

2026 Regular Session

HOUSE BILL NO. 938

BY REPRESENTATIVES TURNER, ADAMS, BAMBURG, BERAULT, BOUDREAUX,
BOURRIAQUE, CARRIER, DEVILLIER, DEWITT, EGAN, FREIBERG,
HORTON, ILLG, OWEN, SCHAMERHORN, SPELL, THOMPSON, AND
WYBLE

INSURANCE/HEALTH: Provides relative to pharmacy benefit managers

1 AN ACT

2 To amend and reenact R.S.22:1863(11), 1868, 1868.1 and R.S. 39:1600.1(D)(1),
3 (D)(2)(introductory paragraph), (3), (4), (6), and (11)(a), to enact R.S. 22:1868.2, and
4 to repeal Section 5 of Act No. 474 of the 2025 Regular Session of the Legislature,
5 relative to pharmacy benefit managers; to provide for definitions; to provide for
6 pharmacy reimbursement; to provide for pharmacy benefit manager income
7 restrictions and rebate pass-through; to provide for disclosure requirements; to
8 provide for commissioner access to data; to provide for procurement of pharmacy
9 benefit manager services by reverse auction; to provide for implementation and
10 effective dates; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:1863(11), 1868, and 1868.1 are hereby amended and reenacted
13 and R.S. 22:1868.2 is hereby enacted to read as follows:

14 §1863. Definitions

15 As used in this Subpart, the following definitions apply:

16 * * *

17 (11) ~~"Pharmacy benefit manager" has the same meaning as the term defined~~
18 ~~in shall have the same meaning as provided in R.S. 22:1641 and includes any~~
19 ~~person, either directly or indirectly, that provides one or more pharmacy benefit~~

1 ~~management services on behalf of an insurer or health plan, and any agent,~~
2 ~~contractor, intermediary, affiliate, subsidiary, or related entity of such person who~~
3 ~~facilitates, provides, directs, or oversees the provision of the pharmacy benefit~~
4 ~~management services. "Pharmacy benefit manager" has the same meaning as~~
5 ~~provided in R.S. 22:1641 and applies to any person or entity, and any wholly or~~
6 ~~partially owned or controlled subsidiary, parent, or affiliate of such entity, that~~
7 ~~directly or indirectly facilitates, provides, directs, manages, administers, or oversees~~
8 ~~the provision of one or more pharmacy benefit management services. The~~
9 ~~administration or management of a prescription benefits plan includes direct or~~
10 ~~indirect participation at any stage in the negotiation or determination of prescription~~
11 ~~drug pricing ultimately assessed to an insurer's or pharmacy benefit manager's client~~
12 ~~health benefit plan.~~

* * *

14 §1868. Local pharmacy reimbursement; National Average Drug Acquisition Costs;
15 appeals

16 A. Notwithstanding any provision of law to the contrary, a pharmacy benefit
17 manager shall reimburse any contracted pharmacist or local pharmacy for the
18 fulfillment of a drug prescription in an amount equal to the National Average Drug
19 Acquisition Cost for the dispensed prescription drug ingredient plus a dispensing fee
20 equivalent to the Louisiana Medicaid program dispensing fee. There shall be no
21 variance in a prescription drug manager's reimbursement for such fulfillment of a
22 drug prescription among the contracted pharmacists or local pharmacies in the
23 prescription drug manager's Louisiana book of business. If the National Average
24 Drug Acquisition Cost is not available at the time the prescription drug is
25 administered or dispensed, the pharmacy benefit manager shall reimburse the
26 pharmacy in an amount no less than the wholesale acquisition cost for the
27 prescription drug at the time the pharmacy acquired it.

28 A. B. No pharmacy benefit manager or person or entity acting on behalf of
29 a pharmacy benefit manager shall reimburse a pharmacy or pharmacist in this state

1 an amount less than the ~~acquisition cost for the covered drug, device, or service~~
2 amount specified in Subsection A of this Section. The provisions of this Section
3 shall apply only to reimbursement for a contracted pharmacist or local pharmacy.

4 B: C. For purposes of this Section, the following definitions ~~shall~~ apply:

5 (1) "Acquisition cost" means the set of National Average Drug Acquisition
6 Costs, "NADAC," as calculated by the Centers for Medicare and Medicaid Services
7 and reflected in the most recently released public file.

