

Louisiana Independent Pharmacies Association

What's New and What to Watch

LIPA Newsletter:

Bringing you the latest news and information concerning independent pharmacies and the profession at-large....



LIPA Newsletter –4-8-22

Dates to Know:

April 25th – FTC Comment Period on PBMs Ends

June 6 — Legislative Session Adjourns No Later Than 6 PM

June 30—Medicaid Provider Re-enrollment Deadline (Pending CMS Approval)

July 7-9 — LPA Conference, Biloxi, MS

What a busy week this has been for our pharmacies and LIPA staff. It was the first full week of the month, which always adds to the traffic of patients coming into your pharmacies, as well as the incidents of springtime flu and enough pollen to get the attention of your eyes, nose and throat. We have heard a number of concerns arising about how HRSA reimbursements will be handled for many of the COVID vaccines already administered to uninsured patients, and newly revised guidance on additional (second) boosters.

If that's not enough for our pharmacies to navigate, we also saw important pharmacy-related bills presented in the Senate Health & Welfare Committee this week, an Office of Group Benefits Policy and Planning Board meeting, and a hearing at the 5th US Circuit Court of Appeal in Houston for the *LIPA vs. ExpressScripts* provider fee case. ExpressScripts promises to follow Louisiana laws but does not pay the required provider fee to LDH to help support the Medicaid Program as enacted in law and authorized by CMS. The ExpressScripts Director assigned to interact with OGB spoke to the committee and said they abide by all Louisiana laws; however, we clearly see that this is not the case.

At Wednesday's OGB meeting (attended by LIPA staff and a number of LIPA member pharmacies) the question was asked regarding where ExpressScripts' ranks on the Fortune 500. Their representative told the Policy and Planning Board and to the public in attendance, "ExpressScripts is no longer a publicly traded company," implying they are not ranked on the Fortune 500. Talk about semantics, what is publicly reported by **Fortune** magazine is:

[Cigna jumps 52 spots on Fortune 500 off Express Scripts buy](#) *Published May 19, 2020*

- Cigna skyrocketed up this year's Fortune 500 list to No. 13, up 52 spots from last year's report,

Following the merger, they chose to use the name Cigna, and the same company is now rebranding part of its ExpressScripts business as "Evernorth." It may seem complicated, but we will work to stay informed and keep you updated.

LIPA vs Express Scripts Medicare Pre-emption Litigation Update

As you know, LIPA filed a federal declaratory judgment action asking the federal courts to rule that Express Scripts (ESI) owes the 10-cent provider fee on Medicare prescriptions. ESI necessitated that action after

they wrote to our members that ESI believed Medicare preempted the reimbursement requirement for the 10-cent provider fee. Preemption is a legal term that means federal law trumps state law. Judge James Cain, the Louisiana federal district court judge to whom LIPA's action was assigned, ruled in favor of LIPA, finding Medicare did not preempt the reimbursement requirement. To expedite the ultimate determination of this issue, the parties agreed to an accelerated appeal to the United States Fifth Circuit Court of Appeals. The Texas Pharmacies Association, Pharmacists United for Truth, and the National Community Pharmacy Association joined LIPA and wrote a brief supporting LIPA's position. The court heard oral arguments on the appeal on Wednesday, March 6th, in Houston.

Judges King, Jones, and Duncan were assigned to hear the appeal. The judges were very engaged and attentive to this complex legal issue. While it is impossible to predict how the Panel will rule, LIPA's attorney was pleased with how the judges received the arguments. You can access a recording of the arguments at the link below. (The sound quality is poor at times, so you will need to increase your volume.) We expect a ruling from the United States Fifth Circuit in a few months and will let our members know as soon as a decision is released.

[Oral Arguments](#)

Legislative Update – Week 4

The 2022 Regular Session resumed on Monday following the precarious nature of last week. A notable tempo carried the week as legislators began to conduct serious business. The April 5th filing deadline for each member's five allotted session-introduction bills has since passed, with a grand total of 1,177 instruments in the House and 563 in the Senate.

