

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....



Express Scripts: Letter Sent to OGB Enrollees “By Mistake”

As this year’s legislative session and consideration of **new** laws approaches, we were reminded again this week of the critical importance of monitoring PBM compliance with Louisiana’s **existing** strong laws relative to pharmacy. Working to expose their non-compliance appears to be a never-ending task for LIPA and our members! Some of the infractions are documented in letters and forms and therefore easy to spot, *e.g.*, Express Scripts’ recent letter to OGB members steering them to Express Scripts Mail Order.

We were pleased with the [letter](#) received from OGB Chief Executive Officer David Couvillon in response to LIPA’s letter from last week regarding the violation of RS 40:2870A (5), steering members to switch to Express Scripts Mail Order. According to Express Scripts, it was a case of the letter going out “by mistake.” There is no state law prohibiting such letters in most states where they operate and they—like other PBMs—neglected to modify their operating procedures to comply with Louisiana’s law. We repeatedly see this “oops, we did it again” response from PBMs when they are called out on violations of state law by either their client (OGB, Louisiana Medicaid) or the regulating agency such as the Department of Insurance. **But damage has been done.** Insured members, the state program, and our citizens, as well as pharmacies need to see follow-through on the commitments for corrective action made by the PBM, as well as pharmacists. To date we have **not** seen receipt of the promised letters to patients correcting this blatant steering.

We have to question the transparency of these PBMs as to how they provide benefits on behalf of insurers. Our information is that Express Scripts is often reimbursing pharmacies **below cost** on branded medications in the OGB program. By doing so, does that reduce the size of the pharmacy provider network they represented to OGB and the state? On another note, if Express Scripts does not adequately reimburse for a branded medication to allow it to be filled, have they moved into the realm of practicing medicine and interfering with patient care? Furthermore, we are beginning to get reports of excessive DIR fees being pushed down on the retired state employee Medicare plans. Is OGB aware of those fees and how do they benefit the state or the member? We hope to see follow up for patients and pharmacies on these emerging issues.

Dates to know:

March 7th – Deadline for DIR Fee Comments to CMSCMS

March 11th – Deadline for LDH Inquiry Responses to Single PBM RFP

March 14th — Legislative Session Starts at noon

March 31st—Medicaid Provider Re-enrollment Deadline

April 25th – FTC Comment Period Ends

June 6 — Legislative Session Adjourns No Later Than 6 PM

July 7-9 — LPA Conference, Biloxi, MS

Filing Complaints About PBM Violations of State Law with LDI

We have identified two additional areas of PBM non-compliance clearly shown by written evidence: Remittance Advices and MAC Appeal Denials. Unless formal complaints are actually filed against the PBM with the Louisiana Department of Insurance (LDI), the Department has no record of the infractions. LDI counts the number of complaints they get, and they equate low numbers with minimal problems. We are seeing multiple violations of the requirements in state law in the following two areas which you can easily report using the [online complaint form](#) on the LDI website.

- **Remittance Advice Timing and Format** Our pharmacies are receiving Remittance Advice that are clearly non-compliant with the requirement in state law that the RA be provided on the **date of payment** and include detailed, itemized information for each claim as required in statute. The DIR fees are shown as a lump sum deduction at the end of the Remittance Advice with an aggregate claim number indicating all 77777s or such.
- **MAC Appeal Denial Notice Content PBMs** are not always “*providing the pharmacy or pharmacist the NDC number of a drug product and source where it may be purchased for a price at or below the MAC for national or regional wholesalers operating in Louisiana.*” The law does not give PBMs the option to tell pharmacies to contact wholesalers, which is time-consuming and administratively burdensome. When filing an online complaint with LDH, if you select the MAC Appeal option, the pop-up question is **If your appeal was denied, did the PBM provide you with the NDC number of a drug product and source where it may be purchased for a price at or below the MAC as outlined in La.R.S. 22:1865(C)?**