8 (2) "Adjustment factor" means a percentage-based change to the prescription
9 drug pricing benchmark, ~~such as average wholesale price or national average drug~~
10 acquisition cost, specified in Subsection A of this Section, applied uniformly across
11 a class of drugs.

12 (3) "Claim payment error" means a pharmacy or pharmacist claim payment
13 amount that fails to reimburse at or above acquisition cost.

14 (4) "Reimbursement formula" means a prescription drug reimbursement
15 calculation involving an ingredient price, calculated based on a prescription drug
16 pricing benchmark plus an adjustment factor, and a professional dispensing fee.

17 ~~E:~~ D. Notwithstanding any provision of law to the contrary, effective
18 January 1, 2026, a pharmacy benefit manager shall meet all of the following
19 requirements for claims submitted by any local pharmacy to a pharmacy benefit
20 manager administering claims on behalf of a health plan, ~~except for the Office of~~
21 ~~Group Benefits:~~

22 (1) ~~Adopt a reimbursement formula using either NADAC as the prescription~~
23 ~~drug pricing benchmark or, with prior written approval by the commissioner, an~~
24 ~~alternative prescription drug pricing benchmark that results in claim payment errors~~
25 ~~that are both comparable to or less than NADAC in terms of frequency and smaller~~
26 ~~than NADAC in terms of magnitude.~~

27 (2) Adopt a reimbursement formula using an adjustment factor that, based
28 on claims experience data available to the pharmacy benefit manager, is reasonably

1 expected to result in a claim payment error rate of no more than two percent per drug
2 as identified by its national drug code.

3 ~~(3)~~ (2) Adopt an appeal process for pharmacists to challenge claim payment
4 errors that, at a minimum, meets the following requirements:

5 (a) A network or local pharmacy contract executed by and between a
6 pharmacy benefit manager and a pharmacy located in Louisiana shall, at a minimum,
7 contain a provision expressly acknowledging that if a Louisiana pharmacy's
8 reimbursement for any covered drug or device is less than the pharmacy's acquisition
9 cost for that drug or device, the pharmacy has the right to appeal that reimbursement
10 and, if successful, receive additional payment so that the total reimbursement is
11 equal to the pharmacy's demonstrated acquisition cost. The pharmacy benefit
12 manager shall direct the pharmacy to the pharmacy benefit manager's electronic and
13 written appeal locations.

14 (b) Permit appeals to be filed for a period of fifteen days following the
15 applicable date of payment.

16 (c) If an appeal is filed with the pharmacy benefit manager, the pharmacy
17 must include a written invoice from the wholesaler that includes the drug name,
18 national drug code number, purchase date, and cost of the drug.

19 (d) If a claim payment error occurred, the pharmacy benefit manager shall
20 make an additional payment to the pharmacy to increase the reimbursement amount
21 to the acquisition cost.

22 (e) The pharmacy benefit manager shall individually notify all pharmacies
23 using the same customary supplier or wholesaler that a claim payment error occurred
24 and that the pharmacy may reverse and resubmit the claim to correct the claim
25 payment error. The pharmacy benefit manager shall make retroactive price
26 adjustments in the next payment cycle.

27 (f) If a pharmacy benefit manager determines that a claim payment error did
28 not occur, it shall provide the pharmacy or pharmacist with an explanation of why
29 it has upheld the payment, including a specific documentation of the acquisition cost

1 on the date of service. The explanation shall be provided electronically or in writing
2 through customary means of communication between the pharmacy benefit manager
3 and the pharmacy or pharmacist. The explanation shall also include a notice in at
4 least ten-point font stating that, if the pharmacy or pharmacist disagrees with the
5 decision, the pharmacy or pharmacist may file a complaint with the Department of
6 Insurance.