[Senate Bill 32](#), to no surprise, faced PBM opposition in the Senate Health & Welfare Committee on Wednesday morning. Rob Rieger, the lobbyist for PBMs, was adamant no money was pocketed by PBMs or third-party auditors but claimed PBMs wanted to and could find common ground with pharmacies. Committee members Sen. Luneau and Sen. Boudreaux raised several questions about the transparency of the audit process. Nevertheless, they recognized the need for legislation, and regardless of the opposition, SB 32 was reported favorably by the committee. The other bills of interest to you, [SB 59](#), [SB 82](#), [SB 83](#), [SB 257](#), and [SB 328](#), were reported with no opposition to the Senate. While Senate Bill 82 was dually referred to the Senate Finance Committee, the others will be up for 3rd reading and final passage as early as Monday. So now is the time to begin calling your Senator to ask for their support and let them know how these bills affect your business and patient care. You can find your Senator's contact information here, or you can download the 2022 PAR Guide to the Louisiana Legislature through your smartphone's app store by searching "PAR Guide." You can also call (225) 342-2040 to reach their desk phones while they're on the floor. We expect the bills will pass quickly through the Senate to the House of Representatives. Some will go to the Health & Welfare Committee, while the PBMs will encourage some bills to be heard in the House Insurance Committee. However, since both bodies are still considering their respective bills, it may be a few weeks before they are on the agenda in the House committees. LIPA staff attended the committee, along with several board members. The House Health & Welfare committee had [HB 424](#) by Rep. Turner on the agenda to be discussed on Wednesday; however, the bill was voluntarily deferred and will be heard at an unknown date in the future. We were proud that the ULM Dean of Pharmacy and a large contingent of ULM College of Pharmacy students joined us at the State Capitol for the committee hearings, this impressive group of future pharmacists came to watch, listen, learn and share their experiences.

[House Bill 54](#) by Representative Bagley, was heavily debated in the House Administration of Criminal Justice committee on Wednesday. The bill was amended to remove the penalty of imprisonment, provide for enforcement of summons in lieu of arrest, prohibits only governmental entities or educational institutions from requiring proof of a COVID-19 vaccination for anyone seeking admission on the premises of the entity or institution, and establishes an exemption for healthcare providers enrolled in Medicare or Medicaid who are subject to fines or penalties for noncompliance with federal rules and regulations. HB 54 passed committee as amended and is scheduled to be heard on the House Floor April 12th.

LIPA will continue to navigate Louisiana's political landscape as the session progresses and keep you up to date on other issues that may affect your interests. The political environment moving forward will remain uneasy across party lines. Some lawmakers are concerned that the question surrounding a possibly

unconstitutional veto session could jeopardize regular session instruments, including the state budget for the upcoming fiscal year.

Important Information for COVID-19 Vaccine Providers Regarding Reimbursement

As of midnight on Monday, claims for the COVID vaccine administration to **uninsured** individuals are no longer being accepted for payment by HRSA. This is the Provider Relief Fund Program that was paying the Medicare rate for vaccine administration to the uninsured and the money allocated by Congress is now exhausted. While the majority of patients have health insurance that can be billed for the vaccine administration fee, where does that leave enrolled COVID vaccine providers when it comes to patients seeking the vaccine who do **not** have health insurance?

It has been well over a year since most of our participating pharmacies who are enrolled as COVID vaccine providers completed and submitted the [CDC COVID-19 Vaccination Program Provider Agreement](#), which is a federally created form. can bill patients for the administration of the vaccine that is provided at no cost by the federal government. The “agreement requirements” on Page 2 includes this important language: Organization must administer the COVID-19 vaccine regardless of the vaccine recipient’s ability to pay COVID-19 vaccine administration fees or coverage status. The organization seek appropriate reimbursement from a program or plan that covers COVID-19 Vaccine administration fees for the vaccine recipient. The organization may not seek any reimbursement, including through balance billing, from the vaccine recipient. [Emphasis added]. This is one on the conditions of receiving the COVID vaccines at no cost from the federal government.

