

State of Louisiana

Pharmacy Benefit Manager (PBM) Monitoring Advisory Council

Commissioner, La. Dept. of Insurance
President, La. State Board of Medical Examiners
President, La. Board of Pharmacy
Attorney General
Director, Public Protection Division, La. Dept. of Justice
Secretary, La. Dept. of Health
President, La. Academy of Physician Assistants
President, La. State Medical Society
President, La. Association of Nurse Practitioners
President, La. Pharmacists Association
President, La. Independent Pharmacies Association
President, National Association of Chain Drug Stores
President, Pharmaceutical Research & Manufacturers of America
President, La. Academy of Medical Psychologists
President, La. Association of Health Plans
President, of a *PBM licensed by the Board of Pharmacy and selected by the Louisiana affiliate of the Pharmaceutical Care Management Association*
President, La. Association of Business & Industry
Chief Executive Officer, La. Business Group on Health
President, La. AFL-CIO
President, La. Association of Health Underwriters
The Governor
Chair, House Committee on Insurance
Chair, Senate Committee on Insurance
Chair, House Committee on Health & Welfare
Chair, Senate Committee on Health & Welfare

Meeting Minutes

October 11, 2023

A regular meeting of the council was held on Wednesday, October 11, 2023 in the Poydras Hearing Room at the Louisiana Department of Insurance (LDI), located at 1702 North Third Street in Baton Rouge, Louisiana 70802.

1. *Call to Order*

Chairman Mills called the meeting to order at approximately 10:36 a.m.

2. *Quorum Call*

Chairman Mills asked Mr. Fontenot to call the roll of members to establish a quorum.

Members Present:

Mr. Frank Opelka (For the Commissioner, Louisiana Dept. of Insurance)
Mr. Joe Fontenot (For the President, Louisiana Board of Pharmacy)
Ms. E. Sue Fontenot (For the Secretary, Louisiana Dept. of Health) *
Ms. Lauren Bailey (For the President, Louisiana State Medical Society) *
Mr. J. Scott Black (For the President, Louisiana Pharmacists Association) *
Mr. Randal Johnson (President, La. Independent Pharmacies Assoc.)
Dr. K. Chris Rachal (For the President, La. Academy of Medical Psychologists) *
Mr. Jeff Drozda (For the President, Louisiana Association of Health Plans)
Mr. Robert Rieger (For the President of a PBM / Prime Therapeutics / PCMA)
Ms. Diane Davidson (For the CEO, Louisiana Business Group on Health)
Ms. Kristy Copeland (For the President, La. Assoc. of Health Underwriters)
Ms. Kimberly L. Sullivan (For the Governor) *
Rep. Chris Turner (For the Chairman, House Committee on Health & Welfare)
Sen. Fred H. Mills, Jr. (Chairman, Senate Committee on Health & Welfare)
(* - participated by electronic means)

Members Absent:

The President of the Louisiana State Board of Medical Examiners
The Attorney General
The Director of the Public Protection Division of the Louisiana Dept. of Justice
The President of the Louisiana Academy of Physician Assistants
The President of the Louisiana Association of Nurse Practitioners
The President of the National Association of Chain Drug Stores
The President of the Pharmaceutical Research & Manufacturers of America
The President of the Louisiana Association of Business & Industry
The President of the Louisiana AFL-CIO
The Chairman of the Senate Committee on Insurance
The Chairman of the House Committee on Insurance

Staff Present:

Mr. Joe Fontenot (Executive Director, La. Board of Pharmacy)

Guests Present:

No in-person guests

Mr. Fontenot certified 13 of 25 members were present, constituting a quorum for the conduct of official business. An additional member, Ms. Kim Sullivan, appeared after the quorum call bringing the total number of members present to 14.

3. Consideration of Minutes from Previous Meeting

Chairman Mills asked for a motion to approve the draft minutes of the previous meeting held on July 12, 2023. A motion was offered by Mr. Frank Opelka, seconded by Mr. Randal Johnson, and then adopted after a unanimous vote of the remaining members in the affirmative declaring the minutes approved.

