59 O.S. § 357-360	**Pharmacy Benefit Plans *(effective May 20, 2024)***
§ 357	**Definitions, as used in this act:**
357 (A)	As used in Sections 357 through 360 of this title:
357 (A)(1)	**"Covered entity"** means a nonprofit hospital or medical service organization, for-profit hospital or medical service organization, insurer, health benefit plan, health maintenance organization, health program administered by the state in the capacity of providing health coverage, or an employer, labor union, or other group of persons that provides health coverage to persons in this state. This term does not include a health benefit plan that provides coverage only for accidental injury, specified disease, hospital indemnity, disability income, or other limited benefit health insurance policies and contracts that do not include prescription drug coverage;
357 (A)(2)	**"Covered individual"** means a member, participant, enrollee, contract holder or policy holder or beneficiary of a covered entity who is provided health coverage by the covered entity. A covered individual includes any dependent or other person provided health coverage through a policy, contract or plan for a covered individual;
357 (A)(3)	**"Department"** means the Insurance Department;
357 (A)(4)	**"Maximum allowable cost"** or **"MAC",** or **"MAC list"** means the list of drug products delineating the maximum per-unit reimbursement for multiple-source prescription drugs, medical product or device;
357 (A)(5)	**"Multisource drug product reimbursement" (reimbursement)** means the total amount paid to a pharmacy inclusive of any reduction in payment to the pharmacy, excluding prescription dispense fees;

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357 (A)(6)	**"Office"** means the Office of the Attorney General;
357 (A)(7)	**"Pharmacy benefits management"** means a service provided to covered entities to facilitate the provision of prescription drug benefits to covered individuals within the state, including negotiating pricing and other terms with drug manufacturers and providers. Pharmacy benefits management may include any or all of the following services:
357 (A)(7)(a)	claims processing, retail network management and payment of claims to pharmacies for prescription drugs dispensed to covered individuals,
357 (A)(7)(b)	clinical formulary development and management services, or
357 (A)(7)(c)	rebate contracting and administration;
357 (A)(8)	**"Pharmacy benefits manager"** or **"PBM"** means a person, business or other entity that performs pharmacy benefits management. The term includes a person or entity acting for a PBM in a contractual or employment relationship in the performance of pharmacy benefits management for a managed care company, nonprofit hospital, medical service organization, insurance company, third-party payor, or a health program administered by an agency of this state;
357 (A)(9)	**"Plan sponsor"** means the employers, insurance companies, unions and health maintenance organizations or any other entity responsible for establishing, maintaining, or administering a health benefit plan on behalf of covered individuals; and
357 (A)(10)	**"Provider"** means a pharmacy licensed by the State Board of Pharmacy, or an agent or representative of a pharmacy, including, but not limited to, the pharmacy's contracting agent, which dispenses prescription drugs or devices to covered individuals.

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357(B)	Nothing in the definition of pharmacy benefits management or pharmacy benefits manager in the Patient's Right to Pharmacy Choice Act, Pharmacy Audit Integrity Act, or Sections 357 through 360 of this title shall deem an employer a "pharmacy benefits manager" of its own self-funded health benefit plan, except, to the extent permitted by applicable law, where the employer, without the utilization of a third party and unrelated to the employer's own pharmacy: a. negotiates directly with drug manufacturers, b. processes claims on behalf of its members, or c. manages its own retail network of pharmacies.
§ 358	**License to Provide Pharmacy Benefits Management - Powers of Oklahoma Insurance Department**
358(A)	In order to provide pharmacy benefits management or any of the services included under the definition of pharmacy benefits management in this state, a pharmacy benefits manager or any entity acting as one in a contractual or employment relationship for a covered entity shall first obtain a license from the Insurance Department, and the Department may charge a fee for such licensure.
358(B)	The Department shall establish, by regulation, licensure procedures, required disclosures for pharmacy benefits managers (PBMs) and other rules as may be necessary for carrying out and enforcing the provisions of this act. The licensure procedures shall, at a minimum, include the completion of an application form that shall include the name and address of an agent for service of process, the payment of a requisite fee, and evidence of the procurement of a surety bond.

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358(C)	The Department or the Office of the Attorney General may subpoena witnesses and information. Its compliance officers may take and copy records for investigative use and prosecutions. Nothing in this subsection shall limit the Office of the Attorney General from using its investigative demand authority to investigate and prosecute violations of the law.
358(D)	The Department may suspend, revoke or refuse to issue or renew a license for noncompliance with any of the provisions hereby established or with the rules promulgated by the Department; for conduct likely to mislead, deceive or defraud the public or the Department; for unfair or deceptive business practices or for nonpayment of a renewal fee or fine. The Department may also levy administrative fines for each count of which a PBM has been convicted in a Department hearing.
358(E)(1)	The Office of the Attorney General, after notice and opportunity for hearing, may instruct the Insurance Commissioner that the PBM's license be censured, suspended, or revoked for conduct likely to mislead, deceive, or defraud the public or the State of Oklahoma; or for unfair or deceptive business practices, or for any violation of the Patient's Right to Pharmacy Choice Act, the Pharmacy Audit Integrity Act, or Sections 357 through 360 of this title. The Office of the Attorney General may also levy administrative fines for each count of which a PBM has been convicted following a hearing before the Attorney General. If the Attorney General makes such instruction, the Commissioner shall enforce the instructed action within thirty (30) calendar days.
358(E)(2)	In addition to or in lieu of any censure, suspension, or revocation of a license by the Commissioner, the Attorney General may levy a civil or administrative fine of not less than One Hundred Dollars ($100.00) and not greater than Ten Thousand Dollars ($10,000.00) for each violation of this subsection and/or assess any other penalty

