

Arkansas Insurance Department

Asa Hutchinson
Governor



Alan McClain
Commissioner

August 17, 2020

BULLETIN NO. 29-2020

TO: ALL LICENSED INSURERS, HEALTH MAINTENANCE ORGANIZATIONS (HMOS), PHARMACY BENEFIT MANAGERS, FRATERNAL BENEFIT SOCIETIES, FARMERS' MUTUAL AID ASSOCIATIONS OR COMPANIES, HOSPITAL MEDICAL SERVICE CORPORATIONS, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, PRODUCER AND COMPANY TRADE ASSOCIATIONS, AND OTHER INTERESTED PARTIES.

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: EXTENSION OF PORTIONS OF COVID-19-RELATED BULLETINS ISSUED UNDER EXECUTIVE ORDER 20-03, AS AMENDED BY EXECUTIVE ORDERS 20-25, 20-37, AND 20-45

The Arkansas Insurance Commissioner is issuing this Bulletin to advise insurance companies and all interested parties regarding bulletins and directives issued by the Arkansas Insurance Department related to Executive Order 20-03, as amended by EO20-25, EO20-37, and EO20-45.

EXTENSION OF PORTIONS OF COVID-19-RELATED BULLETINS

Effective August 14, 2020, portions of prior Bulletins are hereby extended for the duration of the public health and disaster emergency and declaration of the public health emergency for the State of Arkansas resulting from the state-wide impact of COVID-19 per the terms of EO20-45:

CONSUMER SIGNATURE REQUIREMENT SUSPENDED

Recognizing that pharmacists are an important part of the allied health response to mitigate the spread of COVID-19 and assist with the treatment and therapy of those testing positive for the virus, and to limit the possible exposure of consumers and pharmacy staff to the COVID-19 virus through the use of shared writing implements or common use of tablet surfaces, the Commissioner determines the requirement that consumers sign for their pharmacist services is an impediment to the rendering of assistance to our citizens affected by the virus.

Therefore, the Commissioner directs PBMs licensed to do business in Arkansas and all health insurance carriers offering health insurance plans, including short-term limited-duration insurance plans, regulated by the

Department to suspend the requirement that pharmacy plan beneficiaries sign for the rendering of pharmacy services during the duration of the public health emergency period beginning with the date Executive Order 20-03 was issued and ending with the cancellation or expiration of the public health emergency.

For the purposes of the Bulletin, “pharmacy services” is defined as it is in Ark. Code Ann. § 23-92-503(6), which provides:

“‘Pharmacist services’ means products, goods, and services, or any combination of products, goods, and services, provided as a part of the practice of pharmacy as defined in § 17-92-101”

PBMs and Price Gouging

Executive Order 20-03 and its subsequent amendments triggered the provisions of Act 376 of 1997 prohibiting businesses from price gouging during a state of emergency. The law prohibits businesses from charging more than 10 percent above the pre-emergency price of goods or services. The ban on price gouging remains in effect for the duration of the public health emergency declared in the Executive Orders.

Pharmacy Benefit Managers should monitor manufacturer and wholesaler pricing to ensure consumers have sufficient access to products during the emergency. The Department asks Pharmacy Benefit Managers to confirm price increases with the Department when they occur.

The Department will then collaborate with the Attorney General to resolve price gouging in this market.

Any questions regarding this Bulletin should be directed to insurance.legal@arkansas.gov at the Arkansas Insurance Department or by phone at (501) 371-2600.



ALAN MCCLAIN
INSURANCE COMMISSIONER
STATE OF ARKANSAS

August 17, 2020
DATE