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New PBM disclosure rules—DOL proposal meets CAA 2026

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Two federal actions—the DOL's proposed pharmacy benefit management rule and the Consolidated Appropriations Act 2026—would expand PBM pricing and compensation transparency, and strengthen audit rights.

What's the impact?

- Semiannual, drug-level disclosure of pricing, manufacturer remuneration, spread, and other revenue streams will assist fiduciaries monitor PBM.
- Explicit annual audit rights and limits on contractual restrictions improve a health plan's ability to verify pass-through amounts and pricing guarantees.

Within a matter of days in late January and early February 2026, two major federal developments have reshaped the regulatory environment of pharmacy benefit manager (PBM) transparency practices, and their related impact on self-insured health plans. First, on January 29, 2026, the U.S. Department of Labor (DOL) proposed new rules requiring PBMs to disclose detailed pricing and compensation information to plan sponsors and fiduciaries. Then, on February 3, 2026,

Congress passed the Consolidated Appropriations Act, 2026 (CAA 2026), which added even more robust PBM reporting and rebate pass-through requirements into law.

The new measures, while significant, are only the latest regulatory/legislative steps being taken to improve transparency under health and welfare plans.

In 2020, regulators issued comprehensive health plan transparency regulations that required health plans to, among other things, publicly post service cost and fee information. However, the prescription drug benefit reporting requirements in those regulations were not implemented. Subsequently, the Consolidated Appropriations Act 2021 mandated several new transparency improvements, such as broker and consultant compensation disclosures.

Given all the transparency-related initiatives over the past several years, now is an excellent opportunity to provide a full summary of all existing transparency requirements that fiduciaries need to know. This client alert is the first in a three-part series about health plan transparency. Here, we describe the two most recent developments: the proposed PBM transparency regulations and CAA 2026. Our second alert will summarize all prior health plan transparency regulations and legislation, most of which have been implemented. The third and final alert will highlight how improved transparency, albeit good for fiduciaries, also increases risk. Armed with an improved arsenal of compensation and fee data, fiduciaries must develop procedures for using the data to monitor service providers properly. We will address these risks and provide mitigation strategies.

DOL proposed PBM transparency regulations

Currently, the scope and frequency of reporting, disclosure, and audit requirements are subject to negotiations between plan fiduciaries (and their legal counsel and advisors) and the PBM. Depending on the size of the plan, economic position of the PBM, standards set forth in the request for proposal materials, and a host of other factors, reporting, disclosure, and audit rights may be limited in scope (e.g., only as required by law) and timing (e.g., annual performance). The DOL's proposed rule would change that.

WHAT THE DOL PROPOSAL WOULD REQUIRE: PBM DISCLOSURES

Under the DOL's proposed rule, PBMs and other covered service providers (including affiliates, agents, and subcontractors) would have to disclose detailed pricing, compensation, and conflict-of-interest information to plan sponsors and fiduciaries before entering into, renewing, or extending an agreement, and then on a semiannual basis. The proposal's objective is to enable plan sponsors and fiduciaries to select and monitor PBM arrangements prudently and determine whether total compensation is reasonable.

This means PBMs and other covered service providers would have to tell plan sponsors and fiduciaries about:

- Manufacturer payments and rebates
- Spread pricing (the difference between what the plan pays and what the pharmacy receives)
- Copay clawbacks
- Formulary placement incentives
- Price-protection arrangements

The disclosure must be sufficiently granular to allow plan sponsors and fiduciaries to independently estimate the cost of each drug by pharmacy channel (retail, mail-order, or specialty) and to understand spread pricing at the individual drug level.

Practical note: From a vendor management perspective, fiduciaries (or their agents) should seek this type of information whenever evaluating PBM pricing.

AUDIT RIGHTS

The proposal also includes an explicit annual audit right, separate from any contractual audit rights that may have been negotiated, so a plan fiduciary can verify the accuracy of information disclosed. This would require PBMs and other covered service providers to provide access to all necessary records (including contracts with pharmacies, manufacturers, affiliates, and related parties), confirm receipt of audit requests within 10 business days, and furnish information within a commercially reasonable period.

Practical note: Again, proper exercise of fiduciary duties generally necessitates PBM audits annually. Audits allow plan sponsors to not only review claims accuracy, but also ensure that pricing guarantees are satisfied and all rebates and other pass-through revenues are properly paid.

The DOL will accept comments on the proposed rule until March 31, 2026. The rule is proposed to apply for plan years beginning on or after July 1, 2026. For calendar-year plans, this would mean the plan year beginning on January 1, 2027.

