

# 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 – 7-1-22

**July 7-9 - LPA Conference, Biloxi, MS**

**July 9 - LIPA Board Meeting at LPA Conference**

**July 13 - PBM Advisory Council Quarterly Meeting**

**September 30 - NEW Medicaid Provider Re-enrollment Deadline**

### **LPA Conference and Board Meeting Next Weekend Includes CPE Opportunities**

We are looking forward to seeing those of you who will be attending the Louisiana Pharmacists Association Annual Conference & Trade Show at the Golden Nugget in Biloxi next week! You can receive 1.5 hours of CPE for an activity of special interest to independent pharmacies that is being offered by LIPA on Friday afternoon (July 8) to both pharmacists and pharmacy technicians on the topic of *Navigating Pharmacy Regulatory Issues in Louisiana*. Here is the [link to register for the LIPA CPE activity](#) so that your CPE credit will be automatically uploaded to CPE Monitor upon completion of the online learning assessment and evaluation. This session will –as the name implies—focus on **practical** application of pharmacy laws in Louisiana and their actual enforcement, include concrete steps that you can take when you see pharmacy laws being violated by PBMs. The reality is that enforcement of existing regulations is a constant struggle. Please do not hesitate to contact our office if you have questions about the online registration process in *Lecture Panda*. The code for claiming credit will be provided at the conclusion of the activity.

2.5 hours of CPE on the topic *Louisiana Independent Pharmacy Matters—July 2022* can be earned by pharmacists who attend the LIPA Board Meeting that will be held on Saturday morning, July 9 from 9:00 AM to 11:30 AM in the Ship Island C Room at the Golden Nugget in Biloxi. Topics that will be discussed at the board meeting include (but are not limited to):

- Respective roles of Louisiana Department of Insurance, Board of Pharmacy and Department of Justice now that La Senate Bill #99 has become law and *Rutledge* and *Wehbi* court decisions have been rendered
- Pending/potential actions by Congress
- Federal actions being taken by FTC and HHS, including changes to Medicare DIR fees in 2024
- Newly created Council on Medicaid Pharmacy Reimbursement (created by Senate Bill 83)
- PBM Monitoring Advisory Council changes and new opportunities (House Bill # 673)
- Categories of complaints being submitted by pharmacies/ currently under investigation by LDI.
- LDH's 2021 Louisiana Professional Dispensing Fee Survey preliminary results

- OGB timeline and selection of PBM [currently Express Scripts has one year emergency contract] for services beginning 1/1/23

For those of you who will be in Biloxi next Saturday morning and would like to receive CPE credit, here is the [link to register](#). The code for claiming credit will be provided at the conclusion of the meeting. We will be recording this session and will make it available as a home learning CPE activity for those unable to attend the live session on Saturday.

### **Medicaid Extends Deadline for Provider Re-enrollment Until September 30<sup>th</sup>!**

Since LDH announced more than a year ago that **all** Louisiana Medicaid providers enrolled as of 6/30/21 would need to **re-enroll** to comply with federal law or see their Medicaid pharmacy claims denied, LIPA has worked to assure that our independent pharmacies and their pharmacist certified immunizers (who are considered “prescribers only” providers) **successfully complete** the re-enrollment process. The list of independent pharmacies and pharmacists still needing to take action by June 30<sup>th</sup> was **in single digits** when LDH [announced](#) the afternoon of June 29<sup>th</sup> that the deadline for provider re-enrollment has been **extended to September 30, 2022**. Further, the Department announced that claims will not be denied for failure to re-enroll until December 31<sup>st</sup>, 2022. As many of you can confirm, the LIPA Team has not only included information in this newsletter but conducted one-on-one outreach via e-mail, phone calls, texts, and chat groups. We are happy to say independent pharmacies and their pharmacists are in great shape without nearly 100% compliance.

The Medicaid Pharmacy Program has provided LIPA with multiple lists created by Gainwell that showed providers still needing to take some kind of action in order to complete their re-enrollment which made it possible for us to work with you to complete your re-enrollment. Gainwell still has thousands of re-enrollment applications to review and as they do so, **they may identify issues that need to be resolved**. We will continue to reach out to independent pharmacies and pharmacists whose names “pop up” on future lists received from LDH with a code indicating a problem with the enrollment.