4. Opportunity for Public Comment

Chairman Mills noted public comments were received by email pursuant to the posted agenda and then read the 2 emails aloud to those in attendance.

The first email was from Pharmacist Kyle Stevens:

My name is Kyle Stevens. I own Bellingrath Pharmacy in Greenwell Springs.

In early 2023 I became increasing active with PBM practices and reimbursements. Humana reimbursements were substantially lower than when I first opened in 2016. I requested a copy of my current contract. Humana quickly sent me a copy of the original contract but stated rates would not match what I see in the pharmacy due to changes they made to the contract. After 65 days of requests, Humana sent me all 4 amended contracts.

At the height of the covid pandemic in 2021, Humana radically amended my contract for the worse. The pharmacy did not receive notification via fax, email or mail. The amendment took place without owner knowledge.

The case was turned over to the department of insurance to investigate. The case is ongoing.

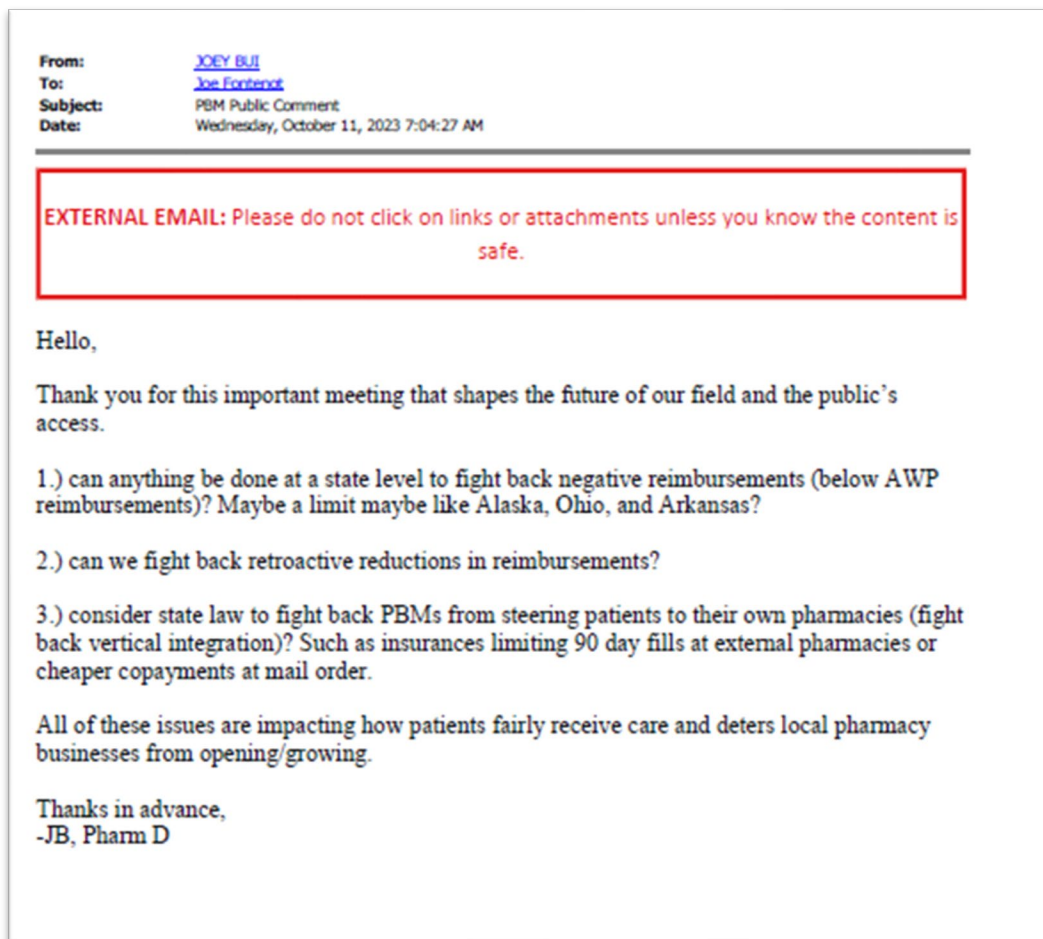
Less than 30 days later I received notice from Humana of a large prescription audit. The claims in question totaled nearly \$15,000.

