it differently based on their laws. Fix noted that, despite differences in state law, the proposed chapter is important because it will bring uniformity to the PBM examination process.

Wilson expressed support for Fix's comments. He also praised the collaborative effort and the timeliness of the draft PBM examination chapter.

Fix requested comments on the draft PBM examination chapter from Working Group members. Seip commended the Working Group leadership and others for their work in completing the draft, noting the complexity and challenging nature of the work. Fix requested comments from interested regulators. There were no comments.

Carl Schmid (HIV+Hepatitis Policy Institute), speaking on behalf of the NAIC consumer representatives, said the NAIC consumer representatives appreciate the Working Group incorporating language on treatment guidelines and Pharmacy and Therapeutics (P&T) committees, including references to federal law along with state law references, and addressing issues like artificial intelligence (AI) use and copay accumulators. Franca D'Agostino (The Cigna Group), speaking on behalf of the Industry Coalition, which includes the Cigna Group, CVS Health, Elevance Health, and UnitedHealth Group, acknowledged the Working Group's effort in developing the draft, but she raised concerns about its unintended consequences, which could increase friction in future PBM examinations. She said the Industry Coalition is committed to ongoing engagement and collaboration with state insurance regulators to address remaining issues as the draft PBM examination chapter moves forward.

Seip made a motion, seconded by Lindman, to adopt the draft PBM examination chapter (Attachment ?-A) and refer it to the Market Conduct Examination Guidelines (D) Working Group for its consideration. The motion passed unanimously.

 

Fix said there is still work to be done related to PBMs and that she looks forward to the continued regulatory collaboration in this area.

Having no further business, the Pharmacy Benefit Management (D) Working Group adjourned.

 

Draft: 3/30/26

Pharmacy Benefit Management (D) Working Group
San Diego, California
March 23, 2026

The Pharmacy Benefit Management (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met in San Diego, CA, March 23, 2026. The following Working Group members participated: Joylynn Fix, Chair, and Allan L. McVey (WV); Marcus Wilson, Vice Chair, represented by Sebastian Arduengo (VT); Kayla Erickson and Molly Nollette (AK); Kelli Littlejohn Newman (AL); Maria Ailor and Tolanda McNeal (AZ); Sophie Thomas and Lila Cummings (CO); Kurt Swan (CT); Susan Jennette (DE); Samantha Heyn and Sheryl Parker (FL); Paula Shamburger (GA); Andria Seip (IA); Dean L. Cameron and Shannon Hohl (ID); Jack Engle and Ryan Gillespie (IL); Grant Lindman (IN); Craig Van Aalst (KS); Shaun Orme (KY); Frank Opelka (LA); Mary Lou Moran (MA); Joe Stoddard (MI); T.J. Patton and Norman Barrett (MN); David Dachs (MT); Robert Croom (NC); John Arnold and Tahmidur Rahman (ND); Cheryl Wolff, Martin Swanson, Maggie Reinert, and Michael Muldoon (NE); Ralph Boeckman (NJ); Jonathan Wycoff (NV); Carole Ann Kinnaw (NY); Kristin Cly (OH); Ashley Scott (OK); Keith Turner and Colette Hittner (OR); Lindsi Swartz (PA); Tara Nixon (SC); Jud Jones (TN); Tanji J. Northrup (UT); Stephen Hogge (VA); Sandy Ray (WA); Lori Luder and Coral Manning (WI); and Lauren White and Jill Reinking (WY).

1. Adopted its Feb. 5, 2026, and 2025 Fall National Meeting Minutes

The Working Group met Feb. 5, 2026. During this meeting, the Working Group took the following action: 1) heard a presentation from the Pharmaceutical Research and Manufacturers of America (PhRMA) on the 340B Drug Pricing Program and anticipated changes beginning Jan. 1, 2026.