### **What PBM “Industry Trends and Emerging Issues” Would You Like to See Considered by the PBM Oversight Advisory Council?**

The [draft agenda for the PBM Oversight Advisory Council meeting](#) scheduled for June 13<sup>th</sup> at 10:30 AM includes a lot of “housekeeping” items” but importantly, Item # 6 is “Review of Industry Trends and Emerging Issues.” As LIPA has a seat on this legislatively established committee, please let us know the **PBM trends and emerging issues** that you have seen and would like to see brought to the attention of the Council. From formal complaints that we have assisted members in filing with DOI and posts in the LIPA *GroupMe* Pharmacy Business Practices chat group – as well as calls and e-mails from you – we have awareness, but you are on the front lines. This is an opportunity to formally raise PBM matters and attempt to resolve them in this forum, which the House Insurance Committees indicated is a prerequisite before legislative solutions are considered for issues such as PBM audit practices.

House Bill 673 made important [changes](#) to the Council that are intended to bring greater transparency and make the meetings more accessible, allowing independent pharmacies and others to attend the meetings virtually and submit comments before and during the meetings. The new requirements for receiving, recognizing, and publishing comments during and after the meeting are important. This is consistent with the increased attention PBM activities are getting in Congress, at the FTC and in legislatures nationwide.

### **Medicaid’s NADAC Pricing for Brand Drugs Continues to Be Problematic**

LIPA is looking forward to the initial meeting of the newly created Council on Medicaid Reimbursement that was created by Act 292 ([Senate Bill 83](#)) of the recent legislative session. Louisiana Medicaid—even when they are the secondary payer for a prescription—caps total payment at the NADAC price and this can result in significant losses for our pharmacies.

Here is a recently shared post by a member of the Pharmacy Business Practice LIPA chat group: Can anyone explain why this happens or how to fix it? Sometimes when we bill primary insurance with Medicaid as secondary, Medicaid does not want to pay the entire copay. This leaves with a negative remit . . . As explained in the LIPA reply, Medicaid uses the NADAC price which is effectively WAC minus 4.1 to 4.6%. You may find that your actual acquisition cost is 2% or more of the Medicaid reimbursement. Medicaid—including their MCOs—will pay only up to the maximum Medicaid (NADAC) price. If this flaw is not corrected, pharmacies will not be able to afford to stock and dispense brand-name drugs—including Louisiana Medicaid’s preferred brand over generics on which they receive substantial federal and state rebates (which they use to partially fund the Medicaid Program).

SB 83, which the Governor signed, intends to provide a framework for us to work with LDH on fair pharmacy reimbursement. Regarding access to brand-name drugs, we want to note that we are getting reports that chain pharmacies are saying they do not have brand-name Adderall.

Earlier this week, LDH posted program updates from Louisiana Medicaid, including new additions to the preferred drug list (PDL) and new guidance for the COVID-19 Vaccine. For more information about the program updates, click [here](#).

### **Pharmacies Can Help with Outreach on COVID Vaccine for Patients Under Age 3**

While pharmacists cannot order/administer vaccines to children below the age of 3, LDH is requesting that pharmacies help to connect their youngest patients with COVID vaccine which was approved last month. The OPH (Office Public Health) has created a poster they are requesting you display in your pharmacy. The posters can be found [here](#) under the “Resources” section of the webpage. *You might also consider printing some out and using it as a “bag stuffer” for children between the ages of 6 months and 3 years of age.*

### **FTC’s PBM “Study” Continues to Garner Attention**

We saw an online story this week with the headline [Feds Poised to Take a Hard Look at Pharmacy Benefit Managers](#) on the Institute for Patient Access website. The story is a reminder that while we are keenly aware of the acronym PBM and the definition of a Pharmacy Benefit Manager, the general public is likely to have **never heard** these terms and are oblivious to the role of these “middlemen.” The concerns with PBMs that the FTC has heard through the written Comments process go well beyond those expressed by independent pharmacists. Health care providers and patients take issue with their controversial practices that cost providers time and cost patients access to prescription medication.

### **Fall COVID Boosters—What Can We Expect to See?**

On Wednesday June 29th, the White House [announced](#) that HHS and the Defense Department have agreed to purchase 105 million doses of Pfizer’s **updated** COVID-19 vaccine for \$3.2 B (both adult and pediatric doses), with an option to purchase up to 300 million doses, for the fall vaccination campaign. Further the FDA has recommended an updated COVID vaccine formula that will also [target Omicron variants](#) that are highly prevalent now and it is anticipated this will be available in the fall. Our takeaway from this—as well as the number of “breakthrough” positive cases we are seeing in Louisiana—is that the current vaccines are not as effective against the Omicron variants. The COVID booster vaccine that will be available this fall will be “new and improved.”

