

STATE OF NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE



SUPERINTENDENT OF INSURANCE
Alice T. Kane

DEPUTY SUPERINTENDENT
Colin Baillio

BULLETIN 2023-035

November 21, 2023

TO: ANY PHARMACY BENEFIT MANAGER SEEKING LICENSURE OR RENEWAL OF LICENSURE PURSUANT TO THE PHARMACY BENEFIT MANAGER ACT SECTION 59A-61-1 ET SEQ. N.M.S.A 1978

RE: PHARMACY BENEFIT MANAGER APPLICATION FOR A LICENSE AND LICENSE RENEWAL REQUIREMENTS

Effective December 1, 2023, this Bulletin applies to any Pharmacy Benefit Manager (PBM) operating in the State of New Mexico that is required to be licensed in New Mexico pursuant to the Pharmacy Benefit Manager Act Section 59A-61-1 et seq. N.M.S.A. 1978.

The process for applying for or renewing a license has changed. New and renewal applications for licensure will no longer be filed in SERFF. New and renewal applications will be handled through the Company Licensing Bureau. The application requirements can be found on the Company Licensing Bureau's webpage.

The renewals will be available in January, which will be emailed to the PBM's starting in 2024. The renewal and Annual Report will be submitted to the Company Licensing Bureau, not through SERFF.

PBM Compliance

PBM's will continue to be required to file reporting on compliance with the New Mexico Pharmacy Benefit Manager Regulation Act. This filing shall be filed in SERFF by June 1st of each year. Any documentation that is required for licensing may be reviewed for compliance purposes. Objections

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to noncompliance with the Pharmacy Benefit Manager Act on these documents will be filed through SERFF on the compliance report filing. All of the following must be submitted:

- Attestation of no charges
- Attestation of no steering
- Audit reporting
- Clean claims reporting
- Client contract
- Consumer notice
- Drug formulary notice
- MAC compliance
- Non-discrimination policy
- Pharmacist grievance and complaint reporting
- Provider contract
- Provider manual
- Sworn affidavit by an officer that the annual compliance reporting is true and correct.
- Website information for complaints, appeals, and electronic database that pharmacies can search for MAC prices.

Failure to comply with any provision of the Pharmacy Benefits Rule is a violation of the Insurance Code.

All compliance reporting documents shall be filed in SERFF as Supporting Documents in the PBM TOI, COMPLIANCE SUB-TOI. See the checklist on the OSI PBM website for additional information on annual reporting requirements. SERFF training is available via the National Association of Insurance Commissioners. See https://www.serff.com/serff_tutorials.htm.

A PBM can request confidentiality for licensing annual reporting and compliance filing documents, objections, or objection responses pursuant to Bulletin 2022-001 in accordance with 13.10.30.8(A)(13), 13.10.30.17(A), and 13.10.30.21 NMAC. See the confidentiality procedures and form at: <https://www.osi.state.nm.us/pages/bureaus/life-and-health-division/resources/confidentiality>. Bulletin 2022-001 can be accessed here:

<https://www.osi.state.nm.us/news/bulletins/bulletin-2022-001>. Confidentiality requests shall be submitted at least two weeks prior to the deadline for submission and prior to filing in SBS or SERFF. Confidentiality determinations shall be uploaded with the annual reporting if confidentiality is to be applied to any of the documents. If confidentiality is not applied at the time of the filing, the documents may be publicly accessible. Compliance reporting in SERFF is not publicly accessible, but information submitted may be subject to public records requests if not deemed confidential through the above process. Send confidentiality requests to: confidentiality.requests@osi.nm.gov. Failure to submit complete compliance reporting may result in penalties pursuant to Section 59A-1-18, NMSA 1978.

If you have any questions regarding the application, renewal, and annual report, please contact Ursula Almada at Ursula.Almada@osi.nm.gov.

If you have any questions regarding the compliance annual report, please contact Renee Blechner at Renee.Blechner@osi.nm.gov.

ISSUED this 21st day of November, 2023.



ALICE T. KANE
Superintendent of Insurance