The State of Louisiana nor LDH do not have any discretion to waive these requirements. The Immunization Program sent an e-mail out to enrolled COVID vaccine providers this week that included this guidance: *LDH strongly encourages providers to stay in the LA COVID-19 Vaccination Program and expects participating providers will continue to administer these lifesaving vaccines at no cost to patients to ensure equitable access for all residents. If this change in vaccine administration reimbursement jeopardizes your ability to participate in the LA COVID-19 Vaccine Program, please contact la.immunization@la.gov to initiate the process to unenroll.* Our federal partner NCPA is a powerful advocate for independent pharmacies at the federal level and [reports](#) “That they are emphasizing the difficulty pharmacies will have in providing these vaccines without the administration fee and will provide more details as they become available.”

Slide Deck from LDH Monthly COVID Vaccine Provider Zoom Call

On Wednesday, March 6th, the OPH Immunization Program conducted their monthly call with COVID vaccine partners and providers. Here is a [link to the slides](#) from the call. Among the topics of discussion was the new requirement that vaccine providers use Digital Data Log (the “gold standard”) thermometers to monitor temperature of vaccines, including the COVID vaccines. These thermometers have the ability to monitor temperatures continuously. LDH is giving providers until May 22, 2022, to provide valid certification of calibration to their Regional Vaccine Specialist. We have seen discussion in the LIPA COVID Vaccines and Therapeutics chat group regarding options for getting DDL thermometers recalibrated.

Change in “Up to Date” COVID Vaccine Status

COVID vaccines appear to be making a difference in the severity of the disease, as many cases announced over the last week among high profile people in Washington including the Speaker of the House and heads of the Justice Department and Labor Department, D. C. Mayor, and the President’s sister report being asymptomatic or experiencing mild symptoms. All these are said to be “fully vaccinated and boosted.”

CDC has now approved a second COVID booster dose for everyone age 50 and above. So, to be “up to date” with vaccines, persons over age fifty should have a second booster four months following their first booster to further increase their protection against COVID-19. LDH issued [Health Alert Network \(HAN\) Memo #22-12](#) with additional details. Member pharmacies that provide vaccines onsite at long-term care facilities, may share this information and coordinate with the facilities for another COVID vaccine booster clinic if you have not already done so.

Certified Immunizer Pharmacists Must Re-enroll in Louisiana Medicaid Under Their NPI

The Medicaid provider re-enrollment requirement applies to pharmacies and pharmacists who are enrolled. Certified immunizers are also considered prescribers and must also re-enroll under their individual NPI. One issue we are hearing is that immunizing pharmacists who may have previously worked for another pharmacy when they were initially enrolled as a Medicaid provider and old pharmacy addresses (at which they no longer work) are shown on LDH/Gainwell's provider file. Therefore, they never received the "invitation" from LDH to re-enroll through the Medicaid Provider Portal. **Provider address changes must be submitted to Gainwell using [File Update Form 3](#).**

In discussions with the Medicaid Pharmacy Program, they provided the following tips for completing and submitting this form:

- Only show information that has **changed** when completing this form. Do not complete in entirety.
- The pharmacist can mail the completed form to Gainwell at the address in the bottom left corner of the form.
- Because of the COVID waivers in place, Gainwell can **temporarily** accept copies of signatures rather than original signatures so if the pharmacist prefers, the form can be **faxed** to Gainwell Provider Enrollment unit at 225-216-6392.
- For questions when completing the form, the pharmacist can contact the Gainwell Provider Enrollment call center at (833) 641-2140, Monday – Friday between the hours of 8 a.m. and 5 p.m. CST or send an email to LouisianaProvEnroll@gainwelltechnologies.com.

The Department advised they have hundreds of pharmacy re-enrollments that are still waiting for final review by Gainwell. Please see [Information Bulletin 22-4](#) for more information about Louisiana Medicaid Provider Enrollment, including the latest information on CMS deadlines. There are additional provider resources on [LDH's website](#). Providers can also email LouisianaProvEnroll@gainwelltechnologies.com or call 1-833-641-2140 with questions.

Do you have questions about your Medicaid Provider Re-enrollment Status? LIPA can confirm pharmacies that are listed as pending as of mid-March. You can check your status by e-mailing kennedy@lipa.org or texting Ruth at 225-241-1437.

