



**PATIENT POCKET
PROTECTOR**
COALITION

**F R A N N I E
P E A B O D Y
C E N T E R**
comprehensive HIV & AIDS services



Asthma and Allergy
Foundation of America®
NEW ENGLAND CHAPTER



Purple Iris
FOUNDATION
- cancer awareness -

ALS
ASSOCIATION
the
iris
network
Vision with no limits.



RNE
RARE NEW ENGLAND

LUPUS
FOUNDATION
New England



March 21, 2025

Committee on Health Coverage, Insurance and Financial Services
Re: LD 1053

Dear Chair Bailey, Chair Gramlich, and distinguished members,

We are writing to voice our support for LD 1053, "Act to Ensure That Rebates from Prescription Drug Manufacturers Are Passed on to Patients at Pharmacies." The Patient Pocket Protector Coalition stands together with Maine patient organizations in support of much-needed reform to improve patient access to life-sustaining and lifesaving medications through cost-sharing reductions.

The Patient Pocket Protector Coalition (PPPC) is led by the Diabetes Patient Advocacy Coalition and works with state legislators to introduce and pass patient-first policies addressing the financial burdens of the 133 million Americans living with chronic conditions. The purpose of the Coalition is to unify chronic illness advocates, to build legislative support to drive policy change, and to reduce out-of-pocket patient costs.

Under the current insurance system, volume-based manufacturer rebates on pharmaceutical drugs are negotiated by Pharmacy Benefit Managers (PBM) in exchange for formulary placement. Instead of passing these savings through to patients who desperately need to afford their prescriptions, these rebates are retained by the PBMs and health insurers. This means that our most vulnerable citizens – those living with chronic conditions – do not benefit from the lower net price of their lifesaving and life-sustaining medications and pay far more than they should. With rebates for branded drugs averaging 48%ⁱ, patients are paying nearly twice what their insurance company pays for the same drug. Sadly, when patients cannot afford their medications, they may ration or abandon their prescribed therapy, leading to painful and costly complications, or more tragic outcomes, worsening quality of life and driving up overall health care costs. LD 1053 would require PBM rebates to be passed through to patients at the point of sale, directly reducing patients' out-of-pocket payments at the pharmacy.

West Virginia, Indiana, and Arkansas passed similar legislation in 2021, 2023 and 2024 respectively. After implementation, rate filings for plans in Indiana and Arkansas saw no increase in premiums because of the policy change.ⁱⁱ And in West Virginia, the Offices of the Insurance Commissioner have recently released data showing that rebate pass-through has in fact reduced rate increases for plans by 0.7% to 14%.ⁱⁱⁱ

While there are discussions to address systemic PBM reform at the federal level, passing LD 1053 is a step that you can take to help thousands of Mainers living with chronic conditions in a broken system today.

Sincerely,

ALS Association
Arthritis Foundation
Association of Diabetes Care & Education Specialists
Asthma and Allergy Foundation of America – New England Chapter
Autoimmune Association
Children With Diabetes
Chronic Disease Coalition
Crohn's and Colitis Foundation
Coalition of State Rheumatology Organizations
Diabetes Link
Diabetes Leadership Council
Diabetes Patient Advocacy Coalition
Diabetes Sisters
Eosinophilic & Rare Disease Cooperative
Epilepsy Foundation – New England
Frannie Peabody Center
Free ME from Lung Cancer
Lower Out of Pocket Now Coalition
Lupus and Allied Diseases Association
Lupus Foundation of New England
NAMI Maine
National Psoriasis Foundation
Patients Rising Now
Purple Iris Foundation
Rare New England
The PBM Accountability Project
The DiaTribe Foundation
The Epilepsy Foundation
The Iris Network
U.S. Pain Foundation
Women in Rheumatology

ⁱ National Bureau of Economic Research working paper 28439 <https://www.nber.org/papers/w28439>

ⁱⁱ Klein, M., & Holzer, H. (January 2024). Premium Impacts of POS Rebate Implementation in the ACA Market in the State of Arkansas. Milliman. *Available at* <https://dfr.oregon.gov/pdab/Documents/Constituent-testimony-2.pdf>; Robb, M., & Holzer, H. (January 2025). Premium Impacts of POS Rebate Implementation in the ACA Market in the State of Indiana. Milliman. *Available at* https://edge.sitecorecloud.io/millimaninc5660-milliman6442-prod27d5-0001/media/Milliman/PDFs/2025-Articles/1-29-25_POS-Filing-Impacts.pdf.