Cameron made a motion, seconded by Jennette, to adopt the Working Group's Feb. 5, 2026 (Attachment ?-A), and Dec. 9, 2025, minutes (*see NAIC Proceedings – Fall 2025, Market Regulation and Consumer Affairs (D) Committee, Attachment Five*). The motion passed unanimously.

2. Heard a Discussion on the Impact of the Recently Enacted Federal PBM Legislation and the Recent FTC Settlement on State PBM Laws

Allison Shields (NAIC) updated the Working Group on the recently enacted federal pharmacy benefit manager (PBM) legislation and the Federal Trade Commission (FTC) settlement. She said that on Feb. 4, the FTC announced a settlement with Express Scripts to resolve its lawsuit alleging that Express Scripts and its affiliated entities artificially inflated the list price of insulin drugs by using anticompetitive and unfair rebating practices, and impaired patients' access to lower list price products, ultimately shifting the cost of high insulin list prices to vulnerable patients. The settlement requires Express Scripts and its affiliated entities to adopt fundamental changes to their business practices that increase transparency and end business practices that have kept drug prices high. Shields detailed key provisions in the settlement order, which Express Scripts and its affiliated entities must make by Jan. 1, 2028, or as soon as "commercially feasible." She noted that it is anticipated the FTC could reach similar settlements with OptumRx and CVS Caremark in the coming months.

Shields next discussed the recently enacted federal PBM legislation. She said that as part of the Consolidated Appropriations Act of 2026 (CAA), on Feb. 3, U.S. Congress (Congress) passed a package of PBM reforms. Shields said the reforms center on rebate pass-through, increased transparency, standardized reporting, and expanded federal oversight. For the commercial market, both fully insured and self-insured group plans, the changes are

 

effective for plan years after August 2028. She said the changes for the Medicare Part D plans mirror the law's requirements for the commercial market, except for provisions to strengthen the "any willing pharmacy" provisions. The changes for the Medicare Part D plans are effective beginning Jan. 1, 2028.

Shields said that with respect to any impact on state PBM laws, generally, because states already have PBM laws involving certain areas included in the federal law, such as rebating, spread pricing, network adequacy, and other transparency provisions, there could be the need for harmonizing and working with the federal agencies charged with implementing the federal law, particularly for those states that license PBMs, to ensure that the state can continue to enforce its laws.

Fix asked Shields to keep the Working Group informed as the federal agencies responsible for implementing the PBM reform provisions begin their rulemaking process.

3. Heard an Update on Necessary Changes to SBS to Better Handle PBM Complaints

Jennette provided an update on the work to develop changes to State Based Systems (SBS) to better handle PBM complaints. She said the small group of states she is working with to make these changes has continued to meet with the SBS team every few weeks. The next meeting is scheduled for April 1. Jennette said the online complaint form has been completed, and related work is ongoing and should be ready to turn over to the programmers. She noted that throughout the process, she has received input and feedback from industry and different states. Jennette said the SBS PBM complaint module remains on track for completion by the end of the year.

4. Discussed the Revised Draft PBM Examination Chapter

Fix said that on Nov. 25, 2025, the Working Group exposed an initial draft of a PBM examination chapter for a public comment period ending Jan. 16, 2026. She said the Working Group met Feb. 5 to discuss the comments received. Following that meeting, the Working Group's Pharmacy Benefit Manager Examination Chapter Drafting Group met to discuss what revisions to make to the initial draft based on the comments received. Based on the Drafting Group's recommended revisions, the Working Group distributed a revised draft of the PBM examination chapter on March 13.

Fix asked Working Group members if they had any comments on the revised draft. Newman said she submitted comments on behalf of the Alabama Department of Insurance (DOI) on the revised draft suggesting additional changes, including: 1) adding definitions for independent pharmacy, chain pharmacy, and 340B pharmacy because many state laws define reimbursement to independent pharmacies and chain pharmacies separately; 2) adding more detailed language to allow examiners to better determine if manufacturer rebates are being passed through appropriately; 3) adding "federal" to many of the standards sections when "state" laws are referenced due to recent and most likely continued enactment of federal PBM laws; and 4) adding additional language to the utilization review standards concerning artificial intelligence (AI). Fix asked if any interested regulators had any comments. None did, so Fix asked for comments from interested parties.