### **The Oral Antiviral Paxlovid is Available – or You Can Use the Online Locator to Refer Patients**

With COVID cases continuing to be an issue (the actual number of positive cases is anyone’s guess since with home tests, cases are not necessarily reported to LDH) members are seeing an uptick in prescriptions for Paxlovid. Pharmacies have two options if they do not currently have Paxlovid:

- Refer the patient to a pharmacy that has Paxlovid in inventory. You find locations nearest to you using the online [COVID Therapeutics Locator tool](#).

- Place an order for Paxlovid if you are already set up in the HPOP Portal as a COVID therapeutics provider or enroll as a COVID therapeutics provider. You can contact [kennedy@lipa.org](mailto:kennedy@lipa.org) for assistance. As a reminder, there is no charge to pharmacies for Paxlovid. The dispensing fee varies by payer. Some PBMs are paying an “enhanced” fee—a couple in the \$10 range but we have not seen a Paxlovid dispensing fee from any payer that is greater than the Medicaid dispensing fee of \$10.99. Here is an article from Yale Medicine published June 6<sup>th</sup> and titled that provides some information you may find interesting including discussion of Paxlovid “rebound” and comparison to Tamiflu: [13 Things to Know About Paxlovid](#)

LIPA received notice in the Pharmacy Business Practices GroupMe chat from a pharmacy in North Louisiana that ExpressScripts is charging a copay on Paxlovid for uninsured patients. Per guidance from the Federal Government, Paxlovid should **not** have a copay and should be free of charge if the patient is insured or not. It is possible for most people who have no insurance to enroll in the Medicaid COVID Uninsured Eligibility Group by completing and submitting a [brief application form](#). You could then bill Medicaid for the normal dispensing fee. However, if they have any insurance they cannot be enrolled. You can find all the information you will need to help patients enroll and submit claims in the [program guide](#).

### **COVID Vaccine Immunizers: Test Your Knowledge of Current CDC Vaccine Recommendations**

In the 18 months since the COVID vaccines were introduced, CDC guidance has frequently changed and it can be challenging to keep up with those changes. Here is the [link to an online quiz](#) (just five questions) developed by the American Pharmacists Association to test your knowledge of current CDC recommendations for your patients regarding COVID vaccines. Kudos to those of you who answer all five questions correctly!!!! (We missed one) The multiple-choice quiz will give you the correct answers along with explanations that you can use to dispel myths, provide facts, and encourage your patients to get vaccinated.

### **Medicare Enrollees Can Still Get 8 Free COVID At- Home Test Kits Per Month**

It is a new month so Medicare enrollees can get 8 more free COVID at home test kits. Many Medicare enrollees are unaware that they are entitled to eight free at home COVID test kits per month through their Medicare **Part B** benefit. This is expected to be in effect until the end of the public health emergency. If you are not providing free test kits and billing Medicare Part B for them, you can find a list of participating providers for the free Medicare test kits [here](#). We are hearing the public health emergency is likely to extend into 2023.

### **Louisiana Medicaid Managed Care Single PBM Coming January 1<sup>st</sup>, 2023**

We continue to wait for the announcement of the proposed award of the contract for a single Medicaid PBM. Our understanding is that LDH has reached out to the three proposers for their “best and final” offers. Entities submitting proposals to be the single Medicaid MCO were CVS Caremark (the current PBM for three of the Medicaid MCOs), Magellan Rx (being [acquired](#) by Prime Therapeutics from Centene), and Med Impact. LDH announced earlier this month their intent to award MCO contracts to all six vendors who submitted a proposal.

