

Proven Health Care Cost Reduction Through Strength in Numbers



PRESCRIPTION DRUG COSTS FUEL THREATS TO ERISA PREEMPTION

What Your Plan Can Do to Help

It's not just individuals, families and employee benefit plan sponsors who are concerned about the cost of prescription drugs.

Increasingly, state legislators are linking high drug prices to consumer affordability. Many are targeting pharmacy benefit managers (PBMs) as culprits and have passed or proposed bills limiting what PBMs can do. Independent and rural pharmacists are lobbying heavily for these laws.

However, these laws restrict ERISA plans from making fundamental plan design choices. The PHC and other ERISA plan advocates argue that these restrictions are preempted by ERISA.

In 1974, when Congress passed ERISA, its primary goals were to establish national standards for employee benefit plans, mandate standard reporting and disclosures, set fiduciary standards, and ensure

that ERISA alone could regulate private sector employee benefits plans, in order to prevent conflicts with state and local regulations.

The United States Supreme Court opened the door to state regulation of PBMs in 2020 with its decision in *Rutledge v. PCMA*, when it unanimously upheld an Arkansas law that regulated the relationship between PBMs and pharmacies. The decision held that the law may increase the cost to an ERISA plan, but that it did not have a direct connection to plan design or plan administration.

Rutledge emboldened states to pass or propose laws directed at PBMs that included provisions that do impact administration and plan design. Oklahoma was one of those states. Its law resulted in a legal challenge that made its way up to the Tenth Circuit Court of Appeals in *PCMA v. Mulready*.

The Oklahoma law:

- Restricts mail-order pharmacy options.
- Mandates participation by any willing provider, disrupting plan savings via prescription networks.
- Imposes reimbursement mandates, ensuring pharmacy profit on every drug dispensed.
- Prohibits the expulsion of pharmacies from prescription networks for violations of state pharmacy board requirements.
- Applies restrictions on specialty pharmacies.

A three-judge panel of the Tenth Circuit found that these provisions interfered with matters central to the administration of ERISA plans and thus were preempted. While the decision was welcomed by ERISA plan advocates, it is not binding outside of the

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Tenth Circuit (the states of Oklahoma, Kansas, New Mexico, Colorado, Wyoming, and Utah). Further, Oklahoma has asked for reconsideration by the full Tenth Circuit panel which could reverse the earlier favorable decision and send this case to the U.S. Supreme Court.

Washington, Alaska and Oregon all have bills pending which contain provisions substantially mimicking those in the Oklahoma

law challenged in *Mulready*. The PHC is partnering with several like-minded organizations to convince lawmakers to oppose these laws and protect ERISA preemption.

The Coalition has developed templated sign-on letters for member plans to sign in support of ERISA preemption and in opposition to PBM regulation which would impose restrictions on a plan fiduciary's ability to

design plans in the best interest of their beneficiaries. Member plans may request a copy of these letters by email at info@phcoalition.org.

The PHC urges its member plans to be proactive in lending their voices to these efforts and to encourage both the labor and management plan sponsors to actively oppose pending PBM legislation.

VENDOR FAST FACTS



At the September Coalition Education Session, vendors were challenged to present “three points in three minutes” that drive home the value they deliver to Coalition participating Plans and their participants. Here, we feature how three vendors made their points:

Alaska Regional Hospital

1. Is the recipient of multiple patient safety and quality of care awards, designations, and certifications. Learn more at alaskaregional.com.
2. Is the State of Alaska's first and only Comprehensive Stroke Center.
3. Is part of HCA Healthcare, one of the largest health systems in the country.

Renalogic

1. Has saved \$100 million in outpatient dialysis cost since 2014 for PHC participating plans.
2. Has helped 98.3% of Renalogic ImpactCare participants prevent or delay total kidney failure where dialysis or kidney transplant is needed for survival.
3. Improves outcomes and quality of life by helping people plan and prepare for treatment through its ImpactAdvocate team.

Transcient

1. Coordinated 105 surgeries and saved \$3,783,000 for participating plans from January through September 2023.

2. Streamlined its service delivery through the Transcient app by adding the option for participants to text/chat with their Care Coordinator in addition to contact by phone.
3. Connects plan participants to a telehealth provider within less than 60 seconds (and is currently averaging eight seconds) compared to their competitors which average 45-60 minutes to connect.