Carl Schmid (HIV+Hepatitis Policy Institute), speaking on behalf of the NAIC consumer representatives, expressed support for the revised draft. He also expressed support for some of the Alabama DOI's suggested revisions to the draft, particularly those related to AI and copay assistance programs.

Christine Cappiello (Anthem Blue Cross and Blue Shield), speaking on behalf of the Coalition, which includes the Cigna Group, CVS Health, Elevance Health, UnitedHealth Group (UHG), and Examination Resources, said the

Coalition appreciates the changes made from the initial draft, but it still has concerns. She said the Coalition looks forward to continuing to work with the Working Group to fine-tune the draft. Newman said she had reviewed the comments received on the initial draft and, with respect to the Coalition's comments, had a question about its comment stating the draft would burden examiners. She asked how the draft would burden the states that contract with third parties, given that they are used to handling the level of examination complexity envisioned in the draft. Newman also questioned the Coalition's concerns about having to submit unredacted documents. She said examiners need such documents to properly conduct an examination. Newman said the Working Group could address this concern by including stronger confidentiality language in the draft. Seip agreed with Newman's comments concerning the need for unredacted documents.

Fix asked the Working Group whether it was ready to move forward to refer the revised draft to the Market Conduct Examination Guidelines (D) Working Group for its consideration. Seip said she would welcome additional time to review the Alabama DOI's comments before referring the draft to the Market Conduct Examination Guidelines (D) Working Group. Opelka, Wolff, and Hohl agreed with Seip's comments to hold the draft for additional Drafting Group discussion and possible revision. Fix said she would schedule a Drafting Group meeting within the next few weeks to discuss the Alabama DOI's comments and determine any additional revisions to the draft based on those comments. She said the Working Group remains on track to complete its work and refer the draft to the Market Conduct Examination Guidelines (D) Working Group for its consideration prior to the Summer National Meeting.

Having no further business, the Pharmacy Benefit Management (D) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/D CMTE/PBMWG/PBMWG MtgMin 3-23-26.docx

 

# Agenda Item #2

**Hear a Discussion on Common Pharmacy Benefit Manager (PBM) Examination Findings/Observations and Any Recommendations to State Insurance Regulators to Address**
***—Dave Dillon (Lewis & Ellis), Craig Moore (Examination Resources, LLC), Rick Nelson (Noble Consulting Services, Inc.), and Shelly Schuman (The INS Companies)***

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# Common Pharmacy Benefit Manager (PBM) Examination Findings/Observations and Recommendations

**Rick Nelson, CFE, CIE, MCM**

Vice President

**Wednesday, August 12, 2026**

NAIC PBM (D) Working Group

# Disclaimer

This presentation is given in the presenter's capacity as a consultant and is based on the presenter's personal knowledge and experiences and may not mirror expectations of specific state insurance departments or the NAIC.

# Agenda/Discussion Topics

1. Challenges noted during recent PBM examinations.
2. Discuss Common Findings/Observations noted during recent PBM Examinations.
3. Recommendations to State Insurance Regulators

# Challenges Noted During Conduct of Recent PBM Examinations

- Differences in examination approach between states
- Differences in Coordinators Handbooks used
- Clarification of scope
- Education of PBMs to state examination authority and process
- Differences in definitions
- Objections to system access or unreasonable requirements
- PBM use of service providers and limited access to information
- Delays caused by heavy oversight/participation of legal staff in examination process
- Lack of payment to vendors or unreasonable delays

