

# Publications

## Vorys Benefits Brief: Two Key PBM Developments for Employers – Part One

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### DOL Proposes New Disclosure Requirements for PBMs

On January 30, 2026, the Department of Labor's (DOL) Employee Benefits Security Administration (EBSA) published a **proposed regulation** that would significantly increase transparency requirements for pharmacy benefit managers (PBMs).

#### Background

The proposed regulation is in response to the directive in President Trump's **Executive Order 14273**, April 15, 2025, titled "Lowering Drug Prices by Once Again Putting Americans First."

#### Key Takeaways

The proposed regulation applies to self-insured group health plans that are subject to ERISA. If finalized, the proposed regulation would become effective sixty (60) days after publication of the final regulation and would apply to plan years beginning on or after July 1, 2026. For calendar year self-insured plans, the requirements would generally apply January 1, 2027.

The proposed regulation applies to any service providers that provide "pharmacy benefit management services" or provide advice, recommendations, or referrals regarding pharmacy benefit management services under an agreement with a group health plan regardless of what name they call themselves. It is expected that this new rule will apply to the entity that administers the prescription drug benefit and any entity that provides advice, recommendations or referrals related to the prescription drug benefit. The proposed regulation defines "pharmacy benefit management services" very broadly and states that a person will be covered by the rule if they perform any of the services identified in the definition. This new disclosure could apply to the entities that sponsor a drug purchasing

coalition.

Covered service providers will be required to make disclosures about their direct and indirect compensation. In addition, plan sponsors will have an annual right to audit the service provider to confirm the accuracy of the disclosures.

Covered service providers are also required to disclose the plan's unit cost for each drug on the formulary as well as the drug's therapeutic equivalents and the basis for excluding such equivalents from the formulary.

The proposed regulation also sets out requirements that must be met by a plan fiduciary to be exempt from prohibited transaction liability under ERISA. Under the proposed regulation, a plan fiduciary is not liable for a prohibited transaction if the plan fiduciary is unaware of the service provider's failure to meet the disclosure requirements, and the plan fiduciary reasonably believed that the requirements were met. Once the plan fiduciary is aware of the failure, the plan fiduciary must provide written notice to the covered service provider to correct the failure. If the covered service provider does not respond within 90 days, the fiduciary must notify the DOL and determine if the contract should be terminated.

### Next Steps for Employers

Sponsors of self-insured group health plans should review existing contractual arrangements with consultants, third party administrators and pharmacy benefit managers. If the proposed regulation is finalized, these new requirements are effective for plan years beginning on or after July 1, 2026.

### Contact Legal Counsel

For questions or additional information about this Vorys Benefits Brief and its application, consult with legal counsel.