7 §1868.1. Pharmacy benefit manager income sources; rebate retention restrictions;
8 fee disclosure

9 A. ~~A pharmacy benefit manager may negotiate, but shall not retain any~~
10 ~~portion of rebates received from a drug manufacturer. All manufacturer rebates shall~~
11 ~~be passed through to the plan sponsor as shared savings in the form of lower~~
12 ~~premiums, reduced cost-sharing including reduced copays, coinsurance, or~~
13 ~~deductibles for prescription drugs, or to provide broader drug coverage. The specific~~
14 ~~allocation of rebates and how they are shared with plan members shall be identified~~
15 ~~in the plan sponsor's plan design and contract terms. A pharmacy benefit manager~~
16 shall earn income exclusively from the following sources:

17 (1)(a) A flat dollar service fee. Assessment of a single, flat dollar service fee
18 for provision of pharmacy benefit management services charged on a per-person per-
19 month ("PMPM") or a per-prescription basis which shall cover all of the pharmacy
20 benefit manager's administrative, clinical, print, electronic, and related costs for
21 provision of prescription benefit management services to a client health benefit plan.
22 The service fee may vary among a pharmacy benefit manager's clients based on the
23 number of health benefit plan participants, clinical, and administrative services
24 provided, and other considerations.

25 (b) As used in this Section, "pharmacy benefit management services" means
26 negotiation of prescription drug prices, including manufacturer rebates, discounts,
27 and other price concessions, processing and payment of claims, conduct of drug
28 utilization reviews, administration of prior authorization requests, resolution of

1 patient appeals or grievances, contracting with network pharmacies, and any
2 additional services that may be defined by the commissioner.

3 (c) The single, flat dollar service fee for provision of pharmacy benefit
4 management services shall be expressed transparently in a written agreement
5 between the pharmacy benefit manager and its client health benefit plan.

6 (2) A flat dollar performance bonus. A flat dollar performance bonus
7 payment, which may be paid by a client health benefit plan to a pharmacy benefit
8 manager for meeting specified benchmarks in lowering the client health benefit
9 plan's aggregated overall drug spend over a specific period of time. A flat dollar
10 performance bonus payment, if agreed to mutually by the pharmacy benefit manager
11 and the client health benefit plan, shall be expressed transparently in a written
12 agreement between the parties.

13 ~~B. All pharmacy benefit management fees shall be disclosed in writing and~~
14 ~~set forth clearly in the contract between the pharmacy benefit manager and the~~
15 ~~insurer or health plan. Throughout the course of providing agreed-upon prescription~~
16 ~~benefit management services for client health benefit plans, a pharmacy benefit~~
17 ~~manager shall not do any of the following:~~

18 (1) Derive any income based directly on prescription drug list price,
19 acquisition cost, average wholesale cost, or any other metric for prescription drug
20 pricing or fulfillment at any stage in the drug supply chain, including but not limited
21 to prescription drug markups, up-charging, spread pricing of any kind, manufacturer-
22 derived revenues of any sort, which include but shall not be limited to price
23 protection, group purchasing organization or "GPO" retained rebates or fees of any
24 kind, aggregator administrative or any other fees charged or collected, coupon
25 compensation and patient assistance compensation fees, retained discounts and
26 rebates, and other manufacturer payments, and any other arrangements on price of
27 prescription drugs. Any prohibited pharmacy benefit manager revenue that a
28 pharmacy benefit manager may receive during the course of a pharmacy benefit
29 manager's operations in service of its Louisiana client health plans shall be

1 considered prohibited income that the pharmacy benefit manager shall pass through
2 in its entirety to the pharmacy benefit manager's Louisiana health benefit plan clients
3 on a quarterly basis.

4 (2) Design a prescription drug formulary to favor a certain branded
5 pharmaceutical or biologic over a therapeutically equivalent generic or biosimilar,
6 unless the branded pharmaceutical or biologic has a lower net acquisition cost and
7 that lower cost is reflected in a lower out-of-pocket expense for consumers.

8 (3) Charge prescription drug consumers an out-of-pocket cost share that is
9 based on a prescription drug price greater than the pharmacy benefit manager's net
10 acquisition cost of the prescription drug.