# Common Findings Noted During Recent PBM Examinations

- Failure to facilitate examination by PBM
  - Refusal to provide information requested
  - Unreasonable delays in providing requested information
  - Incomplete or inaccurate responses provided
  - Use of redactions
  - Limit examiner access to books and records
  - Mandatory disclose of materials in an onsite setting
  - Refusal to allow examiners system access or facilitate other form of review
  - Lack of documentation

# Common Findings Noted During Recent PBM Examinations - Continued

- Required information missing from PBM or Pharmacy contracts.
- Improper claim denials
- Pharmacy audit Issues
- Failure to return rebates
- Mandatory quarterly and annual reporting requirements are not met, contain errors or are incomplete
- Failure to obtain/maintain proper licenses (PBM)
- Issues noted during complaint reviews

# Common Findings Noted During Recent PBM Examinations - Continued

- Errors in pharmacy reimbursement
- Use of spread pricing models
- Failure to timely and properly adjudicate appeals (initial and external)
- Improper formulary design
- Mandated use of affiliated pharmacies (steering)
- Imposing discriminatory requirements on independent pharmacies
- Failure to update MAC lists
- Inconsistent use of authorization requirements

# Common Findings Noted During Recent PBM Examinations - Continued

- Pharmacy terminations
- Health care Payor impacts
- Inconsistent or discriminatory step therapy requirements
- Inproper use of consumer claims data
- Other specific State compliance requirements are not met

# Recommendations to Working Group and State Insurance Regulators

- Development of Model Law to align state PBM statutes and aid in consistency
- Complete recommended guidance in Market Regulation Handbook
  - Will help to ensure consistency in examinations
  - Allow for better understanding of examination process by companies
  - Consistency in Coordinators Handbook and data requests (data calls)
  - Define key definitions
- Develop training for PBM Examiners / Educational program for PBMs
- Consider process for possible coordination of PBM Examinations (larger Companies/Groups)
- Strengthen state contract requirements for contractor reimbursement

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# Questions?

# Presenter

**Rick Nelson, CFE, CIE, MCM**

Vice President

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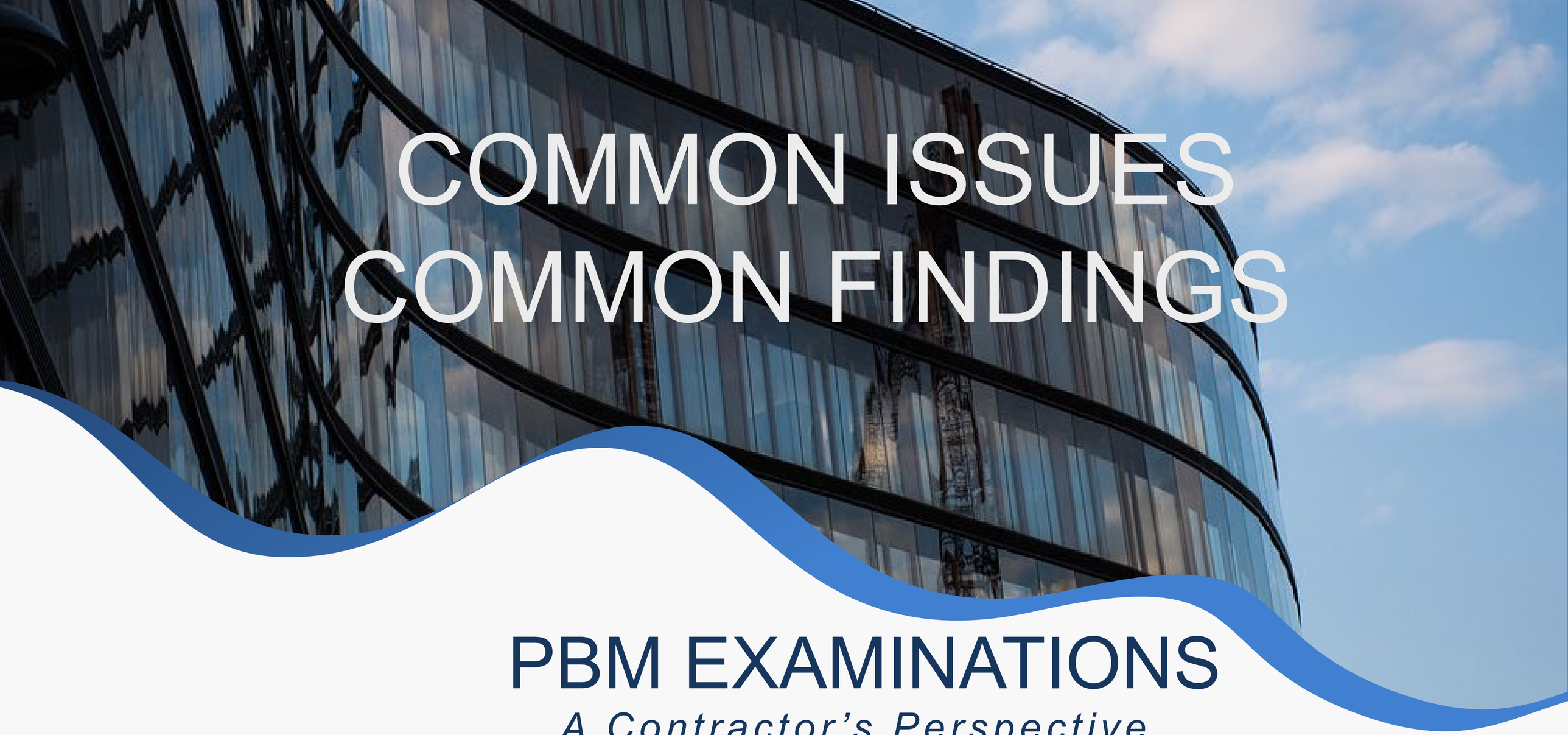
# Thank you.