ⁱⁱⁱ West Virginia Insurance Bulletin No. 25-01 (February 13, 2025). *Available at* https://www.wvinsurance.gov/Portals/0/pdf/pol_leg/IB_25-01_Prescription_Drug_Rebate_Impact_to_Commercial_Health_Insurance.pdf?ver=2025-02-13-125517-883.



WEST VIRGINIA INSURANCE BULLETIN

No. 25-01

Insurance Bulletins are issued when the Commissioner renders formal opinions, guidance or expectations on matters or issues, explains how new statutes or rules will be implemented or applied, or advises of interpretation or application of existing statutes or rules.

► Prescription Drug Rebate Impact to Commercial Health Insurance ◀

In 2021, the Legislature passed House Bill 2263 amending West Virginia's *Pharmacy Audit Integrity Act* (PAIA) located in Chapter 33, Article 51 of the *West Virginia Code*. The 2021 updates to the PAIA generally went into effect on January 1, 2022. One of the more substantive updates to the law was regarding prescription drug rebates. The West Virginia Office of the Insurance Commissioner (OIC) is issuing this Insurance Bulletin to publicly provide frequently requested information regarding the effects of the prescription drug rebate law on health insurance rates as reported by commercial health insurers to the OIC.

W.Va. Code §33-51-9(k) provides "a covered individual's defined cost sharing for each prescription drug shall be calculated at the point of sale based on a price that is reduced by an amount equal to at least 100 percent of all rebates received, or to be received, in connection with the dispensing or administration of the prescription drug. ***Any rebate over and above the defined cost sharing would then be passed on to the health plan to reduce premiums.***" (emphasis added).¹ This provision of the PAIA is oftentimes referred to as the "point-of-sale" or "pass-through rebate" provision. Any rebate calculated by a pharmacy benefit manager (PBM) to be over and above a covered individual's defined cost sharing may not be retained by the PBM but must be passed on to the health benefit plan and must be used by the health benefit plan to reduce the cost of premiums. See W.Va. Code St. R. §114-99-5.14.3.

Beginning in 2023, the OIC asked health insurers who file rates with the OIC to calculate the total amount of rebates received on prescription drugs and to assess the impact thereof on health insurance rates. Health insurers have been asked to separate the rate effect due to West Virginia's prescription drug rebate law from the health insurer's otherwise filed rate request without the effect of the prescription drug rebate law. Health insurers have complied and provided the OIC with the percentage that their annual rate request was reduced due to receipt of prescription drug rebates. Data submitted to the OIC by the health insurers is subsequently reviewed by OIC contracted actuaries.² Health insurers who have submitted this information in their annual filings are Aetna Health Insurance Company, CareSource West Virginia Company, Highmark Blue Cross Blue Shield, The Health Plan of West Virginia, THP Insurance Company, UnitedHealthcare Insurance Company, and Optimum Choice, Inc.

¹ W.Va. Code §33-51-3 defines "defined cost sharing" as "a deductible payment or coinsurance amount imposed on an enrollee for a covered prescription drug under the enrollee's health plan."

² The OIC does not currently possess specific data on how rebates affected the rate filings of specific insurers prior to 2022. Prior to the implementation of the point-of-sale or pass-through rebate law, PBMs and health insurers were able to negotiate rebate contract terms. Some insurers may have required 100% of rebates to be passed through to the insurer, while other insurers may have allowed their PBM to retain rebates, or portions thereof, as part of the PBM's compensation.