### **Federal Legislation Aiming to Regulate PBMs – S. 4293**

We recently spoke with U.S. Senator Bill Cassidy about S. 4293, [The Pharmacy Benefit Manager Transparency Act of 2022](#), which empowers the Federal Trade Commission (FTC) to increase drug pricing transparency, hold PBMs accountable for unfair and deceptive practices that drive up the costs of prescription drugs at consumers' expense and incentivize fair and transparent PBM practices. We followed up with Senator Cassidy by composing a letter to further explain the importance of his support for this legislation. Along with Senator Cassidy, we sent a letter to fellow Senator John Kennedy requesting his support for the bill. S. 4293 looks to accomplish a few main goals, including:

- A ban on unfair and deceptive pricing schemes, spread pricing included.
- Prohibition of the arbitrary clawback of payments made to pharmacies.
- Hold PBMs accountable for unfair and deceptive practices that drive up the costs of prescription drugs at consumers' expense and incentivize fair and transparent PBM practices.
- Require PBMs to report their revenue earned through spread pricing and pharmacy fees to the FTC.
- Give the FTC and regulators, including the State Attorney General, the ability to penalize and/or initiate legal action against PBMs for these prohibited practices in the commercial health

### [Congressional Letter](#)

The U.S. Senate Commerce Committee voted last week to report the bill favorably with amendments. Next, the bill will be heard on the Senate floor, so we must continue to reach out to our Senators and urge them to support Louisiana pharmacists by voting yes on S. 4293. For more information about the legislation, view this [press release](#) from the Senate Commerce Committee.

### **LIPA is willing and able to assist you in filing PBM complaints with LDI in any manner you like.**

We are asking each pharmacy to send us at least one claim specific example where effective rates were used (dated after July 2019) and send the evidence to [legal@lipa.org](mailto:legal@lipa.org) or by fax at (225) 308-2040, for us to file a complaint to LDI. By doing so we hope to show LDI a clear example of PBMs and PSAOs entering pharmacies into illegal contracts in Louisiana.

Please continue to send all complaints, along with any relevant documentation to [legal@lipa.org](mailto:legal@lipa.org), and we will file a complaint on your behalf to the department. You can also call the office at (225) 308-2030 to get started on a complaint. It is important for us to work with you all to file complaints promptly in order to force adherence to the laws of Louisiana. The laws passed are not worth anything if we cannot get LDI and the Board of Pharmacy to enforce them.

Resolution of PBM-related complaints filed with the Louisiana Department of Insurance (LDI) must include conferring with the PBM or insurer to confirm or dispute facts, followed by the Department making an actual determination as to the validity of the complaint. If a violation of state law has occurred, prompt action needs to be taken, including an assessment of the maximum possible financial penalties, and requiring corrective measures. It is not enough to simply verify that the PBM responded to the complainant. That does not address the violation.

### **Louisiana Medicaid Will Pay for COVID Vaccine Administration for Most Uninsured**

Patients who are uninsured may be reluctant to complete the application for the Medicaid COVID Uninsured Group because they do not realize how simple the application actually is. No questions about other household members, income, or resources, it can be completed VERY quickly. The application should **not** be a barrier to someone getting enrolled. (In contrast, applications for Medicaid, SNAP and other benefits can be quite time consuming). Eligibility is very easy to establish, beginning with the completion of a [simplified application](#), including the three months before the application month, and is good until the public health emergency ends.

Louisiana Medicaid has a [COVID-19 program](#) that will pay for vaccine administration (as well as testing, treatment, and other services) if the primary diagnosis is COVID. The only people who are **not** eligible are those who are either undocumented, incarcerated or have other health insurance. There is no income or resource test.

People approved for this program will not receive a Medicaid ID card. Instead, the approval letter they receive is their proof of eligibility and contains the information you need for billing. **Providers have the**

**option of putting their address on the application form, and if they do so, they will receive a copy of the letter as well so that they know they can go ahead and submit a claim to Medicaid.**

### **NADAC Price File Watch –Publication Date 6.29.22**

The Louisiana Medicaid ingredient cost component of pharmacy reimbursement is based on the NADAC published price. This week’s NADAC Price Comparison Data shows price increases on 3 drugs, two generic and 1 brand name. The generic drugs increased in price ranging from \$0.24353 - \$0.22898 while the brand name drug increased by \$0.20225.

The generic drug rate changes were Help Desk inquiries (Appeals) while the brand name rate change was a WAC Adjustment (changes in WAC published prices). The generic drug rates are retroactive to June 29<sup>th</sup>, 2022, and the brand name drug rate is retroactive to June 24<sup>th</sup>, 2022.

#### [Weekly NADAC Report](#)

#### [6.29.22 NADAC by Price Change](#)

#### [6.29.22 NADAC by Percent 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. By 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 have attached instructions for Pioneer and Liberty 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](mailto: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](#)

#### [Liberty 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](mailto:appeals@lipa.org) with your name, your pharmacy’s name, and which system you use.