11 C. A pharmacy benefit manager may negotiate, but shall not retain any
12 portion of rebates received from a drug manufacturer. All manufacturer rebates,
13 whether accrued to a pharmacy benefit manager, a pharmacy benefit manager's
14 affiliated GPO, or any other pharmacy benefit manager owned or affiliated entity,
15 shall be passed through to the pharmacy benefit manager's healthcare plan sponsor
16 client in the manner prescribed in Subsection B(1) of this Section as shared savings
17 in the form of lower premiums, reduced cost-sharing including reduced copays,
18 coinsurance, or deductibles for prescription drugs, or to provide broader drug
19 coverage. The specific allocation of rebates and how they are shared with plan
20 members shall be identified in the plan sponsor's plan design and contract terms.
21 "Rebates" means all rebates, discounts, and other price concessions, based on
22 utilization of a prescription drug and paid by the manufacturer or other party other
23 than an enrollee, directly or indirectly, to the pharmacy benefit manager. Rebates
24 include a reasonable estimate, as determined by the commissioner, of any volume-
25 based discount or other discounts.

26 ~~€~~ D. On or before December thirty-first of each calendar year, each
27 pharmacy benefit manager shall certify under oath to the commissioner of insurance
28 that it has fully complied with the provisions of this Section for the prior calendar
29 year. The certification shall be signed by the chief executive officer or chief

1 financial officer of the pharmacy benefit manager and shall be subject to audit and
2 penalty for false statements.

3 ~~D.~~ E. Any violation of this Section shall be considered an unfair or deceptive
4 act or practice in the business of insurance and shall be subject to all enforcement
5 authority granted to the commissioner pursuant to this Title. In addition to any other
6 civil or criminal penalty authorized by law, a violation of this Section shall be
7 punishable by the department through a civil monetary penalty not to exceed five
8 thousand dollars per prescription drug claim, and is subject to any regulatory or
9 administrative remedy authorized by the commissioner.

10 ~~E.~~ For purposes of this Section, the following definitions apply:

11 (1) ~~"Pharmacy benefit management fee" means a fee paid by an insurer or~~
12 ~~health plan to a pharmacy benefit manager for pharmacy benefit management~~
13 ~~services provided.~~

14 (2) ~~"Rebates" means all rebates, discounts, and other price concessions,~~
15 ~~based on utilization of a prescription drug and paid by the manufacturer or other~~
16 ~~party other than an enrollee, directly or indirectly, to the pharmacy benefit manager~~
17 ~~after the claim has been adjudicated at the pharmacy. Rebates shall include a~~
18 ~~reasonable estimate, as determined by the commissioner, of any volume-based~~
19 ~~discount or other discounts.~~

20 §1868.2. Pharmacy benefit manager; client written agreement disclosure

21 A. A written agreement between a pharmacy benefit manager and its client
22 health benefit plan shall contain provisions requiring pharmacy benefit manager
23 disclosure to the client all of the following information:

24 (1) Comprehensive claims-level prescription drug pricing data.

25 (2) Corresponding pharmacy benefit manager reimbursement for claims to
26 all retail, mail-order, and specialty pharmacies.

27 (3) Comprehensive report of pharmacy benefit manager revenues derived
28 from prohibited sources, as provided in R.S. 22:1868.1(B), that must be passed
29 through to the client health benefit plan.

1 administration of benefits under R.S. 42:801 et seq., in a transparent, online, and
2 dynamically competitive process and in the manner specified in this Section.

3 (2) The division of administration ~~may~~ shall procure the following products
4 and services as needed to implement this Section in accordance with this Chapter:

5 * * *

6 (3) ~~If the division of administration exercises the authority provided for in~~
7 ~~this Section, it~~ The division of administration shall procure the technology platform
8 and related technology provider no later than four months in advance of the date
9 scheduled for completion of the PBM reverse auction.

10 (4) The division of administration shall not award a contract for procurement
11 of the technology platform and technology provider services to a vendor that is a
12 PBM or a vendor that is managed by or a subsidiary or affiliate of a PBM. In order
13 to prevent conflicts of interest, any consultant or advisor to the division or to the
14 office of group benefits who received remuneration for consultation or for any other
15 services related to the drafting or issuance of a request for proposals or the
16 procurement of pharmacy benefit manager services at any time between 2016 and
17 2026 shall not provide consultation to the division or to the office of group benefits
18 regarding the selection of the pharmacy benefit manager reverse auction technology
19 platform or provider or the conduct of the technology-enabled pharmacy benefit
20 manager reverse auction process.

