

PHARMACY BENEFIT MANAGER LICENSURE AND REGULATION ACT (EXCERPT)
Act 11 of 2022

***** 550.821.new THIS NEW SECTION IS EFFECTIVE JANUARY 1, 2024 *****

550.821.new Pharmacy benefit manager; licensure; application requirements; modification notice; grounds for refusal, revocation, denial, or suspension; fines; notice and hearings; investigation of officers, directors and owners; renewal.

Sec. 11. (1) A pharmacy benefit manager that provides services to residents of this state shall apply for, obtain, and maintain a license to operate as a pharmacy benefit manager from the director. A license under this act is renewable biennially and is nontransferable.

(2) Subject to this section, an applicant for a license to operate in this state as a pharmacy benefit manager shall submit to the director both of the following:

(a) An application in a form and manner prescribed by the director that is signed by an officer or individual responsible for the conduct or affairs of the pharmacy benefit manager verifying that the contents of the application form and any attachments are correct. The application form must include, but is not limited to, all of the following:

(i) A copy of all basic organizational documents of the pharmacy benefit manager, including, but not limited to, the articles of incorporation, bylaws, articles of association, trade name certificate, and other similar documents and all amendments to those documents.

(ii) A copy of a power of attorney duly executed by the pharmacy benefit manager if not domiciled in this state, appointing the director, the director's successors in office, and the director's authorized deputies as the attorney of the pharmacy benefit manager in and for this state, on whom process in any legal action or proceeding against the pharmacy benefit manager on a cause of action arising in this state may be served.

(iii) The names, addresses, official positions, and professional qualifications of each individual who is responsible for the conduct of the affairs of the pharmacy benefit manager.

(iv) A copy of recent financial statements showing the pharmacy benefit manager's assets, liabilities, and sources of financial support that the director determines are sufficient to show that the pharmacy benefit manager is financially viable. If the pharmacy benefit manager's financial statements are prepared by an independent public accountant, a copy of the most recent regular financial statement satisfies the requirement to show financial viability unless the director determines that additional or more recent financial information is required for the proper administration of this act.

(v) A description of the pharmacy benefit manager, its services, facilities, and personnel.

(vi) A document in which the pharmacy benefit manager confirms that its business practices and each ongoing contract comply with this act.

(b) An application fee as provided by the director by rule.

(3) Within 30 days after any significant modification of information submitted with the application for a license under subsection (2), a pharmacy benefit manager shall file a notice of the modification with the director.

(4) The director may refuse to issue a license under this act if the director determines that the pharmacy benefit manager is not financially viable or that the pharmacy benefit manager or any individual responsible for the conduct of the affairs of the pharmacy benefit manager has had a pharmacy benefit manager certificate of authority or license denied or revoked for cause in another state.

(5) The director may deny, suspend, or revoke the license of a pharmacy benefit manager, or may issue a cease and desist order if the pharmacy benefit manager is not licensed, if the director finds, after notice and opportunity for hearing, any of the following:

(a) That the pharmacy benefit manager has violated any lawful rule or order of the director or any law of this state applicable to the pharmacy benefit manager.

(b) That the pharmacy benefit manager has refused to be examined or to produce its accounts, records, and files for examination, or if any individual responsible for the conduct of affairs of the pharmacy benefit manager has refused to give information with respect to its affairs or has refused to perform any other legal obligation as to an examination when required by the director.

(c) That the pharmacy benefit manager has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused covered persons or enrollees to accept less than the amount due them or caused covered persons or enrollees to employ attorneys or bring suit against the pharmacy benefit manager or a payor that it represents to secure full payment or settlement of the claims.

(d) That the pharmacy benefit manager is required under this act to have a license and fails at any time to

meet any qualification for which issuance of a license could have been refused had the failure then existed and been known to the director, unless the director issued a license with knowledge of the ground for disqualification and had the authority to waive it.

(e) That any individual responsible for the conduct of affairs of the pharmacy benefit manager has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony without regard to whether adjudication was withheld.

(f) That the pharmacy benefit manager's license has been suspended or revoked in another state.

(g) That a pharmacy benefit manager has failed to file a timely transparency report required under section 23.

(6) If a pharmacy benefit manager's license is suspended or restricted, the director may permit the operation of the pharmacy benefit manager for a limited time not to exceed 60 days. However, the director may permit a pharmacy benefit manager whose license has been suspended or restricted to operate for a period that exceeds 60 days if the director determines that the continued operation of the pharmacy benefit manager is in the beneficial interests of covered persons by ensuring minimal disruptions to the continuity of care. A pharmacy benefit manager whose license has been suspended or restricted is subject to a fine each month, as determined by the director, not to exceed \$20,000.00 per month, until the pharmacy benefit manager has remedied the violation leading to the suspension or restriction.

(7) The director may revoke the license of a pharmacy benefit manager if the pharmacy benefit manager has been operating under a suspended license for a period of more than 60 days.

(8) For purposes of this section, a pharmacy benefit manager has the same rights to notice and hearings that are provided to an insurer under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(9) The director may investigate officers, directors, and owners of a pharmacy benefit manager in the same manner as officers, directors, and owners of a business entity licensed under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(10) To renew a license as a pharmacy benefit manager, an applicant shall submit to the director all of the following:

(a) A renewal application in a form and manner prescribed by the director that is signed by an officer or authorized representative of the pharmacy benefit manager verifying that the contents of the renewal form are correct.

(b) A renewal schedule and fee as provided by the director by rule.

(c) A retail pharmacy benefit manager network adequacy report required under section 17.

(11) A pharmacy benefit manager license expires if a complete renewal filing and fee is not received by the due date as established in rule by the director.

History: 2022, Act 11, Eff. Jan. 1, 2024.