Some Possible Violations of State Law by PBMs Are Not as Obvious

An area that requires further exploration to make sure “mistakes” are not being made in complying with state law is whether PBMs are reimbursing independent pharmacies less than the pharmacies they own in violation of [R.S. 40:2870\(8\)](#). In spite of laws on the books in Arkansas prohibiting this, they discovered it was-- in fact—occurring, and that was one of the catalysts for their PBM oversight legislation passed several years ago. Compliance with any law requires some form of monitoring—complaints is one way but not always an option when evidence of violations such as forms and letters is not readily available. While this law has been in effect since 2020, the PBMs may have discouraged the LDI and others from enforcing these laws with the threat of judicial override but that did not happen and the US Supreme Court went the other direction in endorsing the legislative actions through the [Rutledge](#) and [Wehbi](#) cases. It is time to compare

PBM reimbursement to their own pharmacies they own to reimbursement to independent pharmacies, which under Louisiana state law cannot be less. This is an area LIPA will be pursuing.

One Week Until 2022 Regular Legislative Session Begins

This legislative session is a general session with all matters able to be discussed except for levying new taxes for the 85 calendar day period beginning at noon on the 2nd Monday in March, March 14 and ending no later than 6 PM on June 6th. After the pre-filing period which ends today (March 4th), each legislator will have the opportunity to introduce up to five bills until 6:00 pm April 5. Your LIPA Team has already begun identifying bills and will continue to closely monitor any new bills that could affect the business of pharmacy in Louisiana. This will be an especially busy 85 days!

To date, roughly 700 House bills and 300 Senate bills have been filed. These numbers do not include the House or Senate resolutions or concurrent resolutions that will be filed in the coming days and weeks. Several bills of interest have been filed that LIPA will follow and/or support:

- [HB424 by Rep. Turner](#) – provides relative to the administration of immunizations and vaccines by pharmacists and other licensees of the La. Board of Pharmacy
- [HB595 by Rep. Turner](#) – modifies notice requirements relative to spread pricing and retainments of pharmacy benefit managers
- [SB32 by Sen. Mills](#) – provides relative to pharmacy audits
- [SB82 by Sen. Mills](#) – provides relative to Medicaid reimbursement for pharmacy services
- [SB83 by Sen. Mills](#) – creates the Council on Medicaid Pharmacy Reimbursement
- [SB99 by Sen. Mills](#) – provides relative to permits issued by the Louisiana Board of Pharmacy
- [SB296 by Sen. Barrow](#) – provides relative to pharmacist clinical services in Louisiana's Medicaid program

LIPA will provide more information on these bills and others in future newsletters. Several bills build on the work of LIPA members from past legislative sessions and several approach new areas of law that need to be addressed to better the practice of pharmacy in Louisiana. We look forward to working with these legislators and others on your behalf. Please share any thoughts or comments you may have on these bills and others you see that may be of interest to community owned, independent pharmacies in Louisiana.

“Crunch Time” for Your DIR Fee Comments to CMS

The deadline for providing written Comments to CMS on their 2023 Medicare Drug Plan and Medicare Advantage Plan policies is Monday March 7th at 4 PM Louisiana time. If you have not done so yet, we strongly urge you to click on this [link](#) and add your content to the more than 4963 comments (as of 6:30 AM this morning) that have been submitted and posted online, letting CMS know why DIR fees need to be majorly reformed. Click on the link and then the green bar at top left SUBMIT A FORMAL COMMENT. You can either type directly into the form or upload a letter that can be on your letterhead. You can also upload attachments that help tell your story.