Consolidated Appropriations Act, 2026

WHAT CAA 2026 ADDS TO THE PICTURE

While the DOL proposal is still pending, CAA 2026 is now law. It will reinforce and expand on DOL's transparency objectives through several provisions that directly affect large, self-insured health plans (i.e., those with more than 100 participants) and oversight resources by plan

sponsors and fiduciaries. These requirements generally take effect for contracts entered into, extended, or renewed effective January 1, 2029 (for calendar-year plans) or the first plan year that begins on or after 30 months after enactment of CAA 2026 (implementing regulations are required no later than 18 months after enactment of CAA 2026). Key provisions of CAA 2026 are described below.

FEE DISCLOSURES

CAA 2026 generally requires the same disclosures as under the proposed DOL regulations. In addition, PBMs must provide a summary document containing aggregate data for distribution to participants. Failure to provide the disclosures would result in a penalty of $10,000 for each day that the information is not reported ($100,000 per day if false information is provided knowingly).

FULL REBATE PASS-THROUGH

PBMs generally must remit 100% of all rebates, fees, discounts, and other remuneration related to drug utilization back to the plan sponsor every quarter, maintain records, and make them available for audit at least once per year. Rebate aggregators (such as group purchasing organizations) must remit to PBMs within 45 days after each quarter so PBMs can meet their obligations to plans.

Practical note: The standard market practice for large, self-insured plans is 100% pass-through of rebates. The implementing regulations will play a large role in the effectiveness of this requirement.

ROBUST AUDIT RIGHTS

Plans have the right to audit PBMs annually, using an auditor selected by the plan sponsor and fiduciary that is not paid by the PBM.

Practical note: Auditor independence is key when it comes to PBM audits. We recommend that plans select an auditor unaffiliated with the benefit consultant that assisted in selecting the PBM.

NO CONTRACTUAL BARRIERS

PBM contracts cannot limit or delay disclosure of information the plan needs for compliance and fiduciary oversight.

INNOCENT FIDUCIARY PROTECTION

If a PBM fails to remit required amounts and the fiduciary did not know about it, there is a path to protection — as long as the fiduciary takes timely remedial steps, including notifying the DOL if the PBM does not cure the problem.

Practical note: We will address this in more detail in our third transparency installment, but establishing formal fiduciary governance is essential. As employers have done for years on the retirement plan front, formal health and welfare fiduciary committees are likely to become the norm. As with retirement plan committees, the first line of defense is proper documentation of fiduciary activities.

Why this matters for plan sponsors and fiduciaries

The DOL proposed rule (if finalized) and CAA 2026 encourage transparency and accountability between plan sponsors/fiduciaries and PBMs. With detailed initial and semiannual disclosures, drug-level pricing transparency, and enforceable audit rights, plan sponsors and fiduciaries can:

- Compare PBM models and evaluate which approach delivers the best value.
- Identify spread pricing exposure at the individual drug level.
- Attempt to negotiate transparent pass-through compensation arrangements.

Practical steps you can take now

RETAIN QUALIFIED COUNSEL TO REVIEW YOUR CURRENT PBM CONTRACTS

Fiduciaries should consider retaining ERISA counsel experienced in PBM negotiations to identify opportunities for improvement. Improvements are most likely to come in connection with the following renewal or request for proposals, but arrangements with annual market check rights could achieve them more quickly.

UPDATE CONTRACT TERMS

Work with your legal and benefits teams to incorporate the new requirements: 100% rebate pass-through, quarterly remittance, annual audit rights with an independent auditor, and clear timelines for disclosure. Established PBMs currently have contracts that allow for all of these things. If your contract misses any of these items, now is a great time to push for updates.

BUILD A DISCLOSURE CALENDAR

Establish internal processes to receive and review semiannual PBM disclosures. Make sure you're getting the granular data you need: manufacturer payments, spread amounts, copay clawbacks, and price-protection payments broken down by drug and pharmacy channel.

PREPARE FOR AND CONDUCT AUDITS

Select an independent auditor now, outline document request lists, and establish response benchmarks. Being audit-ready signals to your PBM that you take oversight seriously.

EVALUATE PBM MODELS

Many (but not all) of the new disclosure requirements are aimed at transparency about spread-based pricing. Spread-based pricing is generally disfavored in the market, although it is not prohibited at the federal level. With the new disclosures, fiduciaries can compare spread-based models against pass-through, administrative fee-based models. Other pricing models, such as "acquisition cost plus," should also be evaluated.

DOCUMENT YOUR PROCESS

Update committee charters, meeting agendas, and minutes to reflect your review of PBM disclosures and analysis of compensation reasonableness. This documentation is essential to demonstrate fiduciary prudence under ERISA.

There has been a relatively slow build-up over the past decade, but it is safe to say that health plan transparency has been unleashed. ERISA fiduciaries are now on notice that government regulators expect these disclosures to be used prudently to monitor fees. Further, plaintiff litigation firms will inevitably get their hands on the summary disclosures and attempt to use them as a basis for potential lawsuits.

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