

Insights

With SEA 140, Indiana Joins Other States in Limiting Pharmacy Benefit Manager Vertical Integration

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Indiana recently enacted Senate Enrolled Act 140 (SEA 140), a significant overhaul of pharmacy reimbursement practices intended to greatly impact pharmacy benefit manager ("PBM") vertical integration. SEA 140 introduces multiple changes to how pharmacy benefits are managed and delivered in Indiana, aiming to enhance transparency, fairness, and accessibility in the provision of pharmacy services. SEA 140 addresses the effects of PBM vertical integration practices by ensuring fair access to pharmacy services and preventing discriminatory practices, prohibiting favoritism towards certain pharmacies, and empowering consumers by allowing pharmacists to provide information on lower-cost alternatives. SEA 140 takes effect on January 1, 2026, and applies to any health plan contracts entered into or amended as of this date.

Vertical integration occurs when one entity is, at the same time, a pharmacy, a PBM, and a health insurer. Such consolidation has effectively reshaped the healthcare benefits market, allowing large conglomerates to have significant market power and pricing control. In response to increasing PBM vertical integration, several states have enacted laws that impose greater oversight and accountability on PBMs, insurers, and other administrators of pharmacy benefits and essentially level the playing field.

Indiana's SEA 140 addresses several core elements of PBM vertical integration, such as:

- 1. Network Adequacy Requirements:** Insurers and PBMs must ensure that their networks are reasonably adequate and accessible, providing convenient access to non-mail order pharmacies within a reasonable distance from each insured's residence. Further, insurers and PBMs are not permitted to discriminate against a pharmacy that is located within the geographic coverage area of the health plan and willing to agree to terms and conditions established for participation in the network.
- 2. Prohibitions on Favoritism:** SEA 140 prohibits insurers and PBMs from requiring insured individuals to use pharmacy affiliates (including for specialty prescription drugs) or imposing more restrictive limits (e.g., quantity, refills) on non-affiliated pharmacies. Likewise, pharmacies and/or pharmacists cannot be required to contract with a pharmacy affiliate as a condition of entering a contract with an insurer or PBM.
- 3. Transparency Measures:** Insurers and PBMs are required to file annual reports describing their networks, which will be reviewed by the Indiana Department of Insurance (IDOI) Commissioner to ensure

compliance with the law. Additionally, SEA 140 mandates that any confidential or proprietary information acquired by the department remains confidential, although aggregated information may be disclosed.

4. Consumer Protections: SEA 140 prohibits retroactive denial or reduction of reimbursement for pharmacy services unless the original claim was submitted fraudulently, or the pharmacist or pharmacy received an actual overpayment. It also ensures that pharmacies are reimbursed fairly, prohibiting reimbursement at a net amount less than what the insurer reimburses itself or a pharmacy affiliate for the same service.

5. Limits on Dispensing Fees: SEA 140 requires insurers and PBMs to impose only two kinds of dispensing fees on pharmacies: (1) a fair and reasonable dispensing fee (if the pharmacy is licensed to also sell alcoholic beverages), or (2) the Medicaid fee-for-service professional dispensing fee, as determined by CMS (if the pharmacy is not licensed to also sell alcoholic beverages). SEA 140 also limits insurers and PBMs from recouping dispensing fees paid to a pharmacy, as long as the correct medication was dispensed to the patient.

SEA 140 also enables insureds, pharmacies, and pharmacists to file a complaint with the IDOI Commissioner if they believe that an insurer or PBM has violated the law. The Commissioner will then investigate any complaints, and insurers and PBMs are required to cooperate with such investigations.

Overall, SEA 140 is a significant overhaul of Indiana's regulation of insurers, PBMs and other key players in the pharmacy benefits market and follows many other states in limiting PBM vertical integration, while at the same time furthering consumer protection interests such as transparency and pharmacy benefits network accessibility.

If you have questions regarding SEA 140, please contact Brandon Shirley, Madison Hartman Harada, or Thomas Abrams. For general information about the 2025 legislative session, please see our prior alert [here](#).

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