2023 Filings (2024 Plan Year):

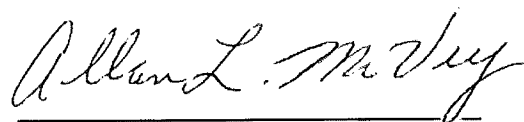
Insurer	Plan Type	Rate Change Without Pass-Through Rebate	Pass-Through Rebate Effect on Rate	Final Rate Change
Company A	Any Size	17.10%	-5.50%	11.60%
Company A	Large Group	16.20%	-5.50%	10.70%
Company B	Individual	6.10%	-3.10%	3.00%
Company C	Individual	10.40%	-8.30%	2.10%
Company C	Small Group	13.50%	-7.10%	6.40%
Company C	Large Group	9.60%	-1.80%	7.80%
Company D	Individual	6.57%	-6.72%	-0.15%
Company D	Small Group	16.18%	-6.28%	9.90%
Company E	Small Group	6.41%	-5.55%	0.86%
Company F	Small Group	29.60%	-14.00%	15.60%
Company G	Small Group	29.40%	-14.00%	15.40%

2024 Filings (2025 Plan Year):

Insurer	Plan Type	Rate Change Without Pass-Through Rebate	Pass-Through Rebate Effect on Rate	Final Rate Change
Company A	Any Size	18.80%	-6.20%	12.60%
Company A	Large Group	18.70%	-6.20%	12.50%
Company B	Individual	15.097%	-2.75%	12.347%
Company C	Individual	12.30%	-9.60%	2.70%
Company C	Small Group	17.60%	-9.67%	7.93%
Company C	Large Group	17.30%	-0.70%	16.60%
Company C	Transitional	18.90%	-10.30%	8.60%
Company D	Individual	7.72%	-7.45%	0.27%
Company D	Small Group	17.80%	-7.07%	10.73%
Company E	Small Group	11.89%	-7.60%	4.29%
Company F	Small Group	21.80%	-11.70%	10.10%
Company F	Large Group	5.21%	0.00%	5.21%
Company G	Small Group	21.900%	-11.70%	10.200%

Please e-mail any questions concerning this Insurance Bulletin to OICBulletins@wv.gov.

Issued: February 13, 2025



Allan L. McVey
CPCU, ARM, AAI, AAM, AIS
Insurance Commissioner

LD1053 ACT TO ENSURE REBATES ARE PASSED ON TO PATIENTS AT PHARMACIES



PROBLEM: The unregulated drug pricing system, specifically the PBM rebate system, forces Mainers to overpay for their prescription medications or delay filling their prescriptions, threatening patient health and outcomes.

SOLUTION: Pass LD1053 to require PBMs and health plans to pass through their negotiated rebate savings to Mainers at the pharmacy counter.

WHAT ARE PHARMACY BENEFIT MANAGER (PBM) REBATES?

PBMs negotiate price discounts, or rebates, from drug manufacturers on behalf of health plans. The drug manufacturer pays the PBM a rebate - a percentage of a drug's list price - in exchange for formulary placement. Rebates average 48% across all branded drugs. PBMs receive these rebate savings or pass them along to their health plan, while patients are forced to pay the full list price of the drug.

AN EXAMPLE OF HOW THINGS CAN CHANGE:

Patient is in their deductible phase and responsible for the full cost of their medication; negotiated rebate is 48% in this example.

Current State

Medication List Price: \$100.00
PBM Negotiated Price: \$52.00

Patient Pays:
\$100.00

With LD1053

Medication List Price: \$100.00
PBM Negotiated Price: \$52.00

Patient Pays:
\$52.00

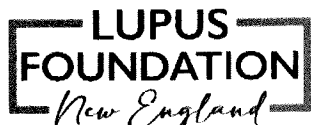
Will premiums increase if LD1053 passes? No, premium rate filings for plans in three states that passed similar legislation in 2023 and 2024 (West Virginia, Indiana, and Arkansas) had **no increase in premiums** as a result of the policy change. In fact, in West Virginia, rebate pass-through has significantly mitigated premium increases by 0.7-14%.



Asthma and Allergy
Foundation of America
NEW ENGLAND CHAPTER



the
Iris
network
Vision with no limits



THE IMPACT OF UNCHECKED PBM GROWTH

\$540 billion
in 2023 revenue

The three largest
PBMs on average
excluded

600
drugs



from their
formularies in 2023
- limiting patient
access.

Pharmacies were hit
with an estimated

\$9.1 billion

in fees from PBMs in
2019 vs. \$229 million
in 2013, driving many
community
pharmacies
out of
business.