If your plan is interested in participating in any, or all, of these programs, please contact the Coalition at 702-460-4134 or by email at info@phcoalition.org. □

PROGRAM SPOTLIGHT:

aetnaSM



The Pacific health Coalition has maintained a PPO (preferred provider organization) agreement with Aetna since 2013, making it one of our longest-standing partners. A renewed contract going into effect December 1, 2023, ensures that the relationship will endure for another five years.

Aetna is also among the Coalition vendors returning the greatest financial benefit to participating member plans: During the period January - June 2023, the Aetna PPO network generated approximately \$191.2 million in savings for participating plans.

One of the nation's leading health care insurance companies, Aetna has been part of CVS Health since 2018. As a group, CVS Health serves more than 100 million people.

Member plans that contract with Aetna through the Coalition benefit from cost containment through payment integrity and utilization management programs while maintaining their current third-party administrator. Participating plans also have access to Teladoc, a telemedicine

service that makes it easy for plan participants to get medical advice online or on the phone.

An Array of In-Person and Online Connections

In addition to a vast network of care givers—doctors and specialists of all kinds, nurse practitioners and advice nurses, physical therapists, and more—Aetna also offers a world of resources for your individual participants through its growing array of online tools. Individuals can use the [Aetna website](#) to find a doctor, dentist, hospital, or medication. In total, the search function covers 25 types of health care providers, including drug and alcohol counselors, dialysis centers, and hospice care.

The newest offering is an online Cost Estimator tool that gives participants insight into what they might have to pay for a wide range of medical services. Consumers will be able to get real-time estimates of their cost-sharing liability for health care items and services from different providers. The tool requirements allow the participants to understand how

costs for covered health care items and services are determined by their plan.

The new Cost Estimator delivers personalized, real-time, cost-share estimates for 500 shoppable services. For plan years beginning on or after Jan. 1, 2024, the online tool will expand to all covered services.

After logging into the Aetna account, the Cost Estimator tool displays personalized out-of-pocket cost information, using Coalition plan-specific information. Participants can also see the underlying negotiated rates and allowed amounts for all covered health care items and services.

This kind of price transparency helps consumers make cost-conscious decisions and reduces potential surprises when it comes to out-of-pocket costs. Ultimately, cost transparency may create the kind of competition that has the potential to narrow prices and lower health care costs.

Read more about [Aetna on the Coalition website](#).

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Since 1994, the Pacific Health Coalition (aka HCCMCA) has been helping member health plans control health care costs by negotiating better pricing on health benefits and services than these same plans could achieve on their own. Currently, there are more than 50 health plans participating throughout the United States.

The Pacific Health Coalition Programs

The services offered by the Pacific Health Coalition to its member plans are selected, negotiated and designed to achieve the best price and value for labor. For more information on these services, click on the links below, contact info@phcoalition.org or call 702-460-4134.



- [Annual Health Fairs](#)
- [Coalition Health Centers](#) (Anchorage, Fairbanks, Mat-Su Valley)
- Dental Care (Delta Dental)
- [Dialysis Cost Containment](#) (Renalogic)
- [Disease Management](#) (Optum)
- Joint Claims Administration (Aetna)
- Oncology Care (Translucent)
- [Pharmacy Benefits Management](#) (National Cooperative Rx/CVS Caremark)
- [PPO Contracts](#)
 - [Birthing Center](#) (Geneva Woods Birth Center)
 - [Hospital Services](#) (Alaska Regional Hospital, Mat-Su Regional Hospital, Aetna)
 - [Nationwide Provider Network](#) (Aetna)
 - [Orthopedic Services](#) (Anchorage Fracture and Orthopedic Clinic/Alaska Medical Alliance, LLC [AFOC/AMA])
 - [Outpatient Surgery](#) (Surgery Center of Anchorage, Alaska Surgery Center, Alpine Surgery Center)
- [Physical Therapy Services](#) (Chugach Physical Therapy, Alaska Hand Rehabilitation, Ascension Physical Therapy)
- [Travel Surgery Program](#) (Translucent)
- Virtual Physical Therapy (Translucent)
- [Vision Care](#) (VSP)
- [Wellness & Minor Care](#) (Alaska Urgent Care, Wasilla Medical Clinic, Medical Park Family Care)