# COMMON ISSUES COMMON FINDINGS

## PBM EXAMINATIONS

*A Contractor's Perspective*



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# Meet The Presenter

## Shelly Schuman

Ms. Schuman is a Market Regulation Director at The INS Companies. She has more than 44 years of insurance experience with the last 31 years in a regulator support capacity. Ms. Schuman has extensive experience supervising examinations. Prior to 2006, Ms. Schuman worked in the market regulation division of the NAIC as a Senior Market Regulation Specialist. Ms. Schuman currently sits on the Executive Committee of Insurance Regulatory Examiners Society (IRES) where she has been a leader for their in-development mental health parity, pharmacy benefit manager, and advanced market conduct examination management designation programs.



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## The Examination Process

There is a methodical process to examinations to ensure due process and adequate opportunities for discussion throughout.


Goal ⇨ No Surprises for Regulator or Regulated Entity



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### Many PBMs Misunderstand the Process

There is a fundamental lack of understanding about the intention and purpose of PBM examinations, the examiner’s role and even how to properly respond to regulators.

# Examples

When issued initial findings, PBMs respond as though the examination is litigation.

- *Citing protections under the US Constitution*
- *Arguing jurisdiction of the applicable statute*
- *Citing perceived variances from Market Regulation Handbook guidance*

### Recommendations

- Understand this is a regulatory exam.
- Construct responses applicable to the examination and within the examination scope.
- Provide information that has been withheld.
- States should be active and involved.



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# PBMs Hire Other PBMs

Areas that are contracted to other PBMs can vary and may include more than one area

- Failure to comply is held against the Contracting PBM
- Servicing PBMs do not feel obligated to comply with examination requests
- There may be multiple Servicing PBMs; even within the same area (i.e. claims)
- Servicing PBMs can withhold portions of rebate dollars to satisfy their “fee”
- Servicing PBMs may not share systems and details during examinations unless contractually required

Everyone may not understand they could be dealing with multiple PBMs and not solely the Contracting PBM

# Terminology Constraints

I know what I mean and you know what you mean, but does what I mean mean what you mean?