	or remedy authorized by this section. For purposes of this section, each day a PBM fails to comply with an investigation or inquiry may be considered a separate violation.
358(F)	The Attorney General may promulgate rules to implement the provisions of Sections 357 through 360 of this title.
§ 359	**Information to be Provided by Pharmacy Benefits Manager to Covered Entity**
359	A pharmacy benefits manager shall provide, upon request by the covered entity, information regarding the difference in the amount paid to providers for prescription services rendered to covered individuals and the amount billed by the pharmacy benefits manager to the covered entity or plan sponsor to pay for prescription services rendered to covered individuals.
§ 360	**Maximum Allowable Cost List**
360(A)	The pharmacy benefits manager shall, with respect to contracts between a pharmacy benefits manager and a provider, including a pharmacy service administrative organization:
360(A)(1)	Include in such contracts the specific sources utilized to determine the maximum allowable cost (MAC) pricing of the pharmacy, update MAC pricing at least every seven (7) calendar days, and establish a process for providers to readily access the MAC list specific to that provider;
360(A)(2)	In order to place a drug on the MAC list, ensure that the drug is listed as "A" or "B" rated in the most recent version of the FDA's Approved Drug Products with Therapeutic Equivalence Evaluations, also known as the

	Orange Book, and the drug is generally available for purchase by pharmacies in the state from national or regional wholesalers and is not obsolete;
360(A)(3)	Ensure dispensing fees are not included in the calculation of MAC price reimbursement to pharmacy providers;
360(A)(4)	Provide a reasonable administration appeals procedure to allow a provider, a provider's representative and a pharmacy service administrative organization to contest reimbursement amounts within fourteen (14) calendar days of the final adjusted payment date. The pharmacy benefits manager shall not prevent the pharmacy or the pharmacy service administrative organization from filing reimbursement appeals in an electronic batch format. The pharmacy benefits manager must respond to a provider, a provider's representative and a pharmacy service administrative organization who have contested a reimbursement amount through this procedure within ten (10) calendar days. The pharmacy benefits manager must respond in an electronic batch format to reimbursement appeals filed in an electronic batch format. The pharmacy benefits manager shall not require a pharmacy or pharmacy services administrative organization to log into a system to upload individual claim appeals or to download individual appeal responses. If a price update is warranted, the pharmacy benefits manager shall make the change in the reimbursement amount, permit the dispensing pharmacy to reverse and rebill the claim in question, and make the reimbursement amount change retroactive and effective for all contracted providers; and
360(A)(5)	If a below-cost reimbursement appeal is denied, the PBM shall provide the reason for the denial, including the National Drug Code (NDC) number from, and the name of, the specific national or regional wholesalers doing business in this state where the drug is currently in stock and available for purchase by the dispensing pharmacy at a price below the PBM's reimbursement price. If the NDC number provided by the pharmacy benefits manager is not available below the acquisition cost obtained from the pharmaceutical wholesaler from whom the dispensing pharmacy purchases the majority of the prescription drugs that are dispensed, the pharmacy benefits manager shall immediately adjust the reimbursement amount, permit the dispensing

	pharmacy to reverse and rebill the claim in question, and make the reimbursement amount adjustment retroactive and effective for all contracted providers.
360(B)	The reimbursement appeal requirements in this section shall apply to all drugs, medical products, or devices reimbursed according to any payment methodology, including, but not limited to: 1. Average acquisition cost, including the National Average Drug Acquisition Cost; 2. Average manufacturer price; 3. Average wholesale price; 4. Brand effective rate or generic effective rate; 5. Discount indexing; 6. Federal upper limits; 7. Wholesale acquisition cost; and 8. Any other term that a pharmacy benefits manager or an insurer of a health benefit plan may use to establish reimbursement rates to a pharmacist or pharmacy for pharmacist services.
360(C)	The pharmacy benefits manager shall not place a drug on a MAC list, unless there are at least two therapeutically equivalent, multiple-source drugs, generally available for purchase by dispensing retail pharmacies from national or regional wholesalers.

360(D)	In the event that a drug is placed on the FDA Drug Shortages Database, pharmacy benefits managers shall reimburse claims to pharmacies at no less than the wholesale acquisition cost for the specific NDC number being dispensed.
360(E)	The pharmacy benefits manager shall not require accreditation or licensing of providers, or any entity licensed or regulated by the State Board of Pharmacy, other than by the State Board of Pharmacy or federal government entity as a condition for participation as a network provider.
360(F)	A pharmacy or pharmacist may decline to provide the pharmacist clinical or dispensing services to a patient or pharmacy benefits manager if the pharmacy or pharmacist is to be paid less than the pharmacy's cost for providing the pharmacist clinical or dispensing services.
360(G)	The pharmacy benefits manager shall provide a dedicated telephone number, email address and names of the personnel with decision-making authority regarding MAC appeals and pricing.