As the written Comments submitted to CMS are public, we have been skimming Comments as they are posted. How can the Agency read comments such as [this one](#) and not take action? Here is an excerpt from

one Comment we know that many of you can identify with when it comes to filling Medicare prescriptions: *I am a new independent pharmacy that opened in 2017. I was hopeful that although I knew reimbursements were low from insurance that I could make a living and serve patients the way I wanted to. However, in the first year I realized that a large number of prescriptions I was reimbursed BELOW my cost. I was losing money on all these prescriptions. How can I get reimbursed below my cost!!! If I sold furniture, I would never sell it below what I paid, so why would an insurance company be able to pay me below my cost? This was the first BLOW. Then as months went on and we became busier, I began seeing the retroactive DIR fees. Sometimes up to \$5000 or \$6000 per MONTH! These fees have no explanation to specific prescriptions. [Emphasis added] You have no idea whether you should fill anything because you really never will know if you made or most likely lost money on a claim. It is exhausting to run a business this way. I did not open a pharmacy to make millions. I opened to help people and practice pharmacy the way it was intended. I knew I would not make as much money but I am losing money hand over fist. I have to turn people away that need help and need better care. This must be STOPPED!*

FTC's Comment Period on PBM Business Practices Open Through April 25

The FTC has issued a [request for information](#) on how PBM business practices affect patients, doctors, employers, **pharmacies**, and other businesses in the prescription drug space, with Comments being accepted through April 25th. You can view the Call for Comments [here](#). Comments really **are** easy to post. One of the 73 Comments already posted is from the Kentucky Independent Pharmacy Alliance and reads in part, *The stated purpose of the FTC is to “protect by stopping unfair, deceptive or fraudulent practices in the marketplace.” If there is ever a case for the FTC to step in to take a look at a section of the marketplace that is unfair, deceptive, and fraudulent, it is the PMB model. We felt the vote by the FTC committee members was a travesty. How in good conscience could two members vote against studying a practice that has negatively affected patients and independent pharmacies alike.*

Right after the recent open FTC meeting, our members felt defeated. Thankfully, within days we read that the FTC had announced that they were soliciting public input once again on how PBMs were affecting drug affordability and access. Hopefully, this time your commission will listen to those of us providing pharmaceutical services that PBMs are often paying us under the cost of our drugs, are steering our patients to mail order or retail pharmacies that they own, and are charging us unsustainable DIR, GER, and other fees months after we have dispensed prescriptions. FTC has the responsibility to put politics aside and do what is right for the public.”

Here is a shoutout to one of our LIPA members Matthew Morvant at Downtown Drugs in Covington for the [Comment he submitted](#) to the FTC detailing the imbalance between chains and independents that creates an unfair trade practice.

Current Grass Roots Advocacy Opportunities at State and Federal Levels

Our assessment is that there is a much greater likelihood that the Federal Trade Commission will initiate meaningful action to curtail PBM practices if the nominee Alvaro Bedoya is confirmed by the Senate. LIPA is joining federal partners in urging our Louisiana Senators to support that appointment as quickly as possible to prevent another deadlock when the PBM issue is again considered by the Commission. You can reach out to Senator Cassidy and Senator Kennedy also. [Senator Kennedy](#) [Senator Cassidy](#)

LIPA Has Both Moderna and Pfizer Vaccine Available

LIPA has Moderna and Pfizer COVID vaccine in inventory that we need to get to pharmacies before it expires. We are available to deliver it to you, but we ask that you coordinate with us for delivery rather than order additional vaccine in LINKS. Please call the LIPA office at (225) 308-2030 to arrange for a transfer or to get more information.

LIPA has:

1180 doses of *Moderna*

190 doses of *Pfizer (Peds)*

LIPA's *NEW* Pharmacist Toolkit

Lowering the cost of prescription drugs for the patient: this is the reason that PBMs give to lawmakers, policymakers, and the public for continuing to be allowed to conduct business as usual. This is also what Mark Cuban's drug company and mail order pharmacy in general say is their goal.

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 developing tools that can be used to encourage patients to ASK YOUR PHARMACIST about the lowest price for their prescription drugs. Community pharmacists have demonstrated willingness to reach out to physicians and other prescribers, working together to deliver the best patient outcomes.

Your team at LIPA is putting 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.

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 **do not** receive the email, you can easily create an account on the LIPA.org website by clicking the link below and clicking the "Sign Up with Email" button. If you have any questions, contact your LIPA staff at comm@lipa.org .

