



AMERICAN
ASSOCIATION
OF PAYERS,
ADMINISTRATORS
AND NETWORKS

ISSUE BRIEF: UNINTENDED CONSEQUENCES, WORKERS' COMPENSATION PHARMACY CARE

Access to affordable medications is a long-standing issue. State and federal agencies have been called into action to examine the stakeholders in the system, including drug manufacturers, who set the price of medications, and Pharmacy Benefit Managers (PBMs) who contract with manufacturers, develop pharmacy networks and support insurers by facilitating formulary development, drug authorization, billing and reimbursement processes. While PBMs do not set the prices for medications, they do play an integral role in the efficiency and effectiveness of how drug benefits are administered. The past several years have brought a significant increase in PBM oversight and business practice examination.

The American Association of Payers, Administrators and Networks (AAPAN) is working to educate public policy makers on key differences between provision of PBM services in the commercial/government health market and the workers' compensation and auto/no-fault market. AAPAN continues to raise concern and have open dialogue with impacted parties, such as community pharmacy associations and legislative sponsors, about unintended negative consequences of inadvertently including workers' compensation and auto/no-fault pharmacy services in PBM policy development. AAPAN was able to secure protections in Arizona, Florida and New York.

ARIZONA

In Arizona AAPAN was able to garner a modification to a recent PBM bill to protect workers' compensation in SB 1382.

This section does not apply to a workers' compensation insurer performing services under Title 23. (AZ Labor Code)

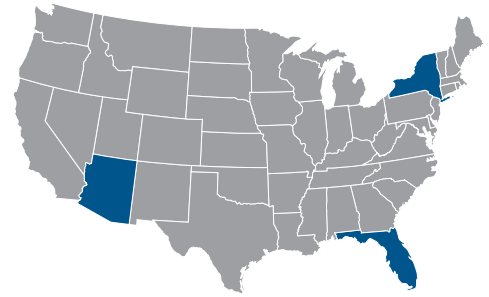
The PBM bill sponsor was open to clarifications and by implementing this change, the Arizona legislature recognized the differences in providing workers' compensation pharmacy services and ensured these services could continue with timely pharmacy care for injured or ill workers.

FLORIDA

In Florida, AAPAN worked with both legislative sponsors to include a specific exemption for workers' compensation via an amendment adopted into both HB 1509 and SB 1550.

The term excludes such a plan or program under chapter 440. (FL Labor Code)

The legislative sponsors of HB 1509 and SB 1550 recognized the need to protect the provision of pharmacy services to injured workers by carving out claims covered by the labor code and workers' compensation in the recently signed PBM bill.



WHAT DIFFERENTIATES WORKERS' COMPENSATION PHARMACY CARE FROM COMMERCIAL HEALTH?

The goal of workers' compensation treatment is to return the injured or ill worker to pre-injury status as quickly as possible by providing access to the correct medications at the right time.

In workers' compensation there are no out-of-pocket expenses (no co-pays, deductibles or cost-sharing).

Provision of pharmacy services to injured or ill workers are subject to existing workers' compensation state laws including treatment and prior authorization guidelines, drug formularies, generic mandates and reimbursement schedules.

The injured or ill worker is entitled to any and all medically necessary medications as prescribed by a physician.

The practice of changing, directing or substituting pharmacy therapies/medications for financial incentives is prohibited in workers' compensation.



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NEW YORK

Finally in New York, the Department of Financial Services (DFS) renews rule making on PBM regulations because of authorizing legislation passed in 2022. AAPAN continues to engage with DFS and at present has been able to secure an exemption for workers' compensation in the proposed rules to regulate PBMs.

Section 452.2 Health plan right to an accounting

(a) Pharmacy benefit managers that provide pharmacy benefit management services only for health plans that provide workers' compensation insurance are exempt from the requirements listed in Public Health Law section 280-a(2)(b) and (c).

Section 452.3 Terms and conditions of contract relating to pharmacy benefit management services provided to health plans.

(a) The disclosures provided for by Public Health Law section 280-a(2)(d) shall: (3) not apply to health plans that provide workers' compensation insurance

Workers' compensation and auto/no-fault pharmacy care have different goals, outcome measurements and governance structures compared to commercial health. We encourage you to continue the conversation with AAPAN to ensure future policy doesn't add complexity to an already highly regulated workers' compensation system.

ABOUT AAPAN

AAPAN is the unified, integrated voice for payers, TPAs, networks, and care management in both the workers' compensation and commercial/government health markets. The association serves as an advocate that respects and balances the unique business needs of its members so that both may more effectively provide access to appropriate, quality health care.

Within the AAPAN membership, are organizations that provide pharmacy services for injured or ill persons and serve only the workers' compensation and auto/no-fault marketplace.

Visit [AAPAN.org](https://www.aapan.org) to learn more.