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## REPORT FROM AID CONCERNING RULE 128: FAIR AND REASONABLE PHARMACY REIMBURSEMENTS

FROM: Jimmy Harris, Commissioner; Daniel Holland, PBM General Counsel & Director  
TO: Executive Committee & ALC  
DATE: December 12, 2025  
RE: Status Report on Implementation of Rule 128 & PBM Enforcement

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This is the December report, as required by ALC and the Executive Committee, which approved AID Rule 128: *Fair and Reasonable Pharmacy Reimbursements* (Rule 128). Pursuant to an oral motion in the Executive Committee, AID now offers this report on activities related to the implementation of Rule 128, recently initiated enforcement efforts, ongoing audits, and licensing activity related to pharmacy benefit managers (“PBM”).

### **I. Rule 128: Fair and Reasonable Reimbursement Rates**

As previously reported, AID, along with our third-party consultants, initiated audits for a portion of the deficient plans who cited error or confusion in the Rule 128 data requests. Those audits have recently been completed, and the results show a marked lack of consistency between the overall reimbursement rates reported by plans compared to the reimbursement rates reported by their PBMs. In some instances, AID’s consultants found that some PBMs were indeed reimbursing pharmacies in Arkansas below the NADAC on average despite what the plan reported. In other instances, AID’s consultants found that some PBMs were reimbursing pharmacies at rates higher than what the underlying plan reported.

Given the discrepancies identified in the audits, AID will use the upcoming Rule 128 reporting cycle to finalize the determination of which plans are actually paying below NADAC on average. The next round of reports, covering the second half of 2025, are due March 1, 2026. These filings will provide the first full-year dataset since the passage of Rule 128. This will allow AID and our consultants to definitively assess plan performance and determine whether a dispensing cost must be applied to certain plans and their PBMs under Rule 128.

## **II. November PBM Enforcement Actions & Investigations**

- Both unlicensed PBMs addressed in the November report have initiated settlement negotiations with AID. The PBM Division has been provided with all reimbursements that were adjudicated by each PBM while unlicensed, along with the revenue generated from those reimbursements. These settlement negotiations are ongoing.
- A settlement in principle for \$100,000 has been reached with Prime Therapeutics regarding the NADAC reimbursement enforcement action referenced in the November report. The parties are currently drafting a consent order that will likely be published in December.
- The PBM Division is working through two ongoing issues that have arisen in the affiliate pricing limited scope examinations:
  1. Navitus Health Solutions has objected to providing data related to any self-funded plans. A Notice of Public Hearing has been served on Navitus and the parties are currently briefing the issue for the hearing.
  2. Express Scripts has objected to providing certain contracts covering Arkansas pharmacies that were requested pursuant to the examination. The parties are currently working through the issue and will hopefully resolve it without resorting to administrative action.
- The PBM Division is working on penalties and consent orders from the 6 NADAC reimbursement enforcement actions referenced in the November report. These enforcement actions should be resolved by the end of the year.

## **III. PBM Licensing**

Since the November report, the PBM Division has approved two PBM license renewals for existing PBMs. There are currently four PBM license applications under review.