2022 Immunization Schedules Now Available

COVID-19 vaccinations have dominated most of our conversations for the past year, but don't forget about routine vaccinations for your patients. Every year the CDC publishes updated immunization schedules for adults, children, and adolescents, which you can find [here](#). Make a habit of posting vaccine schedules in your pharmacy for easy access and review. Make sure to familiarize yourself with the changes.

Update for 2022: the addition of the PCV15 and PCV20 pneumococcal vaccines and removal of PCV13 for adults.

Louisiana Medicaid Single PBM

On Wednesday, Louisiana Medicaid [formally extended the date](#) by one week (until March 11th) to post their responses to questions from potential bidders for a single Medicaid PBM with whom all Louisiana Medicaid MCOs would be required to contract. The deadline for proposals for this single PBM is now March 28 with the announcement of intent to award also moved back a week until May 2nd. The revised Schedule of Events still shows the operational start date to be “on or about” July 1st which means transitioning to a new PBM in less than two months.

“Languishing on hold for hours as they sought help” . . . “The transition was supposed to be seamless, but some patients were told prior authorizations they had received for their medications were no longer valid” . . . “left without their drugs for weeks or drugs while they appealed.” The recent experience of California's Medicaid program (Medi-Cal) transition to a single PBM—in their case, Magellan Health—effective 1/1/22 shines a spotlight on the **myriad of problems** that can occur in transitioning Medicaid MCOs to a single PBM. On Monday 2/28, APhA's Pharmacy Today including a headline **“Changes in Medi-Cal's troubled drug program reduces backlog in California, but problems persist”** and notes that earlier this year problems by the contractor Magellan Health left thousands of enrollees without critical medications. As of February 24th, state officials told California lawmakers that some of the problems had been addressed by the contractor, but physicians and health care clinics were still reporting problems. Performance in January—the first month of operations—was so poor that California's Medicaid indicated they will withhold two-thirds of the payment. For more on this cautionary tale, see this **Los Angeles Times** [story](#) and [Kaiser Health News](#) .

Louisiana Medicaid Makes Additional COVID OTC Tests Reimbursable

Louisiana Medicaid issued an updated list this week of over-the-counter COVID home tests for which pharmacies can be reimbursed. Names and NDC numbers for five additional tests can be found on Page 4 of this [March 2nd notice](#) to Medicaid prescribing providers & pharmacies.

Medicaid Eligibility “Unwinding” and Return to Regular Operations

On Thursday, CMS issued a [State Health Official Letter](#) containing 46 pages of guidance on “unwinding” (a new term for us) once continuous Medicaid eligibility ends. (We have read this will likely be July at the latest). As the country looks ahead to the official end of the COVID-19 public health emergency, much has been written in the health care advocacy press regarding the large number of persons currently enrolled in Medicaid who could lose coverage for purely procedural reasons and “fall through the cracks.” Even before the pandemic, this was an issue in Medicaid, with outdated mailing addresses on file. It is expected that the pandemic has majorly exacerbated the problem.

A procedural closure means that the individual still meets all the eligibility requirements (income, Louisiana resident) but did not go online and/or submit paperwork to show they continue to be eligible. Previously, the Louisiana legislature has called for expedited closure of cases at the end of the public health emergency, even if CMS allows a longer period of eligibility. The CMS guidance, among other steps, indicates that states must do a renewal and request updated information, even if an individual has been determined ineligible (as circumstances may have changed). They also state that no more than 1/9 of a state’s caseload should have eligibility renewal initiated in any given month and states are being given 14 months to complete eligibility renewals on their current Medicaid caseload.

We are thinking ahead as to what steps pharmacies might take to assure their Medicaid patients who are taking prescription drugs—many of them costly—successfully establish their continued enrollment in health insurance. That could mean Medicaid if they remain eligible or seamless transition to a subsidized low-health plan such as the Exchange (Obamacare) if they are no longer eligible for Medicaid. LIPA is working to identify methods and tools your pharmacy can use to help your patients understand what they may need to do to remain enrolled in Medicaid once the public health emergency ends and the unwinding begins.

Have You Successfully Reenrolled as a Louisiana Medicaid Provider?