2022 Nominations Up for the Board of Pharmacy

The nominating period will close, and ballots will need to be at the Board of Pharmacy office by 4pm on April 19th. Do not forget those nomination forms were sent to you.

There are five members of the Louisiana Board of Pharmacy whose seats will be up for appointment this year. Interested and knowledgeable pharmacists need representation on the board to shed light on the issues they face. If you are interested in serving on the board, we have listed the districts and their corresponding parishes that will be up for election this year. You can also visit the LA Board of Pharmacy [website](#) for more information. For those who may be interested in serving in these or other capacities, we encourage you to look at openings in the state legislature, local offices, and even the U.S. Congress. We need public officials who will be a trusted voice for pharmacists across the state.

FTC Continues to Accept Comments on PBM Business Practices

We have read several posts in the Pharmacy Business Practices *Group Me* that are perfect examples of what to share with the FTC in response to their request for Comments regarding PBM business practices. A quick check this week shows that thousands of Comments have been received but just four new Comments of those have actually been posted in the past week. One of those is an interesting take from an anonymous poster who indicates he is the owner of a CEO generic drug company. They obviously have problems caused by and are "feeling the squeeze" from the PBMs too that you can read about at this [link](#). We found the following assertions interesting:

- *Express Scripts has launched its own private label pharmaceutical company called Quallent Pharmaceuticals LLC – further becoming vertically integrated. Express Scripts neither*

manufactures nor develops it – simply gets it packaged under its label to squeeze further profits from its members and patients.

- Wholesale Acquisition Cost (WAC) are completely arbitrary. But, PBMs prefer it if you keep high WAC.
- PBMs . . . pay generic companies in 90 days and demand 3% prompt pay discount.
- PBMs . . . demand that their customers (retail pharmacies, and hospitals) pay them in 2 weeks.
- PBMs . . . buy the drugs at WAC price on paper and then invoice the generic manufacturer the difference between WAC and net contract price which must be paid in 48 hours (Meaning that [they] play with the money of generic companies for 88 days free of interest)

You can view the Call for Comments that gives more detail on what the FTCs wants to hear from the public about [here](#). NCPA has created a [list](#) of some of the issues that independent pharmacies face. Note that it is not necessary to prepare and upload a letter to the FTC. In fact, we recommend that form letters **not** be sent, even if you do some personalization. You can just type (or cut/paste) comments directly into the [FTC Comments form](#). **The comment period ends in 17 days.**

OptumRx Resuming In-Pharmacy On-Site Audits

OptumRx recently advised that they would be resuming on-site pharmacy audits beginning in the second quarter of 2022. Since audits are time-consuming, and often cause unnecessary stress for pharmacists, we want to remind everyone that there are sources out there for assistance. There are hard-working groups, such as the Pharmacy Audit Assistance Service (PAAS), that help fight for fair audit treatment by helping community pharmacists move away from trouble and toward compliance with rules and regulations.

LIPA's legal team is also familiar with Louisiana audit laws, and **we are willing to partner with you to aid in any way that we can**. Legislation that was passed unanimously out of Senate Health & Welfare on Wednesday would clarify the audit process in response to changing practices through the COVID-19 pandemic. [SB 32](#) by Senator Fred Mills recognizes the amount of time these audits take away from the pharmacist being behind the counter. It is important to note that this bill does **not** prevent, limit, or impact fraud, waste, and abuse audits (FWA). Instead, it offers transparency to the process by requiring the PBM to notify the Department of Insurance when it is suspected. **Let us know if you receive advance notice of an audit and we will be happy to assist you or answer any questions you may have.**

LIPA's Pharmacist Toolkit

Who is in the **best position** to advise patients on the lowest cost option for their prescriptions? We believe it is their **local independent pharmacist** who continues to be the most accessible healthcare provider in their community. LIPA is continuing to develop tools that can be used to encourage patients to ASK YOUR PHARMACIST about the lowest price for their prescription drugs. Community pharmacists have demonstrated a willingness to reach out to physicians and other prescribers, working together to deliver the best patient outcomes.