### Provider

In the insurance industry this means a professional that provides medical care. To PBMs, this means pharmacies and pharmacists.

### Appeals

In the insurance industry this typically means a request to reconsider after a denial of care for a medical necessity denial. To PBMs, this means a pricing appeal.

### Policyholder

Policyholder generally means a consumer purchasing insurance in the industry, but PBMs think of policyholders as health plans or plan sponsors.



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“Health Plans design their own formulary.”
“Formulary decisions are based on scientific data and pricing isn’t considered.”
“Pharmacists can negotiate their contract.”
“Plan sponsors don’t want to share that information.”
“We” don’t make those selections.

# Accountability

01. There is a significant cost to deviation from the PBM’s standardized formularies.

02. PBM finance representatives are frequently active on P&T Committee minutes.

03. Pharmacists typically are given a take it or leave it option.

04. PSAOs may not be able to substantially negotiate on behalf of independent pharmacies.

05. PBMs under examination are responsible for providing the data.

06. Carriers/health plans often make cost decisions; not process decisions.



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# Examination Expense

Lack of timely cooperation, time spent just trying to access information, and extensive extension requests lead to costly examinations. It is difficult to conduct efficient examinations without fully intentional cooperation.

01

## Inaccurate Data

“Do you want the data for the pharmacy payment or the data for the health plan payment?”

02

## Extension

“I know this is due today, but we need additional time to ensure a fulsome response. May we have a two month extension?”

03

## Delays

“The person that needs to answer that question is on a cruise and will return in three weeks”

04

## Poor Responses

“Thank you for the two-month extension. We have determined this request is not applicable to the examination.”



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# Hearing Requests

PBMs provided my first opportunity since I've worked in the market conduct examination space to participate in a hearing. Where regulated insurance entities will typically avoid hearings, PBMs seem to think they are a normal course of business.

### Another Example of Litigation Approach

Regulatory examinations do have a due process for hearings, but those are often reserved for scenarios where there is a violation of precedence or a more extreme need to respond to a perception of unfair regulatory treatment; not standard examination findings.

### Long and Costly to Complete

The demand for hearings also contributes to the lengthy and costly examinations.



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# State Compliance

State specific requirements are frequently not met; especially in the area of pricing and dispensing fee payments.

Mandated quarterly and annual reporting require continuous follow-up and show errors even after several years of requesting corrections.

Complaints about pricing are common.

- State specific mandates are not necessarily documented in provider manuals
- Pricing appeals may not result in corrections without state intervention
- Limited evidence of corrections for all individuals in like situations when pricing is corrected
- Reporting is inconsistent and time intensive to ensure accurate submissions



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# Presenter Contacts

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# Questions?

A STERLING APPROACH.

TO FINDING SOLUTIONS. TOGETHER.

# NAIC Summer 2026 National Meeting
# Pharmacy Benefit Management (D) Working Group
# August 12, 2026; 8:00 am (Eastern)
# Common PBM Exam Findings/Observations

ER Examination RESOURCES

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# Common PBM Exam Findings/Observations

- **Pharmacy Audits**
  - Black-out periods, timeliness of final audit reports, number of claims audited, etc.
  - Improper recoupments, fees added to cover cost of audit if recoupments > $xx,xxx
  - Different policies and procedures for audits of affiliated vs. non-affiliated pharmacies

- **Price Appeals**
  - Reimbursement < pharmacy's acquisition cost
  - Timeliness of communications
  - Failure to provide required information such as instructions on reverse and rebill, wholesalers in state where drug is available at lower cost, etc.
  - Reimbursement or updated pricing for "similarly situated" pharmacies

ER Examination RESOURCES
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# Common PBM Exam Findings/Observations (cont.)