While an extension is possible, pharmacies should still assume that the deadline for re-enrolling as a Louisiana Medicaid provider is still March 31st.

Who: Every Medicaid provider—including immunizers—who was enrolled in Louisiana as of 6.30.21.

What: Re-enroll as Louisiana Medicaid Provider to comply with federal requirements

Why: Federal requirements intended to—among other things—identify and expel bad providers.

When: As soon as possible to allow time for processing but deadline is currently 3.31.22. *LIPA staff confirmed this by calling the Gainwell Call Center shortly after 9 AM this morning.*

Where: Go to [this link](#) to begin the re-enrollment process

How: (to verify successful completion): e-mail louisianaprovenroll@gainwelltechnologies.com to verify re-enrollment is complete.

[Enrollment Instructions](#)

[Provider Enrollment Portal FAQs](#)

[Provider Enrollment Portal Documentation](#)

NADAC Price File Watch –Publication Date 3.02.22

The National Average Drug Acquisition Cost (NADAC) is the 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 concerns with Myers & Stauffer's NADAC price is that we are seeing increasing gaps between NADAC prices and the actual cost our pharmacies must pay. By filing appeals to Myers and Stauffer we are hoping they will correct the reimbursement to a drug acquisition cost. Small business pharmacies should not be on the losing end of most every prescription filled.

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 have again attached the instructions for Pioneer users to create a report to run weekly along with information on how to best pull and send invoices. 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](#)

This week's NADAC Price Comparison Data shows price increases since last's week's file for four brands and two generic drugs. The generic drug price changes were from \$.34 - \$.51 per/unit, while the brand drug price changes range from \$.46 - \$9.67/unit. Three of the rate changes were the result of an inquiry (appeal) to the Help Desk. These price increases were effective 3/2/22 (the publication date) while the changes due to a WAC Adjustment (change in WAC published prices) are retroactive to February 2/19/22.

[Weekly NADAC Report](#)

[NADAC by Percent Change](#)

[NADAC by Price Change](#)

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.

Much Ado About Little: *Test to Treat*

During Tuesday night's State of the Union address President Biden announced that "pharmacies" would be able to do COVID testing and if the person is positive, immediately give the patient oral antivirals (Paxlovid). As they say, "the devil is in the details" and turns out that this does not mean that pharmacists will be able to prescribe Paxlovid. In fact, as explained in this [Grid story](#) This was very much overhyped. This—at least for now—applies only to pharmacies with onsite medical clinics –initially about 100 nationwide--as oral antivirals still require a prescription from a doctor, NP, or PA. According to the story "*health experts suspect the government has not expanded the pool of prescribers for Paxlovid and another, less-effective, covid antiviral — Merck's molnupiravir — because the drugs interact in potentially harmful ways with many common medications. Some people may not be able to safely take the covid drugs because of drug interaction concerns; others may need to have dosages of their regular medications adjusted. To me, pharmacists are the medication experts; we are the profession most qualified to make those assessments and adjustments,*" [emphasis added] *Davis said.* In response to Biden's plan, the American Pharmacists Association [said](#) it will continue to work with the federal government to make it easier for pharmacists to prescribe these drugs and "*unleash the power of our nation's pharmacists to provide this needed care, particularly in underserved communities.*"

Evusheld Dosing Has Changed

The FDA recently announced a [modification to the Emergency Use Authorization](#) for AstraZeneca's COVID-19 therapeutic Evusheld. The modification involves a change to the dosing regimen. **Evusheld now should be administered as an initial dose of 600 mg. Individuals who already received the previously authorized initial 300 mg dose should receive a second Evusheld dose as soon as possible.** Recommendations will be made in the near future when more data are available to determine the appropriate timing of redosing (e.g., a repeat dose with 150 mg of tixagevimab and 150 mg of cilgavimab at 3 months or 6 months after the initial dose).

Have You Joined LIPA's Chat Groups for Members?

LIPA hosts two different Chat Groups on the *GroupMe* smart phone 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.
2. **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.