Your team at LIPA has put together a **"Pharmacist Toolkit"** that will give members access to a variety of different resources to help deliver the highest quality, personalized care at the most affordable price for their patients. The toolkit will also comprise different tools such as flyers, graphics, and video scripts intended to remind folks that their pharmacist is their best source of information.

Also included in the toolkit is a relief pharmacist spreadsheet that we are working on populating. If you would like to be included in the listing, please visit the member library where you will see "Find a Relief Pharmacist in Louisiana" on the right-hand side. After pressing the "click here" button you can fill out the forum and view the spreadsheet. If you have any questions, contact your LIPA staff at comm@lipa.org.

You can find the toolkit in the **Member Library** tab on our [website](#). To access the toolkit, you must confirm your email address and create a password, so be on the lookout for an email with instructions on how to do so. If you have not received the email, you can easily create an account on our website by clicking the button below and clicking the "Sign Up with Email" button. If you have any questions, please contact your LIPA staff at comm@lipa.org.

NADAC Price File Watch –Publication Date 4.6.22

This week's NADAC Price Comparison Data shows price changes on 74 drugs with all but one of them being brand name. 72 of the drugs increased in price ranging from \$.00099 - \$1.84188. Two drugs, Mucinex Nightshift Cold-Flu and Delsym Nighttime Cough Liquid, decreased by \$.00227. The one generic drug, Diazepam 5 Mg/5mL, increased by \$.00445.

The rate changes for two of the drugs, Sprycel 100 Mg tablet, and Diazepam 5Mg/5mL were results of a help desk inquiry and are effective April 6th, 2022. The other 72 drugs' rate changes were WAC Adjustments (changes in WAC published prices) and are retroactive to April 1st, 2022.

[Weekly NADAC Report](#)
[4.6.22 NADAC by Percent Change](#)
[4.6.22 NADAC by Price Change](#)

NADAC represents the national average price paid by chain and independent pharmacies to acquire prescription-covered outpatient drugs, as determined by a monthly survey conducted by Myers & Stauffer for CMS. While the nature of an average is that some are reimbursed above cost, and some are reimbursed below cost, our concern with Myers & Stauffer's NADAC price is that we are seeing increasing gaps between NADAC prices and the actual cost our pharmacies must pay. Filing appeals to Myers and Stauffer can bring to their attention—and the attention of other stakeholders—the discrepancy between the actual acquisition cost for Louisiana independent pharmacies and the national average.

Our LIPA staff will file NADAC appeals to Myers & Stauffer on your behalf. To do so, we need invoices for each drug and a spreadsheet of the drugs containing the information included on the Medicaid reimbursement form found [here](#). (Excluding the “additional information” section) We will fill these forms out for you, we just need the information in some sort of spreadsheet or another readable format.

We have again attached instructions for Pioneer users to create a report to run weekly. Please send all NADAC drug pricing spreadsheets and invoice emails to appeals@lipa.org. Once we have received both the invoice and drug information spreadsheet, we will submit appeals as quickly as possible.

[Pioneer System Instructions](#)

We are still working to develop report criteria for other software systems to help pull the report needed for LIPA to file your NADAC appeals. If you are a pharmacist who uses a system other than Pioneer and would be willing to work with us to develop the report spreadsheet, please email appeals@lipa.org with your name, your pharmacy's name, and which system you use.

Have You Joined LIPA's Chat Groups for Members?

LIPA hosts two different Chat Groups on the *GroupMe* smartphone application platform that we encourage members to join and participate in either or both. These chat groups were created to serve as a communication tool to facilitate rapid responses to your questions and for sharing with your peers. The two Chat Groups are:

1. **Pharmacy Business Practices** This is the newer of the two groups and the focus is the general business of independent pharmacy.
1. **LIPA COVID Vaccines/Therapeutics** The primary focus of this group is all things COVID-related including COVID vaccines, therapeutics, testing, and masks.

To join either group, simply send an e-mail to Danielle Hodge (hodge@lipa.org) with the name, pharmacy name, and cell # of the person to be added. The *GroupMe* application can be downloaded from the Application Store.