- **Improper Pharmacy Reimbursement**
  - Failure to pay state minimum reimbursement – e.g., NADAC, WAC, Medicaid rate, etc.
  - May include under payment of minimum dispensing fee for certain transactions
  - Reimbursement of affiliated pharmacies > non-affiliated pharmacies – same drug, same time frame

- **Health Plan Pricing Models Other Than "Pass-Through"** (i.e., traditional or spread pricing)
  - Growing number of states prohibiting spread pricing
  - Often dependent on effective date of regulatory authority; e.g., health plan contracts executed, renewed, amended after 7/01/XX

- **Failure to Pass-Through Rx Rebates and Other Price Concessions**
  - Dependent on definition of "rebates" in state's regulations
  - Each party may be deducting its administrative fees from Rx rebates/other MFG revenue before passing on to the health plan

# Common PBM Exam Findings/Observations (cont.)

- **Discount Card Programs** - PBMs interpretation that such programs are not required to comply with PBM specific regulations/rules, etc.

- **Scope Questions**
  - PBM questions regarding scope of audit and specific definitions of common terms such as “health plan payor” and “discount card programs”
  - Health plans not sitused in state for which exam is being conducted.

- **Lack of Segregation of Duties and Other Control Weaknesses**
  - Single signatory for both parties subject to significant intercompany agreements/transactions
  - Lack of formal related party agreements

- **Accuracy of Annual Reports -** Required to be Submitted to State Insurance Department
  - Significant/material errors of amounts disclosed
  - Inability to provide detailed data supporting disclosed amounts

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# Suggested Future Focus Areas

- **PBM IT Systems and Controls** – Review major systems, especially claims adjudication system(s), integration with systems of health plans, pharmacies, and other TPAs
  - Significant prospective risk
  - Historically a patchwork of old, legacy systems
  - Significant level of subcontracting to other PBMs/TPAs, especially regarding claims adjudication and rebate aggregation
  - Not many states have implemented formal ITGC or Cyber examination procedures into PBM exams

- **Technicalities/Weaknesses in Regulatory Authority Language**
  - Process for maintenance/strengthening of current regs, rules, etc.
  - Similarly Situated Pharmacies – Updated pricing likely not implemented on any significant scale by most/all PBMs
  - Reverse and Rebill requirement to receive increased reimbursement (appeals found in favor of pharmacy)

# Suggested Future Focus Areas (cont.)

- **Consider Business Practices and Contracting of PSAOs**
  - Challenge the old adage – "PSAOs have the best interest of independent pharmacies in mind"
  - Significant vertical integration - potential conflicts of interest
    - One of largest PSAOs is also one of largest wholesalers of Rx drugs
    - Strategic relationships between PBMs, wholesalers and other parties
    - Effective Rate Guarantees – Recoupment from independent pharmacies if annual effective rate is greater than guaranteed rate

- **Completeness and Accuracy of Data Obtained During Examination**
  - No reliable source of control totals to ensure full population represented in data provided
  - Scope often may not include all claims, health plans/plan sponsors, pharmacies, etc.
  - A number of analyses and other steps for negative assurances, but no silver bullet

# Suggested Future Focus Areas (Cont.)

- **Contract Language Requirements**
  - Regulations requiring that PBM service contracts specifically indicate that PBM will not engage in certain prohibited practices
  - Determine extent to which changes in Provider Manual comply with contract language requirements of regulation
  - Consider contract disclosure requirements
    - Right of Pharmacy to appeal reimbursement; requirement to reverse and rebill receive higher reimbursement from appeal
    - Right of health plan to receive annual data on Rx Rebates retained, spread pricing, etc.

- **Importance of Appropriate Terminology and Scope of Requests for Information**
  - PBM terminology differs from medical health terminology
  - "You get what you ask for" – Be specific and detailed
  - Avoid asking for information that will likely not be used during exam

# Questions and Comments

# Agenda Item #3

## Discuss the Working Group's Future—*Joylynn Fix (WV)*

# Agenda Item #4

**Discuss Any Other Matters Brought Before the Working Group—*Joylynn Fix (WV)***