Thank you for an opportunity to comment.

Chairman Mills requested comments in regards to the email. Mr. Opelka, with the Department of Insurance, noted an open complaint on the matter and the investigation is ongoing.

Mr. Randal Johnson (LIPA) reported issues pharmacies were experiencing with notices from PBMs. Mr. Johnson noted pharmacies are receiving third notices with no record of receiving the first or second notice.

The second email was from Pharmacist Joey Bui:



In response to the email, Mr. Opelka (LDI) noted a statute against steering and encouraged pharmacies to file a complaint with the Department of Insurance for such instances.

Chairman Mills asked the members to provide examples of legislation from other states in regards to topics like negative reimbursements and he noted the states identified in the email – Alaska, Ohio, and Arkansas. He asked the members to provide those examples to Mr. Fontenot, so that an agenda item can be added for the next meeting.

Mr. Drozda (LAHP) recommended pairing the discussion with any court filings and judicial statements which may have impacted the legislation being discussed.

Chairman Mills solicited public comments from those in attendance, both in-person and by electronic means; there were none.

5. Review of Industry Trends and Emerging Issues

Chairman Mills solicited comments from the members for an open dialogue regarding the agenda item.

Mr. Opelka noted a court case in the tenth circuit, PCMA vs. Mulready (Oklahoma Commissioner of Insurance) and he plans to bring an analysis of that case for the next meeting.

Mr. Opelka mentioned that the Department of Insurance is seeing an uptick in appeals in regards to GLP-1 agonists drugs (Ozempic, Wegovy, Mounjaro, etc.) which led to a discussion by the members. The discussion included administrative denials by the carriers without an appeal right, false diagnose of diabetes for reimbursement, and below cost reimbursement to the pharmacy. The discussion was robust, but no decisions were made.

Mr. Johnson reported pharmacy concerns with respect to Medicare program contracts. The contracts pharmacies are seeing include a below cost reimbursement which could lead to an access issue for patients.

Chairman Mills asked if the members were interested in deeper discussions in regards to actual pharmacy invoicing and reimbursement. The members expressed an interest.

Chairman Mills asked the Department of Health (LDH) for an update on the implementation of the single PBM. Kim Sullivan, LDH Medicaid Director, responded by stating the new implementation date is October 28th and things are going well. She added, Magellan is currently in Louisiana working through the details for implementation. Sue Fontenot, LDH Medicaid Pharmacist, also provided updates on the implementation.

The were no additional comments regarding this agenda item.

6. Review of Rulemaking Activity

Mr. Fontenot noted the Board of Pharmacy completed a regulatory project in regards to PBMs on September 20, 2023. The project removed certain documentation from the application process and the Board re-promulgated Chapter 30 (PBMs) in its entirety due to Act 536 of the 2022 regular session which clarified legislative intent to mandate licensure of pharmacy benefit managers by the Board of Pharmacy.

The were no additional comments regarding this agenda item.

7. Calendar Notes

Chairman Mills announced that in keeping with the current preference for meeting dates, we identified the four tentative meeting dates for calendar year 2024 – January 10, April 10, July 10, and October 9.

Mr. Opelka noted January 10th is close to the beginning of terms for elected officials which may complicate a meeting at that time.

8. Adjourn

Having completed the tasks itemized on the posted agenda, with no further business pending before the council and without objection, Chairman Mills adjourned the meeting at approximately 11:18 a.m.

*Minutes prepared by Joe Fontenot, Executive Director, La. Board of Pharmacy.
Minutes approved during subsequent meeting of the Council on February 7, 2024*