PBMs Urge DOL to Withdraw Rule on Drug Intermediary Profits

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A Department of Labor proposal is pitting pharmacy benefit managers and insurers against employers as the industry pushes to withdraw the rule's transparency requirements around PBM revenue.

If finalized, the rule from the Employee Benefits Security Administration would force PBMs to disclose compensation they receive to health plan sponsors, including profits from drugmaker rebates and pharmacy contracts. PBMs would also be required to clarify their fiduciary roles to plan sponsors and their power to change drug formularies, as well as disclose any conflicts of interest.

The Pharmaceutical Care Management Association, which represents PBMs, warned regulators in comments on the rule that it exceeded the department's authority. Transparency advocates, meanwhile, urged DOL to broaden the scope to include insurance companies and other service providers on the medical side of the drug benefit.

PBMs are also a target of transparency requirements included in the Consolidated Appropriations Act of 2026, in addition to a bevy of state laws regulating their payments to independent pharmacies. Criticism of PBMs spans both political parties, but the industry points to its own surveys showing widespread employer satisfaction as evidence of its value in the health-care system.

Top DOL officials had publicly urged stakeholders to submit feedback when the rule was proposed earlier this year, following President Donald Trump's executive order in February 2025. Labor Department Assistant Secretary for EBSA Daniel Aronowitz told Democratic lawmakers on the House Education and Workforce Committee last week that he heard them "loud and clear" in their push to expand the rule beyond PBMs.

Industry Warning Shot

PCMA argued ERISA only requires disclosures from a third-party service provider concerning

compensation for that plan's services. The law "does not authorize the Department to regulate the broader commercial revenue streams of PBMs or to mandate disclosure of financial relationships between PBMs and entities outside the ERISA plan relationship," the group said. That includes compensation from drugmakers and pharmacies that are "incidental to" the plan.

PCMA cited the US Supreme Court decision reversing *Chevron* deference to agency interpretations in *Loper Bright Enterprises v. Raimondo* , hinting at a potential legal challenge if the rule is finalized. The agency would also risk violating the Administrative Procedure Act if it doesn't withdraw the rule in order to harmonize it with the Consolidated Appropriations Act of 2026, the group said.

But critics dismissed those arguments, saying employers have been trying to understand the hidden financial incentives that skew choices and prices in their contracts.

"It's a verification of the underlying economics," said VerSan Consulting LLC founder Chris Deacon.

"It's hard to say that with a straight face," she added.

The proposed rule also doesn't align with the CAA, both PCMA and America's Health Insurance Plans said, citing different categories of compensation, audit mechanisms, and reporting requirements. That could cause confusion and unnecessary administrative burdens, they argued.

"PBMs may be required to categorize and report the same financial arrangements differently across regulatory regimes," PCMA wrote.

Employer groups raised the issue as well. But the department extended the comment period on the rule specifically to solicit comments on how to harmonize the rule with the new law, said Amber Rivers, a principal at Groom Law Group and a former longtime EBSA official who oversaw ERISA compliance.

The timing of the proposal and the legislation indicates a "strong likelihood that the department had some inclination that the legislation was moving," Rivers said.

"They may be of the view they have independent authority to move forward," she said.

The proposed rule was issued under the section of ERISA that lays out DOL's authority in crafting exceptions to prohibited transactions, while the CAA details disclosure requirements under separate provisions around data reporting, Rivers said.

The CAA can largely be characterized as retrospective while the proposed rule is prospective, Deacon said. DOL might need to make some technical changes to harmonize the two documents, she added, but they're largely complementary.

Retrospective reporting requirements and health plan audit authorities are listed in the CAA, Deacon said. The proposed rule details ongoing reporting to help plan fiduciaries comply with their obligations under ERISA.

Going Further

Employers are pushing the department to go further by explicitly listing related vendors that could be subject to the disclosure requirements or by expanding the rule to drug spending in doctors' offices and hospitals.

"Without expansion of disclosures in the medical benefit, plan sponsors will remain 'in the dark' on drug spending for a large and quickly growing segment of overall drug spending," the National Alliance of Healthcare Purchaser Coalitions wrote.

But some also asked the department for additional safeguards against litigation as more cost information becomes public, citing class actions from workers challenging drug prices paid by employers such as JPMorgan.

Employers might have to "defend their plans' agreement to pay certain individual drug costs, regardless of whether or not the overall arrangement was reasonable and regardless of whether the plan fiduciary took all the appropriate steps to prudently select a service provider," the American Benefits Council wrote.

The momentum for more transparency will likely carry forward beyond the rule regardless of how far the Labor Department decides to go. Ongoing court fights—particularly between the industry, employers, and states—underscore how prominent PBM services are in the debate over health-care

costs.

“If it’s not a priority in this particular rule, then it should definitely be on the agenda in the near future,” Deacon said.

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