Indiana Law-to-Action Guide

Optimizing PBM Contracts, Oversight, and Compliance

This Indiana Law-to-Action Series is designed to help employers understand how to leverage new Indiana legislation intended to drive a more transparent, fair, and competitive healthcare market. Below is a plain-English summary of what the laws do and practical steps employers can take to strengthen oversight of pharmacy benefit managers (PBMs), improve contract compliance, and better fulfill their fiduciary responsibilities.

This document is not legal advice and does not replace plan-specific legal or fiduciary review. It is a high-level, action-oriented guide intended to help employers understand how recent laws affect PBM oversight, contract negotiations, audit rights, and transparency, and how to apply those requirements when working with PBMs, TPAs, brokers, and other healthcare vendors.

Summary: Federal and Indiana lawmakers have enacted several PBM market reforms. Recent federal reforms establish the foundation, while Indiana laws fill important gaps by strengthening employers' rights to access data, conduct audits, and oversee their plan.

Together, these laws give employers more leverage to negotiate better PBM contracts, improve transparency, reduce hidden costs, and strengthen oversight of pharmacy benefit managers.

What the laws do

Numerous federal and Indiana laws work together to strengthen employer oversight of PBMs and improve transparency.

- **Federal Consolidated Appropriations Act (CAA) (2021)** requires employer health plans to report prescription drug spending, rebates, and other pharmacy data, establishing a national transparency framework.
- **Federal Department of Labor (DOL) Proposed PBM Disclosure Rule** expands PBM compensation disclosures, strengthens audit rights, and requires more detailed reporting at the individual plan level.
- **Federal Consolidated Appropriations Act (CAA) (2026)** expands PBM reporting requirements, requires greater disclosure of fees, rebates, discounts, and other compensation, and requires ERISA plans to enter PBM arrangements that are 100% rebate pass-through, with no spread pricing.
- **Indiana HEA 1003 (2025)** prohibits contract terms that limit an employer's ability to use tiered networks, steer members to lower-cost providers, or selectively contract with facilities. It also prevents TPAs and PBMs from withholding claims data by claiming the information is a trade secret.
- **Indiana HEA 1004 (2025)** requires requested claims data to be provided within 15 business days and brokers and consultants to disclose compensation. The law also requires PBMs to disclose rebate information to plan sponsors.
- **Indiana HEA 1259 (2024)** confirms that employers own their claims data, strengthens annual audit rights, and makes clear that contracts cannot override those rights.
- **Indiana SEA 3 (2025)** establishes fiduciary duties for PBMs and TPAs acting on behalf of plan sponsors.
- **Indiana HEA 1405 (2021)** requires PBMs to update maximum allowable cost (MAC) lists every seven days and prohibits discrimination against 340B providers.
- **Indiana HEA 1604 (2025)** requires certain manufacturer financial assistance to count toward deductibles and out-of-pocket maximums for eligible prescription drugs.
- **Indiana SEA 8 (2023)** requires prescription drug cost-sharing to reflect manufacturer rebates and allows employers to apply rebates to reduce overall plan costs.
- **Indiana SEA 140 (2025)** requires convenient access to non-mail-order pharmacies, prohibits PBMs from requiring members to use affiliated pharmacies, and limits retroactive payment reductions to pharmacies.
- **Indiana SEA 241 (2020)** prohibits PBMs from paying affiliated pharmacies more than independent pharmacies and strengthens employer audit rights.

Together, these laws give employers stronger tools to oversee PBMs, verify contract performance, and negotiate more transparent pharmacy benefit arrangements to better manage prescription drug costs and gives employers and health plan participants information regarding the compensation paid to plan vendors and the true cost of care.

Why it matters to employers

> **Prescription drug spending is among the biggest contributors to increasing healthcare costs, which makes effective PBM oversight more important than ever.**

Without transparency, hidden fees and financial incentives can influence and distort purchasing decisions, increase costs, and create conflicts of interest. Many existing PBM contracts also fall short of current Indiana requirements and upcoming federal reforms. These laws give employers stronger tools to:

- Understand how PBMs are paid
- Compare PBM performance and pricing at renewal
- Audit contract compliance and financial arrangements
- Identify unfair or deceptive business practices
- Better manage pharmacy benefit costs while meeting their fiduciary responsibilities
- Move to full rebate pass-through PBM models that eliminate spread pricing and other hidden compensation

Indiana lawmakers have given employers stronger oversight tools. The next step is putting them to use.

Action steps: What you should do now

STEP 01 ENFORCE YOUR STATUTORY AUDIT RIGHTS

Indiana law gives employers the right to independently verify PBM performance and financial arrangements. Use your audit rights to review:

- Claims data
- Rebates and manufacturer payments
- PBM compensation
- Drug-level pricing and spread pricing
- Contract compliance

Indiana law may allow employers to challenge certain restrictive contract terms that previously limited their flexibility.

STEP 02 DEMAND EXPLICT FIDUCIARY STATUS

Require PBMs and TPAs to acknowledge their fiduciary responsibilities in your contracts. Review agreements to ensure they include:

- Fiduciary obligations
- Full compensation disclosure
- Conflict-of-interest protections
- Transparency requirements
- Employer audit rights

Clear contractual expectations help reinforce accountability throughout the relationship.

STEP 03 TRANSITION TO MORE TRANSPARENT PBM MODELS

Federal and state reforms are driving more transparent PBM contracts and reducing hidden financial incentives. When negotiating new agreements, require:

- Full disclosure of rebates, spread pricing, claw backs, and other forms of hidden compensation, and the ability to audit compensation to confirm the disclosure
- Move towards 100% rebate pass-through models that do not contain spread pricing (required for all ERISA plans by Aug 1, 2029)
- Administrative fee-based compensation with limits on variable compensation
- Drug-level reporting
- Regular financial disclosures

These better align PBM incentives with the interests of employers and employees.

STEP 04 REVIEW BENEFIT DESIGNS FOR STEERING ISSUES

Review your pharmacy benefit design to identify practices that unnecessarily favor PBM-owned pharmacies or restrict employee choice. Evaluate:

- Pharmacy network access
- Specialty pharmacy requirements
- Mail-order requirements
- Employee cost-sharing incentives
- Opportunities to improve competition and value

Use contract renewals and RFPs to bring PBM agreements in line with current federal and Indiana requirements. Also negotiate the right to enter into direct contracts for drugs, as more become available directly from the manufacturer at a lower cost to commercial purchasers.

THREE KEY ACTION STEPS FOR FIDUCIARIES:

- Exercise your statutory audit rights.
- Use your contract to hold your PBM accountable as a fiduciary.
- Negotiate PBM contracts that put your plan's interests first.

If you can't see how your PBM is paid or verify how it performs, you can't fully evaluate whether your pharmacy benefits are serving your plan or your employees.

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