

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

March 23, 2020

BULLETIN NO. 7-2020

TO: ALL PHARMACY BENEFIT MANAGERS DOING BUSINESS IN THIS STATE, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: PHARMACY BENEFIT MANAGERS AND THE STATE PRICE GOUGING LAW

The Arkansas Insurance Commissioner is issuing this Bulletin to protect consumers with prescription drug benefit plans regulated by the Arkansas Insurance Department and to provide clarity to Pharmacy Benefit Managers (PBMs) licensed to do business in the state of their obligations during the current COVID-19 health emergency.

The Arkansas Insurance Department is committed to assisting elected government officials, its fellow state agencies, local health departments, emergency managers, and health care providers in providing for the health and welfare of the people of Arkansas.

On March 11, 2020, Governor Asa Hutchinson issued Executive Order 20-03 declaring a statewide state of emergency in response to the outbreak of the COVID-19 virus among Arkansans. The Order may impact various insurance regulatory statutes so that Department may effectively render maximum assistance to overcome any potential impediment to the rapid and orderly rendering of assistance to our citizens affected by the virus.

EO 20-03 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-disaster price of goods or services. The ban on price gouging remains in effect for at least 30 days from the issuance of the Executive Order.

PBMs and Price Gouging

Pharmacy Benefit Managers ought to 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.



ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS

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DATE