21 * * *

22 (6)(a) With technical assistance and support provided by the technology
23 platform provider, the division of administration shall specify the terms of the
24 participant bidding agreement which shall not be modified except by specific consent
25 of the division of administration.

1 Section 5. This Act shall become effective upon signature by the governor or, if not
 2 signed by the governor, upon expiration of the time for bills to become law without signature
 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 5 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 938 Reengrossed

2026 Regular Session

Turner

Abstract: Regulates pharmacy benefit managers by setting reimbursement standards for contracted pharmacists and local pharmacies, limiting PBM revenue sources, and regulating rebate retention.

Present law defines "pharmacy benefit manager", establishes reimbursement requirements for pharmacies, regulates PBM income sources and rebate retention, provides for PBM reporting and disclosure, and authorizes commissioner oversight.

Proposed law revises the reimbursement clause to ensure that pharmacy benefit managers provide fair and adequate reimbursement to all contracted pharmacists and local pharmacies.

Proposed law revises the definition of "pharmacy benefit manager" (PBM) to expand covered entities and clarify activities constituting pharmacy benefit management services.

Proposed law requires PBMs to reimburse pharmacies at not less than the National Average Drug Acquisition Cost (NADAC) plus the Medicaid dispensing fee and prohibits reimbursement below acquisition cost. Defines "acquisition cost", "adjustment factor", "claim payment error", and "reimbursement formula". Requires PBMs to adopt a reimbursement formula meeting specified claim-error thresholds and to implement an appeal process for pharmacies, including documentation, notice, and corrective payment requirements.

Proposed law clarifies that the reimbursement protections apply specifically to contracted pharmacists and local pharmacies.

Proposed law refines the terminology by substituting the general term "network" pharmacies with specific references to contracted pharmacists and local pharmacies, enhancing the precision of the reimbursement rules that protect these entities.

Proposed law limits PBM income to flat-fee service payments and performance bonuses, prohibits retention of manufacturer rebates or other price-based revenues, and requires all prohibited income to be passed through to client health benefit plans. Requires annual certification of compliance and authorizes penalties for violations.

Proposed law requires PBM contracts with client health benefit plans to include disclosure of claims-level pricing data, pharmacy reimbursement amounts, and prohibited revenues. Requires PBMs serving plans with substantial Louisiana enrollment to provide the commissioner access to claims-level pricing, income, and reimbursement data.

Proposed law amends procurement procedures for PBM services to require the division of administration to procure PBM services through a reverse auction, procure a qualifying technology platform, and ensure bidder compliance with PBM regulations. Authorizes participation by full-service PBMs and carveout service providers and permits multiple or hybrid contract awards.

Proposed law prohibits any consultant or advisor to the division or to the office of group benefits who received remuneration for consultation or other services related to drafting or issuing a PBM request for proposals or procuring PBM services between 2016 and 2026 from providing consultation regarding the selection of the PBM reverse-auction technology platform or provider or the conduct of the technology-enabled reverse-auction process.

Proposed law repeals §5 of Act No. 474 of the 2025 Regular Session.

Proposed law provides for implementation on October 1, 2026, and for standard effective-date provisions.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:1863(11), 1868, and 1868.1 and R.S. 39:1600.1(D)(1),(2)(intro. para.), (3), (4), (6), and (11)(a); Adds R.S. 22:1868.2; Repeals Section 5 of Act No. 474 of the 2025 Regular Session)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Revise the effective date reference by changing "2026" to "2025" to ensure statutory accuracy.
2. Remove redundant language from proposed law to maintain consistency with existing statutory format.
3. Implement a conflict-of-interest provision that prohibits any consultants or advisors who were compensated for PBM procurement activities between 2016 and 2025, from engaging in the selection process or operation of the PBM reverse auction platform.
4. Clarify statutory references of prior legislative acts to repeal Section 5 of Act No. 474 of the 2025 Regular Session.
5. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Revise the reimbursement clause to ensure that pharmacy benefit managers provide appropriate reimbursement to all contracted pharmacists and local pharmacies.
2. Remove redundant language from proposed law to maintain consistency with existing statutory format.
3. Clarify the terminology by substituting the general term "network" pharmacies with specific references to contracted pharmacists and local pharmacies, to enhance the precision of the reimbursement rules that protect these entities.
4. Make technical changes.